

By: Flores

H.B. No. 3351

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the operation of video lottery games for this state to
3 provide additional money to fund governmental programs; the
4 creation, powers, and duties of the Texas Gaming and Boxing
5 Commission; the powers and duties of the Texas Lottery Commission,
6 the Texas Racing Commission, and the Texas Commission of Licensing
7 and Regulation, and the regulation of casino gaming and other
8 gambling activities in this state; making an appropriation;
9 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 (2-a), (5-a), and (11)-(35) 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 (2-a) "Director" means a [the] director employed by
21 the 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 (5-a) "Division" means the lottery division
10 established by the commission under Chapter 467.

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

18 (7) [~~4~~] "Executive director" means the executive
19 director of the commission.

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

25 (9) "House-banked game" means a game of chance:

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

27 (B) in which the house competes against all

1 players, collects from all losers, and pays all winners; and

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

3 (10) "Indian lands" means land over which an Indian
4 tribe exercises governmental power and:

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

9 (B) on which Class III gaming is permitted under
10 the Indian Gaming Regulatory Act (18 U.S.C. Section 1166 et seq. and
11 25 U.S.C. Section 2701 et seq.).

12 (11) "Institutional investor" means:

13 (A) a state or federal government pension plan;
14 or

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

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

24 (ii) an insurance company as defined by
25 Section 2(a)(17), Investment Company Act of 1940 (15 U.S.C. Section
26 80a-1 et seq.);

27 (iii) an investment company registered

1 under Section 8, Investment Company Act of 1940 (15 U.S.C. Section
2 80a-1 et seq.);

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

8 (v) a group composed entirely of persons
9 specified by this subdivision; or

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

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

21 (13) [~~6~~] "Lottery game" means an activity conducted
22 lawfully and in accordance with the Texas Constitution and this
23 chapter that is controlled by this state as part of the lottery and
24 through which prizes are awarded or distributed by chance to
25 persons who have paid or unconditionally agreed to pay, or who
26 otherwise participate in a game, for a chance or other opportunity
27 to receive a prize [~~includes a lottery activity].~~

1 (14) [~~(7)~~] "Lottery operator" means a person selected
2 under Section 466.014(b) to operate a lottery game.

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

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

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

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

1 (19) [~~8~~] "Player" means a person who contributes any
2 part of the consideration for a ticket or to play a video lottery
3 game under this chapter.

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

7 (A) a class 1, class 2, or class 3 horse racetrack
8 for which a pari-mutuel license was in effect on June 1, 2007, or
9 for which a person by that date had applied for a pari-mutuel
10 license to conduct horse racing as a class 1 or class 2 racetrack;
11 or

12 (B) a greyhound racetrack for which a pari-mutuel
13 license was in effect on June 1, 2007, or for which a person by that
14 date had applied and qualified for a pari-mutuel license to conduct
15 greyhound racing.

16 (21) [~~9~~] "Sales agent" or "sales agency" means a
17 person licensed under this chapter to sell tickets.

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

1 authorized in connection with the play of bingo under Chapter 2001,
2 Occupations Code.

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

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

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

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

22 (i) control the activities of the applicant
23 or license holder; or

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

27 (D) any key personnel of a video lottery retailer

1 or video lottery manager, including an executive director, officer,
2 director, manager, member, partner, limited partner, executive,
3 employee, or agent, who the commission determines has the power to
4 exercise significant influence over decisions concerning any part
5 of the applicant's or license holder's business operation.

6 (24) [~~(10)~~] "Ticket" means any tangible evidence
7 issued to provide participation in a lottery game authorized by
8 this chapter other than a video lottery game.

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

16 (26) "Video lottery central system provider" means a
17 person that, under a contract with the commission, provides the
18 video lottery central system.

19 (27) "Video lottery equipment" means:

20 (A) a video lottery terminal;

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

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

27 (ii) connect video lottery terminals

1 together for accounting or wide-area prize or promotional purposes;

2 (iii) monitor video lottery terminal
3 operations; and

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

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

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

16 (29) "Video lottery manager" means a person who:

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

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

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

26 (31) "Video lottery system" means the system
27 authorized under Subchapter K and controlled and operated by the

1 commission under which individuals play lottery games on video
2 lottery terminals as authorized under that subchapter.

3 (32) "Video lottery terminal" means an interactive
4 electronic device that is capable of displaying video lottery
5 games.

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

10 (34) "Video lottery terminal provider" means a person
11 in the business of manufacturing or distributing video lottery
12 terminals in this state.

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

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

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

27 (c) Notwithstanding Subsection (a), if any gaming agreement

1 that allows video lottery is in effect, the commission or another
2 state agency designated by the legislature must operate, control,
3 and supervise video lottery games as necessary to comply with a
4 gaming agreement under this chapter.

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

- 7 (a) A political subdivision of this state may not impose:
- 8 (1) a tax on the sale of a ticket;
 - 9 (2) a tax on the payment of a prize under this chapter;
 - 10 [~~or~~]
 - 11 (3) an ad valorem tax on tickets;
 - 12 (4) a tax, fee, or other assessment on consideration
13 paid to play a video lottery game; or
 - 14 (5) a tax or fee for attendance at or admission to a
15 video lottery terminal establishment or a racetrack at which a
16 video lottery terminal establishment is located unless
17 specifically authorized by statute.

18 SECTION 1.04. Section 466.014, Government Code, is amended
19 to read as follows:

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

26 (b) The executive director may contract with or employ a
27 person to perform a function, activity, or service in connection

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

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

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

26 (1) Subtitle D, Title 10; and

27 (2) Section 466.101.

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

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

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

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

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

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

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

16 SECTION 1.06. Section 466.017, Government Code, is amended
17 to read as follows:

18 Sec. 466.017. AUDITS. (a) The commission [~~executive~~
19 ~~director~~] shall contract with the state auditor for the state
20 auditor [~~provide for a certified public accountant~~] to conduct an
21 independent audit of the commission's annual financial statements
22 in accordance with the standards applicable to financial audits
23 under the Government Auditing Standards (2003 Revision) issued by
24 the Comptroller General of the United States [~~for each fiscal year~~
25 ~~of all accounts and transactions of the lottery~~]. [~~The certified~~
26 ~~public accountant may not have, as determined by the executive~~
27 ~~director, a significant financial interest in a sales agent,~~

1 ~~lottery vendor, or lottery operator. The certified public~~
 2 ~~accountant shall present an audit report to the executive director,~~
 3 ~~the commission, the governor, the comptroller, and the legislature~~
 4 ~~not later than the 30th day after the submission date for the annual~~
 5 ~~financial report required by the General Appropriations Act. The~~
 6 ~~report must contain recommendations to enhance the earnings~~
 7 ~~capability of the lottery and improve the efficiency of lottery~~
 8 ~~operations. The state auditor may review the results of and working~~
 9 ~~papers related to the 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 certificate of registration of the sales
5 agent, video lottery manager, video lottery retailer, or video
6 lottery terminal provider under Section 466.160 or Subchapter K
7 until the examination is completed as required. A video lottery
8 manager, video lottery retailer, video lottery terminal provider,
9 or video lottery central system provider that is audited as
10 provided by this section is responsible for the costs incurred by
11 the commission or auditor in conducting the audit. Section
12 321.013(h) does not apply to an audit of a lottery operator, ~~[or]~~
13 sales agent, video lottery manager, video lottery retailer, video
14 lottery terminal provider, or video lottery central system
15 provider.

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

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

1 SECTION 1.08. Sections 466.020(c), (d), and (e), Government
2 Code, are amended to read as follows:

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

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

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

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

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

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

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

26 (a) The executive director shall, every two years, employ an
27 independent firm experienced in demographic analysis to conduct a

1 demographic study of lottery players. The study must examine
2 [~~include~~] the income, age, sex, race, education, and frequency of
3 participation of players. The study must distinguish between
4 players of traditional lottery games and video lottery games.

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

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

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

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

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

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

26 (5) information that pertains to an applicant's
27 criminal record, antecedents, and background and is furnished to or

1 obtained by the commission from any source, including information
2 obtained by the commission under Section 411.108(d).

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

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

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

20 SECTION 1.11. Section 466.024, Government Code, is amended
21 to read as follows:

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

1 event.

2 (b) Except as provided by Chapter 2001 or 2005, Occupations
3 Code, the [~~The commission shall adopt rules prohibiting the~~
4 operation of any game using a video lottery machine, slot [~~or~~
5 machine, or other gambling device that is not connected to the video
6 lottery central system and controlled and supervised by the
7 commission is prohibited.

8 (c) In this section, "sports[~~+~~

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

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

19 SECTION 1.12. Section 466.025, Government Code, is amended
20 to read as follows:

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

1 weekly report that shows net terminal income for the preceding
2 week.

3 SECTION 1.13. Section 466.103(a), Government Code, is
4 amended to read as follows:

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

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

11 (2) with regard to a contract for the purchase or lease
12 of video lottery equipment:

13 (A) is not a registered video lottery terminal
14 provider if a certificate of registration is required; or

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

17 SECTION 1.14. Section 466.110, Government Code, is amended
18 to read as follows:

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

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

26 (b) The executive director may establish a provisional
27 license or other classes of licenses necessary to regulate and

1 administer the quantity and type of lottery games provided at each
2 licensed location of a sales agent.

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

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

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

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

15 (1) a sales agent or an applicant for a sales agent
16 license;

17 (2) a person required to be named in a license
18 application;

19 (3) a lottery operator, video lottery manager, video
20 lottery retailer, video lottery terminal provider, or video lottery
21 central system provider, or prospective lottery operator, video
22 lottery manager, video lottery retailer, video lottery terminal
23 provider, or video lottery central system provider;

24 (4) an employee of a lottery operator, video lottery
25 manager, video lottery retailer, video lottery terminal provider,
26 or video lottery central system provider or prospective lottery
27 operator, video lottery manager, video lottery retailer, video

1 lottery terminal provider, or video lottery central system
2 provider, if the employee is or will be directly involved in lottery
3 operations;

4 (5) a person who manufactures or distributes lottery
5 equipment or supplies, or a representative of a person who
6 manufactures or distributes lottery equipment or supplies offered
7 to the lottery;

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

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

14 (8) a person who proposes to enter into or who has a
15 contract with the commission to supply goods or services to the
16 commission; or

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

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

20 (B) holds more than 10 percent of the stock in the
21 person;

22 (C) holds an equitable interest greater than 10
23 percent in the person;

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

26 (E) is the owner or lessee of a business that the
27 person conducts or through which the person will conduct

1 lottery-related activities;

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

4 (G) participates in managing the affairs of the
5 person; or

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

8 (i) selling tickets; or

9 (ii) handling money from the sale of
10 tickets.

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

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

22 (b) The Department of Public Safety or a state or local law
23 enforcement agency in this state, in accordance with an interagency
24 agreement with the commission, shall provide any assistance
25 requested by the commission in the administration and enforcement
26 of this chapter, including conducting background investigations of
27 a person seeking a license, certificate of registration, or other

1 commission authorization required under Subchapter K or of any
2 person required to be named in an application for a license,
3 certificate of registration, or other commission authorization
4 under that subchapter.

5 (c) This section does not limit the commission's right to
6 obtain criminal history record information from any other local,
7 state, or federal agency. The commission may enter into a
8 confidentiality agreement with the agency as necessary and proper.

9 (d) Except as otherwise provided by Section 411.108(d) or
10 another provision of this chapter, criminal history record
11 information obtained by the commission under this section may be
12 disclosed only:

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

16 (2) under a court order.

17 SECTION 1.19. Section 466.252, Government Code, is amended
18 to read as follows:

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

27 (1) the commission's rules, instructions, and claims

1 procedures, including those developed for the particular lottery
2 game involved; ~~and~~

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

5 (3) the limitations and other provisions prescribed by
6 this chapter.

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

9 SECTION 1.20. Section 466.3011, Government Code, is amended
10 to read as follows:

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

14 (1) an offense under this chapter;

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

16 (A) is a lottery operator, lottery vendor, sales
17 agent, video lottery manager, video lottery retailer, video lottery
18 terminal provider, video lottery central system provider, or
19 employee of the division; and

20 (B) is alleged to have committed the offense
21 while engaged in lottery activities, including video lottery
22 activities; or

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

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

27 Sec. 466.3031. UNAUTHORIZED OPERATION, USE, OR POSSESSION

1 OF VIDEO LOTTERY TERMINAL. (a) A person may not operate, use, or
2 possess a video lottery terminal unless the operation, use, or
3 possession is expressly authorized by this chapter or other law.

4 (b) Except for transport to or from a video lottery terminal
5 establishment and as provided by this chapter, a person commits an
6 offense if the person operates, uses, or possesses any video
7 lottery terminal that is not at all times connected to the video
8 lottery central system or that does not generate revenue for this
9 state, except funds retained by the commission to pay
10 administrative costs. An offense under this subsection is a felony
11 of the third degree.

12 (c) Notwithstanding Subsection (b), a video lottery
13 retailer, video lottery manager, or registered or approved video
14 lottery terminal provider may store a video lottery terminal as
15 authorized by the commission for a period not to exceed 120
16 consecutive days, and the commission may possess video lottery
17 terminals for study and evaluation.

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

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

24 (a) A sales agent, video lottery manager, or video lottery
25 retailer, or an employee of a sales agent, video lottery manager, or
26 video lottery retailer, commits an offense if the person
27 intentionally or knowingly sells a ticket to another person or

1 allows the person to play or conduct a game on a video lottery
2 terminal by extending credit or lending money to the person to
3 enable the person to purchase the ticket or play the game.

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

6 Sec. 466.3051. SALE OF TICKET OR LOTTERY GAME TO OR PURCHASE
7 OF TICKET OR LOTTERY GAME BY PERSON YOUNGER THAN 21 [~~18~~] YEARS OF
8 AGE.

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

12 (a) A sales agent or an employee of a sales agent commits an
13 offense if the person intentionally or knowingly sells or offers to
14 sell a ticket to an individual that the person knows is younger than
15 21 [~~18~~] years of age.

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

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

22 (1) purchases a ticket;

23 (2) plays a video lottery game; or

24 (3) [~~2~~] falsely represents the individual to be 21
25 [~~18~~] years of age or older by displaying evidence of age that is
26 false or fraudulent or misrepresents in any way the individual's
27 age in order to purchase a ticket or play a video lottery game.

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

4 (d) It is a defense to the application of Subsection (b)
5 that the individual younger than 21 [~~18~~] years of age is
6 participating in an inspection or investigation on behalf of the
7 commission or other appropriate governmental entity regarding
8 compliance with this section.

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

11 SECTION 1.25. Section 466.3053, Government Code, is amended
12 to read as follows:

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

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

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

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

23 SECTION 1.26. Section 466.306, Government Code, is amended
24 to read as follows:

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

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

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

8 (a) A person commits an offense if the person intentionally
9 or knowingly tampers with, damages, defaces, or renders inoperable
10 any vending machine, electronic computer terminal, video lottery
11 terminal or other video lottery equipment, or other mechanical
12 device used in a lottery game.

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

15 Sec. 466.317. PROHIBITION AGAINST SALE OF CERTAIN LOTTERY
16 TICKETS OR OPERATION OF CERTAIN VIDEO LOTTERY SYSTEMS.

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

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

22 (b) The state may enter into a compact with another state or
23 state government [~~or an Indian tribe or tribal government~~] to
24 permit the sale of lottery tickets of this state in the state's[~~7~~
25 ~~tribe's~~] or government's jurisdiction and to allow the sale of the
26 state's[~~7~~~~tribe's~~] or government's lottery tickets in this state.

27 (c) A person commits an offense if the person violates this

1 section. An offense under this section is a felony of the third
2 degree [~~Class A misdemeanor~~].

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

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

13 (d) Immediately after the comptroller makes the August
14 transfer to the foundation school fund under Subsection (b)(4) and
15 the transfer to the foundation school fund for the following
16 September 15 under Subsection (c), the comptroller shall determine
17 whether the total amount transferred to the foundation school fund
18 from the state lottery fund in the current fiscal year is less than
19 the total amount transferred to the foundation school fund from the
20 state lottery account in the fiscal year ending August 31, 2007. If
21 the comptroller determines that the total amount transferred to the
22 foundation school fund in the current fiscal year is less than the
23 total amount transferred in the fiscal year ending August 31, 2007,
24 the comptroller not later than August 31 shall transfer to the
25 foundation school fund from the state video lottery account in the
26 general revenue fund an amount equal to the difference.

27 SECTION 1.31. Subchapter H, Chapter 466, Government Code,

1 is amended by adding Section 466.360 to read as follows:

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

5 SECTION 1.32. Section 466.402, Government Code, is amended
6 by adding Subsection (e) to read as follows:

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

9 SECTION 1.33. Section 466.409, Government Code, is amended
10 to read as follows:

11 Sec. 466.409. TREATMENT OF PRIZE PAYABLE ON TICKET PURCHASE
12 BY INELIGIBLE PERSON. If an individual listed in Section 466.254
13 purchases a ticket or claims or otherwise attempts to collect or
14 receive a lottery prize or a share of a lottery prize or an
15 individual younger than 21 [~~18~~] years of age directly purchases a
16 ticket, the individual is not eligible to receive a prize or share
17 of a prize, and the prize or share of a prize otherwise payable on
18 the ticket is treated as an unclaimed prize as provided by Section
19 466.408.

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

22 SUBCHAPTER K. VIDEO LOTTERY

23 Sec. 466.501. LEGISLATIVE FINDINGS AND DECLARATIONS. The
24 legislature finds and declares the following:

25 (1) This state's public policy prohibiting gambling is
26 subject only to limited exceptions provided by the Texas Racing Act
27 (Article 179e, Vernon's Texas Civil Statutes) or enumerated in the

1 Texas Constitution and approved by the voters.

2 (2) Any game that is a lottery cannot lawfully be
3 operated in this state unless the game is excepted from the
4 constitutional prohibition against lotteries. In 1991, the
5 electorate approved a constitutional amendment authorizing the
6 state to operate lotteries. In 2007, the electorate approved a
7 constitutional amendment allowing expansion of the existing state
8 lottery through a state-controlled video lottery system allowing
9 video lottery terminals connected to a state-controlled and
10 determined video lottery central system to be placed at locations
11 determined in accordance with law enacted by the legislature.

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

15 (4) The people of this state intend to allow only
16 state-controlled video lottery games to be conducted in this state
17 and only in locations licensed by this state to operate video
18 lottery terminals or at locations on Indian lands under an
19 agreement between this state and the appropriate Indian tribe.

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

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

24 (B) limiting video lottery to licensed
25 establishments;

26 (C) extending strict and exclusive state
27 oversight and supervision to all persons, locations, practices, and

1 associations related to the operation of video lottery games; and

2 (D) providing comprehensive law enforcement
3 supervision of video lottery game activities.

4 (6) This state's ability to monitor and control the
5 operation of all video lottery terminals ensures the integrity of
6 the system and provides for the most efficient oversight and
7 supervision. Costs incurred for oversight and supervision of
8 gambling will be significantly less than if video lottery terminals
9 were not operated as part of the video lottery system. In addition,
10 providing for the state-controlled and determined system will
11 defend against criminal infiltration of gambling operations.

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

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

24 (9) By limiting the operation of video lottery
25 terminals to those connected to the state-controlled and determined
26 video lottery system and to certain lands and certain types of
27 games, the legislature seeks to foster this state's legitimate

1 sovereign interest in regulating the growth of gambling activities
2 in this state. Limiting video lottery terminals to those
3 controlled by this state and located at licensed establishments is
4 reasonably designed to defend against the criminal infiltration of
5 gambling operations and adverse impacts on communities statewide.
6 By restricting video lottery terminals to limited locations and
7 video lottery terminals controlled by this state that may be
8 disabled by this state if necessary to protect the public, this
9 chapter furthers the state's purpose of ensuring that such gambling
10 activities are free from criminal and undesirable elements.

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

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

23 (12) This state has conferred a substantial economic
24 benefit on federally recognized Indian tribes by allowing operation
25 of video lottery terminals on lands held in trust by the Indian
26 tribes and on Indian lands on which gaming is allowed under
27 applicable federal law. Federally recognized Indian tribes have

1 the exclusive right to operate video lottery terminals at locations
2 on the Indian lands in this state without incurring the investment
3 necessary to construct, maintain, and operate racetracks for live
4 racing, and through revenue-sharing both the policy of
5 self-governance for the tribes and this state's interests in
6 generating additional revenue to fund governmental programs can be
7 promoted.

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

22 (A) preclude the creation of any property right
23 in any license, certificate of registration, or approval issued or
24 granted by this state under this chapter, the accrual of any value
25 to the privilege of participation in any video lottery game
26 operation, or the transfer of a license or certificate; and

27 (B) require that participation in video lottery

1 game operations be solely conditioned on the individual
2 qualifications of persons seeking this privilege.

3 (14) Only video lottery terminals lawfully operated in
4 connection with a video lottery system authorized by this
5 subchapter may be lawfully operated on Indian lands under the
6 Johnson Act (15 U.S.C. Section 1175).

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

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

13 (b) To the extent of any inconsistency between Chapter 2003
14 and this subchapter or a commission rule governing video lottery
15 terminals, this subchapter or the commission rule controls in all
16 matters related to video lottery terminals, including hearings
17 before the State Office of Administrative Hearings.

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

20 Sec. 466.503. AUTHORITY TO OPERATE VIDEO LOTTERY SYSTEM.

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

1 (b) The commission may allow the operation of video lottery
2 terminals pursuant to this chapter at locations on Indian lands in
3 accordance with an effective gaming agreement and in compliance
4 with applicable federal law.

5 Sec. 466.504. VIDEO LOTTERY GAMES; STATE OWNERSHIP AND
6 PROPRIETARY INTEREST. (a) This state must own all video lottery
7 games conducted through the video lottery system, regardless of
8 ownership of the video lottery terminal on which the game is played.
9 This state must possess a proprietary interest in:

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

12 (2) software consisting of computer programs,
13 documentation, and other related materials necessary for the
14 operation of the video lottery system.

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

17 (1) ownership of the software; or

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

25 Sec. 466.505. STATE CONTROL OF VIDEO LOTTERY SYSTEM. (a)
26 The commission shall control and operate the video lottery system
27 and the video lottery central system.

1 (b) The commission may disable a video lottery terminal if a
2 video lottery retailer's or video lottery manager's license is
3 revoked, surrendered, or summarily suspended under this
4 subchapter.

5 Sec. 466.506. VIDEO LOTTERY CENTRAL SYSTEM. (a) The
6 commission shall establish or cause to be established a video
7 lottery central system to link all video lottery terminals in the
8 video lottery system through which the commission has the exclusive
9 and unilateral ability to:

10 (1) control and determine the outcome of all video
11 lottery games;

12 (2) monitor activity of video lottery terminals and
13 remotely disable video lottery terminals for the public safety,
14 health, and welfare or the preservation of the integrity of the
15 lottery; and

16 (3) provide the auditing and other information
17 required by the commission.

18 (b) The video lottery central system must be a central
19 determinant system that communicates lottery outcomes from a
20 central determination computer to video lottery terminals in a
21 manner prescribed by the commission.

22 (c) The commission shall provide to a registered video
23 lottery terminal provider or an applicant applying for a
24 certificate of registration as a video lottery terminal provider
25 the protocol documentation data necessary to enable the provider's
26 or applicant's video lottery terminals to communicate with the
27 commission's video lottery central system for the transmission of

1 auditing information and for activation and disabling of video
2 lottery terminals.

3 (d) The video lottery central system may not limit or
4 preclude potential providers from providing the video lottery
5 terminals, other than providers that fail to meet specifications
6 established by the commission.

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

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

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

15 Sec. 466.507. VIDEO LOTTERY TERMINAL PROVIDER:
16 REGISTRATION OR APPROVAL REQUIRED. (a) A person may not
17 manufacture or distribute video lottery equipment for use or play
18 in this state unless the person is registered as a video lottery
19 terminal provider or is otherwise approved by the commission to
20 manufacture or distribute video lottery equipment in this state.

21 (b) A person who manufactures and distributes video lottery
22 terminals must obtain a separate certificate of registration or
23 commission approval for each of those activities.

24 (c) Unless suspended or revoked, the certificate of
25 registration or approval expires on the date specified by the
26 commission, which may not be later than the fifth anniversary of the
27 date of issuance of the certificate or approval. A person may renew

1 an unexpired certificate of registration or approval by paying a
2 renewal fee in the amount determined by the commission to cover the
3 costs of administering the renewal application and complying with
4 the requirements of this subchapter and commission rule.

5 (d) To be eligible for a certificate of registration or
6 commission approval as required by this section, an applicant must
7 satisfy all applicable requirements under this subchapter.

8 Sec. 466.508. VIDEO LOTTERY TERMINAL PROVIDER: APPLICATION;
9 CHANGE IN INFORMATION. (a) The commission shall adopt rules
10 governing the registration or approval of video lottery terminal
11 providers. The rules must require:

12 (1) the application and any other form or document
13 submitted to the commission by or on behalf of the applicant to
14 determine the applicant's qualification under this section to be
15 sworn to or affirmed before an officer qualified to administer
16 oaths; and

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

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

23 (c) An applicant for a video lottery terminal provider
24 certificate of registration or approval must provide the following
25 information:

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

27 (2) the full name and address of each location at which

1 video lottery equipment is or will be manufactured or stored in this
2 state;

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

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

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

10 (6) if the applicant is incorporated under law other
11 than the laws of this state, the applicant's irrevocable
12 designation of the secretary of state as the applicant's resident
13 agent for service of process and notice in accordance with the law
14 of this state;

15 (7) a list of all businesses or organizations in this
16 state in which the applicant has any financial interest and the
17 details of that financial interest, including all arrangements
18 through which a person directly or indirectly receives any portion
19 of the profits of the video lottery terminal provider and
20 indebtedness between the license holder and any other person, other
21 than a regulated financial institution, in excess of \$5,000;

22 (8) a list of all affiliated businesses or
23 corporations in which the applicant or an officer, director, or
24 substantial interest-holder of the applicant, either directly or
25 indirectly, owns or controls as a sole proprietor or partner more
26 than 10 percent of the voting stock of a publicly traded
27 corporation;

1 (9) a list of all businesses or corporations licensed
2 to conduct gambling activities or to supply gambling-related
3 equipment, supplies, or services in which the applicant or an
4 officer, director, or substantial interest-holder of the applicant
5 has any interest;

6 (10) a list of all jurisdictions in which the
7 applicant or an officer, director, or substantial interest-holder
8 of the applicant has been licensed, registered, qualified, or
9 otherwise approved to conduct gambling-related activities during
10 the 10 years preceding the date of the filing of the application;

11 (11) a statement, including all related details,
12 indicating whether the applicant or an officer, director, or
13 substantial interest-holder of the applicant has ever had a
14 license, registration, qualification, or other approval for
15 gambling-related activities denied, revoked, or suspended by any
16 jurisdiction or has been fined or otherwise required to pay
17 penalties or monetary forfeitures for gambling-related activities
18 in any jurisdiction; and

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

23 (d) The commission may require the following information
24 from an applicant:

25 (1) personal financial and personal history records of
26 all substantial interest-holders;

27 (2) all records related to the scope of activity,

1 including sales of product, purchases of raw materials and parts,
2 and any contracts, franchises, patent agreements, or similar
3 contracts or arrangements related to manufacturing or distributing
4 video lottery terminals; and

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

7 (e) The applicant must:

8 (1) demonstrate the ability to comply with all
9 manufacturing, quality control, and operational restrictions
10 imposed on authorized video lottery equipment, patented or
11 otherwise restricted video lottery games, or other video lottery
12 equipment that the applicant seeks to manufacture or distribute for
13 use in this state; and

14 (2) submit to an on-site review of the applicant's
15 manufacturing equipment and process for each separate type of
16 authorized video lottery equipment to ensure compliance with the
17 requirements of this chapter and commission rules.

18 (f) Not later than the 10th day after the date of any change
19 in the information submitted on or with the application form, the
20 applicant shall notify the commission of the change, including a
21 change that occurs after the certificate of registration or other
22 commission approval has been granted.

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

25 Sec. 466.509. VIDEO LOTTERY TERMINAL PROVIDER: APPLICATION
26 AND CERTIFICATE OF REGISTRATION OR APPROVAL FEE. (a) An applicant
27 seeking certificate of registration or approval or renewal of

1 registration or approval as a video lottery terminal provider must
2 pay a nonrefundable application fee in the amount of \$100,000 and an
3 annual fee due on each anniversary of initial registration or
4 approval of \$100,000.

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

8 (c) Application fees paid under this section shall be
9 retained by the commission to defray costs incurred in the
10 administration and enforcement of this chapter relating to the
11 operation of video lottery terminals.

12 Sec. 466.510. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY
13 MANAGER LICENSE REQUIRED. Except as provided by Chapter 2005,
14 Occupations Code, or a gaming agreement, a person may not own or
15 operate a video lottery terminal if the person does not satisfy the
16 requirements of this subchapter and is not licensed by the
17 commission to act as a video lottery retailer or video lottery
18 manager.

19 Sec. 466.511. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY
20 MANAGER: APPLICATION AND QUALIFICATION. (a) An applicant for a
21 video lottery retailer or video lottery manager license must apply
22 to the commission under rules adopted by the commission, provide
23 the information necessary to determine the applicant's eligibility
24 for a license, and provide other information considered necessary
25 by the commission.

26 (b) Except as provided by other law, an applicant for a
27 video lottery retailer license must hold a valid racing license

1 granted under the Texas Racing Act (Article 179e, Vernon's Texas
2 Civil Statutes) and operate a racetrack as defined by Section
3 466.002.

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

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

9 (2) demonstrate to the commission's satisfaction that
10 the applicant seeks to act as a video lottery manager for a
11 federally recognized Indian tribe that has entered into a gaming
12 agreement with this state that is in effect and governs the
13 regulation of video lottery terminals on Indian lands in this
14 state.

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

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

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

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

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

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

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

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

1 all financing or refinancing arrangements for the purchase, lease,
2 or other acquisition of video lottery equipment in the degree of
3 detail requested by the commission;

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

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

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

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

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

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

1 other approval or who knowingly submits false or misleading
2 material information is ineligible for a video lottery retailer or
3 video lottery manager license.

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

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

18 Sec. 466.512. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY
19 MANAGER: APPLICATION AND ANNUAL LICENSE FEES. (a) An applicant for
20 a video lottery retailer or video lottery manager license must pay a
21 nonrefundable application fee in the amount of:

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

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

1 (b) A video lottery retailer or video lottery manager must
2 pay an annual license fee due on each anniversary of initial
3 licensing in the amount of:

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

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

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

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

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

1 lottery terminals.

2 Sec. 466.513. VIDEO LOTTERY RETAILER OR VIDEO LOTTERY
3 MANAGER: EMPLOYEE INFORMATION. (a) A video lottery retailer or
4 video lottery manager shall provide to the commission the name and
5 address of each employee involved in the operation of video lottery
6 games and the name and address of the providers of surety and
7 insurance required by Section 466.559.

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

13 Sec. 466.514. VIDEO LOTTERY TERMINAL ESTABLISHMENT:
14 REQUIREMENTS; LOCATION. (a) A video lottery retailer or video
15 lottery manager may not operate video lottery terminals at any
16 place that is not licensed as a video lottery terminal
17 establishment.

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

1 (c) An applicant for a video lottery terminal establishment
2 license must:

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

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

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

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

15 (e) Notwithstanding Sections 466.155 and 466.511(i), the
16 commission may not deny, suspend, or revoke a license under this
17 subchapter based on the fact that a video lottery terminal
18 establishment or a proposed video lottery terminal establishment is
19 a location for which a person holds a wine and beer retailer's
20 permit, mixed beverage permit, mixed beverage late hours permit,
21 private club registration permit, or private club late hours
22 permit, issued under Chapter 25, 28, 29, 32, or 33, Alcoholic
23 Beverage Code.

24 (f) The commission may not issue a video lottery terminal
25 establishment license to a racetrack if as of January 1, 2007, any
26 part of the real property on which the licensed premises of the
27 racetrack is located is less than one-half mile from any part of the

1 real property on which a public school is located.

2 Sec. 466.515. LICENSE HOLDER AS SALES AGENT. The holder of
3 a video lottery retailer or video lottery manager license may
4 operate as a sales agent for lottery tickets in accordance with this
5 chapter.

6 Sec. 466.516. TERM OF LICENSE, REGISTRATION, OR APPROVAL;
7 RENEWAL ELIGIBILITY. (a) Unless suspended or revoked, a license,
8 certificate of registration, or approval issued under this
9 subchapter expires:

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

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

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

21 Sec. 466.517. RULES FOR ADDITIONAL LICENSE QUALIFICATIONS.
22 The commission by rule may establish other license qualifications
23 the commission determines are in the public interest and consistent
24 with the declared policy of this state.

25 Sec. 466.518. APPLICATION AS REQUEST FOR CHARACTER
26 DETERMINATION. An application under this subchapter to receive or
27 renew a license, certificate of registration, or approval or to be

1 found suitable constitutes a request for a determination of the
2 applicant's general character, integrity, and ability to
3 participate or engage in or be associated with the operation of
4 video lottery terminals.

5 Sec. 466.519. IMMUNITY FOR STATEMENT MADE IN PROCEEDING OR
6 INVESTIGATION. Any written or oral statement made in the course of
7 an official commission proceeding or investigative activities
8 related to an application for commission licensing, registration,
9 or other approval under this subchapter, by any member or agent or
10 any witness testifying under oath that is relevant to the purpose of
11 the proceeding is absolutely privileged and does not impose
12 liability for defamation or constitute a ground for recovery in any
13 civil action.

14 Sec. 466.520. SUITABILITY FINDING. To promote the
15 integrity and security of the lottery, the commission in its
16 discretion may require a suitability finding for any person doing
17 business with or in relation to the operation of video lottery
18 terminals who is not otherwise required to obtain a license,
19 registration, or approval from the commission for the person's
20 video lottery-related operations.

21 Sec. 466.521. SUMMARY SUSPENSION OF VIDEO LOTTERY RETAILER
22 OR VIDEO LOTTERY MANAGER LICENSE; TERMINAL DISABLED. (a) The
23 commission may summarily suspend the license of a video lottery
24 retailer or video lottery manager without notice or hearing if the
25 commission finds the action is necessary to maintain the integrity,
26 security, honesty, or fairness of the operation or administration
27 of the lottery or to prevent financial loss to this state and:

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

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

6 (3) the license holder refuses to allow the
7 commission, the commission's agents, or the state auditor, or their
8 designees, to examine the license holder's books, records, papers,
9 or other objects under Section 466.017; or

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

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

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

18 (1) a proceeding to summarily suspend the license is
19 initiated;

20 (2) the commission discovers the license holder failed
21 to deposit money received from video lottery terminal operation as
22 required if the license is being summarily suspended under this
23 section; or

24 (3) an act or omission occurs that, under commission
25 rules, justifies the termination of video lottery terminal
26 operations to:

27 (A) protect the integrity of the lottery or the

1 public health, welfare, or safety; or

2 (B) prevent financial loss to this state.

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

6 Sec. 466.522. LICENSING, REGISTRATION, SUITABILITY, AND
7 REGULATORY APPROVAL AS REVOCABLE PERSONAL PRIVILEGES. (a) An
8 applicant for a license, certificate of registration, suitability,
9 or other affirmative regulatory approval under this subchapter does
10 not have any right to the license, certificate of registration,
11 suitability, or approval sought.

12 (b) Any license, certificate of registration, or
13 suitability or other regulatory approval granted under this
14 subchapter is a revocable privilege, and a holder of the privilege
15 does not acquire any vested right in or under the privilege.

16 (c) The courts of this state do not have jurisdiction to
17 review a decision to deny, limit, or condition the license,
18 registration, suitability, or approval unless the judicial review
19 is sought on the ground that the denial, limitation, or condition is
20 based on a suspect classification, such as race, color, religion,
21 sex, or national origin, in violation of the Equal Protection
22 Clause of the Fourteenth Amendment to the United States
23 Constitution. The state court must affirm the commission's action
24 unless the violation is proven by clear and convincing evidence. If
25 a state court has jurisdiction over a claim under this section, then
26 this state's sovereign immunity is waived only to the extent
27 expressly provided by Section 466.572.

1 (d) A license, certificate of registration, suitability, or
2 regulatory approval granted or renewed under this subchapter may
3 not be transferred or assigned to another person, and a license,
4 registration, suitability, or approval may not be pledged as
5 collateral. The purchaser or successor of a person who has been
6 granted a license, certificate of registration, suitability, or
7 regulatory approval must independently qualify for a license,
8 certificate, suitability, or approval required by this subchapter.

9 (e) The following acts void the license, certificate,
10 suitability, or other regulatory approval of the holder unless
11 approved in advance by the commission:

12 (1) the transfer, sale, or other disposition of an
13 interest in the holder that results in a change in the identity of a
14 substantial interest holder; or

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

19 Sec. 466.523. CAPITAL INVESTMENTS AND IMPROVEMENT
20 REQUIREMENTS FOR VIDEO LOTTERY TERMINAL ESTABLISHMENT. (a) A
21 video lottery retailer or video lottery manager shall provide all
22 necessary capital investments and required improvements at a video
23 lottery terminal establishment operated by the retailer or manager.

24 (b) The commission may not issue a license for the operation
25 of a video lottery terminal establishment at a class 2 racetrack
26 that has not made at least \$40 million in capital investments or
27 improvements to new or existing facilities at the racetrack.

1 Sec. 466.524. LIST OF AUTHORIZED VIDEO LOTTERY PROVIDERS,
2 GAMES, AND TERMINALS. The commission shall provide all video
3 lottery retailers or video lottery managers with a list of
4 registered video lottery terminal providers, video lottery games,
5 and video lottery terminals authorized for operation under this
6 subchapter.

7 Sec. 466.525. VIDEO LOTTERY TERMINAL: DISTRIBUTION AND
8 COMMISSION APPROVAL. (a) A video lottery terminal provider may not
9 distribute a video lottery terminal or other video lottery
10 equipment for placement at a video lottery terminal establishment
11 in this state unless the video lottery terminal has been approved by
12 the commission.

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

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

21 Sec. 466.526. VIDEO LOTTERY TERMINAL: TESTING; REPORT. (a)
22 A video lottery terminal provider shall submit two copies of
23 terminal illustrations, schematics, block diagrams, circuit
24 analysis, technical and operation manuals, and any other
25 information requested by the commission for the purpose of
26 analyzing and testing the video lottery terminal or other video
27 lottery equipment.

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

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

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

1 to bring a video lottery terminal into compliance with this chapter
2 and commission standards.

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

9 Sec. 466.527. VIDEO LOTTERY TERMINAL: INSTALLATION;
10 MODIFICATION REQUEST. (a) A video lottery terminal provider is
11 responsible for the assembly and installation of all video lottery
12 terminals and other video lottery equipment.

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

19 (1) a detailed description of the type of change;
20 (2) a detailed description of the reasons for the
21 change; and

22 (3) technical documentation of the change.

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

27 Sec. 466.528. VIDEO LOTTERY TERMINAL REMOVAL. (a) If any

1 video lottery terminal that has not been approved by the commission
2 is distributed by a video lottery terminal provider or operated by a
3 video lottery retailer or video lottery manager or if an approved
4 video lottery terminal malfunctions, the commission shall require
5 the terminal to be removed from use and play.

6 (b) The commission may order that an unapproved terminal be
7 seized and destroyed and that a malfunctioning terminal not
8 repaired and returned to play within 30 days or as otherwise
9 prescribed by the commission be disposed of in compliance with
10 Section 466.531(b).

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

15 Sec. 466.529. VIDEO LOTTERY TERMINAL SPECIFICATIONS. (a)
16 The commission shall adopt rules for approval of video lottery
17 terminals, including requirements for video lottery game tickets,
18 maximum and minimum payout, and maximum wagers.

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

21 (1) the terminal must:

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

27 (B) allow the player to win additional game play

1 credits, coins, or tokens based on game rules that establish the
2 random selection of winning combinations of symbols or numbers and
3 the number of free play credits, coins, or tokens to be awarded for
4 each winning combination; and

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

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

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

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

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

27 (6) communication equipment and devices must be

1 installed to enable each video lottery terminal to communicate with
2 the video lottery central system through the use of a
3 communications protocol provided by the commission to each
4 registered video lottery terminal provider, which must include
5 information retrieval and programs to activate and disable the
6 terminal; and

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

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

14 Sec. 466.530. VIDEO LOTTERY TERMINALS: HOURS OF OPERATION;
15 COMMUNICATION; LOCATION. (a) The hours of operation for video
16 lottery terminals are subject to restrictions or other conditions
17 provided by commission rules.

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

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

27 (d) Except as provided by a gaming agreement, placement or

1 movement of video lottery terminals in a video lottery terminal
2 establishment must be consistent with a commission-approved video
3 lottery terminal establishment floor plan.

4 Sec. 466.531. VIDEO LOTTERY TERMINAL: TRANSPORT;
5 DISPOSITION OF OBSOLETE TERMINAL. (a) The transportation and
6 movement of video lottery terminals into or within this state is
7 prohibited, except as permitted by this subchapter and approved by
8 the commission.

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

15 Sec. 466.532. VIDEO LOTTERY TERMINALS: MAXIMUM NUMBER.

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

25 (b) The commission shall determine the number of video
26 lottery terminals that may be operated by an Indian tribe in
27 connection with the tribe's video lottery system in accordance with

1 the applicable gaming agreement entered into pursuant to this
2 chapter and the criteria prescribed by Subsection (a).

3 Sec. 466.533. REGISTRATION OF VIDEO LOTTERY TERMINALS. (a)
4 A video lottery retailer or video lottery manager may not operate or
5 display a video lottery terminal for play in this state unless the
6 terminal is annually registered with the commission in accordance
7 with this section and the certificate of registration is affixed to
8 the terminal.

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

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

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

16 (c) Chapter 2153, Occupations Code, does not apply to a
17 video lottery terminal.

18 Sec. 466.534. LICENSE AND REGISTRATION INVESTIGATIVE TRUST
19 FUND. (a) The investigative trust fund is created as a trust fund
20 to pay all expenses incurred by the commission related to oversight
21 investigations of applicants for a license, certificate of
22 registration, or approval and of license, certificate, or approval
23 holders.

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

1 (c) If the commission does not receive the initial deposit
2 required by Subsection (b) before the 30th day following the date
3 the commission notifies the applicant or license, registration, or
4 approval holder of the initial deposit amount, the commission may
5 not issue or renew the license, certificate, or approval. The
6 investigative trust fund is in the state treasury and is held in
7 trust with the comptroller's treasury operations division.

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

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

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

24 Sec. 466.535. CONSENT TO COMMISSION DETERMINATION. (a) An
25 application for a license, certificate of registration, finding of
26 suitability, or other approval under this chapter constitutes a
27 request to the commission for a decision on the applicant's general

1 suitability, character, integrity, and ability to participate or
2 engage in or be associated with the lottery in the manner or
3 position sought.

4 (b) By filing an application with the commission, the
5 applicant specifically consents to the commission's decision at the
6 commission's election when the application, after filing, becomes
7 moot for any reason other than death.

8 Sec. 466.536. ABSOLUTE AUTHORITY OF COMMISSION. To protect
9 the integrity of the lottery or the public health, welfare, or
10 safety, or to prevent financial loss to this state, the commission
11 has full and absolute power and authority to:

12 (1) deny any application or limit, condition,
13 restrict, revoke, or suspend any license, certificate of
14 registration, or finding of suitability or approval; and

15 (2) fine any person licensed, registered, found
16 suitable, or approved for any cause deemed reasonable by the
17 commission.

18 Sec. 466.537. WAIVER OF REQUIREMENTS. (a) The commission
19 may waive, either selectively or by general rule, one or more of the
20 requirements of Sections 466.508 and 466.511 if the commission
21 makes a written finding that the waiver is consistent with the
22 policy of this state, the public health, safety, and welfare, and
23 the integrity of the lottery.

24 (b) The commission may waive any requirement under this
25 chapter for a finding of suitability of an institutional investor
26 that is a substantial interest holder with respect to the
27 beneficial ownership of the voting securities of a publicly traded

1 corporation if the institutional investor holds the securities for
2 investment purposes only and applies for a waiver in compliance
3 with Section 466.538 and commission rules.

4 (c) An institutional investor is not eligible for the
5 waiver, except as otherwise provided by Subsection (f), if the
6 institutional investor beneficially owns, directly or indirectly,
7 more than 15 percent of the voting securities and if any of the
8 voting securities were acquired other than through a debt
9 restructuring.

10 (d) Voting securities acquired before a debt restructuring
11 and retained after a debt restructuring or as a result of an
12 exchange, exercise, or conversion after a debt restructuring, or
13 any securities issued to the institutional investor through a debt
14 restructuring, are considered to have been acquired through a debt
15 restructuring.

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

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

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

4 (2) on the conditions that:

5 (A) the institutional investor does not purchase
6 or otherwise acquire any additional voting securities of the
7 publicly traded corporation that would result in an increase in the
8 institutional investor's ownership percentage; and

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

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

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

1 with investment purposes only. The following activities may not be
2 considered to be inconsistent with holding voting securities for
3 investment purposes only:

4 (1) voting, directly or indirectly through the
5 delivery of a proxy furnished by the board of directors, on all
6 matters voted on by the holders of the voting securities;

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

9 (3) nominating any candidate for election or
10 appointment to the board of directors in connection with a debt
11 restructuring;

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

15 (5) making financial and other inquiries of management
16 of the type normally made by securities analysts for information
17 purposes and not to cause a change in management, policies, or
18 operations; or

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

21 (i) For purposes of this section, "debt restructuring"
22 means:

23 (1) a proceeding under the United States Bankruptcy
24 Code; or

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

1 Sec. 466.538. WAIVER APPLICATION REQUIREMENTS. An
2 application for a waiver under Section 466.537(b) must include:

3 (1) a description of the institutional investor's
4 business and a statement as to why the institutional investor meets
5 the definition of an institutional investor set forth in this
6 chapter;

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

9 (A) states that the voting securities were
10 acquired and are held for investment purposes only in accordance
11 with Section 466.537;

12 (B) provides that the applicant agrees to be
13 bound by and comply with this chapter and the rules adopted under
14 this chapter, to be subject to the jurisdiction of the courts of
15 this state, and to consent to this state as the choice of forum in
16 the event any dispute, question, or controversy arises regarding
17 the application or any waiver granted under Section 466.537(b); and

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

21 (3) a description of all actions, if any, taken or
22 expected to be taken by the institutional investor related to the
23 activities described in Section 466.537(f);

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

26 (A) the officers and directors of the
27 institutional investor or the officers' and directors' equivalents;

1 and

2 (B) the persons that have direct control over the
3 institutional investor's holdings of voting securities of the
4 publicly traded corporation registered with or licensed by the
5 commission;

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

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

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

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

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

1 (10) a disclosure of all criminal or regulatory
2 sanctions imposed during the preceding 10 years and of any
3 administrative or court proceedings filed by any regulatory agency
4 during the preceding five years against the institutional investor,
5 its affiliates, any current officer or director, or any former
6 officer or director whose tenure ended within the preceding 12
7 months, except that for a former officer or director, the
8 information need be provided only to the extent that it relates to
9 actions arising out of or during the person's tenure with the
10 institutional investor or its affiliates;

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

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

21 (13) any additional information the commission may
22 request.

23 Sec. 466.539. CHANGE IN INVESTMENT FOLLOWING WAIVER;
24 NOTICE. (a) An institutional investor that has been granted a
25 waiver of a finding of suitability under Section 466.537 and that
26 subsequently intends not to hold the investor's voting securities
27 of the publicly traded corporation for investment purposes only or

1 that intends to take any action inconsistent with the investor's
2 prior intent shall, not later than the second business day after the
3 date of the decision, deliver notice to the commission in writing of
4 the change in the investor's investment intent. The commission may
5 then take any action the commission considers appropriate.

6 (b) If the commission finds that an institutional investor
7 has failed to comply with this chapter or should be subject to a
8 finding of suitability to protect the public interest, the
9 commission may require the institutional investor to apply for a
10 finding of suitability.

11 (c) Any publicly traded corporation registered with or
12 licensed by the commission shall immediately notify the commission
13 of any information about, fact concerning, or actions of an
14 institutional investor holding any of its voting securities that
15 may materially affect the institutional investor's eligibility to
16 hold a waiver under Section 466.537.

17 Sec. 466.540. EFFECT OF DENIAL OF LICENSE OR REGISTRATION.

18 (a) A person whose application for a license or certificate of
19 registration has been denied may not have any interest in or
20 association with a video lottery retailer or video lottery manager
21 or any other business conducted in connection with video lottery
22 without prior approval of the commission.

23 (b) Any contract related to the operation of video lottery
24 terminals in this state between a person holding a license or
25 certificate of registration and a person denied a license or
26 registration must be terminated immediately. If the person denied
27 a license or certificate has previously been granted a temporary

1 license or certificate, the temporary license or certificate
2 expires immediately on denial of the permanent license or
3 certificate.

4 (c) Except as otherwise authorized by the commission, a
5 person denied a license or certificate of registration may not
6 reapply for any license or certificate before the second
7 anniversary of the date of the denial.

8 Sec. 466.541. PRACTICE BY VIDEO LOTTERY RETAILER OR VIDEO
9 LOTTERY MANAGER. A video lottery retailer or video lottery manager
10 must:

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

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

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

16 (4) promptly report all video lottery terminal
17 malfunctions and down-time;

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

20 (6) prohibit illegal gambling and any related
21 paraphernalia;

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

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

27 (9) maintain continuous camera coverage of all aspects

1 of video lottery game operations, including video lottery
2 terminals; and

3 (10) maintain an entry log for each video lottery
4 terminal on the premises of the video lottery terminal
5 establishment and maintain and submit complete records on receipt
6 of each video lottery terminal on the premises as determined by the
7 commission.

8 Sec. 466.542. RACETRACK REQUIREMENTS. (a) Except as
9 provided by other law or this section, a video lottery retailer at
10 all times must hold a valid pari-mutuel wagering license. The
11 commission may allow a video lottery retailer whose pari-mutuel
12 wagering license has lapsed or been revoked, suspended, or
13 surrendered to reapply for a license in order to operate the video
14 lottery terminal establishment or by rule may establish a period
15 not to exceed two years during which time the video lottery terminal
16 establishment may be operated pending acquisition by a person
17 qualified and licensed under this chapter to operate video lottery
18 terminals.

19 (b) If a video lottery retailer is not licensed as required
20 by Subsection (a) before the second anniversary of the date a
21 license lapses or is revoked, suspended, or surrendered or a new
22 video lottery manager or video lottery retailer is not licensed and
23 authorized to operate the facility before the second anniversary,
24 the racetrack shall permanently lose eligibility under this chapter
25 to operate video lottery terminals.

26 (c) Subject to the commission's discretion, a video lottery
27 retailer may continue to operate the video lottery terminal

1 establishment after the second anniversary of the date a license
2 lapses or is revoked, suspended, or surrendered only to satisfy the
3 establishment's existing outstanding debt attributable to video
4 lottery operation.

5 Sec. 466.543. PRIZE RULES. The commission shall adopt
6 rules governing:

7 (1) the amount a player may be charged to play each
8 video lottery game; and

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

11 Sec. 466.544. VIDEO LOTTERY CENTRAL SYSTEM: COMMUNICATION
12 TECHNOLOGY. The video lottery central system provider shall pay
13 for the installation and operation of commission-approved
14 communication technology to provide real-time communication
15 between each video lottery terminal and the video lottery central
16 system.

17 Sec. 466.545. RESPONSIBILITY FOR VIDEO LOTTERY GAME
18 OPERATIONS. (a) A video lottery retailer or a video lottery
19 manager, if applicable, is responsible for the management of video
20 lottery game operations, including:

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

22 (2) the management of cashiers, food and beverage
23 workers, floor workers, security personnel, the security system,
24 building completion, janitorial services, landscaping design, and
25 maintenance.

26 (b) Nothing in Subsection (a) limits the authority of the
27 commission, the Department of Public Safety, or another law

1 enforcement agency to administer and enforce this chapter as
2 related to video lottery.

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

6 (1) operate only video lottery terminals that are
7 distributed by a registered video lottery terminal provider and
8 provide a secure location for the placement, operation, and play of
9 the video lottery terminals;

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

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

16 (4) ensure that video lottery terminals are in the
17 sight and control of designated employees of the video lottery
18 retailer or video lottery manager and in the sight of video cameras
19 as required under this subchapter;

20 (5) ensure that video lottery terminals are placed and
21 remain placed in the specific locations in the video lottery
22 terminal establishment that are consistent with the retailer's or
23 manager's commission-approved floor plan;

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

27 (7) refuse to accept a credit card payment from a

1 player for the exchange or purchase of video lottery game credits or
2 for an advance of coins, currency, vouchers, or tokens to be used by
3 a player to play video lottery games, refuse to extend credit, in
4 any manner, to a player that enables the player to play a video
5 lottery game, and ensure that any person doing business at the video
6 lottery terminal establishment, including a person operating or
7 managing an auxiliary service such as a restaurant, refuses to
8 accept a credit card payment or to extend credit in a manner
9 prohibited by this subdivision, except that:

10 (A) a license holder may cash a check for a player
11 if the license holder exercises reasonable caution cashing the
12 check and does not cash checks for any player in an amount exceeding
13 \$1,000 in any 24-hour period; and

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

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

20 (9) conduct only the video lottery game advertising
21 and promotional activities consistent with criteria prescribed by
22 the commission, which must prohibit undue influence, offensive
23 language, and anything that would affect the integrity of video
24 lottery operation;

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

1 (11) maintain general liability insurance coverage
2 for the video lottery terminal establishment and all video lottery
3 terminals in the amounts required by the commission;

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

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

8 Sec. 466.546. TECHNICAL STANDARDS FOR VIDEO LOTTERY
9 EQUIPMENT. The commission by rule shall establish minimum
10 technical standards for video lottery equipment that may be
11 operated in this state.

12 Sec. 466.547. INCIDENT REPORTS. (a) A video lottery
13 retailer or video lottery manager shall record all unusual
14 occurrences related to gaming activity in a video lottery terminal
15 establishment operated by the retailer or manager.

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

21 (1) the number assigned to the incident;

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

23 (3) the nature of the incident;

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

25 (5) the name of the employee or other agent of the
26 video lottery retailer or video lottery manager who investigated
27 the incident.

1 Sec. 466.548. EXCLUSION OF PERSONS. (a) The commission
2 shall compile a list of persons that a video lottery retailer or
3 video lottery manager must bar from a video lottery terminal
4 establishment based on a person's criminal history or association
5 with criminal offenders or because the person poses a threat to the
6 integrity of the lottery.

7 (b) A video lottery retailer or video lottery manager shall
8 employ the retailer's or manager's best efforts to exclude such
9 persons from entry into the establishment.

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

13 (d) A person who believes the person may be playing video
14 lottery games on a compulsive basis may request that the person's
15 name be placed on the list compiled by the commission under
16 Subsection (a).

17 (e) All video lottery game employees shall receive training
18 in identifying players with a compulsive playing problem and shall
19 be instructed to ask the players to leave the establishment. Signs
20 and other materials shall be readily available to direct compulsive
21 players to agencies that offer appropriate counseling.

22 Sec. 466.549. REPORT ON LITIGATION. (a) A video lottery
23 retailer or video lottery manager shall report to the commission
24 any litigation relating to the retailer's or manager's video
25 lottery terminal establishment, including a criminal proceeding, a
26 proceeding involving an issue related to racing activities that
27 impact video lottery operations, or a matter related to character

1 or reputation relevant to a person's suitability under this
2 subchapter.

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

6 Sec. 466.550. COMMISSION APPROVAL REQUIRED FOR PROCEDURES
7 AND ADMINISTRATIVE AND ACCOUNTING CONTROLS. (a) The commission's
8 approval is required for:

9 (1) all internal procedures and administrative and
10 accounting controls of a video lottery retailer or video lottery
11 manager; and

12 (2) all internal procedures and administrative and
13 accounting controls of a video lottery terminal provider that
14 relate to the manufacturing and distribution of video lottery
15 terminals to be used in this state.

16 (b) The commission by rule shall establish general
17 accounting and auditing requirements and internal control
18 standards for video lottery retailers and video lottery managers.

19 Sec. 466.551. FINANCIAL AND OPERATING INFORMATION. A video
20 lottery retailer or video lottery manager shall submit financial
21 and operating information and statistical data to the commission in
22 a format approved by the commission in order for the financial
23 operating position of the retailer or manager and performance and
24 trends of the video lottery game industry in this state to be
25 evaluated.

26 Sec. 466.552. VIDEO LOTTERY TERMINAL EVENTS. A video
27 lottery retailer or video lottery manager shall keep a database of

1 video lottery terminal events. The commission by rule shall
2 determine what constitutes a video lottery terminal event for
3 purposes of this section.

4 Sec. 466.553. EMPLOYEE REPORTING. (a) On or before the
5 15th day of each month, a video lottery retailer or video lottery
6 manager shall submit to the commission an employee report for the
7 video lottery terminal establishment operated by the retailer or
8 manager. For each employee of the retailer or manager, the report
9 must provide the employee's name, job title, date of birth, and
10 social security number.

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

14 (c) The commission may conduct criminal history
15 investigations for employees of video lottery retailers and video
16 lottery managers.

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

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

22 (2) concealed or refused to disclose any material fact
23 in any commission investigation;

24 (3) committed, attempted, or conspired to commit
25 larceny or embezzlement;

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

1 (5) accepted employment in a position for which
2 commission approval is required after commission approval was
3 denied for a reason involving personal unsuitability or after
4 failing to apply for a license or approval on commission request;

5 (6) been prohibited under color of governmental
6 authority from being present on the premises of any gaming
7 establishment or any establishment where pari-mutuel wagering is
8 conducted for any reason relating to improper gambling activity or
9 for any illegal act;

10 (7) wilfully defied any legislative investigative
11 committee or other officially constituted body acting on behalf of
12 the United States or any state, county, or municipality that sought
13 to investigate alleged or potential crimes relating to gaming,
14 corruption of public officials, or any organized criminal
15 activities; or

16 (8) been convicted of any felony or any crime
17 involving moral turpitude.

18 (e) The commission may prohibit an employee from performing
19 any act relating to video lottery terminals based on a revocation or
20 suspension of any gaming or wagering license, permit, or approval
21 or for any other reason the commission finds appropriate, including
22 a refusal by a regulatory authority to issue a license, permit, or
23 other approval for the employee to engage in or be involved with the
24 lottery or with regulated gaming or pari-mutuel wagering in any
25 jurisdiction.

26 (f) In this section, "employee" includes any person
27 connected directly with or compensated by an applicant or license

1 holder as an agent, personal representative, consultant,
2 independent contractor, or lobbyist for the advocacy of the
3 adoption or amendment of a law related to gaming or lottery
4 activities or the furtherance of gaming or lottery activities in
5 any jurisdiction or as otherwise specified by commission rule.

6 Sec. 466.554. REPORT OF VIOLATIONS. A person who holds a
7 license or certificate of registration under this subchapter shall
8 immediately report a violation or suspected violation of this
9 chapter or a rule adopted under this chapter by any license or
10 certificate holder, by an employee of a license or certificate
11 holder, or by any person on the premises of a video lottery terminal
12 establishment, whether or not associated with the license or
13 certificate holder.

14 Sec. 466.555. SECURITY. (a) In addition to the security
15 provisions applicable under Section 466.020, a video lottery
16 retailer or video lottery manager shall:

17 (1) continuously monitor all video lottery terminals
18 through the use of a closed-circuit television system that records
19 activity for a continuous 24-hour period, retain all videotapes or
20 other media used to store video images for at least 30 days, and
21 make the tapes or media available to the commission on request;

22 (2) submit for commission approval a security plan and
23 a floor plan of the area where video lottery terminals are operated
24 showing video lottery terminal locations and security camera mount
25 locations; and

26 (3) employ at least the minimum number of private
27 security personnel the commission determines is necessary to

1 provide for safe and approved operation of the video lottery
2 terminal establishment and the safety and well-being of the
3 players.

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

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

9 (d) The commission may adopt rules to impose additional
10 surveillance and security requirements related to video lottery
11 terminal establishments and the operation of video lottery
12 terminals.

13 Sec. 466.556. VIDEO LOTTERY TERMINAL ESTABLISHMENT:
14 COMMISSION RIGHT TO ENTER. The commission or the commission's
15 representative, after displaying appropriate identification and
16 credentials, has the free and unrestricted right to:

17 (1) enter the premises of a video lottery terminal
18 establishment;

19 (2) enter any other locations involved in operation or
20 support of video lottery games at all times to examine the systems;
21 and

22 (3) inspect and copy the records of a video lottery
23 retailer or video lottery manager pertaining to the operation of
24 video lottery games.

25 Sec. 466.557. APPOINTMENT OF SUPERVISOR. (a) The
26 commission by rule may provide for the appointment of a supervisor
27 to manage and operate a video lottery terminal establishment at the

1 direction of the commission and perform any act that a video lottery
2 retailer or video lottery manager is entitled to perform in the
3 event that:

4 (1) a video lottery retailer license or other license
5 required for operation of the establishment is revoked or
6 suspended, lapses, or is surrendered;

7 (2) a video lottery terminal establishment has been
8 conveyed or transferred to a secured party receiver or trustee who
9 does not hold the licenses necessary to operate the establishment;
10 or

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

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

14 (1) take any action or adopt any procedure necessary
15 to operate a video lottery terminal establishment pending the
16 licensing of a video lottery retailer, video lottery manager, the
17 video lottery establishment, or a successor on the transfer or sale
18 of the establishment or property; and

19 (2) if necessary to continue the operation of the
20 video lottery establishment, sell the establishment to a person
21 that holds or has applied for the licenses required to operate the
22 establishment under this subchapter and make appropriate
23 distributions of the proceeds of the sale.

24 Sec. 466.558. OFFENSE: CONVEYANCE OF VIDEO LOTTERY TERMINAL
25 ESTABLISHMENT PROPERTY. (a) A person commits an offense if during
26 the pendency of any proceeding before the commission that may
27 result in the appointment of a supervisor or during the period of

1 supervision the person:

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

5 (2) removes from this state or secretes from the
6 commission or the supervisor any property, money, books, or records
7 of the video lottery terminal establishment, including evidences of
8 debts owed to the establishment.

9 (b) An offense under Subsection (a) is a felony of the third
10 degree.

11 Sec. 466.559. INDEMNIFICATION, INSURANCE, AND BONDING
12 REQUIREMENTS. (a) A license or certificate holder shall indemnify
13 and hold harmless this state, the commission, and all officers and
14 employees of this state and the commission from any and all claims
15 which may be asserted against a license or certificate holder, the
16 commission, this state, and the members, officers, employees, and
17 authorized agents of this state or the commission arising from the
18 license or certificate holder's participation in the video lottery
19 system authorized under this chapter.

20 (b) Surety and insurance required under this subchapter
21 shall be issued by companies or financial institutions financially
22 rated "A" or better as rated by A.M. Best Company or other rating
23 organization designated by the commission and duly licensed,
24 admitted, and authorized to conduct business in this state, or by
25 other surety approved by the commission.

26 (c) The commission shall be named as the obligee in each
27 required surety and as an additional insured in each required

1 insurance contract.

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

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

8 (1) insurance for performance;

9 (2) insurance against losses caused by fraudulent or
10 dishonest acts by an officer or employee of a video lottery
11 retailer, video lottery manager, or video lottery terminal
12 provider;

13 (3) general liability insurance;

14 (4) property insurance;

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

17 (6) crime insurance for the location.

18 Sec. 466.560. LIABILITY FOR CREDIT AWARDED OR DENIED;
19 PLAYER DISPUTE. This state and the commission are not liable for
20 any video lottery terminal malfunction or error by a video lottery
21 retailer, video lottery manager, or video lottery terminal provider
22 that causes credit to be wrongfully awarded or denied to players.

23 Sec. 466.561. STATE VIDEO LOTTERY ACCOUNT. (a) The
24 commission shall deposit money received under this subchapter to
25 the state video lottery account. The state video lottery account is
26 a special account in the general revenue fund. The account consists
27 of all revenue received by this state from the operation of video

1 lottery terminals. Except as otherwise provided by this
2 subchapter, money in the account may be used solely to fund state
3 governmental programs and the administration of the video lottery
4 system.

5 (b) Not more than two percent of the net terminal income
6 received by this state under Section 466.562 may be used to defray
7 expenses incurred in administering this chapter related to video
8 lottery games, including expenses incurred to operate the video
9 lottery central system.

10 Sec. 466.562. ALLOCATION OF NET TERMINAL INCOME; TRANSFER
11 OF MONEY. (a) Net terminal income derived from the operation of
12 video lottery games in this state is allocated as follows:

13 (1) net terminal income generated from the operation
14 of video lottery terminals at a video lottery terminal
15 establishment shall be distributed 65 percent to the establishment
16 and 35 percent to this state; and

17 (2) net terminal income generated from the operation
18 of video lottery terminals on Indian lands under a gaming agreement
19 authorized under this subchapter shall be distributed in accordance
20 with the gaming agreement.

21 (b) The amount of \$10 million of the net terminal income
22 received by this state under Subsection (a)(1) in each fiscal year
23 shall be transferred in equal monthly installments to the Texas
24 Racing Commission to fund a compulsive gambling program established
25 by the racing commission.

26 (c) The amount of \$10 million of the net terminal income
27 received by this state under Subsection (a)(1) in each fiscal year

1 shall be transferred in equal monthly installments to the criminal
2 justice planning fund for use by the criminal justice division of
3 the governor's office to assist in the prosecution of offenses
4 under Chapter 47, Penal Code.

5 (c-1) Except as otherwise provided by Subsection (c-2):

6 (1) one-quarter of one percent of the net terminal
7 income received by this state under Subsection (a)(1) shall be
8 allocated to the municipality in which the video lottery terminal
9 establishment is located; and

10 (2) one-quarter of one percent of the net terminal
11 income received by this state under Subsection (a)(1) shall be
12 allocated to the county in which the video lottery terminal
13 establishment is located.

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

19 (c-3) Two percent of the net terminal income received by
20 this state under Subsections (a) and (b) shall be transferred to the
21 performance horse development fund, administered by the Texas
22 Racing Commission to fund a broad spectrum of the horse industry
23 outside the racing industry and to develop the agriculture industry
24 in this state. Money from the fund is allocated annually as
25 follows:

26 (1) 40 percent of the fund to American Quarter Horse
27 Association sanctioned events;

1 (2) 20 percent to National Cutting Horse Association
2 sanctioned events;

3 (3) 20 percent to American Paint Horse Association
4 sanctioned events; and

5 (4) 20 percent to the Department of Agriculture to
6 promote the agricultural industry in this state.

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

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

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

8 Sec. 466.563. COMMISSION EXAMINATION OF FINANCIAL RECORDS.
9 The commission may examine all accounts, bank accounts, financial
10 statements, and records in the possession or control of a person
11 licensed under this subchapter or in which the license holder has an
12 interest. The license holder must authorize and direct all third
13 parties in possession or in control of the accounts or records to
14 allow examination of any of those accounts or records by the
15 commission.

16 Sec. 466.564. FINANCIAL INFORMATION REQUIRED. (a) A video
17 lottery retailer or video lottery manager shall furnish to the
18 commission all information and bank authorizations required to
19 facilitate the timely transfer of money to the commission.

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

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

1 Sec. 466.565. DEDUCTIONS FROM VIDEO LOTTERY PROCEEDS AT
2 RACETRACKS. (a) The pari-mutuel license holder that owns or
3 operates a racetrack at which video lottery games are conducted
4 under this subchapter and the officially recognized horsemen's
5 organization representing the horsemen at the racetrack or the
6 state breed registry representing the greyhound breeders at the
7 racetrack may enter into a written agreement to allocate a
8 percentage of net terminal income to be used for purses at that
9 racetrack.

10 (b) Unless otherwise agreed to under Subsection (a) by the
11 pari-mutuel license holder that owns or operates a horse racetrack
12 at which video lottery games are conducted under this subchapter
13 and the officially recognized horsemen's organization representing
14 the horsemen at the racetrack, the license holder shall allocate a
15 percentage determined by the Texas Racing Commission of the net
16 terminal income generated from the operation of video lottery
17 terminals at the racetrack to purses. The percentage must be
18 sufficient to ensure the purses at the racetrack are nationally
19 competitive, and may not be less than 6.5 percent of the net
20 terminal income generated from the operation of video lottery
21 terminals at the racetrack.

22 (c) Unless otherwise agreed to under Subsection (a) by the
23 pari-mutuel license holder that owns or operates a greyhound
24 racetrack at which video lottery games are conducted under this
25 subchapter and the state breed registry representing the greyhound
26 breeders at the racetrack, the license holder shall allocate a
27 percentage determined by the Texas Racing Commission of the net

1 terminal income generated from the operation of video lottery
2 terminals at the racetrack to purses. The percentage must be
3 sufficient to ensure the purses at the racetrack are nationally
4 competitive, and may not be less than 6.5 percent of the net
5 terminal income generated from the operation of video lottery
6 terminals at the racetrack.

7 (d) The Texas Racing Commission shall adopt rules to
8 administer this section. A matter considered by the racing
9 commission under this section is a contested case under Chapter
10 2001, Government Code, and requires a public hearing.

11 (e) A state breed registry that receives net terminal income
12 under this section may allocate up to 50 percent of the amount
13 received for Texas breeder awards.

14 Sec. 466.566. LIABILITY OF VIDEO LOTTERY RETAILER AND VIDEO
15 LOTTERY MANAGER. (a) A video lottery retailer, video lottery
16 manager, or both, are liable to the commission for the state's share
17 of net terminal income reported by the video lottery central
18 system.

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

25 (c) If the video lottery retailer or video lottery manager
26 is not an individual, each officer, director, or owner of the video
27 lottery retailer or video lottery manager is personally liable to

1 the commission for the full amount of the money held in trust,
2 except that shareholders of a publicly held corporation are liable
3 in an amount not to exceed the value of their equity investment.

4 Sec. 466.567. PRIZE PAYMENT AND REDEMPTION. (a) Payment of
5 prizes is the sole and exclusive responsibility of the video
6 lottery retailer or video lottery manager. A prize may not be paid
7 by the commission or this state except as otherwise authorized.

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

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

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

21 Sec. 466.568. REVOCATION OF LICENSE, CERTIFICATE OF
22 REGISTRATION, OR OTHER REGULATORY APPROVAL. (a) The commission
23 shall revoke or suspend a license, certificate of registration, or
24 other regulatory approval issued under this subchapter if the
25 holder of the license, certificate, or approval at any time fails to
26 meet the eligibility requirements set forth in this subchapter.

27 (b) Failure to timely remit revenue generated by video

1 lottery terminals to the commission or any tax or other fee owed to
2 this state as demonstrated by report from the applicable taxing
3 authority or to timely file any report or information required
4 under this subchapter as a condition of any license, certificate of
5 registration, or other approval issued under this subchapter may be
6 grounds for suspension or revocation, or both, of a license,
7 certificate, or other approval issued under this subchapter.

8 Sec. 466.569. DISCIPLINARY HEARING. (a) Before the
9 commission revokes or suspends a video lottery terminal provider's
10 certificate of registration or video lottery retailer's or video
11 lottery manager's license, or imposes monetary penalties for a
12 violation of this subchapter, the commission shall provide written
13 notification to the license or certificate holder of the
14 revocation, the period of suspension, or the monetary penalty. The
15 notice shall include:

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

18 (2) each reason for the revocation, suspension, or
19 penalty;

20 (3) an explanation of the evidence supporting the
21 reasons;

22 (4) an opportunity to present the license or
23 certificate holder's position in response on or before the 15th day
24 after the effective date of the revocation; and

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

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

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

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

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

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

25 (g) A hearing on a revocation or suspension that takes
26 effect on receipt of notice must be held not later than the 14th day
27 after the date the commission receives the request for hearing

1 under this section. The revocation or suspension continues in
2 effect until the hearing is completed. If the hearing is continued,
3 the revocation or suspension shall continue in effect beyond the
4 14-day period at the request of the license or certificate holder or
5 on a finding of good cause by the commission or administrative law
6 judge.

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

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

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

23 (k) The commission may adopt the findings for costs, fees,
24 and expenses and make the finding a part of the final order entered
25 in the proceeding. Proceeds collected from a finding made under
26 this section shall be paid to the commission.

27 Sec. 466.570. JUDICIAL REVIEW OF REVOCATION, SUSPENSION, OR

1 PENALTY IMPOSITION. (a) A person aggrieved by a final decision of
2 the commission to revoke or suspend a certificate of registration
3 or license or to impose any monetary penalty may obtain judicial
4 review before a district court in Travis County.

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

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

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

23 (e) The commission, this state, or the members, officers,
24 employees, and authorized agents of either are not under any
25 circumstances subject to monetary damages, attorney's fees, or
26 court costs resulting from the penalty or license or certificate
27 revocation.

1 Sec. 466.571. LICENSE OR CERTIFICATE OF REGISTRATION:
2 AGREEMENT TO WAIVE ENFORCEABILITY. A license or certificate holder
3 by virtue of accepting the license or certificate agrees that the
4 privilege of holding a license or certificate under this subchapter
5 is conditioned on the holder's agreement to Sections
6 466.568-466.570 and waives any right to challenge or otherwise
7 appeal the enforceability of those sections.

8 Sec. 466.572. LIMITED WAIVER OF SOVEREIGN IMMUNITY; NO
9 LIABILITY OF STATE FOR ENFORCEMENT. (a) This state does not waive
10 its sovereign immunity by negotiating gaming agreements with Indian
11 tribes or other persons for the operation of video lottery
12 terminals or other lottery games under this chapter. An actor or
13 agent for this state may not waive this state's sovereign immunity
14 absent an express legislative grant of the authority. The only
15 waiver of sovereign immunity relative to video lottery terminal
16 operations is that expressly provided for in this section.

17 (b) With regard to video lottery terminal operations on
18 Indian lands, this state consents to the jurisdiction of the
19 District Court of the United States with jurisdiction in the county
20 where the Indian lands are located, or if the federal court lacks
21 jurisdiction, to the jurisdiction of a district court in Travis
22 County, solely for the purpose of resolving disputes arising from a
23 gaming agreement authorized under this subchapter for declaratory
24 or injunctive relief or contract damages of \$100,000 or more. Any
25 disputes relating to damages or other awards valued at less than
26 \$100,000 shall be arbitrated under the rules of the American
27 Arbitration Association, provided, however, that application of

1 the rules may not be construed as a waiver of sovereign immunity.

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

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

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

10 Sec. 466.573. ABSOLUTE PRIVILEGE OF REQUIRED
11 COMMUNICATIONS AND DOCUMENTS. (a) Any communication, document, or
12 record of a video lottery central system provider, video lottery
13 terminal provider, video lottery retailer, or video lottery
14 manager, an applicant, or a license or certificate holder or holder
15 of a regulatory approval that is made or transmitted to the
16 commission or any of its employees to comply with any law, including
17 a rule of the commission, to comply with a subpoena issued by the
18 commission, or to assist the commission or its designee in the
19 performance of their respective duties is absolutely privileged,
20 does not impose liability for defamation, and is not a ground for
21 recovery in any civil action.

22 (b) If a communication, document, or record provided under
23 Subsection (a) contains any information that is privileged under
24 state law, that privilege is not waived or lost because the
25 communication, document, or record is disclosed to the commission
26 or any commission employees.

27 (c) The commission shall maintain all privileged

1 information, communications, documents, and records in a secure
2 place as determined in the commission's sole discretion that is
3 accessible only to commission members and authorized commission
4 employees.

5 Sec. 466.574. INTELLECTUAL PROPERTY RIGHTS OF COMMISSION.
6 The legislature finds and declares that the commission has the
7 right to establish ownership of intellectual property rights for
8 all lottery products, including video lottery terminals and related
9 video lottery equipment.

10 Sec. 466.575. MODEL GAMING AGREEMENT. (a) The governor
11 shall execute, on behalf of this state, a gaming agreement with the
12 Ysleta del Sur Pueblo Indian tribe, the Alabama-Coushatta Indian
13 tribe, or the Kickapoo Traditional Tribe of Texas containing the
14 terms set forth in Subsection (b), as a ministerial act, without
15 preconditions, not later than the 30th day after the date the
16 governor receives a request from the tribe, accompanied by or in the
17 form of a duly enacted resolution of the tribe's governing body, to
18 enter into the gaming agreement.

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

21 GAMING AGREEMENT GOVERNING

22 VIDEO LOTTERY TERMINAL OPERATIONS

23 Between the [Name of Tribe]

24 and the STATE OF TEXAS

25 This agreement is made and entered into by and between the
26 [Name of Tribe], a federally recognized Indian Tribe ("Tribe"), and
27 the State of Texas ("State"), with respect to the operation of video

1 lottery terminals (as defined by Section 466.002, Texas Government
2 Code) on the Tribe's Indian lands (as defined by Chapter 466, Texas
3 Government Code).

4 SECTION 1.0. TITLE.

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

7 SECTION 2.0. PURPOSES AND OBJECTIVES.

8 Sec. 2.1. The terms of this agreement are designed and
9 intended to:

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

13 (b) develop and implement a means of regulating limited
14 Class III gaming on the Tribe's Indian lands to ensure fair and
15 honest operation in accordance with the applicable federal and
16 state law, and, through that regulated limited Class III gaming,
17 enable the Tribe to develop self-sufficiency, promote tribal
18 economic development, and generate jobs and revenues to support the
19 Tribe's government and governmental services and programs; and

20 (c) ensure fair operation of video lottery games and
21 minimize the possibilities of corruption and infiltration by
22 criminal influences; promote ethical practices in conjunction with
23 that gaming, through the licensing and control of persons employed
24 in, or providing goods and services to, the Tribe's video lottery
25 operation and protecting against the presence or participation of
26 persons whose criminal backgrounds, reputations, character, or
27 associations make the persons unsuitable for participation in

1 gaming, thereby maintaining a high level of integrity in government
2 gaming.

3 SECTION 3.0. DEFINITIONS.

4 As used in this agreement, all terms have the meaning
5 assigned by Section 466.002, Texas Government Code, unless
6 otherwise specified:

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

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

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

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

17 (a) operates, maintains, repairs, or assists in any gaming
18 activities, or is in any way responsible for supervising the gaming
19 activities or persons who conduct, operate, account for, or
20 supervise the gaming activities;

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

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

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

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

5 Sec. 3.6. "IGRA" means the Indian Gaming Regulatory Act of
6 1988 (18 U.S.C. Sec. 1166 et seq. and 25 U.S.C. Sec. 2701 et seq.),
7 any amendments to the act, and all regulations promulgated under
8 the act.

9 Sec. 3.7. "Key employee" means any person employed by the
10 Tribe as chief operating or executive officer, chief financial
11 officer, chief of security, or manager of a video lottery terminal
12 establishment or operations of video lottery terminals, or any
13 other person who may directly influence the management of a video
14 lottery terminal establishment or the operation of video lottery
15 terminals.

16 Sec. 3.8. "NIGC" means the National Indian Gaming
17 Commission.

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

21 Sec. 3.10. "Principal" means, with respect to any entity,
22 the entity's sole proprietor or any partner, trustee, beneficiary,
23 or shareholder holding 10 percent or more of the entity's
24 beneficial or controlling ownership, either directly or
25 indirectly, or more than 10 percent of the voting stock of a
26 publicly traded corporation, or any officer, director, principal
27 management employee, or key employee of the entity.

1 Sec. 3.11. "Restoration Act" means the Ysleta del Sur
2 Pueblo and Alabama and Coshatta Indian Tribes of Texas Restoration
3 Act (25 U.S.C. Section 731 et seq. and 25 U.S.C. Section 1300g et
4 seq.).

5 Sec. 3.12. "State" means the State of Texas or an authorized
6 official or agency of the state.

7 Sec. 3.13. "Texas regulatory commission" means the state
8 agency that regulates video lottery games in Texas under Chapter
9 466, Texas Government Code.

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

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

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

20 Sec. 3.17. "Tribal Compliance Agency" ("TCA") means the
21 Tribal governmental agency that has the authority to carry out the
22 Tribe's regulatory and oversight responsibilities under this
23 gaming agreement. Unless and until otherwise designated by the
24 Tribe, the TCA shall be the [Name of Tribe] Gaming Commission. A
25 gaming employee may not be a member or employee of the TCA. The
26 Tribe has the ultimate responsibility for ensuring that the TCA
27 fulfills its responsibilities under this gaming agreement. The

1 members of the TCA are subject to background investigations and
2 shall be licensed to the extent required by any applicable Tribal or
3 federal law and in accordance with this gaming agreement. The Tribe
4 shall ensure that all TCA officers and agents are qualified for the
5 position and receive ongoing training to obtain and maintain skills
6 sufficient to carry out their responsibilities in accordance with
7 industry standards.

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

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

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

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

20 SECTION 4.0. RECITALS.

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

24 Sec. 4.2. A principal goal of Federal Indian policy is to
25 promote tribal economic development and tribal self-sufficiency.
26 The State and the Tribe find the goal to be consistent with
27 applicable federal law, state public policy, and the public health,

1 safety, and welfare to regulate video lottery terminals on Indian
2 lands in accordance with this gaming agreement.

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

8 Sec. 4.4. The Tribe exercises governmental authority within
9 the [name of Reservation] (the "Reservation"), which for purposes
10 of this gaming agreement means those lands within the current
11 boundaries of the Reservation and any other Indian lands over which
12 the Tribe exercises governmental authority.

13 Sec. 4.5. The State of Texas is a state of the United States
14 of America possessing the sovereign powers and rights of a state.
15 The State has a legitimate sovereign interest in regulating the
16 growth of Class III gaming activities in Texas. Mindful of that
17 interest, the State of Texas, pursuant to Chapter 466, Texas
18 Government Code, authorized certain gaming agreements with Indian
19 tribal governments in the State of Texas to permit the operation of
20 video lottery terminals on Indian lands. It is the general policy
21 of the State to prohibit commercial gambling throughout the state.
22 The exceptions to this prohibition are limited under Texas law to
23 specified types of gaming and to limited locations that meet
24 specific criteria. Any gaming not expressly authorized is
25 prohibited.

26 Sec. 4.6. The parties recognize that this agreement
27 provides the Tribe substantial benefits that create a unique

1 opportunity for the Tribe to operate video lottery terminals in an
2 economic environment of limited competition from gaming on
3 non-Indian lands in Texas, with the operation of video lottery
4 games on non-Indian lands restricted to licensed racetracks in
5 existence in 2007 or racetracks for which a license application was
6 filed on or before June 1, 2007, and to a limited number of licensed
7 tourist destinations in locations that provide the Tribe with a
8 substantial exclusive territory for its video lottery terminal
9 operations. The parties are mindful that this unique environment
10 is of economic value to the Tribe. In consideration for the
11 substantial rights enjoyed by the Tribe, and in further
12 consideration for the State's willingness to enter into this gaming
13 agreement and allow the Tribe the opportunity to operate video
14 lottery terminals connected to the State's video lottery system,
15 the Tribe has agreed to provide to the State, on a
16 sovereign-to-sovereign basis, a portion of revenue generated by
17 video lottery terminals on Indian lands and to collect and remit to
18 the comptroller State sales and use taxes and State taxes on motor
19 fuels, alcoholic beverages, cigarettes and tobacco products, and
20 hotel occupancy generated at a video lottery terminal
21 establishment. The requirement to collect and remit these State
22 taxes does not apply to an item sold to or used or consumed by a
23 Tribe member.

24 Sec. 4.7. The Tribe desires to offer the play of video
25 lottery terminals, as a means of generating revenue for the support
26 of tribal governmental programs, such as health care, housing,
27 sewer and water projects, police, corrections, fire, judicial

1 services, highway and bridge construction, general assistance for
2 tribal elders, day care for the children, economic development,
3 educational opportunities, and other typical and valuable
4 governmental services and programs for tribal members.

5 Sec. 4.8. The State recognizes that the positive effects of
6 this gaming agreement may extend beyond the Tribe's lands to the
7 Tribe's neighbors and surrounding communities and will generally
8 benefit all of Texas. These positive effects and benefits may
9 include not only those described in Section 4.7, but also may
10 include increased tourism and related economic development
11 activities that, through the Tribe's revenue sharing with the
12 State, will generate additional funds for state governmental
13 programs.

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

17 Sec. 4.10. Nothing in this agreement shall supplant the
18 role or duties of the Texas Department of Public Safety under state
19 law. The Texas Racing Commission and the Texas Comptroller of
20 Public Accounts do not have any role in regulation or oversight of
21 gaming activities conducted by a Tribe.

22 Sec. 4.11. The terms of this gaming agreement strictly
23 define and limit the relationship of the parties. Nothing in this
24 gaming agreement shall be construed to create or imply a joint
25 venture, partnership, principal/agent, or any other relationship
26 between the parties.

27 SECTION 5.0. CLASS III GAMING AUTHORIZED AND PERMITTED.

1 Sec. 5.1. The Tribe is hereby authorized and permitted to
2 engage only in the Class III gaming activities expressly referred
3 to in Section 6.0 and may not engage in Class III gaming that is not
4 expressly authorized in that section. Nothing in this agreement
5 shall be construed to allow Internet gaming.

6 SECTION 6.0. AUTHORIZATION OF VIDEO LOTTERY TERMINALS.

7 Sec. 6.1. Authorized and Permitted Class III Gaming. The
8 Tribe is hereby authorized and permitted to operate the following
9 Class III gaming under the terms and conditions set forth in this
10 agreement.

11 Sec. 6.2. The Tribe and State agree that the Tribe is
12 authorized to operate video lottery terminals only in accordance
13 with this gaming agreement. However, nothing in this agreement
14 limits any right of the Kickapoo Traditional Tribe of Texas to
15 operate any game that is a Class II game under IGRA, and Class II
16 games are not subject to the exclusivity payments required under
17 this gaming agreement.

18 Sec. 6.2.1. Operation of Video Lottery Terminals. Video
19 lottery terminals must be operated in connection with the video
20 lottery system and at all times be connected through communication
21 technology or other video lottery equipment controlled by the State
22 to a State controlled and operated video lottery central system.
23 The Tribe may enter into a management gaming agreement for a third
24 party video lottery manager, or the Tribe may act as its own video
25 lottery manager.

26 (a) Third Party Video Lottery Manager. If the Tribe enters
27 into a management gaming agreement for a third party video lottery

1 manager, the manager must be licensed under Subchapter K, Chapter
2 466, Texas Government Code, and all video lottery operations shall
3 be subject to and in strict compliance with that subchapter. Any
4 video lottery manager conducting business on Indian lands shall
5 indemnify and hold harmless the State and the Texas regulatory
6 commission and all officers and employees of both from any and all
7 claims which may be asserted against a license holder, the
8 commission, the State, and the members, officers, employees, and
9 authorized agents of either, arising from the license holder's
10 participation in the video lottery system authorized under the
11 gaming agreement.

12 (b) Tribe as Video Lottery Manager. If the Tribe elects to
13 manage video lottery terminal operations, then Sections 7.0 through
14 14.0 of this agreement govern the procurement and operation of the
15 video lottery terminals on the Indian lands of the Tribe.

16 Sec. 6.3. In order to remain eligible to operate video
17 lottery terminals under this gaming agreement, the Tribe must
18 strictly comply with all requirements of the gaming agreement,
19 timely file all reports required by this gaming agreement, and
20 timely remit all payments to the State required under this gaming
21 agreement or applicable state law, including the taxes collected as
22 provided by Section 4.6.

23 Sec. 6.4. Regardless of ownership of video lottery
24 terminals, the State owns all video lottery games.

25 SECTION 7.0. PROCUREMENT OF VIDEO LOTTERY TERMINALS.

26 Sec. 7.1. All video lottery terminals shall be procured
27 only from a video lottery terminal provider registered with the

1 Texas regulatory commission under Subchapter K, Chapter 466, Texas
2 Government Code. The Tribe may not enter into, or continue to make
3 payments pursuant to, any contract or agreement for the provision
4 of video lottery equipment with any person who is not registered by
5 the commission as a video lottery terminal provider under
6 Subchapter K, Chapter 466, Texas Government Code. Any agreement
7 between the Tribe and a video lottery terminal provider shall be
8 deemed to include a provision for the agreement's termination
9 without further liability on the part of the Tribe, except for the
10 bona fide repayment of all outstanding sums, exclusive of interest,
11 owed as of, or payment for services or materials received up to, the
12 date of termination, on revocation or nonrenewal of the video
13 lottery terminal provider's registration.

14 Sec. 7.2. The Texas regulatory commission shall provide the
15 Tribe a list of registered video lottery terminal providers,
16 commission approved video lottery games, and commission approved
17 video lottery terminals. The Tribe may not operate a video lottery
18 terminal that has not been authorized by the commission.

19 Sec. 7.3. The Tribe shall file with the Texas regulatory
20 commission any order placed for video lottery terminals
21 simultaneously with the submission of the order to a
22 commission-approved video lottery terminal provider.

23 Sec. 7.4. The Tribe or the video lottery manager shall
24 provide all necessary capital investments and required
25 improvements at a video lottery terminal establishment.

26 SECTION 8.0. LICENSING.

27 Sec. 8.1. Gaming Ordinance and Regulations. All video

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

15 Sec. 8.2. Tribal Ownership and Regulation of Gaming
16 Operation. Except as otherwise provided by this agreement, the
17 Tribe shall have the sole proprietary interest in the video lottery
18 terminal establishment and video lottery terminals. This provision
19 may not be construed to prevent the Tribe from granting security
20 interests or other financial accommodations to secured parties,
21 lenders or others, or to prevent the Tribe from entering into leases
22 or financing agreements or a gaming management agreement with a
23 video lottery manager.

24 Sec. 8.3. Government-to-Government Cooperation. The
25 parties intend that the licensing process provided for in this
26 gaming agreement shall involve joint cooperation between the TCA
27 and the Texas regulatory commission, as described in this

1 agreement.

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

13 (b) In order to protect the health and safety of all video
14 lottery terminal establishment patrons, guests, and employees, all
15 video lottery terminal establishments of the Tribe constructed
16 after the effective date of this gaming agreement, and all
17 expansions or modifications to a site facility for a video lottery
18 terminal establishment in existence as of the effective date of
19 this gaming agreement, shall meet or exceed the building and safety
20 codes of the Tribe. As a condition for engaging in that
21 construction, expansion, modification, or renovation, the Tribe
22 shall amend the Tribe's existing building and safety codes if
23 necessary, or enact such codes if there are none, so that the codes
24 meet the standards of the building and safety codes of any county in
25 which the video lottery terminal establishment is located,
26 including all uniform fire, plumbing, electrical, mechanical, and
27 related codes in effect on the date this agreement takes effect.

1 Nothing in this agreement shall be deemed to confer jurisdiction on
2 any county or the State with respect to any reference to such
3 building and safety codes. Any construction, expansion, or
4 modification must also comply with the federal Americans with
5 Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), as amended.

6 (c) The TCA shall issue a video lottery terminal
7 establishment a certificate of occupancy prior to occupancy if it
8 was not used for any lawful gaming prior to the effective date of
9 this gaming agreement, or, if it was so used, within one year after
10 the effective date. The certificate shall be reviewed for
11 continuing compliance once every two years. Inspections by
12 qualified building and safety experts shall be conducted under the
13 direction of the TCA as the basis for issuing any certificate
14 hereunder. The TCA shall determine and certify that, as to new
15 construction or new use for gaming activities, the video lottery
16 terminal establishment meets the Tribe's building and safety code,
17 or, as to facilities or portions of facilities that were used for
18 the Tribe's gaming before this gaming agreement, that the video
19 lottery terminal establishment or portions of the establishment do
20 not endanger the health or safety of occupants or the integrity of
21 the video lottery system. The Tribe may not offer video lottery
22 gaming in a video lottery terminal establishment that is
23 constructed or maintained in a manner that endangers the health or
24 safety of occupants or the integrity of the video lottery system.

25 (d) The State shall designate an agent or agents to be given
26 reasonable notice of each inspection by the TCA's experts, and
27 State agents may participate in any such inspection. The Tribe

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

16 Sec. 8.5. Suitability Standard Regarding Tribal Gaming
17 Licenses. In reviewing an application for a tribal gaming license,
18 and in addition to any standards set forth in the Tribal gaming
19 ordinance, the TCA shall consider whether issuance of the license
20 is inimical to public health, safety, or welfare, and whether
21 issuance of the license will undermine public trust that the
22 Tribe's operation of video lottery terminals, or tribal government
23 gaming generally, is free from criminal and dishonest elements and
24 would be conducted honestly. A license may not be issued unless,
25 based on all information and documents submitted, the TCA is
26 satisfied that the applicant, in addition to any other criteria in
27 any applicable federal law is all of the following:

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

2 (b) a person whose prior activities, criminal record (if
3 any), reputation, habits, and associations do not pose a threat to
4 the security and integrity of the lottery or to the public interest
5 of the State or to the effective operation and control of the
6 lottery, or create or enhance the dangers of unsuitable, unfair, or
7 illegal practices, methods, or activities in the conduct of the
8 lottery, or in the carrying on of the business and financial
9 arrangements incidental to the conduct of the lottery; and

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

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

26 (b) Without the concurrence of the Texas regulatory
27 commission, the Tribe may not employ or continue to employ any

1 person whose application to the commission for a registration,
2 license, determination of suitability, or other regulatory
3 approval, or for a renewal of a registration, license,
4 determination of suitability, or other regulatory approval, has
5 been denied or has expired without renewal.

6 Sec. 8.7. Financial Sources. Any person providing
7 financing, directly or indirectly, to the Tribe's video lottery
8 terminal establishment or operation of video lottery terminals must
9 be licensed by the TCA before receipt of that financing, provided
10 that any person who is providing financing at the time of the
11 execution of this gaming agreement must be licensed by the TCA
12 within 90 days of such execution. The TCA shall review licenses at
13 least every two years for continuing compliance. In connection
14 with the review, the TCA shall require the Financial Source to
15 update all information provided in the previous application. Any
16 agreement between the Tribe and a Financial Source is deemed to
17 include a provision for its termination without further liability
18 on the part of the Tribe, except for the bona fide repayment of all
19 outstanding sums, exclusive of interest, owed as of the date of
20 termination, on revocation or nonrenewal of the Financial Source's
21 license by the TCA based on a determination of unsuitability by the
22 Texas regulatory commission. The Tribe may not enter into, or
23 continue to make payments pursuant to any contract or agreement for
24 the provision of financing with any person whose application to the
25 commission for a determination of suitability has been denied or
26 has expired without renewal. A video lottery terminal provider who
27 provides financing exclusively in connection with the sale or lease

1 of video lottery equipment obtained from that video lottery
2 terminal provider may be registered solely in accordance with the
3 commission's registration procedures for video lottery terminal
4 providers. The TCA may, in its discretion, exclude from the
5 licensing requirements of this section, financing provided by:

6 (1) a federally regulated or state regulated bank,
7 savings and loan, or other federally regulated or state regulated
8 lending institution;

9 (2) any agency of the federal, state, or local
10 government; or

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

14 Sec. 8.8. Processing License Applications. Each applicant
15 for a tribal gaming license shall submit the completed application
16 on forms prescribed by the TCA and approved by the Texas regulatory
17 commission, along with the required information and an application
18 fee, to the TCA in accordance with the rules and regulations of that
19 agency. The parties agree that for purposes of this agreement, the
20 standards set forth under federal law with regard to information
21 required for Tribal gaming operation applications shall govern.
22 Accordingly, at a minimum, the TCA shall require submission and
23 consideration of all information required under federal law,
24 including 25 C.F.R. Section 556.4, for licensing primary management
25 officials and key employees. For applicants who are business
26 entities, the licensing provisions apply to the entity and:

27 (a) each officer and director;

1 (b) each principal management employee, including any chief
2 executive officer, chief financial officer, chief operating
3 officer, and general manager;

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

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

7 (e) each person or entity, other than a financial
8 institution the TCA has determined does not require a license under
9 the preceding section, that, alone or in combination with others,
10 has provided financing in connection with any video lottery
11 equipment or video lottery terminal establishment under this gaming
12 agreement, if that person or entity provided more than five percent
13 of:

14 (1) the start-up capital;

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

16 (3) a combination thereof.

17 For purposes of this section, if any commonality of the
18 characteristics identified in Subsections (a)-(e) exist between
19 any two or more entities, the entities may be deemed to be a single
20 entity. Nothing herein precludes the Tribe or TCA from requiring
21 more stringent licensing requirements.

22 Sec. 8.8.1. Background Investigations of Applicants. (a)
23 The TCA shall conduct or cause to be conducted all necessary
24 background investigations reasonably required to determine that
25 the applicant is qualified for a tribal gaming license under the
26 standards set forth in this gaming agreement, and to fulfill all
27 requirements for licensing under any applicable federal law, the

1 Tribal Gaming Ordinance, and this gaming agreement. The TCA may not
2 issue any license other than a temporary license until a
3 determination is made that the qualifications have been met.

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

18 Sec. 8.8.2. Temporary Licensing of Employees.
19 Notwithstanding any contrary provision in this gaming agreement,
20 the TCA may issue a temporary license and may impose specific
21 conditions on the license pending completion of the applicant's
22 background investigation as the TCA in its sole discretion shall
23 determine, if:

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

26 (b) the TCA has conducted a preliminary background
27 investigation, and the investigation or other information held by

1 the TCA does not indicate:

2 (1) that the applicant has a criminal history that
3 could pose a threat to the security and integrity of the lottery or
4 to the public interest of the State or the effective operation and
5 control of the lottery, or create or enhance the dangers of
6 unsuitable, unfair, or illegal practices, methods, or activities in
7 the conduct of the lottery, or in the carrying on of the business
8 and financial arrangements incidental thereto;

9 (2) other information in the applicant's background
10 that would either disqualify the applicant from obtaining a license
11 or cause a reasonable person to investigate further before issuing
12 a license; or

13 (3) that the applicant is otherwise unsuitable for
14 licensing.

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

17 (d) A temporary license shall remain in effect until
18 suspended or revoked, or until a final determination is made on the
19 application. At any time after issuance of a temporary license, the
20 TCA may suspend or revoke the temporary license in accordance with
21 Sections 8.9.1 or 8.9.5, and the Texas regulatory commission may
22 request suspension or revocation in accordance with Section 8.9.

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

1 set forth in 25 C.F.R. Part 558.

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

14 (b) State and Tribal courts shall have no jurisdiction to
15 review decisions to deny, limit, or condition a license,
16 registration, suitability, qualification, or request for approval
17 unless the judicial review is sought on the ground that such a
18 denial, limitation, or condition is proven by clear and convincing
19 evidence to be based on a suspect classification such as race,
20 color, religion, gender, or national origin, protected under the
21 Equal Protection Clause of the United States Constitution.

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

23 (a) The TCA may deny any application for a tribal gaming license
24 and may revoke any license issued if the TCA determines the
25 application is incomplete or deficient or if the applicant is
26 determined to be unsuitable or otherwise unqualified for the gaming
27 license. Pending consideration of revocation, the TCA may

1 summarily suspend a license in accordance with Section 8.9.5. All
2 rights to notice and hearing shall be governed by tribal law. The
3 TCA shall notify the applicant in writing of the tribal law
4 provisions and of the intent to suspend or revoke the license.

5 (b) On receipt of notice that the Texas regulatory
6 commission has determined a person would be unsuitable for
7 licensure in a video lottery terminal establishment or related to
8 video lottery terminal operations subject to the jurisdiction of
9 the commission, the TCA shall promptly revoke any license issued to
10 the person.

11 Sec. 8.9.2. Renewal of Licenses; Extensions; Further
12 Investigation. The term of a tribal gaming license may not exceed
13 five years, and application for renewal of a license must be made
14 before the license's expiration. An applicant for renewal of a
15 license must provide updated material as requested, on the
16 appropriate renewal forms, but, at the discretion of the TCA, may
17 not be required to resubmit historical data previously submitted or
18 that is otherwise available to the TCA. At the discretion of the
19 TCA, an additional background investigation may be required at any
20 time if the TCA determines the need for further information
21 concerning the applicant's continuing suitability or eligibility
22 for a license. Before renewing a license, the TCA shall deliver to
23 the Texas regulatory commission copies of all information and
24 documents received in connection with the application for renewal.

25 Sec. 8.9.3. Identification Cards. The TCA shall require
26 all persons who are required to be licensed to wear, in plain view
27 at all times while in the video lottery terminal establishment,

1 identification badges issued by the TCA. Identification badges
2 must include a photograph and an identification number that is
3 adequate to enable TCA agents to readily identify the person and
4 determine the validity and date of expiration of the license.

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

7 Sec. 8.9.5. Summary Suspension of Tribal Gaming License.
8 The TCA may summarily suspend a tribal gaming license if the TCA
9 determines that the continued licensing of the person or entity
10 could constitute a threat to the public health or safety or may
11 violate the TCA's licensing or other standards or any provision of
12 applicable federal or state law or of this agreement. Any right to
13 notice or hearing in regard to the suspension are governed by tribal
14 law provided the law is not inconsistent with any provision of this
15 agreement.

16 Sec. 8.9.6. State Certification Process. (a) On receipt of
17 a completed tribal gaming license application and a determination
18 by the TCA that it intends to issue the earlier of a temporary or
19 permanent license, the TCA shall transmit to the Texas regulatory
20 commission a notice of intent to license the applicant, together
21 with all of the following:

22 (1) a copy of all tribal license application materials
23 and information received by the TCA from the applicant;

24 (2) an original set of fingerprint cards;

25 (3) a current photograph; and

26 (4) except to the extent waived by the commission, the
27 releases of information, waivers, and other completed and executed

1 forms obtained by the TCA.

2 (b) Except for an applicant for licensing as a non-key
3 gaming employee, the TCA shall require the applicant to file an
4 application with the Texas regulatory commission, before issuance
5 of a temporary or permanent tribal gaming license, for a
6 determination of suitability for licensure under Subchapter K,
7 Chapter 466, Texas Government Code. Investigation and disposition
8 of that application is governed entirely by State law, and the
9 commission shall determine whether the applicant would be found
10 suitable for licensure in a video lottery terminal establishment or
11 in relation to video lottery terminal operations at a video lottery
12 terminal establishment subject to the commission's jurisdiction.
13 Additional information may be required by the commission to assist
14 in a background investigation, provided that the commission
15 requirement is no greater than that which may be required of
16 applicants for a video lottery retailer license in connection with
17 video lottery operations at a video lottery terminal establishment
18 under Subchapter K, Chapter 466, Texas Government Code. A
19 determination of suitability is valid for the term of the tribal
20 license held by the applicant, and the TCA shall require a license
21 holder to apply for renewal of a determination of suitability at the
22 time the license holder applies for renewal of a tribal gaming
23 license. The commission and the TCA, together with tribal gaming
24 agencies under other gaming agreements, shall cooperate in
25 developing standard licensing forms for tribal gaming license
26 applicants, on a statewide basis, that reduce or eliminate
27 duplicative or excessive paperwork, and the forms and procedures

1 must take into account the Tribe's requirements under any
2 applicable federal law and the expense thereof.

3 (c) Background Investigations of Applicants. On receipt of
4 completed license application information from the TCA, the Texas
5 regulatory commission may conduct a background investigation
6 pursuant to state law to determine whether the applicant would be
7 suitable to be licensed for association with a video lottery
8 terminal establishment or operation subject to the jurisdiction of
9 the commission. If further investigation is required to supplement
10 the investigation conducted by the TCA, the applicant will be
11 required to pay an application fee charged by the commission in an
12 amount that reimburses the commission for actual costs incurred,
13 provided that in requesting any deposit, the commission shall take
14 into consideration reports of the background investigation already
15 conducted by the TCA and the NIGC, if any. Failure to pay the
16 application fee or deposit may be grounds for denial of the
17 application by the commission. The commission and TCA shall
18 cooperate in sharing as much background information as possible to
19 maximize investigative efficiency and thoroughness and to minimize
20 investigative costs. On completion of the necessary background
21 investigation or other verification of suitability, the commission
22 shall issue a notice to the TCA certifying the State has determined
23 that the applicant would be suitable or that the applicant would be
24 unsuitable for licensure in a video lottery terminal establishment
25 subject to the jurisdiction of the commission and, if unsuitable,
26 stating the reasons for unsuitability.

27 (d) The Tribe, on a monthly basis, shall provide the Texas

1 regulatory commission with the name, badge identification number,
2 and job descriptions of all non-key gaming employees.

3 (e) The Tribe shall, at all times, have a list of key
4 employees on file with the Texas regulatory commission and shall
5 advise the commission of any change to the list not later than the
6 10th day following the date of the change.

7 (f) Before denying an application for a determination of
8 suitability, the Texas regulatory commission shall notify the TCA
9 and afford the Tribe an opportunity to be heard. The courts of the
10 State and the Tribe shall have no jurisdiction to review decisions
11 to deny, limit, or condition a license, registration, suitability,
12 qualification, or request for approval unless the denial,
13 limitation, or condition is proven by clear and convincing evidence
14 to be based on a suspect classification such as race, color,
15 religion, sex, or national origin, protected under the Equal
16 Protection Clause of the United States Constitution. Under these
17 circumstances, any requirement for tribal court exhaustion is
18 hereby waived by the Tribe.

19 Sec. 8.9.7. State Assessment for Costs of Oversight. (a)
20 The State shall make annually an assessment sufficient to
21 compensate the State for actual costs of oversight of the operation
22 of video lottery terminals pursuant to this gaming agreement.

23 (b) Annually, on or before August 1 beginning with the first
24 such date following the implementation of video lottery operations
25 under this gaming agreement, the State shall render to the TCA a
26 statement of the total cost of oversight and any law enforcement for
27 the preceding fiscal year ending July 31 together with proposed

1 assessments for the forthcoming fiscal year based on the preceding
2 fiscal year cost. In the first year of the effective date of this
3 gaming agreement, however, the assessment must be prospective and
4 based on a pro rata allocation of costs if this gaming agreement
5 becomes operative in the course of a fiscal year and must be
6 established following consultation with the TCA. On September 1,
7 annually, the State, after receiving any objections to the proposed
8 assessments and making such changes or adjustments as may be
9 indicated, shall provide a written notice that assesses the Tribe
10 for the costs of the oversight and any necessary law enforcement.
11 Annually, the Tribe shall pay one-third of the assessment within 20
12 days of the receipt of the written notice and shall pay the
13 remaining two-thirds of the assessment in two equal payments on
14 January 1 and April 1. The payments must be deposited with the
15 Texas regulatory commission in a video lottery account established
16 solely for funds related to video lottery terminals operated by the
17 Tribe.

18 (c) In the event that the total assessment paid by the Tribe
19 during any fiscal year of the State exceeds the actual costs of the
20 oversight and any necessary law enforcement during that fiscal
21 year, the State shall adjust the assessment for the succeeding
22 fiscal year in the amount necessary to offset such excess
23 assessment. If the Tribe is aggrieved because of any failure by the
24 State to make such an adjustment, any claim for such an adjustment
25 must be presented in the appeal of the assessment as provided in
26 Section 8.9.8.

27 Sec. 8.9.8. Procedure for Appeal of Assessments or Payments

1 Made to the State. If the Tribe is aggrieved because of any
2 assessment levied or payment made to the State as required by this
3 gaming agreement, the Tribe, not later than the 30th day following
4 the date provided for the payment, may appeal an assessment or
5 payment to the Texas regulatory commission. If the Tribe is
6 aggrieved by the commission's decision, it may invoke the dispute
7 resolution provisions of this agreement provided that the Tribe
8 must prove by clear and convincing evidence that any collection or
9 assessment of payment to the State was inappropriate.

10 Sec. 8.9.9. Collection and Distribution of Revenue. (a)
11 The Tribe shall establish separate electronic funds transfer
12 accounts for the purposes of depositing money from video lottery
13 terminal operations, making payments to the Texas regulatory
14 commission, and receiving payments from the commission.

15 (b) The State's share of net terminal income of the Tribe's
16 video lottery terminal operations shall be transferred to the Texas
17 regulatory commission through the electronic transfer of funds
18 daily by the commission. The commission shall establish the
19 procedures for depositing money from video lottery terminal
20 operations into electronic funds transfer accounts and the
21 procedures for the handling of money from video lottery terminal
22 operations. The State's share of net terminal income from video
23 lottery terminal operations shall be held in trust for the State.

24 (c) Unless directed otherwise by the Texas regulatory
25 commission, the Tribe shall maintain in its account the State's
26 share of the net terminal income from the operation of video lottery
27 terminals, to be electronically transferred by the commission. On

1 the Tribe's failure to maintain this balance, the commission may
2 disable all of the Tribe's video lottery terminals until full
3 payment of all amounts due is made. Interest shall accrue on any
4 unpaid balance at a rate consistent with the amount charged under
5 Section 111.060, Texas Tax Code. The interest shall begin to accrue
6 on the date payment is due to the commission. In the commission's
7 sole discretion, rather than disable the Tribe's video lottery
8 terminals, the commission may elect to impose contract penalties in
9 an amount to be determined by the commission not to exceed \$250,000
10 for each violation. If the Tribe fails to remedy the violation,
11 including payment of any amounts due to the State, within 10 days,
12 the commission may disable the Tribe's video lottery terminals or
13 use any other means for collection agreed to by the Tribe instead of
14 disabling the Tribe's video lottery terminals.

15 (d) The Tribe is solely responsible for resolving any income
16 discrepancies between actual money collected and the net terminal
17 income reported by the video lottery central system. Unless an
18 accounting discrepancy is resolved in favor of the Tribe, the Texas
19 regulatory commission may not make any credit adjustments. Any
20 accounting discrepancies which cannot be resolved shall be resolved
21 in favor of the commission.

22 (e) Tribes shall remit payment as directed by the Texas
23 regulatory commission if the electronic transfer of funds is not
24 operational or the commission notifies the Tribe that remittance by
25 this method is required. The Tribe shall report the State's share
26 of net terminal income, and remit the amount as generated from its
27 terminals during the reporting period.

1 (f) The Tribe agrees to furnish to the Texas regulatory
2 commission all information and bank authorizations required to
3 facilitate the timely transfer of money to the commission. The
4 Tribe agrees to provide the commission 30 days' advance notice of
5 any proposed account changes in order to assure the uninterrupted
6 electronic transfer of funds. However, in no event shall the
7 commission be responsible for any interruption or delays in
8 transferring of funds. Rather, the Tribe shall be responsible for
9 any interruption or delay in transferring of funds.

10 SECTION 9.0. RULES AND REGULATIONS; MINIMUM REQUIREMENTS
11 FOR OPERATIONS.

12 Sec. 9.1. Regulations. The Tribe shall promulgate any
13 rules and regulations necessary to implement this gaming agreement,
14 which at a minimum shall expressly include or incorporate by
15 reference all requirements of this gaming agreement. Nothing in
16 this gaming agreement shall be construed to affect the Tribe's
17 right to amend its rules and regulations, provided that any such
18 amendment shall be in conformity with this gaming agreement. The
19 Texas regulatory commission may propose additional rules and
20 regulations related to implementation of this gaming agreement to
21 the TCA at any time, and the TCA shall give good faith consideration
22 to such suggestions and shall notify the commission of its response
23 or action with respect thereto.

24 Sec. 9.2. Compliance; Internal Control Standards. All
25 video lottery operations shall comply with, and all video lottery
26 games approved under the procedures set forth in this gaming
27 agreement shall be operated in accordance with the requirements set

1 forth in this gaming agreement and applicable state law. The
2 parties agree that for purposes of this agreement, the standards
3 set forth in 25 C.F.R. Part 542 shall govern minimum requirements
4 for tribal internal control standards. Accordingly, the Tribe
5 agrees that all tribal video lottery operations shall comply with
6 tribal internal control standards that provide a level of control
7 equal to or exceeding that provided by the standards set forth in 25
8 C.F.R. Part 542.

9 Sec. 9.3. Records. (a) In addition to other records
10 required to be maintained herein, the Tribe shall maintain in
11 permanent written or electronic form the following records related
12 to implementation of this gaming agreement:

13 (1) a log recording all surveillance activities of the
14 video lottery terminal establishment, including surveillance
15 records kept in the normal course of operations and in accordance
16 with industry standards; provided, notwithstanding anything to the
17 contrary herein, surveillance records may, at the discretion of the
18 Tribe, be destroyed if no incident has been reported within one year
19 following the date the records were made;

20 (2) payout from the conduct of all video lottery
21 games;

22 (3) maintenance logs for all video lottery gaming
23 equipment used by the video lottery terminal establishment;

24 (4) security logs as kept in the normal course of
25 conducting and maintaining security at the video lottery terminal
26 establishment, which at a minimum must conform to industry
27 practices for such reports;

1 (5) books and records on video lottery terminals, as
2 described more particularly in Section 9.4, which shall be
3 maintained in accordance with generally accepted accounting
4 principles (GAAP) and the standards set forth in Section 9.4; and

5 (6) all documents generated in accordance with this
6 gaming agreement.

7 (b) The Tribe shall make the records maintained under
8 Subsection (a) of this section available for inspection by the
9 Texas regulatory commission for not less than four years from the
10 date the records are generated.

11 (c) The security logs required under Subsection (a) of this
12 section must document any unusual or nonstandard activities,
13 occurrences, or events at or related to the video lottery terminal
14 establishment or in connection with the video lottery terminal
15 operations. Each incident, without regard to materiality, shall be
16 assigned a sequential number for each such report. At a minimum,
17 the security logs shall consist of the following information, which
18 shall be recorded in a reasonable fashion noting:

19 (1) the assigned number of the incident;

20 (2) the date of the incident;

21 (3) the time of the incident;

22 (4) the location of the incident;

23 (5) the nature of the incident;

24 (6) the identity, including identification
25 information, of any persons involved in the incident and any known
26 witnesses to the incident; and

27 (7) the Tribal compliance officer making the report

1 and any other persons contributing to its preparation.

2 Sec. 9.4. ACCOUNTING.

3 Sec. 9.4.1. Accounting Records Required. The Tribe agrees
4 with regard to any video lottery terminal operations, to keep
5 accurate, complete, legible, and permanent records of all
6 transactions pertaining to revenue for six years. If the Tribe
7 keeps permanent records in a computerized or microfiche fashion, it
8 shall provide the Texas regulatory commission, on request, with a
9 detailed index to the microfiche or computer records that is
10 indexed by date.

11 Sec. 9.4.2. Accounting Systems. The Tribe agrees with
12 regard to all video lottery terminal operations, to keep general
13 accounting records on a double entry system of accounting,
14 maintaining detailed, supporting, and subsidiary records,
15 including:

16 (a) detailed records that identify the revenues, expenses,
17 assets, liabilities, and equity of the video lottery terminal
18 establishment and operations;

19 (b) records required by the Tribe's Minimum Internal
20 Control System;

21 (c) journal entries prepared by the Tribe and its
22 independent accountant; and

23 (d) any other records that the TCA may require.

24 Sec. 9.4.3. Net Terminal Income and Expenses. The Tribe
25 agrees with regard to all video lottery terminal operations, to
26 create and maintain records sufficiently accurate to reflect the
27 net terminal income and expenses of the video lottery terminal

1 establishment and operation of video lottery terminals.

2 Sec. 9.4.4. Financial Statements. (a) The Tribe agrees to
3 prepare financial statements covering all financial activities of
4 the video lottery terminal establishment and operation of video
5 lottery terminals for a business year. The statements required by
6 this subsection must be presented on a comparative basis.

7 (b) If the Tribe changes its business year, it must prepare
8 and submit audited or reviewed financial statements to the Texas
9 regulatory commission covering the "stub" period from the end of
10 the previous business year to the beginning of the new business year
11 not later than 120 days after the end of the stub period or
12 incorporate the financial results of the stub period in the
13 statements for the new business year.

14 Sec. 9.5. Audits. The parties agree that for purposes of
15 this agreement, the standards set forth in 25 C.F.R. Section 571.12
16 govern audits required under this agreement. The TCA shall ensure
17 that an annual independent financial audit of the Tribe's conduct
18 of video lottery games subject to this gaming agreement and of the
19 video lottery terminal establishment is secured. The audit shall,
20 at a minimum, examine revenues and expenses in connection with the
21 operation of video lottery terminals in accordance with generally
22 accepted auditing standards and shall include those matters
23 necessary to verify the determination of net terminal income and
24 the basis of the payments made to the State pursuant to this gaming
25 agreement.

26 (a) The auditor selected by the TCA shall be a firm of known
27 and demonstrable experience, expertise, and stature in conducting

1 audits of this kind and scope and shall be approved by the Texas
2 regulatory commission.

3 (b) The audit shall be concluded within five months
4 following the close of each calendar year, provided that extensions
5 may be requested by the Tribe and may not be refused by the State if
6 the circumstances justifying the extension request are beyond the
7 Tribe's control. An extension, however, may not extend the
8 conclusion of an audit required by this gaming agreement to more
9 than 12 months following the close of the relevant calendar year.

10 (c) The audit of the operation of video lottery terminals
11 may be conducted as part of or in conjunction with the audit of the
12 video lottery terminal establishment, but if so conducted shall be
13 separately stated for the reporting purposes required herein.

14 (d) The audit shall conform to generally accepted auditing
15 standards. As part of the audit report, the auditor shall certify
16 to the TCA that, in the course of the audit, the auditor did not
17 discover any matters within the scope of the audit which were
18 determined or believed to be in violation of any provision of this
19 gaming agreement. If the auditor discovers matters determined or
20 believed to be in violation of any provision of this gaming
21 agreement, the auditor shall immediately notify the Texas
22 regulatory commission of the alleged violation and the basis for
23 the auditor's conclusion.

24 (e) The Tribe shall assume all costs in connection with the
25 audit.

26 (f) The audit report for the conduct of video lottery games
27 shall be submitted to the Texas regulatory commission within 30

1 days of completion. The auditor's work papers concerning video
2 lottery games shall be made available to the commission on request.

3 (g) Representatives of the Texas regulatory commission may,
4 on request, meet with the auditors to discuss the work papers, the
5 audit, or any matters in connection therewith; provided such
6 discussions are limited to video lottery information and pursue
7 legitimate state video lottery interests.

8 Sec. 9.6. Security. (a) All video lottery terminals shall
9 be continuously monitored through the use of a closed circuit
10 television system that records all activity for a continuous
11 24-hour period. All videotapes or other media used to store video
12 images shall be retained for a period of at least 30 days.

13 (b) Access to video lottery terminal locations shall be
14 restricted to persons legally entitled by age under State law to
15 play video lottery games.

16 (c) The Tribe must submit for approval by the Texas
17 regulatory commission a security plan and a floor plan of the area
18 or areas where video lottery terminals are to be operated showing
19 video lottery terminal locations and security camera mount
20 locations. This commission approved security plan shall be subject
21 to review by the commission which may require revision of the plan
22 on a biennial basis.

23 (d) Security personnel shall be present during all hours of
24 operation at each video lottery terminal establishment. The Tribe
25 shall employ at least the number of security personnel the Texas
26 regulatory commission determines is necessary to provide for safe
27 and approved operation of the video lottery terminal establishment

1 and the safety and well-being of the players.

2 (e) The communication technology used in connection with
3 video lottery operations must meet accepted industry standards for
4 security sufficient to minimize the possibility of any third party
5 intercepting any data transmitted to or from the video lottery
6 terminals.

7 Sec. 9.7. Exclusion of Persons. The Tribe's rules and
8 regulations shall require at a minimum the exclusion of persons
9 based on their prior conduct at the video lottery terminal
10 establishment or who, because of their criminal history or
11 association with criminal offenders, pose a threat to the integrity
12 of the conduct of video lottery games or may be playing video
13 lottery games compulsively.

14 (a) The TCA shall establish a list of the persons to be
15 excluded from any video lottery terminal establishment under this
16 provision.

17 (b) The Tribe shall employ its best efforts to exclude
18 persons on such list from entry into its video lottery terminal
19 establishment.

20 (c) Patrons who believe they may be playing video lottery
21 games on a compulsive basis may request that their names be placed
22 on the list. All gaming employees shall receive training on
23 identifying players who have a problem with compulsive playing and
24 shall be instructed to ask them to leave. Signs and other materials
25 shall be readily available to direct such compulsive players to
26 agencies where they may receive counseling. Notwithstanding any
27 other provision of this agreement, the TCA's list of self-excluded

1 persons shall not be open to public inspection.

2 (d) The Tribe or video lottery manager also may exclude any
3 other person for any reason not related to that person's race, sex,
4 national origin, physical disability, or religion.

5 Sec. 9.8. Sale of Alcoholic Beverages. The sale and service
6 of alcoholic beverages in a video lottery terminal establishment
7 shall be in compliance with state, federal, and tribal law in regard
8 to the licensing and sale of such beverages.

9 Sec. 9.9. Age Restrictions. (a) No person under the age of
10 21 may be allowed to play video lottery games or be allowed to
11 operate, or obtain a prize from or in connection with the operation
12 of, any video lottery game, directly or indirectly. If during the
13 term of this agreement, the State amends its law to allow play of
14 video lottery terminals by persons under the age of 21, the Tribe
15 may amend tribal law to reduce the lawful gaming age under this
16 agreement to correspond to the lawful gaming age under state law.

17 (b) No person under the age of 21 may be employed as a gaming
18 employee unless the employment would be allowed under state law.

19 (c) No person under the age of 21 may be employed in the
20 service of alcoholic beverages at any video lottery terminal
21 establishment, unless such employment would be allowed under state
22 law.

23 Sec. 9.10. Destruction of Records. Books, records, and
24 other materials documenting the operation of video lottery
25 terminals may be destroyed only in accordance with rules and
26 regulations adopted by the TCA, which at a minimum shall provide as
27 follows:

1 (a) material that might be utilized in connection with a
2 prize claim, including incident reports, surveillance records,
3 statements, and the like, shall be maintained at least 180 days
4 beyond the time which a claim can be made under this gaming
5 agreement or, if a prize claim is made, beyond the final disposition
6 of such claim; and

7 (b) except as otherwise provided in Section 9.3(a)(1), all
8 books and records with respect to the operation of video lottery
9 terminals or the operation of the video lottery terminal
10 establishment, including all interim and final financial and audit
11 reports and materials related thereto which have been generated in
12 the ordinary course of business, shall be maintained for the
13 minimum period of four years.

14 Sec. 9.11. Location. The Tribe may establish facilities
15 for and operate video lottery terminals only on its Indian lands.
16 The Tribe shall notify the Texas regulatory commission of any
17 potential new video lottery terminal establishment following the
18 effective date of this gaming agreement. Nothing herein shall be
19 construed as expanding or otherwise altering the term "Indian
20 lands," as that term is defined by Chapter 466, Texas Government
21 Code.

22 Sec. 9.12. Placement and Movement of Video Lottery
23 Terminals. Placement and movement of video lottery terminals
24 within a video lottery terminal establishment must be consistent
25 with a video lottery terminal floor plan approved by the Texas
26 regulatory commission.

27 Sec. 9.13. Monitoring of Operation of Video Lottery

1 Terminals. All terminals connected to the video lottery system
2 will be continuously monitored by the Texas regulatory commission
3 and disabled, when, in the commission's discretion, a problem
4 arises threatening the public health, safety or welfare, or
5 financial loss to the State, or jeopardizing the integrity of the
6 video lottery. Circumstances justifying termination include
7 malfunction of a video lottery terminal or any game displayed on a
8 video lottery terminal, misuse of any video lottery terminal or
9 video lottery game, or a material breach by the Tribe in the
10 operating requirements or a material provision of this agreement.

11 Sec. 9.14. Wager Limitations. The TCA shall set the maximum
12 wager authorized for any single play of a video lottery terminal
13 consistent with any maximum wager set by rule of the Texas
14 regulatory commission. During the term of this agreement, the
15 wager limitation set forth in this section shall be automatically
16 increased without the need to amend this agreement on each two-year
17 anniversary of the effective date to an amount equal to the wager
18 limitation multiplied by the CPI adjustment rate, rounded up to the
19 next whole dollar.

20 Sec. 9.15. Prizes. (a) Payment of prizes shall be the sole
21 and exclusive responsibility of the Tribe or video lottery manager.
22 No prizes shall be paid by the Texas regulatory commission or the
23 State except as otherwise authorized. Video lottery tickets shall
24 be redeemable only for a period of 180 days following the date of
25 issuance. If a claim is not made for prize money on or before the
26 180th day after the date on which the video lottery ticket was
27 issued, the prize money shall be treated as net terminal income.

1 The Tribe agrees to enact rules consistent with this provision and
2 authorized by the commission, governing use and redemption of
3 prizes and credits recorded on electronic player account records,
4 such as players' club cards and smart cards.

5 (b) Nothing herein shall limit the ability of the Tribe or
6 video lottery manager to provide promotional prizes, including wide
7 area progressive networks, in addition to prize payouts regulated
8 by the commission.

9 Sec. 9.16. Patron Disputes. (a) The State and the Texas
10 regulatory commission shall not be liable for any video lottery
11 terminal malfunction or error by the Tribe or video lottery manager
12 that causes credit to be wrongfully awarded or denied to players.
13 Any disputes arising between players and the Tribe or video lottery
14 manager shall be resolved:

15 (1) if the fair market value of the prize is less than
16 \$1,000, in accordance with commission approved written policies of
17 the TCA with no relief available from the commission or the State;
18 or

19 (2) if the fair market value of the prize is \$1,000 or
20 more, by the commission in its sole discretion pursuant to rules
21 established by the commission.

22 (b) No court of this state or of the Tribe shall have
23 jurisdiction to review the decision of the commission resolving a
24 dispute between players and the Tribe or a video lottery manager.

25 Sec. 9.17. Transfer of Gaming Device Operating Rights.
26 During the term of this agreement, the Tribe may enter into a
27 transfer agreement with one or more federally recognized Indian

1 tribes with Indian lands in this state to acquire or transfer video
2 lottery terminal operating rights on Indian lands. The Tribe's
3 acquisition or transfer of video lottery terminal operating rights
4 is subject to the following conditions:

5 (a) Gaming Agreement. Each Indian tribe that is a party to a
6 transfer agreement must have a valid and effective gaming agreement
7 with the State that contains a provision substantially similar to
8 the provision herein permitting transfers of the Indian tribe's
9 video lottery terminal operating rights.

10 (b) Forbearance Agreement. If the Tribe enters into a
11 transfer agreement to transfer some or all of its video lottery
12 terminal operating rights, the Tribe also shall execute a
13 forbearance agreement with the State. The forbearance agreement
14 shall include a waiver of all rights of the Tribe to put into play or
15 operate the number of video lottery terminal operating rights
16 transferred during the term of the transfer agreement.

17 (c) The Tribe must be operating video lottery terminals at
18 least equal to its current video lottery terminal allocation
19 before, or simultaneously with, the Tribe acquiring the right to
20 operate additional video lottery terminals by a transfer agreement.
21 The Tribe is not required to utilize any video lottery terminal
22 operating rights it acquires, or to utilize them before acquiring
23 additional video lottery terminal operating rights.

24 (d) The Tribe shall not at any time simultaneously acquire
25 video lottery terminal operating rights and transfer video lottery
26 terminal operating rights pursuant to transfer agreements.

27 Sec. 9.17.1. Transfer Agreements. The transfer of video

1 lottery terminal operating rights may be made pursuant to a
2 transfer agreement between two Indian tribes. A transfer agreement
3 must include the following provisions:

4 (a) the number of video lottery terminal operating rights
5 transferred and acquired;

6 (b) the duration of the transfer agreement;

7 (c) the consideration to be paid by the Indian tribe
8 acquiring the video lottery terminal operating rights to the Indian
9 tribe transferring the video lottery terminal operating rights and
10 the method of payment;

11 (d) the dispute resolution and enforcement procedures,
12 including a provision for the State to receive notice of any such
13 proceedings; and

14 (e) a procedure to provide quarterly notice to the Texas
15 regulatory commission of payments made and received, and to provide
16 timely notice to the commission of disputes, revocation, amendment,
17 and termination.

18 Sec. 9.17.2. Transfer Notice. At least 30 days before the
19 execution of a transfer agreement the Tribe shall send to the Texas
20 regulatory commission a transfer notice of intent to acquire or
21 transfer video lottery terminal operating rights. The transfer
22 notice shall include a copy of the proposed transfer agreement, the
23 proposed forbearance agreement, and a copy of the tribal resolution
24 authorizing the acquisition or transfer.

25 Sec. 9.17.3. Texas Regulatory Commission Denial of
26 Transfer. (a) The Texas regulatory commission may deny a transfer
27 as set forth in a transfer notice only if:

1 (1) the proposed transfer violates the conditions set
2 forth in this agreement; or

3 (2) the proposed transfer agreement does not contain
4 the minimum requirements listed in this agreement.

5 (b) The commission's denial of a proposed transfer must be
6 in writing, must include the specific reasons for the denial
7 (including copies of all documentation relied upon by the
8 commission to the extent allowed by state law), and must be received
9 by the Tribe within 60 days of the commission's receipt of the
10 transfer notice. If the Tribe disputes the commission's denial of a
11 proposed transfer, the Tribe shall have the right to have the
12 dispute resolved pursuant to the dispute resolution process
13 provided in Section 15.0 herein.

14 Sec. 9.17.4. Effective Date of Transfer. If the Tribe does
15 not receive a notice of denial of the transfer from the Texas
16 regulatory commission within the period specified in Section
17 9.17.3, the proposed transfer agreement shall become effective on
18 the later of the 61st day following the commission's receipt of the
19 transfer notice or the date set forth in the transfer agreement.

20 Sec. 9.17.5. Use of Brokers. The Tribe shall not contract
21 with any person to act as a broker in connection with a transfer
22 agreement. No person shall be paid a percentage fee or a commission
23 as a result of a transfer agreement, nor shall any person receive a
24 share of any financial interest in the transfer agreement or the
25 proceeds generated by the transfer agreement. Any person acting as
26 a broker in connection with a transfer agreement is providing
27 gaming services.

1 Sec. 9.17.6. Revenue from Transfer Agreements. The Tribe
2 agrees that all proceeds received by the Tribe as a transferor under
3 a transfer agreement shall be used for the governmental purposes
4 permitted under this agreement for revenue generated by video
5 lottery terminal operations. The Tribe shall include the proceeds
6 in an annual audit and shall make available to the State that
7 portion of the audit addressing proceeds from transfer agreements.

8 Sec. 9.17.7. Agreed Upon Procedures Report. The Tribe
9 agrees to provide to the Texas regulatory commission, either
10 separately or with the other party to the transfer agreement, an
11 agreed upon procedures report from an independent certified public
12 accountant. The procedures to be examined and reported upon are
13 whether payments made under the transfer agreement were made in the
14 proper amount, made at the proper time, and deposited in an account
15 of the Indian tribe transferring the video lottery terminal
16 operating rights.

17 Sec. 9.17.8. State Payment. Proceeds received by the Tribe
18 as a transferor under a transfer agreement from the transfer of
19 video lottery terminal operating rights are not subject to any
20 payment to the State under this agreement or otherwise.

21 Sec. 9.17.9. Access to Records Regarding Transfer
22 Agreements. The Texas regulatory commission shall have access to
23 all records of the Tribe directly relating to transfer agreements
24 and forbearance agreements.

25 Sec. 9.18. Supervision of Patrons. The Tribe agrees to
26 ensure that gaming employees, at all times, monitor video lottery
27 terminals to prevent access to or play by persons who are under the

1 age of 21 years or who are visibly intoxicated.

2 Sec. 9.19. Hours of Operation. The Tribe may establish by
3 ordinance or regulation the permissible hours and days of operation
4 of video lottery terminal operations; provided, however, that with
5 respect to the sale of liquor, the Tribe agrees to adopt and comply
6 with standards at least as restrictive as any applicable state
7 liquor laws at all video lottery terminal establishments.

8 Sec. 9.20. Automatic Teller Machines. The Tribe agrees to
9 adopt and comply with a Tribal ordinance establishing responsible
10 restrictions on the provision of financial services at video
11 lottery terminal establishments. At a minimum, the ordinance shall
12 prohibit:

13 (a) locating an automatic teller machine ("ATM") adjacent
14 to, or in proximity to, any video lottery terminal, however, an ATM
15 may be installed in a video lottery terminal establishment,
16 provided that the Tribe adopts and complies with an ordinance
17 establishing standards no less restrictive than any state and
18 federal law governing installation of ATMs within a gaming
19 facility;

20 (b) locating in a video lottery terminal establishment an
21 ATM that accepts electronic benefit transfer cards issued pursuant
22 to a state or federal program that is intended to provide for needy
23 families or individuals; and

24 (c) accepting checks or other noncash items issued pursuant
25 to a state or federal program that is intended to provide for needy
26 families or individuals.

27 Sec. 9.21. Advertising. Advertisements or promotions must

1 comply with guidelines established by the TCA that are consistent
2 with criteria established by the Texas regulatory commission.

3 Sec. 9.22. Remedies and Penalties for Unlawful Gaming.

4 Operation or possession of any gaming devices not expressly
5 authorized under this gaming agreement or Texas law (excluding any
6 Class II gaming authorized under applicable federal law) shall be
7 considered a material breach of the gaming agreement and justify
8 termination of the agreement. Under those circumstances, the State
9 may bring an action in state court and shall be entitled to an
10 injunction prohibiting the continued operation of any unlawful
11 gaming activity upon a showing by a preponderance of evidence that
12 the breach has occurred. In any such proceeding, it is the finding
13 of the legislature that irreparable injury and inadequate remedy at
14 law shall be presumed once the State has demonstrated the violation
15 has occurred. If the State does not seek an injunction for such a
16 material breach of the gaming agreement, the Tribe agrees to pay a
17 contract penalty of \$10,000 per day for every day the violation or
18 breach continues. If the breach or violation is not cured within 30
19 days, the State shall bring an action to enjoin the unlawful conduct
20 and may disable all video lottery terminals operated by the Tribe or
21 operated by a video lottery manager on the Indian lands of the
22 Tribe.

23 SECTION 10.0. ENFORCEMENT OF GAMING AGREEMENT PROVISIONS.

24 Sec. 10.1. The Tribe and TCA shall be responsible for
25 regulating activities pursuant to this gaming agreement. As part
26 of its responsibilities, the Tribe shall:

27 (a) take reasonable measures to assure the physical safety

1 of video lottery terminal establishment patrons and personnel,
2 prevent illegal activity at the video lottery terminal
3 establishment, and protect any rights of patrons under the Indian
4 Civil Rights Act of 1968 (25 U.S.C. Sections 1301-1303);

5 (b) promptly notify appropriate law enforcement authorities
6 of persons who may be involved in illegal acts in accordance with
7 applicable tribal, federal, and state law;

8 (c) assure that the construction and maintenance of the
9 video lottery terminal establishment meets or exceeds federal and
10 Tribal standards for comparable buildings and minimum standards
11 under this gaming agreement; and

12 (d) prepare adequate emergency access and preparedness
13 plans to ensure the health and safety of all video lottery terminal
14 establishment patrons. On finalization of the emergency access and
15 preparedness plans, the TCA or the Tribe shall forward copies of the
16 plans to the Texas regulatory commission.

17 Sec. 10.2. Members and employees of the TCA shall be
18 licensed in accordance with the provisions of this agreement. All
19 licenses for members and employees of the TCA shall be issued
20 according to the same standards and terms applicable to video
21 lottery terminal establishment employees. The TCA shall employ
22 qualified compliance officers under the authority of the TCA. The
23 compliance officers shall be independent of the video lottery
24 terminal establishment, and shall be supervised by and accountable
25 only to the TCA. A TCA compliance officer shall be available to the
26 video lottery terminal establishment during all hours of operation
27 on reasonable notice, and shall have immediate access to any and all

1 areas of the video lottery terminal establishment for the purpose
2 of ensuring compliance with the provisions of this gaming
3 agreement. The TCA shall investigate any suspected or reported
4 violation of this gaming agreement and shall require the correction
5 of the violation. The TCA shall prepare and retain in its files a
6 timely written report of each investigation and any action taken in
7 response to the investigation, and shall forward copies of the
8 report to the Texas regulatory commission within 15 days of the date
9 of the filing. Any such violations shall be reported immediately to
10 the TCA, and the TCA shall immediately forward the same to the
11 commission. In addition, the TCA shall promptly report to the
12 commission any such violations that it independently discovers.

13 Sec. 10.3. In order to develop and foster a positive and
14 effective relationship in the enforcement of the provisions of this
15 gaming agreement, representatives of the TCA and the Texas
16 regulatory commission shall meet at least annually to review past
17 practices and examine methods to improve the regulatory scheme
18 created by this gaming agreement. The meetings shall take place at
19 a location mutually agreed to by the TCA and the commission. The
20 commission, before or during such meetings, shall disclose to the
21 TCA any concerns, suspected activities, or pending matters
22 reasonably believed to possibly constitute violations of this
23 gaming agreement by any person, organization, or entity, if such
24 disclosure will not compromise the interest sought to be protected.

25 Sec. 10.4. Financial Obligations of the Texas Regulatory
26 Commission. Any financial obligation of the Texas regulatory
27 commission or of the State, under this gaming agreement or arising

1 from the operation of the video lottery on the Tribe's Indian lands,
2 shall be payable solely out of the income, revenues, and receipts of
3 the commission resulting from the operation of video lottery
4 terminals on Indian lands of the Tribe.

5 Sec. 10.5. Penalties and Remedies for Noncompliance. (a)
6 Failure to timely remit revenue generated by video lottery
7 terminals to the Texas regulatory commission or any sales tax or
8 other fee owed to the State or to timely file any report or
9 information required under this gaming agreement or by applicable
10 federal or state law shall constitute a material breach of this
11 gaming agreement. After receiving at least 24 hours written notice
12 from the commission and an additional 48 hours for the opportunity
13 to remedy the breach or otherwise correct the violation, the Tribe
14 shall be subject to contract penalties in the amount of \$10,000 per
15 day for the breach. If the breach is not cured within 30 days, the
16 commission shall disable all video lottery terminals operated by
17 the Tribe.

18 (b) If the Tribe is in material breach of this agreement and
19 the Texas regulatory commission exercises its right to disable all
20 video lottery terminals operated by the Tribe, the commission shall
21 have the right to enter the premises of any video lottery terminal
22 establishment on the Tribe's Indian lands and remove any video
23 lottery games or other video lottery equipment owned by the State.

24 Sec. 10.6. No Liability of the State Related to
25 Enforcement. The State and the Texas regulatory commission are not
26 liable for any enforcement of the provisions of this gaming
27 agreement.

1 SECTION 11.0. STATE MONITORING OF GAMING AGREEMENT.

2 Sec. 11.1. (a) The Texas regulatory commission shall,
3 pursuant to the provisions of this gaming agreement, have the
4 authority to monitor the conduct of video lottery games to ensure
5 video lottery games are conducted in compliance with the provisions
6 of this gaming agreement. In order to properly monitor the conduct
7 of video lottery games, in addition to the State's operation and
8 control of the central system and video lottery system, agents of
9 the commission shall have reasonable access to all areas of the
10 video lottery terminal establishment related to the conduct of
11 video lottery games as provided herein:

12 (1) the commission shall have access to the video
13 lottery terminal establishment only during the video lottery
14 terminal establishment's normal operating hours; provided that to
15 the extent such inspections are limited to areas of the video
16 lottery terminal establishment where the public is normally
17 allowed, commission agents may inspect the video lottery terminal
18 establishment without giving prior notice to the Tribe;

19 (2) any suspected or claimed violations of this gaming
20 agreement or of law shall be directed in writing to the TCA;
21 commission agents may not interfere with the functioning of the
22 video lottery terminal establishment unless the public safety,
23 welfare, or financial loss to the State, or integrity of the state
24 lottery so requires; and

25 (3) before entering any nonpublic area of the video
26 lottery terminal establishment, commission agents must provide
27 proper photographic identification to the TCA.

1 (b) A TCA agent shall accompany a commission agent in
2 nonpublic areas of the video lottery terminal establishment. A
3 one-hour notice by the commission to the TCA may be required to
4 assure that a TCA officer is available to accompany commission
5 agents at all times.

6 Sec. 11.2. Subject to the provisions herein, agents of the
7 Texas regulatory commission shall have the right to review and copy
8 documents or other records related to the operation of video
9 lottery terminals. The review and copying of those records shall be
10 during normal business hours or hours otherwise at the Tribe's
11 discretion. However, the commission may not copy those portions of
12 any records related to the Tribe's operation of video lottery
13 terminals that contain business or marketing strategies or other
14 proprietary and confidential information, including customer
15 lists, business plans, marketing studies, and customer
16 demographics or profiles. No records of the Tribe related to its
17 conduct of video lottery games or copies thereof shall be released
18 to the public by the State. All such records shall be deemed
19 confidential records owned by the Tribe and are not subject to
20 public disclosure by the State.

21 Sec. 11.3. At the completion of any commission inspection
22 or investigation, the Texas regulatory commission shall forward a
23 written report thereof to the TCA. The TCA shall be apprised on a
24 timely basis of all pertinent, nonconfidential information
25 regarding any violation of federal, or state laws, rules or
26 regulations, or this gaming agreement. Nothing herein prevents the
27 commission from contacting Tribal or federal law enforcement

1 authorities concerning suspected criminal wrongdoing involving the
2 TCA. The TCA may interview commission agents and inspectors upon
3 reasonable notice and examine work papers in the same fashion that
4 commission agents and inspectors may examine auditors' notes and
5 make auditor inquiry unless providing such information to the TCA
6 will compromise the interests sought to be protected.

7 Sec. 11.4. Nothing in this gaming agreement shall be deemed
8 to authorize the State to regulate the Tribe's government,
9 including the TCA, or to interfere in any way with the Tribe's
10 selection of its governmental officers, including members of the
11 TCA. The Texas regulatory commission and the Tribe, however, on
12 request of the Tribe, shall jointly employ, at the Tribe's expense,
13 an independent firm to perform on behalf of the commission the
14 duties set forth in Sections 11.2 and 11.3.

15 SECTION 12.0. JURISDICTION.

16 Sec. 12.1. Except as expressly provided herein, this gaming
17 agreement shall not alter tribal, federal, or state civil
18 adjudicatory or criminal jurisdiction.

19 Sec. 12.2. The Tribe expressly consents to the State's
20 jurisdiction to enforce the terms of this gaming agreement
21 including any request for judicial injunctive relief to prohibit
22 unlawful gaming activities.

23 SECTION 13.0. PUBLIC AND WORKPLACE HEALTH, SAFETY, AND
24 LIABILITY.

25 Sec. 13.1. The Tribe will not conduct any gaming activity in
26 a manner that endangers the public health, safety, or welfare.

27 Sec. 13.2. For the purposes of this gaming agreement, the

1 Tribe agrees to:

2 (a) adopt and comply with standards at least as stringent as
3 state public health standards for food and beverage handling at any
4 video lottery terminal establishment. The Tribe will allow
5 inspection of food and beverage services at any video lottery
6 terminal establishment by state or county health inspectors, during
7 normal hours of operation, to assess compliance with these
8 standards, unless inspections are routinely made by an agency of
9 the United States government to ensure compliance with equivalent
10 standards of the United States Public Health Service. Nothing
11 herein shall be construed as submission of the Tribe to the
12 jurisdiction of those state or county health inspectors, but any
13 alleged violations of the standards shall be treated as alleged
14 violations of the gaming agreement;

15 (b) adopt and comply with standards at least as stringent as
16 federal water quality and safe drinking water standards applicable
17 in Texas at any video lottery terminal establishment. The Tribe
18 will allow for inspection and testing of water quality at any video
19 lottery terminal establishment by state or county health
20 inspectors, as applicable, during normal hours of operation, to
21 assess compliance with these standards, unless inspections and
22 testing are made by an agency of the United States pursuant to, or
23 by the Tribe under express authorization of, federal law, to ensure
24 compliance with federal water quality and safe drinking water
25 standards. Nothing herein shall be construed as submission of the
26 Tribe to the jurisdiction of those state or county health
27 inspectors, but any alleged violations of the standards shall be

1 treated as alleged violations of this gaming agreement;

2 (c) comply with the building and safety standards set forth
3 in Section 8.4 of this agreement;

4 (d) carry not less than \$1 million in public liability
5 insurance for patron claims. The Tribe herein provides reasonable
6 assurance that such claims will be promptly and fairly adjudicated,
7 and that legitimate claims will be paid; provided that nothing
8 herein requires the Tribe to agree to liability for punitive
9 damages or attorneys' fees. On or before the effective date of this
10 gaming agreement or not less than 30 days before the commencement of
11 operation of video lottery terminals under this gaming agreement,
12 whichever is later, the Tribe shall adopt and make available to
13 patrons a tort liability ordinance setting forth the terms and
14 conditions, if any, under which the Tribe waives immunity to suit
15 for money damages resulting from intentional or negligent injuries
16 to person or property at the video lottery terminal establishment
17 or in connection with the Tribe's operation of video lottery
18 terminals. The tort liability ordinance shall include procedures
19 for processing any claims for such money damages. Nothing in this
20 section shall require the Tribe to waive its immunity to suit except
21 to the extent of the policy limits set out in this subsection. Any
22 insurance policy provided in compliance with the terms of this
23 subsection shall provide that the policy provider shall not raise
24 the Tribe's sovereign immunity as a defense or otherwise to avoid
25 payment of a claim under this subsection;

26 (e) adopt and comply with standards at least as stringent as
27 federal workplace and occupational health and safety standards at

1 any video lottery terminal establishment. The Tribe will allow for
2 inspection of video lottery terminal establishment workplaces by
3 state inspectors, during normal hours of operation, to assess
4 compliance with these standards, unless inspections are regularly
5 made by an agency of the United States government to ensure
6 compliance with federal workplace and occupational health and
7 safety standards. Nothing herein shall be construed as submission
8 of the Tribe to the jurisdiction of those state inspectors, but any
9 alleged violations of the standards shall be treated as alleged
10 violations of this gaming agreement;

11 (f) comply with tribal codes and any applicable federal law
12 regarding public health and safety;

13 (g) adopt and comply with standards at least as stringent as
14 federal laws and state laws forbidding employers generally from
15 discriminating in the employment of persons to work for the Tribe in
16 relation to its operation of video lottery terminals or in the video
17 lottery terminal establishment on the basis of race, color,
18 religion, national origin, gender, sexual orientation, age, or
19 disability. However, nothing herein shall preclude the Tribe from
20 giving a preference in employment to Indians, pursuant to a duly
21 adopted tribal ordinance;

22 (h) adopt and comply with standards that are at least as
23 stringent as state laws prohibiting a video lottery manager or any
24 employee thereof from cashing any check drawn against a federal,
25 state, county, or city fund, including social security,
26 unemployment insurance, disability payments, or public assistance
27 payments;

1 (i) adopt and comply with standards that are at least as
2 stringent as state laws governing the extension of credit to, the
3 cashing of checks for, and other financial transactions with
4 patrons calculated to protect players from problem and pathological
5 gambling; and

6 (j) adopt and comply with the provisions of the Bank Secrecy
7 Act (31 U.S.C. Sections 5311-5314), as amended, and all reporting
8 requirements of the Internal Revenue Service, insofar as such
9 provisions and reporting requirements are applicable to gaming
10 facilities.

11 Sec. 13.2.1. The Tribe agrees to adopt and, not later than
12 30 days after the effective date of this gaming agreement, make
13 available on request the standards described in Sections
14 13.2(a)-(c) and (e)-(j) to which the Tribe is held with regard to
15 operation of video lottery terminals. In the absence of a
16 promulgated tribal standard in respect to a matter identified in
17 those subsections, or the express adoption of an applicable federal
18 statute or regulation instead of a tribal standard in respect to any
19 such matter, an applicable state statute or regulation shall be
20 deemed to have been adopted by the Tribe as the applicable standard.

21 Sec. 13.3. Participation in State Statutory Programs
22 Related to Employment. (a) Instead of allowing the Tribe to
23 participate in the state statutory workers' compensation system for
24 employees of a video lottery terminal establishment or otherwise
25 engaged in the operation of video lottery terminals, the Tribe may
26 create and maintain a system that provides redress for employee
27 work-related injuries through requiring insurance or

1 self-insurance. The system must include a scope of coverage,
2 availability of an independent medical examination, right to
3 notice, hearings before an independent tribunal, a means of
4 enforcement against the employer, and benefits comparable to those
5 mandated for comparable employees under state law. Not later than
6 the effective date of this gaming agreement, or 60 days before the
7 commencement of video lottery terminal operations under this gaming
8 agreement, the Tribe will advise the State of its election to
9 participate in the statutory workers' compensation system or,
10 alternatively, will forward to the State all relevant ordinances
11 that have been adopted and all other documents establishing the
12 system and demonstrating that the system is fully operational and
13 compliant with the comparability standard set forth in this
14 subsection. The parties agree that independent contractors doing
15 business with the Tribe must comply with all state workers'
16 compensation laws and obligations.

17 (b) The Tribe agrees to participate in the State's program
18 for providing unemployment compensation benefits and unemployment
19 compensation disability benefits with respect to employees of the
20 video lottery terminal establishment, and the Tribe consents to the
21 jurisdiction of the state agencies charged with the enforcement of
22 that code and of the courts of the State for purposes of
23 enforcement.

24 (c) As a matter of comity, with respect to persons employed
25 at the video lottery terminal establishment in capacities otherwise
26 related to the operation of video lottery terminals, other than
27 members of the Tribe, the Tribe shall withhold all taxes due to the

1 State as provided by Texas law, and shall forward the amounts as
2 provided by State law.

3 Sec. 13.4. Emergency Service Accessibility. The Tribe
4 shall make reasonable provisions for adequate emergency fire,
5 medical, and related relief and disaster services for patrons and
6 employees of the video lottery terminal establishment.

7 Sec. 13.5. The Tribe agrees to prohibit the intentional,
8 knowing, or reckless possession of a firearm, illegal knife, club,
9 explosive weapon, machine gun, firearm silencer, knuckles,
10 armor-piercing ammunition, a chemical dispensing device, or a zip
11 gun, as those terms are defined in Section 46.01, Texas Penal Code,
12 at all times in the video lottery terminal establishment. The
13 defenses that apply to the prohibition of possession of those
14 weapons on the premises of a racetrack under Section 46.03, Texas
15 Penal Code, shall also apply to the prohibition of possession of the
16 weapons in video lottery terminal establishments. In addition,
17 Tribal security or Tribal law enforcement personnel, shall be
18 allowed to possess firearms and clubs at a video lottery terminal
19 establishment as authorized by Tribal law.

20 Sec. 13.6. Tribal Law Enforcement Plan. The Tribe agrees to
21 implement a written tribal law enforcement services plan that
22 provides a comprehensive and effective means to address criminal
23 and undesirable activity at the video lottery terminal
24 establishment. The plan shall provide that sufficient tribal law
25 enforcement resources are available 24 hours a day, seven days a
26 week to protect the public health, safety, and welfare at the video
27 lottery terminal establishment. To accommodate investigations and

1 intelligence sharing, the Tribe will provide that a police officer
2 holding a current Texas police officer standards and training
3 certification is employed by the Tribe and assigned to handle video
4 lottery terminal related matters when they arise. Intelligence
5 liaisons will be established at the tribal police department or TCA
6 and also at the Texas regulatory commission. There will be federal,
7 tribal, and state cooperation in task force investigations. The
8 commission's intelligence unit will gather, coordinate,
9 centralize, and disseminate accurate and current intelligence
10 information pertaining to criminal and undesirable activity that
11 may threaten patrons, employees, and assets of a video lottery
12 terminal establishment or the video lottery system. The State and
13 the Tribe will coordinate the use of resources, authority, and
14 personnel of the State and the Tribe for the shared goal of
15 preventing and prosecuting criminal or undesirable activity by
16 players, employees, or businesses in connection with tribal video
17 lottery terminal operations.

18 Sec. 13.7. Annual Statement of Compliance Regarding Use of
19 Revenue. The Tribe agrees to submit to the Texas regulatory
20 commission an annual statement of compliance regarding the use of
21 its share of revenue generated from video lottery terminal
22 operations and a copy of a current tribal ordinance requiring that
23 revenue generated from video lottery terminal operations be used
24 exclusively for the establishment and improvement of governmental
25 services and programs.

26 SECTION 14.0. EXCLUSIVITY AND FEES.

27 Sec. 14.1. The parties acknowledge and recognize that this

1 gaming agreement provides the Tribe territorial exclusivity
2 through the permitted operation of video lottery terminals without
3 requiring construction or operation of a racetrack for live horse
4 or dog racing. This territorial exclusivity and the additional
5 benefits to the Tribe are of substantial benefit to the Tribe and,
6 consistent with Federal Indian policy, provide special
7 opportunities for tribal economic opportunity through gaming
8 within the external boundaries of Texas. In consideration thereof,
9 as long as the State does not after the effective date of this
10 gaming agreement authorize a person to operate video lottery
11 terminals or any additional form of gaming that would be considered
12 a lottery or gift enterprise under Section 47(a), Article III,
13 Texas Constitution, without the Tribe's written consent within the
14 exclusive territory designated by this gaming agreement for the
15 operation of video lottery games by the Tribe, the Tribe agrees to
16 pay the fees described in this section.

17 (a) The Tribe covenants and agrees to pay to the State a fee
18 derived from net terminal income calculated as set forth in
19 Subsection (b). The fee shall be deducted from the daily deposit of
20 funds into the State's account from the video lottery terminal
21 operations prior to the State's transfer of funds back to the Tribe
22 for such operations.

23 (b) The fee shall be 10 percent of all net terminal income
24 received by the Tribe in a calendar year.

25 Sec. 14.2. Start-Up Assessment. On the effective date of
26 this gaming agreement, the Tribe shall deposit with the Texas
27 regulatory commission a Start-Up Assessment in the sum of \$10,000.

1 The purpose of the Start-Up Assessment shall be to assist the State
2 in initiating its administrative and oversight responsibilities
3 hereunder, and shall be a one-time payment to the State for such
4 purposes.

5 Sec. 14.3. Nothing in this gaming agreement shall be deemed
6 to authorize the State to impose any tax, fee, charge, or assessment
7 on the Tribe or the video lottery terminal establishment except as
8 expressly authorized pursuant to this gaming agreement under
9 Sections 4.6 and 13.3(c). To the extent that the Tribe is required
10 under federal law to report prizes awarded, the Tribe agrees to copy
11 such reports to the Texas regulatory commission. Any state sales
12 tax on the sale of goods and services to non-Indians at video
13 lottery terminal establishments shall be conclusively presumed to
14 be a direct tax on the retail consumer, pre-collected for the
15 purpose of convenience and facility.

16 Sec. 14.4. In consideration for the covenants and
17 agreements contained herein, the State agrees that it will not,
18 during the term of this gaming agreement, allow the nontribal
19 operation of any video lottery games or other gaming that would be
20 considered a lottery or gift enterprise under Section 47(a),
21 Article III, Texas Constitution, without the Tribe's written
22 consent within _____ [limitation on state video lottery or other
23 new lottery gaming in exclusive Indian video lottery territory].
24 The state recognizes the importance of this provision to the Tribe
25 and agrees, in the event of a breach of this provision by the State,
26 to require any nontribal entity that operates any such games within
27 the prohibited territory to remit to the State not less than 50

1 percent of any revenue from those games. The State further agrees
2 to remit that revenue at least quarterly to Eligible Tribes, as
3 liquidated damages. For purposes of this part, "Eligible Tribes"
4 shall mean those tribes that have entered into a gaming agreement
5 with the State under Section 466.575, Texas Government Code, and
6 are operating gaming pursuant to the gaming agreement within _____
7 [description of exclusive territory for tribal video lottery].
8 Such liquidated damages shall be allocated pro rata to the Eligible
9 Tribes based on the number of video lottery terminals operated by
10 each Eligible Tribe in the period when those revenues were
11 generated.

12 SECTION 15.0. DISPUTE RESOLUTION.

13 Sec. 15.1. Voluntary Resolution; Reference to Other Means
14 of Resolution. In recognition of the government-to-government
15 relationship of the Tribe and the State, the parties shall make
16 their best efforts to resolve disputes that occur under this gaming
17 agreement by good faith negotiations whenever possible. Therefore,
18 without prejudice to the right of either party to seek injunctive
19 relief or specific relief provided in this agreement against the
20 other when circumstances are deemed to require immediate relief,
21 the parties hereby establish a threshold requirement that disputes
22 between the Tribe and the State first be subjected to a process of
23 meeting and conferring in good faith in order to foster a spirit of
24 cooperation and efficiency in the administration and monitoring of
25 performance and compliance by each other with the terms,
26 provisions, and conditions of this gaming agreement, as follows:

27 (a) either party shall give the other, as soon as possible

1 after the event giving rise to the concern, a written notice setting
2 forth, with specificity, the issues to be resolved;

3 (b) the parties shall meet and confer in a good faith
4 attempt to resolve the dispute through negotiation not later than
5 10 days after receipt of the notice, unless both parties agree in
6 writing to an extension of time;

7 (c) if the dispute is not resolved to the satisfaction of
8 the parties within 30 days after the first meeting, then either
9 party may seek to have the dispute resolved by an arbitrator in
10 accordance with this section; and

11 (d) disagreements that are not otherwise resolved by
12 arbitration or other mutually acceptable means as provided herein
13 may be resolved in the United States District Court with
14 jurisdiction over the location or planned location of the Tribe's
15 video lottery terminal establishment or, if the federal courts lack
16 jurisdiction, in a state district court in Travis County. The
17 disputes to be submitted to court action are limited to claims of
18 breach or violation of this gaming agreement or failure to
19 negotiate in good faith as required by the terms of this gaming
20 agreement. The parties agree that, except in the case of imminent
21 threat to the public health, safety, or welfare or the integrity of
22 the lottery, reasonable efforts will be made to explore alternative
23 dispute resolution avenues prior to resorting to judicial process.

24 Sec. 15.2. Arbitration Rules. Arbitration shall be
25 conducted in accordance with the policies and procedures of the
26 Commercial Arbitration Rules of the American Arbitration
27 Association, provided that application of these rules shall not be

1 construed to waive the State's sovereign immunity to an extent
2 greater than otherwise authorized herein. Arbitration shall be
3 held at such location as the parties may agree. Each side shall
4 bear its own costs, attorneys' fees, and one-half the costs and
5 expenses of the American Arbitration Association and the
6 arbitrator, unless the arbitrator rules otherwise. Only one
7 neutral arbitrator may be named, unless the Tribe or the State
8 objects, in which case a panel of three arbitrators (one of whom is
9 selected by each party) will be named. The decision of the
10 arbitrator or arbitrators shall be in writing, shall give reasons
11 for the decision, and shall be binding. Judgment on the award may be
12 entered in any federal or state court having jurisdiction thereof.

13 Sec. 15.3. Limited Waiver of Sovereign Immunity. (a) In
14 the event that a dispute is to be resolved in federal court or a
15 state court of competent jurisdiction as provided in this section,
16 the State and the Tribe expressly consent to be sued therein and
17 wave any immunity therefrom that they may have provided that:

18 (1) the dispute is limited solely to issues arising
19 under this gaming agreement;

20 (2) neither side makes any claim for monetary damages
21 (that is, only injunctive, specific performance, including
22 enforcement of a provision of this gaming agreement requiring
23 payment of money to one or another of the parties, or declaratory
24 relief is sought); and

25 (3) no person or entity other than the Tribe and the
26 State is party to the action, unless failure to join a third party
27 would deprive the court of jurisdiction, provided that nothing

1 herein shall be construed to constitute a waiver of the sovereign
2 immunity of either the Tribe or the State in respect to any such
3 third party.

4 (b) In the event of intervention by any additional party
5 into any such action without the consent of the Tribe and the State,
6 the waivers of either the Tribe or the State provided for herein may
7 be revoked, unless joinder is required to preserve the court's
8 jurisdiction, provided that nothing herein shall be construed to
9 constitute a waiver of the sovereign immunity of either the Tribe or
10 the State in respect to any such third party.

11 (c) The waivers and consents provided for under this section
12 shall extend to civil actions authorized by this gaming agreement,
13 such as actions to compel arbitration, any arbitration proceeding
14 herein, any action to confirm or enforce any judgment or
15 arbitration award as provided herein, and any appellate proceedings
16 emanating from a matter in which an immunity waiver has been
17 granted. Except as stated herein or elsewhere in this gaming
18 agreement, no other waivers or consents to be sued, either express
19 or implied, are granted by either party.

20 (d) The State only waives sovereign immunity to the extent
21 authorized by Section 466.572, Texas Government Code.

22 SECTION 16.0. CONSTRUCTION OF GAMING AGREEMENT; FEDERAL
23 APPROVAL.

24 Sec. 16.1. Each provision, section, and subsection of this
25 gaming agreement shall stand separate and independent of every
26 other provision, section, or subsection. In the event that a
27 federal district court or a state court of competent jurisdiction

1 as provided in this agreement shall find any provision, section, or
2 subsection of this gaming agreement to be invalid, the remaining
3 provisions, sections, and subsections of this gaming agreement
4 shall remain in full force and effect, unless the invalidated
5 provision, section, or subsection is material. It is a material
6 provision of this gaming agreement that Class III gaming be limited
7 to that expressly authorized under this gaming agreement, and
8 Subchapter K, Chapter 466, Texas Government Code. If any final and
9 nonappealable judicial determination authorizes or requires the
10 State to authorize that any Class III gaming be operated by the
11 Tribe other than video lottery terminals connected to the video
12 lottery system or to a government operated video lottery system
13 structured identically to that expressly authorized under
14 Subchapter K, Chapter 466, Texas Government Code, if so required by
15 federal law, then this gaming agreement shall be null and void for
16 all purposes.

17 Sec. 16.2. Each party hereto agrees to defend the validity
18 of this gaming agreement and the legislation in which it is
19 embodied.

20 Sec. 16.3. The parties shall cooperate in seeking approval
21 of this gaming agreement from an appropriate federal agency if so
22 required by federal law.

23 SECTION 17.0. NOTICES.

24 All notices required under this gaming agreement shall be
25 given by certified mail, return receipt requested, commercial
26 overnight courier service, or personal delivery, to the following
27 persons:

1 Governor
2 Chair, State-Tribal Relations Committee
3 Attorney General
4 [Principal Chief, Governor or Chair]
5 [Name of Tribe]
6 [Address]

7 With copies to: _____

8 SECTION 18.0. DURATION, NEGOTIATION, AND TERMINATION.

9 Sec. 18.1. This gaming agreement shall become effective on
10 the last date of the satisfaction of the following requirements:

11 (a) due execution on behalf of the Tribe, including
12 obtaining all tribal resolutions and completing other tribal
13 procedures as may be necessary to render the Tribe's execution
14 effective including a final and nonappealable decision of a tribal
15 court of competent jurisdiction that the Tribe's execution of this
16 gaming agreement is effective and that all parts and provisions of
17 the gaming agreement are enforceable by and against the Tribe as set
18 forth herein;

19 (b) any federal regulatory approval required under federal
20 law and, if so required, publication in the Federal Register or
21 satisfaction of any other requirement of federal law; and

22 (c) payment of the Start-up Assessment provided for in
23 Section 14.2 of this gaming agreement.

24 Sec. 18.2. This gaming agreement shall have an initial term
25 of 10 years from the effective date, renewable for an additional 10
26 years; provided that the Tribe and the State, acting through its
27 Governor, may renegotiate the terms of this gaming agreement after

1 the initial term. The Tribe's noncompliance with any operational,
2 reporting, or other requirements under this gaming agreement shall
3 justify termination of operation of video lottery terminals on the
4 Tribe's Indian lands. The Tribe shall be entitled to notice and a
5 hearing on the compliance issue as set forth under Chapter 466,
6 Texas Government Code, and accompanying rules of the Texas
7 regulatory commission. If the Tribe does not remedy the
8 noncompliance issue within 180 days of the termination or 60 days
9 after a final decision of the commission that the Tribe is out of
10 compliance, then this gaming agreement shall terminate without
11 penalty against the commission or the State.

12 Sec. 18.3. This gaming agreement shall remain in full force
13 and effect until the sooner of expiration of the term, termination
14 as provided herein, or termination by mutual consent of the
15 parties. In addition to the remedies set forth above, either party
16 may bring an action in federal court, after providing a 60-day
17 written notice of an opportunity to cure any alleged breach of this
18 gaming agreement, for a declaration that the other party has
19 materially breached this gaming agreement. On issuance of such a
20 declaration, the complaining party may unilaterally terminate this
21 gaming agreement on service of written notice on the other party.
22 In the event a federal court determines that it lacks jurisdiction
23 over such an action, the action may be brought in the district court
24 for the county in which the Tribe's video lottery terminal
25 establishment is located. The parties expressly waive their
26 immunity to suit for purposes of an action under this subsection,
27 subject to the qualifications stated herein. Nothing in this

1 provision shall be construed to limit other remedies available to
2 and contract penalties enforceable by the Texas regulatory
3 commission, as expressly provided herein, in the event of the
4 Tribe's material breach. The Tribe and the State recognize and
5 agree that the narrow and enumerated provisions for such immediate
6 remedies and enforcement by the State are necessary to protect the
7 public health, safety, and welfare and the integrity of the video
8 lottery.

9 SECTION 19.0. AMENDMENTS; RENEGOTIATIONS.

10 Sec. 19.1. The terms and conditions of this gaming
11 agreement may be amended at any time by the mutual and written
12 agreement of both parties.

13 Sec. 19.2. This gaming agreement is subject to
14 renegotiation in the event the Tribe wishes to engage in forms of
15 Class III gaming other than those games authorized herein and
16 requests renegotiation for that purpose, provided that no such
17 renegotiation may be sought for 24 months following the effective
18 date of this gaming agreement.

19 SECTION 20.0. AUTHORITY TO EXECUTE.

20 This gaming agreement, as an enactment of the State
21 Legislature, is deemed approved by the State. On valid execution by
22 the Tribe and the Governor of the State, no further action by the
23 State or any state official is necessary for this gaming agreement
24 to take effect on any necessary approval by any federal agency as
25 required by applicable federal law, including publication in the
26 Federal Register, if required. The undersigned tribal official or
27 officials represent that the official or officials are duly

1 authorized and have the authority to execute this gaming agreement
2 on behalf of the Tribe for whom the official or officials are
3 signing.

4 APPROVED:

5 [Name of Tribe]

6 _____ Date:_____

7 [CHIEF EXECUTIVE OFFICER]

8 State of Texas

9 _____ Date:_____

10 Governor of Texas

11 Sec. 466.576. NEGOTIATION FOR DIFFERENT GAMING AGREEMENT
12 TERMS. (a) Nothing in this subchapter may be construed to limit
13 the ability of a federally recognized Indian tribe to request that a
14 gaming agreement be negotiated with this state on terms that are
15 different from those set forth in the gaming agreement under
16 Section 466.575, or the ability of this state to engage in
17 negotiations and to reach agreement under any applicable federal
18 law.

19 (b) In offering to enter into a gaming agreement with Indian
20 tribes in this state under Section 466.575(b), and, except for
21 assessments by this state as provided in that section of the amounts
22 necessary to defray state costs of regulating activities as
23 provided under the gaming agreement, nothing in this chapter may be
24 construed to mean that:

25 (1) this state is imposing any tax, fee, charge, or
26 other assessment on an Indian tribe or on any other person or entity
27 authorized by an Indian tribe as a condition to engaging in a Class

1 III activity; or

2 (2) this state is refusing to enter into gaming
3 agreement negotiations based on the lack of authority of this state
4 or a political subdivision of this state to impose the tax, fee,
5 charge, or other assessment.

6 (c) If any federally recognized tribe with jurisdiction
7 over Indian lands in this state requests that the governor enter
8 into negotiations for a gaming agreement under federal law
9 applicable to the tribe, including the Indian Gaming Regulatory Act
10 (18 U.S.C. Section 1166 and 25 U.S.C. Section 2701 et seq.), on
11 terms different than those prescribed in the gaming agreement in
12 Section 466.575(b), the governor shall enter into those
13 negotiations under the federal law applicable to the tribe and
14 without preconditions and is authorized to reach agreement and
15 execute the agreement on behalf of this state, provided that the
16 gaming agreement does not expand the scope of gaming expressly
17 authorized under this chapter and entitles the tribe only to
18 operate video lottery terminals in strict compliance with state
19 law, unless otherwise required by applicable federal law, and
20 provided that the gaming agreement includes the following
21 provisions:

22 (1) a provision prescribing that the tribe is
23 authorized and allowed to engage only in the Class III gaming
24 activities expressly referred to in the gaming agreement or
25 authorized under Texas law and may not engage in Class III gaming
26 that is not expressly authorized in the gaming agreement or under
27 Texas law;

1 (2) a provision prescribing that any operation or
2 possession by the tribe of any gaming devices not expressly
3 authorized under the gaming agreement or other Texas law, excluding
4 any Class II gaming authorized under applicable federal law, shall
5 be considered a material breach of the gaming agreement and justify
6 termination of the agreement and this state may bring an action in
7 federal court or, in the event the federal court declines
8 jurisdiction, in state court and shall be entitled to an injunction
9 prohibiting the continued operation of any unlawful gaming activity
10 on the tribal lands on a showing by a preponderance of evidence that
11 the breach has occurred;

12 (3) a provision waiving state and tribal sovereign
13 immunity for purposes of operation of video lottery terminals and
14 enforcement of the gaming agreement, provided that this state may
15 not waive sovereign immunity except to the extent expressly
16 permitted under Section 466.572;

17 (4) a provision establishing minimum internal control
18 standards at least as restrictive as those provided under this
19 subchapter and any standards set forth under applicable federal
20 law;

21 (5) a provision requiring any video lottery manager
22 doing business on Indian lands to indemnify and hold harmless the
23 commission, this state, and the members, officers, employees, and
24 authorized agents of the commission and this state from any and all
25 claims which may be asserted against a license or certificate
26 holder, the commission, this state, or the employees arising from
27 the license or certificate holder's participation in the video

1 lottery system authorized under the gaming agreement;

2 (6) a provision requiring the tribe to pay all
3 regulatory costs incurred by this state in relation to the
4 operation of video lottery terminals on the Indian lands of the
5 tribe to assure compliance with all federal and state law and all
6 provisions of the agreement;

7 (7) a provision recognizing the substantial benefit of
8 the exclusivity or other substantial benefits afforded to the tribe
9 under the agreement and providing for the sharing of net terminal
10 revenue between the tribe and this state as payment for the
11 exclusivity or other substantial benefit;

12 (8) a provision establishing investigative and
13 licensing standards at least as restrictive as those provided under
14 this subchapter and under any applicable federal law;

15 (9) a provision requiring video lottery terminals and
16 facilities operating the video lottery terminals authorized under
17 the gaming agreement to be owned by the tribe;

18 (10) a provision requiring the video lottery games
19 authorized by the gaming agreement to be licensed by the tribe in
20 conformity with the requirements of the agreement, the Tribal
21 Gaming Ordinance, and any applicable federal law every five years
22 and the tribe shall review and renew the license, if appropriate,
23 and provide to the commission verification that this requirement
24 has been satisfied;

25 (11) a provision requiring the licensing of all video
26 lottery employees and any person extending financing, directly or
27 indirectly, to the tribe's video lottery operation before extending

1 that financing, provided that any person who is extending financing
2 at the time of the execution of the agreement must be licensed by
3 the tribe not later than the 90th day after the date of execution,
4 and the provision may allow the tribe, in its discretion, to exclude
5 from the licensing requirements of this section financing provided
6 by:

7 (A) a federally regulated or state-regulated
8 bank, savings and loan, or other federally or state-regulated
9 lending institution;

10 (B) any federal, state, or local government
11 agency; or

12 (C) any investor who, alone or in conjunction
13 with others, holds less than 10 percent of any outstanding
14 indebtedness evidenced by bonds issued by the tribe;

15 (12) a provision allowing the commission, under the
16 provisions of the gaming agreement, to monitor the conduct of video
17 lottery games to ensure that the video lottery games are conducted
18 in compliance with the provisions of the agreement, and granting
19 the Department of Public Safety and agents of the commission
20 reasonable access to all areas of the facility related to the
21 conduct of video lottery games in order to properly monitor the
22 conduct of video lottery games;

23 (13) a provision specifying jurisdiction of tribal,
24 state, and federal courts with regard to matters arising from the
25 gaming agreement or the operation of video lottery terminals, or
26 both, as authorized by the agreement and consistent with Section
27 466.572;

1 (14) a provision requiring the tribe to adopt and
2 comply with standards at least as stringent as state public health
3 standards for food and beverage handling at any facilities where
4 video lottery terminals are operated;

5 (15) a provision requiring the tribe to adopt and
6 comply with standards at least as stringent as federal water
7 quality and safe drinking water standards applicable in this state
8 at any facilities where video lottery terminals are operated, and
9 requiring the tribe to allow for inspection and testing of water
10 quality by state or county health inspectors, as applicable, during
11 normal hours of operation, to assess compliance with these
12 standards, unless inspections and testing are made by an agency of
13 the United States pursuant to or by the tribe under express
14 authorization of federal law to ensure compliance with federal
15 water quality and safe drinking water standards;

16 (16) a provision requiring the tribe to carry at least
17 \$5 million in public liability insurance for patron claims and
18 providing reasonable assurance that the claims will be promptly and
19 fairly adjudicated and that legitimate claims will be paid;

20 (17) a provision requiring the tribe to adopt and
21 comply with standards at least as stringent as federal workplace
22 and occupational health and safety standards for any facilities
23 where video lottery terminals are operated, and requiring the tribe
24 to allow for inspection of the workplaces by state inspectors
25 during normal hours of operation to assess compliance with these
26 standards, unless inspections are regularly made by an agency of
27 the United States government to ensure compliance with federal

1 workplace and occupational health and safety standards;

2 (18) a provision requiring the tribe to adopt and
3 comply with standards at least as stringent as federal laws and
4 state laws forbidding employers generally from discriminating in
5 the employment of persons to work for the facility operating video
6 lottery terminals on the basis of race, color, religion, national
7 origin, gender, sexual orientation, age, or disability, provided
8 that nothing in the provision precludes the tribe from giving a
9 preference in employment to tribe members, pursuant to a duly
10 adopted tribal ordinance;

11 (19) a provision requiring the tribe to adopt and
12 comply with standards that are at least as stringent as state laws
13 prohibiting the use of proceeds of a check issued as a payment under
14 the financial assistance program under Chapter 31, Human Resources
15 Code, or a food stamp coupon issued under the food stamp program
16 administered under Chapter 33, Human Resources Code, for gaming or
17 other wagering;

18 (20) a provision requiring the tribe to adopt and
19 comply with standards at least as stringent as state laws governing
20 the extension of credit to, the cashing of checks for, and other
21 financial transactions with patrons calculated to protect players
22 from problem and compulsive gambling;

23 (21) a provision requiring the tribe to participate in
24 state statutory programs related to employment in video lottery
25 terminal operations or instead of participation in this state
26 workers' compensation system, allowing the tribe to create and
27 maintain a system that provides redress for employee work-related

1 injuries through requiring insurance or self-insurance that
2 includes a scope of coverage, availability of an independent
3 medical examination, right to notice, hearings before an
4 independent tribunal, a means of enforcement against the employer,
5 and benefits comparable to those mandated for comparable employees
6 under state law;

7 (22) a provision requiring the tribe to make
8 reasonable provisions for adequate emergency fire, medical, and
9 related relief and disaster services for patrons and employees of
10 the video lottery terminal operations;

11 (23) a provision:

12 (A) requiring the tribe to prohibit the
13 intentional, knowing, or reckless possession of a firearm, illegal
14 knife, club, explosive weapon, machine gun, firearm silencer,
15 knuckles, armor-piercing ammunition, a chemical dispensing device,
16 or a zip gun, as those terms are defined in Section 46.01, Penal
17 Code, at all times in the video lottery terminal establishment;

18 (B) requiring the defenses that apply to the
19 possession of weapons on the premises of a racetrack under Section
20 46.03, Penal Code, to apply to possession of the weapons in a video
21 lottery terminal establishment; and

22 (C) requiring tribal security or tribal law
23 enforcement personnel to be allowed to possess firearms and clubs
24 at a video lottery terminal establishment as authorized by tribal
25 law;

26 (24) a provision requiring the tribe to agree that on
27 or before the effective date of the agreement, or not less than 90

1 days before the commencement of any project constructed to serve as
2 the site of video lottery terminals, the tribe shall adopt an
3 ordinance providing for the preparation, circulation, and
4 consideration by the tribe of environmental impact reports
5 concerning potential off-reservation environmental impacts of the
6 construction to be commenced on or after the effective date of the
7 agreement;

8 (25) a provision requiring the tribe to agree to
9 establish separate electronic funds transfer accounts for the
10 purposes of depositing money from video lottery terminal
11 operations, making payments to the commission, and receiving
12 payments from the commission, which must prohibit the tribe from
13 making payments to the commission in cash, but as authorized by the
14 commission may allow a tribe to make payments to the commission by
15 cashier's check;

16 (26) a provision requiring the tribe to adopt and
17 comply with the Bank Secrecy Act (31 U.S.C. Sections 5311-5314), as
18 amended, and all reporting requirements of the Internal Revenue
19 Service, insofar as the provisions and reporting requirements are
20 applicable to gaming facilities; and

21 (27) a provision requiring the tribe to collect and
22 remit to the comptroller state sales and use taxes and state taxes
23 on motor fuels, alcoholic beverages, cigarettes and tobacco
24 products, and hotel occupancy generated at a video lottery terminal
25 establishment, other than on an item sold to or used or consumed by
26 a tribe member.

27 (d) The legislature finds that, in any proceeding described

1 by Subsection (c)(2), irreparable injury and inadequate remedy at
2 law shall be presumed once this state has demonstrated that the
3 violation has occurred. If this state does not seek an injunction
4 for such a material breach of the gaming agreement, the tribe agrees
5 to pay a contract penalty of \$10,000 per day for every day the
6 violation or breach continues. If the violation or breach is not
7 cured within 10 days, this state may bring an action to enjoin the
8 unlawful conduct.

9 Sec. 466.577. IMPLEMENTATION OF GAMING AGREEMENT. The
10 governor shall execute any documents necessary to implement a
11 gaming agreement authorized under this subchapter.

12 Sec. 466.578. INCORPORATION INTO STATE LAW. The model
13 gaming agreement set out in Section 466.575(b) is hereby
14 incorporated into state law, and the operation of video lottery
15 terminals authorized under the agreement is expressly authorized as
16 a matter of state law for any Indian tribe entering into the gaming
17 agreement in accordance with this subchapter.

18 Sec. 466.579. REGULATORY MONEY RECEIVED UNDER GAMING
19 AGREEMENT. All money received by the commission under a gaming
20 agreement for regulatory costs incurred relative to tribal
21 operations of video lottery terminals shall be deposited to the
22 credit of the state video lottery account to defray expenses of the
23 commission incurred in the oversight, compliance with, and
24 enforcement of video lottery terminal operations conducted
25 pursuant to a gaming agreement.

26 Sec. 466.580. INJUNCTION; CIVIL PENALTY. (a) If the
27 commission, the appropriate governing body for an Indian tribe, or

1 the attorney general has reason to believe that this chapter has
2 been or is about to be violated, the attorney general may petition a
3 court for appropriate injunctive relief to restrain the violation.
4 Filing of the petition does not waive applicable sovereign
5 immunity.

6 (b) Venue for an action by this state seeking injunctive
7 relief is in a district court in Travis County.

8 (c) If the court finds that this chapter has been knowingly
9 violated, the court shall order all proceeds from any illegal
10 gambling to be forfeited to the appropriate governing body as a
11 civil penalty.

12 (d) The remedies provided herein are not exclusive. The
13 commission may suspend or revoke a license, impose an
14 administrative penalty, or seek injunctive or civil penalties or
15 both, depending on the severity of the violation.

16 SECTION 1.35. Section 467.001, Government Code, is amended
17 by amending Subdivision (9) and adding Subdivision (12) to read as
18 follows:

19 (9) "Person that has a significant financial interest
20 in the lottery" means:

21 (A) a person or a board member, officer, trustee,
22 or general partner of a person that manufactures, distributes,
23 sells, or produces lottery equipment, video lottery equipment,
24 video lottery games, video lottery central systems, supplies,
25 services, or advertising;

26 (B) an employee of a video lottery terminal
27 provider, video lottery central system provider, or person that

1 manufactures, distributes, sells, or produces lottery equipment,
2 supplies, services, or advertising or video lottery equipment or
3 games and that employee is directly involved in the manufacturing,
4 distribution, selling, or production of lottery equipment,
5 supplies, services, or advertising or video lottery equipment or
6 games;

7 (C) a person or a board member, officer, trustee,
8 or general partner of a person that has made a bid to operate the
9 lottery in the preceding two years or that intends to make a bid to
10 operate the lottery or an employee of the person if the employee is
11 directly involved in making the bid; or

12 (D) a sales agent, video lottery retailer, video
13 lottery manager, video lottery terminal provider, or video lottery
14 central system provider.

15 (12) "Video lottery central system," "video lottery
16 equipment," "video lottery game," "video lottery manager," "video
17 lottery retailer," and "video lottery terminal provider" have the
18 meanings assigned by Section 466.002.

19 SECTION 1.36. Section 467.031, Government Code, is amended
20 to read as follows:

21 Sec. 467.031. DIVISIONS. The commission shall establish
22 separate divisions to oversee bingo and the state lottery. The
23 commission shall create a division to oversee the video lottery
24 system and delegate responsibilities in the administration of
25 Chapter 466 to the executive director, the director of the
26 appropriate division, and the division's staff; provided, however,
27 that the commission may not delegate the following actions:

1 (1) a final determination in any application or
2 request for licensing or registration under Chapter 466;

3 (2) a final determination in any proceeding involving
4 the suspension or revocation of a certificate of registration or
5 license under Chapter 466;

6 (3) a final determination that Chapter 466 has been
7 violated; or

8 (4) a final determination or imposition of an
9 assessment of fines or penalties under a law administered by the
10 commission.

11 SECTION 1.37. Section 467.035(a), Government Code, is
12 amended to read as follows:

13 (a) The commission may not employ or continue to employ a
14 person who owns a financial interest in:

15 (1) a bingo commercial lessor, bingo distributor, or
16 bingo manufacturer; or

17 (2) a lottery sales agency, ~~or~~ a lottery operator, a
18 video lottery retailer, a video lottery manager, a video lottery
19 terminal provider, a video lottery central system provider, or a
20 manufacturer of video lottery games.

21 SECTION 1.38. Section 411.108, Government Code, is amended
22 by adding Subsection (d) to read as follows:

23 (d) The Texas Lottery Commission or a successor agency may
24 obtain from the department, subject to an interagency agreement
25 entered into under Section 466.020(d) or 466.206, criminal history
26 record information maintained by the department that relates to any
27 natural person, corporation, association, trust, partnership,

1 limited partnership, joint venture, government, subsidiary, or
2 other entity, regardless of its form, structure, or nature that the
3 commission has the authority to investigate under Chapter 466 as
4 related to the commission's operation and oversight of video
5 lottery. Criminal history record information obtained by the
6 commission under this subsection may be released or disclosed only
7 as provided in Sections 466.022(c) and 466.206.

8 SECTION 1.39. Article 6, Texas Racing Act (Article 179e,
9 Vernon's Texas Civil Statutes), is amended by adding Section 6.20
10 to read as follows:

11 Sec. 6.20. LIVE RACING REQUIREMENT. (a) Except as provided
12 by Subsections (b) and (c) of this section, a person who holds a
13 class 1 or class 2 racetrack license for a racetrack that is a video
14 lottery terminal establishment under Subchapter K, Chapter 466,
15 Government Code, shall conduct the greater of:

16 (1) for each breed, not less than the number of live
17 racing days conducted by the racetrack for that breed in 2002; or

18 (2) for quarter horses and thoroughbreds, not less
19 than 50 live race days or 500 live races.

20 (b) A class 2 racetrack that has not previously conducted
21 live racing and that becomes licensed as a video lottery terminal
22 establishment under Subchapter K, Chapter 466, Government Code,
23 shall conduct live racing not later than the second anniversary of
24 the date the license is issued under that subchapter.

25 (c) A person who holds a class 1 or class 2 racetrack license
26 may conduct fewer live racing days than required by Subsection (a)
27 of this section if the racetrack, the affected breed registry, and

1 the recognized horsemen's organization enter into a written
2 agreement to conduct fewer races.

3 (d) A greyhound racetrack that is a video lottery terminal
4 establishment under Subchapter K, Chapter 466, Government Code,
5 shall offer for pari-mutuel wagering not less than 420 live
6 greyhound racing performances in each calendar year, unless
7 otherwise agreed to in writing by the racetrack and the official
8 state greyhound breed registry. For purposes of this subsection,
9 "greyhound racing performance" means the consecutive running of not
10 fewer than 12 greyhound races.

11 SECTION 1.40. Section 16.18, Texas Racing Act (Article
12 179e, Vernon's Texas Civil Statutes), is amended by adding
13 Subsection (d) to read as follows:

14 (d) This section does not apply to a county in which is
15 located a racetrack that is authorized to operate video lottery
16 terminals under Subchapter K, Chapter 466, Government Code.

17 SECTION 1.41. The Legislature finds and declares the
18 following:

19 (1) This state is facing a crisis in providing funding
20 for state governmental programs. Contingent on the approval of the
21 voters, in order to generate additional revenue to fund state
22 governmental programs, a limited and narrow exception to the
23 constitutional prohibition on lotteries has been proposed to
24 authorize a state-controlled and state-operated video lottery
25 system in accordance with this article.

26 (2) In light of the financial needs of the state and
27 the need to fund state governmental programs, in the event the

1 voters approve this limited state-controlled and state-operated
2 video lottery system, the Texas Lottery Commission must be
3 authorized to commence operation of the video lottery system in
4 accordance with this article at the earliest possible date,
5 consistent with the intent of the voters and legislative directive.

6 (3) The implementation of the video lottery system
7 will require significant time for application investigations and
8 determinations and for video lottery terminal and video lottery
9 central system providers and manufacturers of video lottery games
10 to develop prototypes for testing for the video lottery central
11 system and video lottery terminals and games.

12 (4) The state's critical financial need constitutes an
13 imminent peril to the public welfare, requiring the adoption of
14 rules and authorization for the Texas Lottery Commission to conduct
15 certain limited pre-implementation activities related to the
16 establishment of the video lottery system to promote and ensure the
17 integrity, security, honesty, and fairness of the operation and
18 administration of the video lottery system.

19 (5) In order to commence operation of the video
20 lottery system at the earliest possible date and to maintain the
21 integrity of state-controlled and state-operated video lottery
22 established by this article, the Texas Lottery Commission may
23 conduct limited pre-implementation acts before the constitutional
24 amendment proposed by the 80th Legislature, Regular Session, 2007,
25 to authorize the state to operate video lottery games is submitted
26 to the voters for approval.

27 SECTION 1.42. (a) As soon as practicable after the

1 constitutional amendment to authorize the state to operate video
2 lottery games proposed by the 80th Legislature, Regular Session,
3 2007, is approved by the voters and becomes effective, the Texas
4 Lottery Commission or the Texas Gaming and Boxing Commission, as
5 applicable, shall adopt the rules necessary to implement video
6 lottery in accordance with Subchapter K, Chapter 466, Government
7 Code, as added by this Act.

8 (b) Before the proposed constitutional amendment is
9 submitted to the voters, the Texas Lottery Commission may expend
10 money from the commission's appropriation for the 2008-2009 state
11 fiscal biennium for purposes of conducting pre-implementation
12 activities to establish the state video lottery system in
13 accordance with Subchapter K, Chapter 466, Government Code, as
14 added by this Act. Notwithstanding Section 466.355, Government
15 Code, the money authorized to be expended under this section may be
16 withdrawn from the state lottery account to fund the establishment
17 of the state video lottery system.

18 (c) Before the proposed constitutional amendment is
19 submitted to the voters, the Texas Lottery Commission may develop
20 and approve forms for applications for licensing and registration
21 required under Subchapter K, Chapter 466, Government Code, as added
22 by this Act.

23 (d) Before the proposed constitutional amendment is
24 submitted to the voters, the Texas Lottery Commission may accept
25 pre-implementation applications for video lottery retailers and
26 video lottery managers under Subchapter K, Chapter 466, Government
27 Code, as added by this Act. On receipt of a complete application,

1 completion of all investigations, and submittal of the
2 nonrefundable investigatory fees the commission requires
3 consistent with Subchapter K, Chapter 466, Government Code, as
4 added by this Act, the commission may make preliminary findings of
5 suitability for an applicant and location of a video lottery
6 terminal establishment. If the commission determines that all the
7 requirements under Subchapter K, Chapter 466, Government Code, have
8 been satisfied, the commission may issue a letter advising the
9 applicant of the status of approval of the application pending
10 approval by the voters of the proposed constitutional amendment to
11 authorize the state video lottery system. If the commission
12 determines that any requirements under Subchapter K, Chapter 466,
13 Government Code, have not been satisfied, the commission may
14 request additional information or conduct further investigations
15 the commission considers necessary and may issue a letter advising
16 the applicant of the status of the application.

17 (e) Before the proposed constitutional amendment is
18 submitted to the voters, the Texas Lottery Commission may request
19 and receive information related to applications for licensing and
20 registration under Subchapter K, Chapter 466, Government Code, as
21 added by this Act. An applicant's failure to comply with any
22 requests made by the Texas Lottery Commission under this subsection
23 may be considered grounds for denial of an application.

24 (f) The Texas Lottery Commission may not issue any license,
25 certificate of registration, or temporary license related to the
26 state video lottery system under Subchapter K, Chapter 466,
27 Government Code, as added by this Act, unless and until the

1 constitutional amendment authorizing the state to operate video
2 lottery games is approved by the voters and becomes effective.

3 (g) Before the proposed constitutional amendment is
4 submitted to the voters, the Texas Lottery Commission may conduct
5 investigations and collect investigative fees related to
6 information requested and received for pre-implementation
7 applications under this section and necessary for the commission's
8 evaluation and determination of an application for any licensing,
9 registration, or commission approval required under Subchapter K,
10 Chapter 466, Government Code, as added by this Act.

11 (h) Before the proposed constitutional amendment is
12 submitted to the voters, the Texas Lottery Commission may conduct
13 preregistration of potential video lottery terminal providers. To
14 qualify for preregistration under this subsection, an applicant
15 must satisfy the minimum application requirements under Section
16 466.508, Government Code, as added by this Act, except that the
17 application fee required under Section 466.509(a), Government
18 Code, as added by this Act, is not due until the applicant files an
19 application for registration under Subchapter K, Chapter 466,
20 Government Code, as added by this Act. A preregistration
21 application must be accompanied by a nonrefundable deposit to the
22 Texas Lottery Commission in the amount of \$25,000. A
23 preregistration applicant shall submit additional money not later
24 than the 10th day after the date the applicant receives notice from
25 the commission that it has incurred actual costs for the
26 preregistration investigation in excess of the initial deposit
27 required under this subsection. If the commission does not receive

1 the additional money from the applicant on or before the 15th day
2 after the date the applicant receives the commission's notice, the
3 commission shall suspend the application until the money is
4 received by the commission. Any deposit or other nonrefundable
5 money provided under this subsection shall be credited toward an
6 application fee required under Section 466.509(a), Government
7 Code, as added by this Act.

8 (i) The Texas Lottery Commission may not register any video
9 lottery terminal providers unless and until the constitutional
10 amendment authorizing the state to operate video lottery games is
11 approved by the voters and becomes effective.

12 (j) Notwithstanding Section 466.509, Government Code, as
13 added by this Act, a video lottery terminal provider that has been
14 preregistered by the Texas Lottery Commission in accordance with
15 this section, a video lottery central system provider, or a
16 manufacturer of video lottery games, under a contract with the
17 commission, may manufacture and test prototypes of or existing
18 video lottery equipment for a video lottery central system, video
19 lottery terminals, and video lottery games for the commission's
20 consideration.

21 (k) Before the proposed constitutional amendment is
22 submitted to the voters, the Texas Lottery Commission may negotiate
23 contracts with preregistered video lottery terminal providers. The
24 commission may enter into contracts with preregistered video
25 lottery terminal providers, video lottery central system
26 providers, and manufacturers of video lottery games as required for
27 the creation and testing of a video lottery central system, video

1 lottery terminals, and video lottery games for the commission's
2 consideration.

3 (l) Before the proposed constitutional amendment is
4 submitted to the voters, the Texas Lottery Commission may negotiate
5 and enter contracts as necessary to establish the video lottery
6 system.

7 (m) Before the proposed constitutional amendment is
8 submitted to the voters, the Texas Lottery Commission may employ
9 additional full-time equivalent employees to administer this Act
10 and establish the video lottery system.

11 SECTION 1.43. Sections 1.01 through 1.40 of this article
12 take effect on the date the amendment adding Section 47-a, Article
13 III, Texas Constitution, authorizing the operation of video lottery
14 games at racetracks, on certain Indian lands, and at 12 tourist
15 destination locations, and authorizing casino gaming at 12 tourist
16 destination locations, at racetracks, and on Indian lands proposed
17 by the 80th Legislature, Regular Session, 2007, becomes effective.
18 Sections 1.41 and 1.42 of this article and this section take effect
19 immediately if this Act receives a vote of two-thirds of all the
20 members elected to each house, as provided by Section 39, Article
21 III, Texas Constitution. If this Act does not receive the vote
22 necessary for immediate effect, Sections 1.41 and 1.42 of this
23 article and this section take effect on the 91st day after the last
24 day of the legislative session. Sections 1.41 and 1.42(m) of this
25 article expire March 1, 2008.

ARTICLE 2. ESTABLISHMENT OF TEXAS GAMING AND BOXING COMMISSION AND
AUTHORIZATION OF CASINO GAMING

SECTION 2.01. Subtitle A, Title 13, Occupations Code, is amended by adding Chapters 2004 and 2005 to read as follows:

CHAPTER 2004. TEXAS GAMING AND BOXING COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2004.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Gaming and Boxing Commission.

(2) "Commission member" means a member of the commission.

(3) "Executive director" means the executive director of the commission.

(4) "Person that has a significant financial interest in the lottery or in gaming regulated under Chapter 2005" means:

(A) a person or a board member, officer, trustee, or general partner of:

(i) a person licensed or required to be licensed under Chapter 2005; or

(ii) a person that manufactures, distributes, sells, or produces lottery equipment, video lottery equipment, casino-associated equipment, video lottery games, video lottery central systems, supplies, services, or advertising;

(B) an employee of:

(i) a person licensed or required to be licensed under Chapter 2005 and that employee is directly involved in casino operations or gaming; or

1 (ii) a video lottery terminal provider,
2 video lottery central system provider, or person that manufactures,
3 distributes, sells, or produces lottery equipment,
4 casino-associated equipment, supplies, services, or advertising or
5 video lottery equipment or games and that employee is directly
6 involved in the manufacturing, distribution, selling, or
7 production of lottery equipment, supplies, services, or
8 advertising or video lottery equipment or games;

9 (C) a person or a board member, officer, trustee,
10 or general partner of a person that has made a bid to operate the
11 lottery in the preceding two years or that intends to make a bid to
12 operate the lottery or an employee of the person if the employee is
13 directly involved in making the bid; or

14 (D) a person licensed under Chapter 2005, a sales
15 agent, video lottery retailer, video lottery manager, video lottery
16 terminal provider, or video lottery central system provider.

17 (5) "Video lottery central system," "video lottery
18 equipment," "video lottery game," "video lottery manager," "video
19 lottery retailer," and "video lottery terminal provider" have the
20 meanings assigned by Section 466.002.

21 Sec. 2004.002. APPLICATION OF SUNSET ACT. (a) The Texas
22 Gaming and Boxing Commission is subject to Chapter 325, Government
23 Code (Texas Sunset Act). Unless continued in existence as provided
24 by that chapter, the commission is abolished and this chapter
25 expires September 1, 2019.

26 (b) On the date the commission is abolished under Subsection
27 (a), the following statutes are repealed:

- 1 (1) Chapter 2001;
- 2 (2) Chapter 2005;
- 3 (3) Chapter 2052;
- 4 (4) Chapter 466, Government Code; and
- 5 (5) the Texas Racing Act (Article 179e, Vernon's Texas
- 6 Civil Statutes).

7 Sec. 2004.003. REFERENCES TO LICENSE INCLUDE CERTIFICATE OF
8 REGISTRATION OR OTHER APPROVAL. Except as expressly provided by
9 this chapter, other law, or commission rule, a reference in this
10 chapter to a license applies to a certificate of registration,
11 finding of suitability, or prior approval under this chapter, other
12 law, or commission rule.

13 [Sections 2004.004-2004.050 reserved for expansion]

14 SUBCHAPTER B. TEXAS GAMING AND BOXING COMMISSION

15 Sec. 2004.051. COMMISSION; MEMBERSHIP. (a) The Texas
16 Gaming and Boxing Commission is composed of seven members. Six
17 members shall be appointed by the governor with the advice and
18 consent of the senate. The chairman of the Public Safety Commission
19 is an ex officio voting member of the commission.

20 (b) Appointments to the commission shall be made without
21 regard to the race, color, disability, sex, religion, age, or
22 national origin of the appointee.

23 Sec. 2004.052. QUALIFICATIONS OF COMMISSION MEMBERS. (a)
24 To be eligible for appointment to the commission, a person:

- 25 (1) must be a citizen of the United States;
- 26 (2) must have resided in this state for the two years
- 27 preceding the date of the person's appointment;

1 (3) must submit a financial statement that contains
2 the information required by Chapter 572, Government Code;

3 (4) may not own a financial or other interest in a
4 person engaged in the conduct of gaming or the provision of casino
5 services, or in a security issued by that person, or be related
6 within the second degree by affinity or the third degree by
7 consanguinity, as determined under Chapter 573, Government Code, to
8 an individual who owns such a financial or other interest or
9 security;

10 (5) may not be an applicant for or holder of a license,
11 certificate of registration, or approval under a law administered
12 by the commission or hold an equity interest or creditor interest in
13 an owner license holder requiring qualification under Section
14 2005.061; and

15 (6) may not be a member of the governing body of a
16 political subdivision of this state.

17 (b) A person holding an elective office or an officer or
18 official of a political party is not eligible for appointment to the
19 commission.

20 (c) A person is not eligible for appointment as a member of
21 the commission if the person or the person's spouse:

22 (1) is registered, certified, or licensed by an
23 occupational regulatory agency in the field of gaming;

24 (2) is employed by or participates in the management
25 of a business entity or other organization regulated by the
26 commission or receiving funds from the commission;

27 (3) owns or controls, directly or indirectly, more

1 than a 10 percent interest in a business entity or other
2 organization regulated by the commission or receiving funds from
3 the commission; or

4 (4) uses or receives a substantial amount of tangible
5 goods, services, or money from the commission, other than
6 compensation or reimbursement authorized by law for commission
7 membership, attendance, or expenses.

8 Sec. 2004.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)

9 In this section, "Texas trade association" means a cooperative and
10 voluntarily joined association of business or professional
11 competitors in this state designed to assist its members and its
12 industry or profession in dealing with mutual business or
13 professional problems and in promoting their common interest.

14 (b) A person may not be a member of the commission or an
15 employee of the commission employed in a "bona fide executive,
16 administrative, or professional capacity," as that phrase is used
17 for purposes of establishing an exemption to the overtime
18 provisions of the federal Fair Labor Standards Act of 1938 (29
19 U.S.C. Section 201 et seq.) if:

20 (1) the person is an officer, employee, manager, or
21 paid consultant of a Texas trade association in the field of gaming;
22 or

23 (2) the person's spouse is an officer, manager, or paid
24 consultant of a Texas trade association in the field of gaming.

25 (c) A person may not be a member of the commission or act as
26 general counsel to the commission if the person is required to
27 register as a lobbyist under Chapter 305, Government Code, because

1 of the person's activities for compensation on behalf of a
2 profession related to the operation of the commission.

3 Sec. 2004.054. TERMS; VACANCIES. (a) Appointed members of
4 the commission serve staggered six-year terms. The terms of two
5 members expire on February 1 of each odd-numbered year.

6 (b) A vacancy in an appointive position on the commission
7 shall be filled by appointment of the governor with the advice and
8 consent of the senate.

9 Sec. 2004.055. PRESIDING OFFICER. The governor shall
10 designate a member of the commission as presiding officer of the
11 commission to serve in that capacity at the pleasure of the
12 governor.

13 Sec. 2004.056. MEETINGS; OFFICIAL RECORD. (a) The
14 commission shall meet not less than six times each year.

15 (b) The commission may meet at other times at the call of the
16 presiding officer or as provided by commission rule.

17 (c) The commission shall keep an official record of all
18 commission meetings and proceedings.

19 Sec. 2004.057. GROUNDS FOR REMOVAL. (a) It is a ground for
20 removal from the commission that a member:

21 (1) does not have at the time of taking office the
22 qualifications required by Section 2004.052;

23 (2) does not maintain during service on the commission
24 the qualifications required by Section 2004.052;

25 (3) is ineligible for membership under Section
26 2004.053;

27 (4) cannot, because of illness or disability,

1 discharge the member's duties for a substantial part of the member's
2 term; or

3 (5) is absent from more than half of the regularly
4 scheduled commission meetings that the member is eligible to attend
5 during a calendar year without an excuse approved by a majority vote
6 of the commission.

7 (b) The validity of an action of the commission is not
8 affected by the fact that it is taken when a ground for removal of a
9 commission member exists.

10 (c) If the executive director has knowledge that a potential
11 ground for removal of a commission member exists, the executive
12 director shall notify the presiding officer of the commission of
13 the potential ground. The presiding officer shall then notify the
14 governor and the attorney general that a potential ground for
15 removal exists. If the potential ground for removal involves the
16 presiding officer, the executive director shall notify the next
17 highest officer of the commission, who shall notify the governor
18 and the attorney general that a potential ground for removal
19 exists.

20 Sec. 2004.058. TRAINING. (a) A person who is appointed to
21 and qualifies for office as a member of the commission may not vote,
22 deliberate, or be counted as a member in attendance at a meeting of
23 the commission until the person completes a training program that
24 complies with this section.

25 (b) The training program must provide the person with
26 information regarding:

27 (1) this chapter and the other laws administered by

1 the commission and the commission's programs, functions, rules, and
2 budget;

3 (2) the results of the most recent formal audit of the
4 commission;

5 (3) the requirements of laws relating to open
6 meetings, public information, administrative procedure, and
7 conflict of interest; and

8 (4) any applicable ethics policies adopted by the
9 commission or the Texas Ethics Commission.

10 (c) A person appointed to the commission is entitled to
11 reimbursement, as provided by the General Appropriations Act, for
12 travel expenses incurred in attending the training program
13 regardless of whether the attendance at the program occurs before
14 or after the person qualifies for office.

15 Sec. 2004.059. QUALIFICATIONS AND STANDARDS OF CONDUCT
16 INFORMATION. The executive director or the executive director's
17 designee shall provide to members of the commission, as often as
18 necessary, information regarding their:

19 (1) qualifications for office under this chapter; and

20 (2) responsibilities under applicable laws relating
21 to standards of conduct for state officers.

22 Sec. 2004.060. BOND. (a) Before assuming the duties of
23 office, an appointed member of the commission must execute a bond in
24 the amount of \$25,000 payable to the state and conditioned on the
25 member's faithful performance of the member's duties of office.

26 (b) The bond must be approved by the governor.

27 (c) The cost of the bond shall be paid by the commission.

1 Sec. 2004.061. PROHIBITION OF CERTAIN ACTIVITIES. (a) An
2 appointed member of the commission may not:

3 (1) use the member's official authority to affect the
4 result of an election or nomination for public office; or

5 (2) directly or indirectly coerce, attempt to coerce,
6 command, or advise a person to pay, lend, or contribute anything of
7 value to another person for political purposes.

8 (b) A commission member or the spouse of a commission member
9 may not solicit or accept employment from a license, certificate of
10 registration, or approval holder under a law administered by the
11 commission or from an applicant for such a license, certificate, or
12 approval before the second anniversary of the date the commission
13 member's service on the commission ends.

14 (c) A person who violates this section commits an offense.
15 An offense under this subsection is a Class B misdemeanor.

16 Sec. 2004.062. APPLICATION OF FINANCIAL DISCLOSURE LAW.
17 For purposes of Chapter 572, Government Code, a member of the
18 commission, the executive director, and the division directors are
19 appointed officers of a major state agency.

20 Sec. 2004.063. PER DIEM; EXPENSES. (a) Each appointed
21 member of the commission is entitled to:

22 (1) a per diem in an amount prescribed by
23 appropriation for each day spent in performing the duties of the
24 member; and

25 (2) reimbursement for actual and necessary expenses
26 incurred in performing those duties.

27 (b) Reimbursement for expenses under this section is

1 subject to any applicable limitation in the General Appropriations
2 Act.

3 (c) The ex officio member is entitled to reimbursement for
4 expenses from that member's agency as provided by law for expenses
5 incurred in the performance of that member's other official duties.

6 Sec. 2004.064. EXECUTIVE DIRECTOR. (a) The commission
7 shall appoint an executive director, who serves at the pleasure of
8 the commission.

9 (b) A person holding an elective office or an officer or
10 official of a political party is not eligible for appointment as
11 executive director.

12 (c) The executive director must have five or more years of
13 responsible administrative experience in public or business
14 administration or possess broad management skills.

15 (d) The executive director may not pursue any other business
16 or occupation or hold any other office for profit.

17 (e) The executive director must meet all eligibility
18 requirements relating to members of the commission, except the
19 requirement for prior residency in this state.

20 (f) The executive director is entitled to an annual salary
21 and other compensation specified by the commission.

22 (g) The executive director may not, before the second
23 anniversary of the date the director's service to the commission
24 ends, acquire a direct or indirect interest in or be employed by a
25 person licensed or registered by the commission in connection with
26 the conduct of gaming or the provision of casino services in this
27 state.

1 Sec. 2004.065. OFFICES. The commission shall maintain its
2 primary office in Travis County and may maintain other offices
3 determined to be necessary by the commission.

4 Sec. 2004.066. AUTHORITY TO SUE OR BE SUED. (a) The
5 commission may sue and be sued.

6 (b) Service of process in a suit against the commission may
7 be secured by serving the executive director.

8 (c) A suit against the commission must be brought in Travis
9 County.

10 Sec. 2004.067. AUDIT. The transactions of the commission
11 are subject to audit by the state auditor under Chapter 321,
12 Government Code.

13 Sec. 2004.068. ACCESS TO CRIMINAL HISTORY RECORDS. (a)
14 The governor shall conduct an investigation of and is entitled to
15 obtain criminal history record information maintained by the
16 Department of Public Safety, the Federal Bureau of Investigation
17 Identification Division, or another law enforcement agency
18 relating to an individual the governor intends to appoint to the
19 commission.

20 (b) The commission shall conduct an investigation of and is
21 entitled to obtain criminal history record information maintained
22 by the Department of Public Safety, the Federal Bureau of
23 Investigation Identification Division, or another law enforcement
24 agency relating to an individual the commission intends to employ.

25 [Sections 2004.069-2004.100 reserved for expansion]

26 SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION

27 Sec. 2004.101. GENERAL POWERS. (a) The commission has

1 broad authority and shall exercise strict control and close
2 supervision over all activities authorized and conducted in this
3 state under a law administered by the commission, including:

4 (1) Chapter 2001;

5 (2) this chapter;

6 (3) Chapter 2005;

7 (4) Chapter 2052;

8 (5) Chapter 466, Government Code; and

9 (6) the Texas Racing Act (Article 179e, Vernon's Texas
10 Civil Statutes).

11 (b) The commission shall ensure that all casino games and
12 other gaming activities subject to the oversight or regulatory
13 authority of the commission are conducted fairly and in compliance
14 with the law.

15 (c) The commission also has the powers and duties granted
16 under:

17 (1) Chapter 2001;

18 (2) Chapter 2005;

19 (3) Chapter 2052;

20 (4) Chapter 466, Government Code; and

21 (5) the Texas Racing Act (Article 179e, Vernon's Texas
22 Civil Statutes).

23 (d) All aspects of this chapter and the other laws
24 administered by the commission, including those relating to
25 licensing, qualification, execution, and enforcement, shall be
26 administered by the executive director and the commission for the
27 protection of the public and in the public interest.

1 (e) In the acquisition or provision of facilities,
2 supplies, equipment, materials, or services related to the
3 implementation of casino gaming under Chapter 2005, the commission
4 must comply with procurement procedures prescribed under:

5 (1) Subtitle D, Title 10, Government Code; and

6 (2) other law applicable to state agencies generally.

7 (f) The commission and the executive director have full
8 power and authority to hold hearings, and in connection to the
9 hearings, to issue subpoenas, to compel the attendance of witnesses
10 at any place in this state, to administer oaths, and to require
11 testimony under oath. Any process or notice relating to a hearing
12 may be served in the manner provided for service of process and
13 notices in civil actions. The commission and the executive
14 director may pay transportation and other expenses of witnesses as
15 they consider reasonable.

16 (g) The executive director and the executive director's
17 authorized employees may:

18 (1) inspect and examine a premises where gaming is
19 conducted or equipment or supplies, including a gaming device, or
20 associated equipment is manufactured, assembled, produced,
21 programmed, sold, leased, marketed, distributed, repaired, or
22 modified for use in gaming;

23 (2) for good cause, seize and remove from a premises
24 and impound equipment or supplies for the purpose of examination
25 and inspection; and

26 (3) demand access to, inspect, examine, photocopy, or
27 audit papers, books, and records of applicants and license and

1 certificate holders, on their premises or elsewhere as practicable,
2 in the presence of the license or certificate holder or the license
3 or certificate holder's agent, reporting the gross income produced
4 by a gaming business, verification of the gross income, and other
5 matters affecting the enforcement of this chapter.

6 (h) For the purpose of conducting audits after the cessation
7 of gaming by a license or certificate holder, a former license
8 holder shall furnish, on demand of the executive director or the
9 executive director's authorized employees, books, papers, and
10 records as necessary to conduct the audits. The former license or
11 certificate holder shall maintain all books, papers, and records
12 necessary for audits for three years after the date of the surrender
13 or revocation of the license or certificate and is responsible for
14 the costs incurred by the commission in the conduct of an audit
15 under this section. If the former license or certificate holder
16 seeks judicial review of a deficiency determination or files a
17 petition for a redetermination, the former license or certificate
18 holder must maintain all books, papers, and records until a final
19 order is entered on the determination.

20 Sec. 2004.102. RULEMAKING AUTHORITY. (a) The commission
21 shall adopt rules the commission considers necessary or desirable
22 for the public interest in carrying out the policy and provisions of
23 this chapter and the other laws administered by the commission.

24 (b) The rules shall set out:

25 (1) the method and form of application that an
26 applicant for a license or certificate of registration under
27 Chapter 2005 must follow and complete before consideration of an

1 application by the commission;

2 (2) the information to be furnished by an applicant or
3 license or certificate holder under Chapter 2005 concerning
4 antecedents, habits, character, associates, criminal record,
5 business activities, and financial affairs;

6 (3) the criteria to be used in the award, revocation,
7 and suspension of licenses or certificates under Chapter 2005;

8 (4) the information to be furnished by a license or
9 certificate holder under Chapter 2005 relating to the holder's
10 employees;

11 (5) the manner and procedure of hearings conducted by
12 the commission or a hearing examiner of the commission;

13 (6) the payment of fees or costs an applicant or
14 license or certificate holder under Chapter 2005 must pay;

15 (7) the procedures for the issuance of temporary
16 licenses and certificates and temporary qualification to hold
17 equity interests and creditor interests in owner license and
18 certificate holders under Chapter 2005;

19 (8) the manner and method of collection and payment of
20 fees and the issuance of licenses and certificates;

21 (9) the definition of "unsuitable method of
22 operation";

23 (10) the conditions under which the nonpayment of a
24 gambling debt by a license or certificate holder constitutes
25 grounds for disciplinary action;

26 (11) the manner of approval of new games and gaming
27 devices and the method to determine whether the gaming device is a

1 video lottery terminal that must comply with Subchapter K, Chapter
2 466, Government Code;

3 (12) access to confidential information obtained
4 under this chapter, Chapter 2005, or other law and means to ensure
5 that the confidentiality of the information is maintained and
6 protected;

7 (13) financial reporting and internal control
8 requirements for license or certificate holders;

9 (14) the manner in which winnings, compensation from
10 games and gaming devices, and gross gaming revenue must be computed
11 and reported by an owner license or certificate holder under
12 Chapter 2005;

13 (15) requirements for the annual audit of the
14 financial statements of a license or certificate holder;

15 (16) requirements for periodic financial reports from
16 each license or certificate holder consistent with standards and
17 intervals prescribed by the commission;

18 (17) the procedures to be followed by a license or
19 certificate holder for excluding a person from a casino; and

20 (18) the procedures for exempting or waiving
21 institutional investors from the licensing or registration
22 requirements for shareholders of publicly traded corporations.

23 Sec. 2004.103. AUTHORITY OF EXECUTIVE DIRECTOR. (a) With
24 commission approval, the executive director may create executive
25 positions as the director considers necessary to implement the
26 provisions of this chapter, Chapter 2005, and any other law
27 administered by the commission.

1 (b) The executive director shall employ directors in the
2 areas of audit, investigation, and enforcement. The audit director
3 must be a certified public accountant, have five or more years of
4 progressively responsible experience in general accounting, and
5 have a comprehensive knowledge of the principles and practices of
6 corporate finance or must possess qualifications of an expert in
7 the field of corporate finance and auditing, general finance,
8 gaming, and economics. Other directors must possess five or more
9 years of training and experience in the fields of investigation,
10 law enforcement, law, or gaming.

11 (c) The executive director may investigate, for the purpose
12 of prosecution, a suspected criminal violation of this chapter or
13 another law administered by the commission. For the purpose of the
14 administration and enforcement of this chapter or another law
15 administered by the commission, the executive director and
16 employees designated by the executive director may be commissioned
17 as peace officers.

18 (d) The executive director, to further the objectives and
19 purposes of this chapter or another law administered by the
20 commission, may:

21 (1) direct and supervise all administrative actions of
22 the commission;

23 (2) bring legal action in the name and on behalf of the
24 commission;

25 (3) make, execute, and effect an agreement or contract
26 authorized by the commission;

27 (4) employ the services of persons considered

1 necessary for consultation or investigation and set the salaries of
2 or contract for the services of legal, professional, technical, and
3 operational personnel and consultants, except that outside legal
4 assistance may be retained only with the approval of the attorney
5 general;

6 (5) acquire furnishings, equipment, supplies,
7 stationery, books, and all other things the executive director
8 considers necessary or desirable in carrying out the executive
9 director's functions; and

10 (6) perform other duties the executive director may
11 consider necessary to effect the purposes of this chapter or
12 another law administered by the commission.

13 (e) Except as otherwise provided in this chapter, the costs
14 of administration incurred by the executive director shall be paid
15 in the same manner as other claims against the state are paid.

16 Sec. 2004.104. OFFICE OF HEARING EXAMINERS. (a) The
17 commission shall create an office of hearing examiners to assist
18 the commission in carrying out its powers and duties.

19 (b) The office of hearing examiners shall:

20 (1) hold hearings under the authority of the
21 commission on matters relating to the commission's administration
22 of this chapter or another law administered by the commission as the
23 commission orders; and

24 (2) report after hearing in the manner prescribed by
25 the commission.

26 (c) The commission shall refer any contested case arising
27 under this chapter or another law administered by the commission to

1 the office of hearing examiners.

2 (d) The office of hearing examiners is independent of the
3 executive director and is under the exclusive control of the
4 commission.

5 (e) The office of hearing examiners is under the direction
6 of a chief hearing examiner appointed by the commission.

7 (f) The commission may authorize the chief hearing examiner
8 to delegate to one or more hearing examiners the authority to hold
9 any hearing called by the chief hearing examiner.

10 (g) The chief hearing examiner and all assistant hearing
11 examiners employed by the office of hearing examiners must be
12 attorneys licensed to practice law in this state.

13 (h) The chief hearing examiner and all assistant hearing
14 examiners may administer oaths, receive evidence, and issue
15 subpoenas to compel the attendance of witnesses and the production
16 of papers and documents in all matters delegated by the commission.

17 (i) The chief hearing examiner and all assistant hearing
18 examiners are entitled to an annual salary and other compensation
19 specified by the commission.

20 (j) The office of hearing examiners may contract for
21 additional services it considers necessary to carry out its powers.

22 Sec. 2004.105. JUDICIAL REVIEW IN CONTESTED CASES. A final
23 ruling of the commission in a contested case is subject to judicial
24 review under Chapter 2001, Government Code. Judicial review is
25 under the substantial evidence rule.

26 Sec. 2004.106. RECORDS. (a) The executive director shall
27 maintain a file of all applications for licenses, registrations, or

1 approvals under Chapter 2005 or another law administered by the
2 commission, together with a record of all action taken with respect
3 to the applications.

4 (b) The commission and the executive director may maintain
5 other records they consider desirable.

6 (c) The information made confidential by this subsection
7 may be revealed, wholly or partly, only in the course of the
8 necessary administration of this chapter or other law administered
9 by the commission, under Section 2005.452, or on the order of a
10 court of competent jurisdiction, except that the executive director
11 or the commission may disclose the information to an authorized
12 agent of any agency of the United States, another state, or a
13 political subdivision of this state authorized under commission
14 rules. Notice of the content of any information furnished or
15 released under this subsection may be given to any affected
16 applicant or license, certificate of registration, or approval
17 holder as prescribed by commission rule. The following information
18 is confidential:

19 (1) information requested by the commission or the
20 executive director to be furnished to either of them under this
21 chapter, Chapter 2005, or another law administered by the
22 commission or that may otherwise be obtained relating to the
23 finances, earnings, or revenue of an applicant or license,
24 registration, or approval holder;

25 (2) information pertaining to an applicant's criminal
26 record, antecedents, and background that has been furnished to or
27 obtained by the commission or the executive director from any

1 source;

2 (3) information provided to the commission or the
3 executive director or a commission employee by a governmental
4 agency or an informer or on the assurance that the information will
5 be held in confidence and treated as confidential; and

6 (4) information obtained by the executive director or
7 the commission from a license, certificate, or approval holder,
8 including a casino service license holder, relating to the
9 manufacturing, modification, or repair of gaming devices.

10 Sec. 2004.107. REPRESENTATION BY ATTORNEY GENERAL. (a)
11 The attorney general shall represent the commission and the
12 executive director in any proceeding to which the commission or the
13 executive director is a party under this chapter or another law
14 administered by the commission or in any suit filed against the
15 commission or executive director.

16 (b) The office of the attorney general on request shall
17 advise the commission and the executive director in all other
18 matters, including representing the commission when the commission
19 acts in its official capacity.

20 Sec. 2004.108. RULES RESTRICTING ADVERTISING OR
21 COMPETITIVE BIDDING. (a) The commission may not adopt rules
22 restricting advertising or competitive bidding by a person
23 regulated by the commission except to prohibit false, misleading,
24 or deceptive practices by that person.

25 (b) The commission may not include in its rules to prohibit
26 false, misleading, or deceptive practices by a person regulated by
27 the commission a rule that:

1 (1) restricts the use of any advertising medium;

2 (2) restricts the person's personal appearance or the
3 use of the person's voice in an advertisement;

4 (3) relates to the size or duration of an
5 advertisement by the person; or

6 (4) restricts the use of a trade name in advertising by
7 the person.

8 Sec. 2004.109. RULES ON CONSEQUENCES OF CRIMINAL
9 CONVICTION. (a) The commission shall adopt rules necessary to
10 comply with Chapter 53.

11 (b) In its rules under this section, the commission shall
12 list the specific offenses for which a conviction would constitute
13 grounds for the commission to take action under Section 53.021.

14 Sec. 2004.110. SUBPOENA. (a) The commission may request
15 and, if necessary, compel by subpoena:

16 (1) the attendance of a witness for examination under
17 oath; and

18 (2) the production for inspection and copying of
19 records and other evidence relevant to the investigation of an
20 alleged violation of this chapter or another law administered by
21 the commission.

22 (b) If a person fails to comply with a subpoena issued under
23 this section, the commission, acting through the attorney general,
24 may file suit to enforce the subpoena in a district court in Travis
25 County or in the county in which a hearing conducted by the
26 commission may be held.

27 (c) The court shall order a person to comply with the

1 subpoena if the court determines that good cause exists for issuing
2 the subpoena.

3 Sec. 2004.111. USE OF TECHNOLOGY. The commission shall
4 implement a policy requiring the commission to use appropriate
5 technological solutions to improve the commission's ability to
6 perform its functions. The policy must ensure that the public is
7 able to interact with the commission on the Internet.

8 Sec. 2004.112. NEGOTIATED RULEMAKING AND ALTERNATIVE
9 DISPUTE RESOLUTION POLICY. (a) The commission shall develop and
10 implement a policy to encourage the use of:

11 (1) negotiated rulemaking procedures under Chapter
12 2008, Government Code, for the adoption of commission rules; and

13 (2) appropriate alternative dispute resolution
14 procedures under Chapter 2009, Government Code, to assist in the
15 resolution of internal and external disputes under the commission's
16 jurisdiction.

17 (b) The commission's procedures relating to alternative
18 dispute resolution must conform, to the extent possible, to any
19 model guidelines issued by the State Office of Administrative
20 Hearings for the use of alternative dispute resolution by state
21 agencies.

22 (c) The commission shall designate a trained person to:

23 (1) coordinate the implementation of the policy
24 adopted under Subsection (a);

25 (2) serve as a resource for any training needed to
26 implement the procedures for negotiated rulemaking or alternative
27 dispute resolution; and

1 (3) collect data concerning the effectiveness of those
2 procedures, as implemented by the commission.

3 Sec. 2004.113. COMMITTEES. The commission may appoint
4 committees that it considers necessary to carry out its duties.

5 Sec. 2004.114. ANNUAL REPORT. (a) The commission shall
6 file annually with the governor and the presiding officer of each
7 house of the legislature a complete and detailed written report
8 accounting for all money received and disbursed by the commission
9 during the preceding fiscal year.

10 (b) The annual report must be in the form and be reported in
11 the time provided by the General Appropriations Act.

12 Sec. 2004.115. GAMING AGREEMENT WITH INDIAN TRIBE. As
13 authorized by Section 47(h), Article III, Texas Constitution, the
14 commission or governor may enter into a gaming agreement with an
15 Indian tribe for the operation of casinos by the Indian tribe on
16 tribal land.

17 Sec. 2004.116. GIFT OR POLITICAL CONTRIBUTION TO OFFICER OR
18 EMPLOYEE. (a) A commission member, the executive director, or an
19 employee of the commission may not intentionally or knowingly
20 accept a gift or political contribution from:

21 (1) a person that has a significant financial interest
22 in the lottery or in gaming regulated under Chapter 2005, or in any
23 other activity regulated under another law administered by the
24 commission;

25 (2) a person related in the first degree of
26 consanguinity or affinity to a person that has a significant
27 financial interest in the lottery or in gaming regulated under

1 Chapter 2005, or in any other activity regulated under another law
2 administered by the commission;

3 (3) a person that owns more than a 10 percent interest
4 in another person that has a significant financial interest in the
5 lottery or in gaming regulated under Chapter 2005, or in any other
6 activity regulated under another law administered by the
7 commission;

8 (4) a political committee that is directly
9 established, administered, or controlled wholly or partly by a
10 person that has a significant financial interest in the lottery or
11 in gaming regulated under Chapter 2005, or in any other activity
12 regulated under another law administered by the commission; or

13 (5) a person who, within the two years preceding the
14 date of the gift or contribution, won a lottery prize exceeding \$600
15 in amount or value.

16 (b) A person may not make a gift or political contribution
17 to a person known by the actor to be a commission member, the
18 executive director, or an employee of the commission, if the actor:

19 (1) is a person that has a significant financial
20 interest in the lottery or in gaming regulated under Chapter 2005,
21 or in any other activity regulated under another law administered
22 by the commission;

23 (2) is related in the first degree of consanguinity or
24 affinity to a person that has a significant financial interest in
25 the lottery or in gaming regulated under Chapter 2005, or in any
26 other activity regulated under another law administered by the
27 commission;

1 (3) owns more than a 10 percent interest in another
2 person that has a significant financial interest in the lottery or
3 in gaming regulated under Chapter 2005, or in any other activity
4 regulated under another law administered by the commission;

5 (4) is a political committee that is directly
6 established, administered, or controlled wholly or partly by a
7 person that has a significant financial interest in the lottery or
8 in gaming regulated under Chapter 2005, or in any other activity
9 regulated under another law administered by the commission; or

10 (5) within the two years preceding the date of the gift
11 or contribution, won a lottery prize exceeding \$600 in amount or
12 value.

13 (c) A person commits an offense if the person violates this
14 section. An offense under this section is a Class A misdemeanor.

15 Sec. 2004.117. DIVISIONS. (a) The commission shall
16 establish separate divisions to oversee and regulate:

17 (1) bingo;

18 (2) the state lottery;

19 (3) video lottery;

20 (4) combative sports and boxing;

21 (5) casino gaming; and

22 (6) pari-mutuel racing.

23 (b) To facilitate the operations of the commission or a
24 division of the commission, the commission or executive director
25 may delegate to a division or a division director a specific power
26 or duty given to the commission or executive director under this
27 chapter or other law.

1 (c) A division director shall, at the request of the
2 executive commissioner, assist in the development of rules and
3 policies for the operation and provision of a division of the
4 commission. The division director:

5 (1) acts on behalf of the executive director in
6 performing the delegated function; and

7 (2) reports to the executive director regarding the
8 delegated function and any matter affecting commission programs and
9 operations.

10 (d) The commission shall delegate responsibilities in the
11 administration of Chapter 466, Government Code, to the executive
12 director, the director of the appropriate division, and the
13 division's staff; provided, however, that the commission may not
14 delegate the following actions:

15 (1) a final determination in any application or
16 request for licensing or registration under Chapter 466;

17 (2) a final determination in any proceeding involving
18 the suspension or revocation of a certificate of registration or
19 license under Chapter 466;

20 (3) a final determination that Chapter 466 has been
21 violated; or

22 (4) a final determination or imposition of an
23 assessment of fines or penalties under a law administered by the
24 commission.

25 Sec. 2004.118. RESTRICTIONS ON EMPLOYMENT. (a) The
26 commission may not employ or continue to employ a person who owns a
27 financial interest in:

1 (1) a bingo commercial lessor, bingo distributor, or
2 bingo manufacturer;

3 (2) a lottery sales agency or a lottery operator;

4 (3) any video lottery activity regulated under
5 Subchapter K, Chapter 466, Government Code, or a person licensed,
6 registered, or approved under that subchapter;

7 (4) any gaming activity regulated under this chapter
8 or Chapter 2005 or a person licensed under Chapter 2005;

9 (5) combative sports regulated under Chapter 2052; or

10 (6) pari-mutuel wagering regulated under the Texas
11 Racing Act (Article 179e, Vernon's Texas Civil Statutes).

12 (b) The commission may not employ or continue to employ a
13 person who is a spouse, child, brother, sister, or parent residing
14 as a member of the same household in the principal place of
15 residence of a person who is subject to a disqualification
16 prescribed by Subsection (a).

17 (c) In employing the executive director and other
18 employees, the commission shall strive to reflect the diversity of
19 the population of the state as regards race, color, handicap, sex,
20 religion, age, and national origin.

21 [Sections 2004.119-2004.150 reserved for expansion]

22 SUBCHAPTER D. PUBLIC PARTICIPATION AND COMPLAINT PROCEDURES

23 Sec. 2004.151. PUBLIC INTEREST INFORMATION. (a) The
24 commission shall prepare and disseminate consumer information that
25 describes the regulatory functions of the commission and the
26 procedures by which consumer complaints are filed with and resolved
27 by the commission.

1 (b) The commission shall make the information available to
2 the public and appropriate state agencies.

3 Sec. 2004.152. COMPLAINTS. (a) The commission by rule
4 shall establish methods by which consumers and service recipients
5 are notified of the name, mailing address, and telephone number of
6 the commission for the purpose of directing complaints to the
7 commission. The commission may provide for that notice:

8 (1) on each form, application, or written contract for
9 services of a person regulated under a law administered by the
10 commission;

11 (2) on a sign prominently displayed in the place of
12 business of each person regulated under a law administered by the
13 commission; or

14 (3) in a bill for service provided by a person
15 regulated under a law administered by the commission.

16 (b) The commission shall list with its regular telephone
17 number any toll-free telephone number established under other state
18 law that may be called to present a complaint about a person
19 regulated under a law administered by the commission.

20 Sec. 2004.153. RECORDS OF COMPLAINTS. (a) The commission
21 shall maintain a system to promptly and efficiently act on
22 complaints filed with the commission. The commission shall
23 maintain:

24 (1) information about the parties to the complaint and
25 the subject matter of the complaint;

26 (2) a summary of the results of the review or
27 investigation of the complaint; and

1 (3) information about the disposition of the
2 complaint.

3 (b) The commission shall make information available
4 describing its procedures for complaint investigation and
5 resolution.

6 (c) The commission shall periodically notify the parties of
7 the status of the complaint until final disposition of the
8 complaint.

9 Sec. 2004.154. GENERAL RULES REGARDING COMPLAINT
10 INVESTIGATION AND DISPOSITION. The commission shall adopt rules
11 concerning the investigation of a complaint filed with the
12 commission. The rules must:

13 (1) distinguish between categories of complaints;

14 (2) ensure that complaints are not dismissed without
15 appropriate consideration;

16 (3) require that the commission be advised of a
17 complaint that is dismissed and that a letter be sent to the person
18 who filed the complaint explaining the action taken on the
19 dismissed complaint;

20 (4) ensure that the person who files a complaint has an
21 opportunity to explain the allegations made in the complaint; and

22 (5) prescribe guidelines concerning the categories of
23 complaints that require the use of a private investigator and the
24 procedures for the commission to obtain the services of a private
25 investigator.

26 Sec. 2004.155. DISPOSITION OF COMPLAINT. (a) The
27 commission shall:

1 (1) dispose of each complaint in a timely manner; and
2 (2) establish a schedule for conducting each phase of
3 a complaint that is under the control of the commission not later
4 than the 30th day after the date the commission receives the
5 complaint.

6 (b) Each party shall be notified of the projected time
7 requirements for pursuing the complaint. The commission shall
8 notify each party to the complaint of any change in the schedule
9 established under Subsection (a)(2) not later than the seventh day
10 after the date the change is made.

11 (c) The executive director shall notify the commission of a
12 complaint that is not resolved within the time prescribed by the
13 commission for resolving the complaint.

14 Sec. 2004.156. PUBLIC PARTICIPATION. (a) The commission
15 shall develop and implement policies that provide the public with a
16 reasonable opportunity to appear before the commission and to speak
17 on any issue under the commission's jurisdiction.

18 (b) The commission shall prepare and maintain a written plan
19 that describes how a person who does not speak English may be
20 provided reasonable access to the commission's programs.

21 Sec. 2004.157. INFORMAL SETTLEMENT CONFERENCE. The
22 commission shall establish guidelines for an informal settlement
23 conference related to a complaint filed with the commission.

24 CHAPTER 2005. CASINO GAMBLING

25 SUBCHAPTER A. GENERAL PROVISIONS

26 Sec. 2005.001. PUBLIC POLICY. (a) All casino gaming that
27 is conducted in this state and that is authorized by law shall be

1 regulated and licensed under this chapter, unless the legislature
2 or federal law specifically provides otherwise.

3 (b) The legislature hereby finds, and declares it to be the
4 public policy of this state, that:

5 (1) the development of regulated limited casino gaming
6 in the state will benefit the general welfare of the people of this
7 state by enhancing investment, development, and tourism in this
8 state, resulting in new jobs and additional revenues to the state;

9 (2) the conduct of regulated casino gaming in a
10 limited number of casinos will not harm the people of this state;

11 (3) the regulation of gaming in this state is
12 important to ensure that gaming is:

13 (A) conducted honestly and competitively; and

14 (B) free from criminal and corruptive elements;

15 (4) public confidence and trust can be maintained only
16 by strict regulation of all persons, locations, practices,
17 associations, and activities related to the conduct of gaming and
18 the casino service industry;

19 (5) persons owning any direct or indirect material
20 interest in a casino should be licensed and controlled to protect
21 the public health, safety, morals, good order, and general welfare
22 of the people of this state;

23 (6) certain operators and employees of casinos should
24 be regulated, licensed, and controlled to accomplish and promote
25 these public policies while protecting the public health, safety,
26 morals, good order, and general welfare of the people of this state;

27 (7) certain persons engaging in the casino service

1 industry should be regulated, licensed, and controlled to
2 accomplish and promote these public policies while protecting the
3 public health, safety, morals, good order, and general welfare of
4 the people of this state; and

5 (8) it is the intent of this chapter, where possible,
6 to use the resources, goods, labor, and services of the people of
7 this state in the operation and construction of casinos and
8 casino-related amenities to the extent allowable by law.

9 Sec. 2005.002. DEFINITIONS. In this chapter:

10 (1) "Affiliate" means a person who, directly or
11 indirectly through one or more intermediaries, controls, is
12 controlled by, or is under common control with another person. A
13 person is considered to control a company if the person
14 beneficially owns more than a five percent equity interest in the
15 company under the beneficial ownership rules adopted by the
16 commission.

17 (2) "Applicant" means a person who has applied for a
18 license or for a qualification to hold an equity interest or
19 creditor interest in an owner license holder or who has applied for
20 the approval of any act or transaction for which approval is
21 required or allowed under this chapter.

22 (3) "Associated equipment" means any equipment or
23 mechanical, electromechanical, or electronic contrivance,
24 component, or machine used in connection with gaming or with any
25 game that would not otherwise be classified as a gaming device,
26 including dice, playing cards, equipment affecting the proper
27 reporting of gross gaming revenue, and devices for weighing or

1 counting money.

2 (4) "Casino" means a facility at which gambling games
3 are conducted for profit that are not authorized by a law other than
4 this chapter.

5 (5) "Casino operator" means a person, other than the
6 owner license holder, who contractually agrees to provide
7 operational and managerial services for the operation of a casino
8 on behalf of the owner license holder in return for receiving a
9 payment based in whole or part on profits or receipts from the
10 casino.

11 (6) "Casino service" means the provision of goods or
12 services, including security service and gaming schools, to a
13 person holding an owner's or operator's license under this chapter,
14 other than a service requiring a provider's license.

15 (7) "Commission" means the Texas Gaming and Boxing
16 Commission.

17 (8) "Company" means a corporation, partnership,
18 limited partnership, trust, association, joint stock company,
19 joint venture, limited liability company, or other form of business
20 organization, but does not include a sole proprietorship or natural
21 person.

22 (9) "Creditor interest" means a right or claim of any
23 character against a person for the payment of money borrowed,
24 whether secured or unsecured, matured or unmatured, liquidated or
25 absolute, fixed or contingent, and includes an obligation based on
26 the person's profits or receipts.

27 (10) "Director" means a member of the board of

1 directors of a corporation and a person performing similar
2 functions with respect to a company other than a corporation.

3 (11) "Distributor" means a person in the business of
4 distributing gaming devices used for gambling games.

5 (12) "Equity interest" means a proprietary interest,
6 right, or claim allowing the holder either to vote with respect to
7 matters of organizational governance or to participate in the
8 profits and residual assets of a company, including common and
9 preferred stock in a corporation, a general or limited partnership
10 interest in a partnership, a similar interest in any other form of
11 business organization, and a warrant, right, or similar interest
12 convertible into, or to subscribe for, a proprietary right or
13 claim, with or without the payment of additional consideration.

14 (13) "Executive director" means the executive
15 director of the commission.

16 (14) "Family" means, with respect to a natural person,
17 any other natural person related to the person within the second
18 degree by affinity or the third degree by consanguinity, as
19 determined under Subchapter B, Chapter 573, Government Code.

20 (15) "Game" or "gambling game":

21 (A) means any game or similar activity that
22 involves the making of a bet, as defined by Section 47.01, Penal
23 Code, for consideration, and includes:

24 (i) a banking or percentage game played
25 with cards, dice, or a mechanical, electromechanical, or electronic
26 device or machine for money, property, checks, credit, or a
27 representative of value, including roulette, keno, twenty-one,

1 blackjack, craps, poker, chuck-a-luck (dai shu), wheel of fortune,
2 chemin de fer, baccarat, pai gow, and any other game or device
3 approved by the commission;

4 (ii) simulcast wagering on pari-mutuel
5 greyhound or horse racing;

6 (iii) the maintenance of a race book; and

7 (iv) any other method of effecting a wager
8 approved by the commission; and

9 (B) does not include:

10 (i) bingo, as authorized by Chapter 2001;

11 (ii) charitable raffles, as authorized by
12 Chapter 2002; or

13 (iii) the state lottery or video lottery
14 games conducted under Chapter 466, Government Code.

15 (16) "Gaming" or "gambling" means to deal, operate,
16 carry on, conduct, maintain, or expose for play a game in a casino.

17 (17) "Gaming device" means a mechanical,
18 electromechanical, or electronic contrivance, component, or
19 machine used in connection with gaming or a game that affects the
20 result of a wager by determining win or loss. The term includes a
21 system for processing information that can alter the normal
22 criteria of random selection, affect the operation of a game, or
23 determine the outcome of a game.

24 (18) "Gaming employee":

25 (A) means an individual directly involved in the
26 operation or conduct of gaming in a casino performing a service in a
27 capacity that the commission finds appropriate for occupational

1 licensing under Section 2005.102 and includes:

2 (i) a boxman, a cashier, change personnel,
3 counting room personnel, a dealer, a floor person, a host empowered
4 to extend credit or complimentary services, a keno runner, a keno
5 writer, a machine mechanic, or security personnel;

6 (ii) a shift or pit boss or a supervisor or
7 manager involved in gaming activities;

8 (iii) accounting or internal auditing
9 personnel directly involved in recordkeeping or the examination of
10 records generated from gaming activities; and

11 (iv) a junketeer or other independent agent
12 whose compensation is based on how much a patron wagers or loses or
13 who is paid per patron more than the price of admission; and

14 (B) does not include bartenders, cocktail
15 waitresses, or other individuals engaged exclusively in preparing
16 or serving food or beverages or individuals providing nominal,
17 complimentary, or maintenance services.

18 (19) "Gross gaming revenue":

19 (A) means the total of the following, less the
20 total of all cash paid out as losses to patrons and those amounts
21 paid to purchase annuities to fund losses paid to patrons by
22 independent financial institutions:

23 (i) cash received by an owner license
24 holder as winnings;

25 (ii) cash received by an owner license
26 holder in payment for credit extended by the owner license holder to
27 a patron for the purposes of gaming; and

1 (iii) compensation received by an owner
2 license holder for conducting any game in which the owner license
3 holder is not a party to a wager; and

4 (B) does not include:

5 (i) counterfeit money or tokens;

6 (ii) coins of other countries that are
7 received in gaming devices;

8 (iii) cash taken in fraudulent acts
9 perpetrated against an owner license holder for which the license
10 holder is not reimbursed;

11 (iv) cash received as entry fees for
12 contests or tournaments in which the patrons compete for prizes; or

13 (v) compensation received by an owner
14 license holder for the operation of video lottery games.

15 (20) "Hearing examiner" means a person authorized by
16 the commission to conduct hearings.

17 (21) "Institutional investor" means a person, other
18 than a state or federal pension plan, that meets the requirements of
19 a "qualified institutional buyer" as defined in Section 144A,
20 Securities Act of 1933 (17 C.F.R. Section 230.144A), as amended,
21 and is:

22 (A) a bank as defined in Section 3(a)(6),
23 Securities Exchange Act of 1934 (15 U.S.C. Section 78c), as
24 amended;

25 (B) an insurance company as defined in Section
26 2(a)(17), Investment Company Act of 1940 (15 U.S.C. Section 80a-2),
27 as amended;

1 (C) an investment company registered under
2 Section 8, Investment Company Act of 1940 (15 U.S.C. Section
3 80a-8), as amended;

4 (D) an investment adviser registered under
5 Section 203, Investment Advisers Act of 1940 (15 U.S.C. Section
6 80b-3), as amended;

7 (E) a collective trust fund as defined by Section
8 3(c)(11), Investment Company Act of 1940 (15 U.S.C. Section 80a-3),
9 as amended;

10 (F) an employee benefit plan or pension fund that
11 is subject to the Employee Retirement Income Security Act of 1974
12 (29 U.S.C. Section 1001 et seq.), as amended, excluding an employee
13 benefit plan or pension fund sponsored by a publicly traded
14 corporation registered with the commission;

15 (G) a state or federal government pension plan;

16 (H) a group composed entirely of persons
17 specified in Paragraphs (A)-(F); or

18 (I) such other persons as the commission may
19 determine for reasons consistent with the policies expressed in
20 Section 2005.001.

21 (22) "Key executive" means a corporation's directors
22 and executive officers, a partnership's general partners, a trust's
23 trustee, a joint venture's managing venturers, and each person
24 possessing similar responsibilities and authorities in any other
25 form of business organization.

26 (23) "Manufacturer" means a person in the business of
27 manufacturing gaming devices used for gambling games.

1 (24) "Negotiable instrument" means a writing that
2 evidences a transaction between a natural person and an owner
3 license holder at the time of the transaction whose gaming chips,
4 tokens, or currency are exchanged for the instrument and includes a
5 writing taken in consolidation, redemption, or payment of a prior
6 instrument.

7 (25) "Principal manager" means a person who, as
8 determined under the rules of the commission, holds or exercises
9 managerial, supervisory, or policy-making authority over the
10 management or operation of a gaming activity or casino service that
11 in the judgment of the commission warrants the occupational
12 licensing as a principal manager for the protection of the public
13 interest. "Principal manager" includes a key executive of a
14 license holder that is a company and each person controlling a
15 license holder that is a company.

16 (26) "Project commitment" means, with respect to an
17 application for an owner's license for a proposed casino, the total
18 cost of constructing and furnishing the casino and any related
19 hotel and entertainment, retail, and parking facilities, including
20 the cost of acquiring and preparing the underlying real estate, the
21 cost of obtaining requisite permits and approvals, the cost of
22 acquiring and installing gaming devices and associated equipment,
23 and fees for professional services and financing.

24 (27) "Publicly traded company":

25 (A) means a company that:

26 (i) has one or more classes of securities
27 registered under Section 12, Securities Exchange Act of 1934 (15

1 U.S.C. Section 781), as amended; or

2 (ii) is an issuer subject to Section 15(d),
3 Securities Exchange Act of 1934 (15 U.S.C. Section 78o), as
4 amended; and

5 (B) does not include a company or other legal
6 entity that has securities registered or is considered to be an
7 issuer solely because it guaranteed a security issued by an
8 affiliate under a public offering or is considered to be a co-issuer
9 of a public offering of securities under 17 C.F.R. Section 230.140.

10 (28) "Race book" means wagers accepted on the outcome
11 of an event held at a greyhound or horse racetrack that uses the
12 pari-mutuel system of wagering.

13 (29) "Video lottery game," "video lottery retailer,"
14 and "video lottery terminal" have the meanings assigned by Section
15 466.002, Government Code.

16 Sec. 2005.003. EXEMPTION FROM FEDERAL STATUTES. (a) Under
17 Section 2, 64 Stat. 1134 (15 U.S.C. Section 1172), as amended, this
18 state declares that this state is exempt from that section.

19 (b) All shipments of gaming devices into this state, the
20 registering, recording, and labeling of which has been performed by
21 the supplier under Sections 3 and 4 of the act of the Congress of the
22 United States entitled "An act to prohibit transportation of
23 gambling devices in interstate and foreign commerce," approved
24 January 2, 1951, Chapter 1194, 64 Stat. 1134, designated as 15
25 U.S.C. Sections 1171-1178, are legal shipments of the devices into
26 this state.

27 [Sections 2005.004-2005.050 reserved for expansion]

1 SUBCHAPTER B. CASINO OWNER'S LICENSE

2 Sec. 2005.051. OWNER'S LICENSE; GAMING AUTHORIZED. (a)

3 Gaming may lawfully be conducted at a casino operating under an
4 owner's license.

5 (b) A person may not conduct gaming or own an equity
6 interest in a casino that conducts gaming in this state for which an
7 owner's license is not in effect.

8 (c) A separate owner's license must be obtained for each
9 casino at which gaming is conducted.

10 (d) An owner's license entitles the license holder to
11 operate video lottery terminals at the casino in the same manner as
12 a video lottery retailer may operate video lottery terminals at a
13 video lottery terminal establishment under Subchapter K, Chapter
14 466, Government Code. The casino owner must comply with all
15 requirements, other than licensing requirements, for the operation
16 of video lottery terminals under Subchapter K, Chapter 466,
17 Government Code, except as otherwise provided by commission rule.
18 Gaming may not be conducted at a casino using a slot machine or
19 similar device, including any electronic device that determines the
20 outcome of a game, unless the machine or device is a video lottery
21 terminal.

22 Sec. 2005.052. ALLOCATION OF OWNER'S LICENSES. (a) Except
23 as otherwise provided by Subsections (b) and (d), the commission
24 may not award more than 12 owner's licenses in this state that are
25 in effect at the same time. The commission shall award licenses to
26 qualified applicants to operate casinos in each of the following
27 counties as follows:

- 1 (1) one license in Bexar County;
- 2 (2) one license in Cameron County;
- 3 (3) one license in Dallas County;
- 4 (4) one license in El Paso County;
- 5 (5) one license in Galveston County;
- 6 (6) one license in Harris County;
- 7 (7) one license in Hidalgo County;
- 8 (8) one license in Jefferson County;
- 9 (9) one license in Nueces County;
- 10 (10) two licenses in Tarrant County; and
- 11 (11) one license in Travis County.

12 (b) In addition to the owner's licenses issued under the
13 other provisions of this section, the commission may issue an
14 owner's license to a pari-mutuel license holder that operates a
15 class 1 or class 2 horse racetrack or a greyhound racetrack under
16 the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes)
17 for which a pari-mutuel license was in effect on June 1, 2007, or
18 for which a person had applied by that date for a pari-mutuel
19 license to operate a class 1 or class 2 horse racetrack under that
20 Act.

21 (c) A license under Subsection (b) authorizes the license
22 holder to operate a casino on premises located at the racetrack.

23 (d) In addition to the owner's licenses issued under the
24 other provisions of this section, the commission may issue an
25 owner's license to a federally recognized Indian tribe that is
26 authorized to operate video lottery games under Subchapter K,
27 Chapter 466, Government Code. A license under this subsection

1 authorizes the tribe to operate one casino on Indian land as defined
2 by Section 466.002, Government Code.

3 (e) An owner's license issued by the commission under
4 Subsection (d) to an Indian tribe constitutes an agreement between
5 this state and the tribe for purposes of the Indian Gaming
6 Regulatory Act (25 U.S.C. Section 2701 et seq.).

7 (f) The commission may not issue an owner's license under
8 Subsection (a) or (b) to operate a casino in a county in which
9 gaming is being conducted under the Indian Gaming Regulatory Act
10 (25 U.S.C. Section 2701 et seq.) as of January 1, 2008.

11 (g) In awarding licenses under Subsection (a), the
12 commission shall consider, in addition to the other suitability
13 criteria described in this chapter, the ability of the proposed
14 casino facility to attract interstate or international tourism and
15 to develop substantial new employment.

16 (h) For purposes of determining the location of a casino, a
17 casino is considered to be located in the municipality in which the
18 main public entrance to the casino is located or, if the main public
19 entrance is located outside a municipality, in the county in which
20 the entrance is located.

21 (i) A person may not beneficially own, directly or
22 indirectly, an equity interest of more than five percent of the
23 total equity interest in more than three owner license holders.

24 (j) A person may not operate, either under an owner's
25 license or under an operator's license, more than three casinos.

26 (k) The issuance of an owner's license under this section is
27 subject to the applicant's satisfaction of all application,

1 applicant eligibility, suitability, and other criteria applicable
2 to applicants under this section, except those relating to
3 requisite economic impact under Section 2005.056. Except as
4 otherwise provided in this chapter, all provisions of this chapter
5 apply equally to license holders under this section.

6 (l) Notwithstanding anything to the contrary in the Texas
7 Racing Act (Article 179e, Vernon's Texas Civil Statutes), all
8 matters relating to owner's licenses issued under Subsection (b),
9 including licensing, manner of operation, and enforcement, are
10 regulated exclusively by the commission.

11 (m) Except as to simulcast common pool wagering conducted in
12 a casino and except as otherwise authorized by the commission, the
13 casino operations and financial records of an owner license holder
14 under Subsection (b) shall be kept separate from the racing
15 operations and records of the license holder.

16 (n) The commission shall adopt rules requiring the
17 continued common ownership of a casino licensed under Subsection
18 (c) and the racetrack associated with the casino.

19 (o) An Indian tribe to which Subsection (d) applies may, in
20 lieu of an owner's license, operate a casino on Indian land
21 described by Subsection (d) under an agreement with this state. The
22 agreement is governed by Sections 466.576 and 466.577, Government
23 Code, except that the commission by rule may modify the provisions
24 of Section 466.576 to make those provisions applicable to casino
25 gaming.

26 Sec. 2005.053. APPLICATION. (a) An application for an
27 owner's license shall be made according to commission rule and

1 shall contain the information the commission requires to determine
2 the suitability and eligibility of the applicant, the eligibility
3 of the proposed location, and the economic impact of the overall
4 casino project.

5 (b) In addition to any other information the commission may
6 require, an application must include the following information
7 concerning the feasibility of the overall casino project:

8 (1) evidence that the applicant possesses, or has the
9 right to acquire, sufficient real property on which the proposed
10 casino will be located in order to allow the applicant's
11 construction and operation of the casino project substantially as
12 proposed;

13 (2) evidence that the applicant possesses, or
14 reasonably expects to obtain, all state, county, and municipal
15 permits and approvals necessary for the construction and operation
16 of the proposed casino within the time periods prescribed in this
17 chapter;

18 (3) evidence that the applicant possesses, or
19 reasonably expects to obtain, all funds or financing necessary to
20 construct and operate the applicant's proposed casino within the
21 time periods prescribed in this chapter; and

22 (4) evidence that the applicant is prepared to begin
23 construction of its proposed casino promptly on receiving an
24 owner's license and to proceed with the construction of the casino
25 without unnecessary delay.

26 (c) An applicant may apply for more than one owner's license
27 relating to more than one casino, but must submit a separate

1 application for each casino for which an owner's license is sought.

2 (d) An application for an owner's license must be
3 accompanied by the nonrefundable application fee set out in Section
4 2005.251.

5 (e) For a license to be issued under Section 2005.052(a) or
6 (b) for a county, the commission shall establish a license
7 application period of not less than 60 days. If the commission does
8 not award the license to an applicant that applied within the
9 period, the commission shall establish another license application
10 period for that license.

11 Sec. 2005.054. APPLICATION NOT CONSIDERED FILED. An
12 application is not considered filed for purposes of this subchapter
13 that does not include the information prescribed by Section
14 2005.053(b) or that is not accompanied by the prescribed
15 application fee.

16 Sec. 2005.055. LICENSE AWARD CONSIDERATIONS. (a) The
17 commission shall determine the initial and continuing suitability
18 of each applicant for or holder of an owner's license based on
19 suitability criteria the commission adopts to ensure that all owner
20 license holders are of good character, honesty, integrity, and
21 financial stability, that an owner license holder has sufficient
22 business probity, competence, and experience in gaming, and that an
23 owner license holder is otherwise qualified to be licensed.

24 (b) The commission shall give due consideration to the
25 protection of the public health, safety, morals, and general
26 welfare of the people of this state and for the reputation of the
27 state's gaming industry.

1 (c) The burden of proving suitability to receive or hold an
2 owner's license is on the applicant or license holder.

3 (d) In considering the initial and continuing suitability
4 of an applicant for or holder of an owner's license, the commission
5 may consider the suitability of:

6 (1) each person holding an equity interest or creditor
7 interest in the applicant or holder;

8 (2) each person holding, or proposed to receive, an
9 operator's license, occupational license, or manufacturer's or
10 distributor's license employed by or doing business with the
11 applicant or holder; and

12 (3) each affiliate of the applicant or holder.

13 (e) An applicant for or holder of an owner's license may not
14 receive or hold an owner's license if the person:

15 (1) has ever been convicted of a felony under the laws
16 of this state, any other state, or the United States;

17 (2) has ever been convicted of a gambling or gaming
18 violation under the laws of this state or any other state;

19 (3) has ever knowingly or intentionally submitted an
20 application for a license under this chapter that contained false
21 information;

22 (4) served as a principal manager for a person
23 described by Subdivision (1), (2), or (3);

24 (5) retains or employs another person described by
25 Subdivision (1), (2), or (3);

26 (6) beneficially owns any material equity interest or
27 creditor interest in the applicant or holder and is a person

1 described by Subdivision (1), (2), or (3);

2 (7) holds a manufacturer's or distributor's license or
3 casino service license;

4 (8) is a member of the commission; or

5 (9) is a member of the judiciary or an elected official
6 of this state.

7 (f) The commission may adopt rules providing for a person's
8 reciprocal determination of suitability to hold an owner's license
9 based on:

10 (1) a determination of suitability to own and operate
11 a casino in any other jurisdiction the commission considers
12 reasonable in light of the purpose of this chapter; or

13 (2) the person's ownership of a greyhound or class 1
14 horse racing facility under the Texas Racing Act (Article 179e,
15 Vernon's Texas Civil Statutes).

16 Sec. 2005.056. ECONOMIC IMPACT ANALYSIS. (a) In
17 determining whether or, in the case of multiple applicants
18 competing for one owner's license to operate a casino within a
19 county, to whom to award an owner's license, the commission shall
20 consider the following factors:

21 (1) the relative prospective revenues to be collected
22 by the state from the conduct of gaming at the casino and the
23 overall economic impact of each competing applicant's proposed
24 casino and associated facilities;

25 (2) the relative number of residents of this state who
26 would be employed in an applicant's proposed casino and any
27 proposed associated hotel and nongaming businesses and the relative

1 extent of the applicant's good faith plan to recruit, train, and
2 promote a workforce that reflects the diverse populations of this
3 state in all employment classifications;

4 (3) the relative extent to which an applicant's
5 proposed casino and any proposed associated hotel and nongaming
6 businesses could be reasonably expected to encourage interstate
7 tourism to this state;

8 (4) the relative extent to which the scope, design,
9 location, and construction of the applicant's casino and any
10 associated hotel and nongaming businesses could be reasonably
11 expected to contribute to developing a first-class gaming industry
12 in this state; and

13 (5) the applicant's experience in conducting licensed
14 gaming operations and the applicant's financial ability to promptly
15 construct and adequately maintain the casino sought to be licensed,
16 including the experience of partners of the applicant, of
17 affiliated companies of the applicant or its partners, of key
18 personnel of the applicant or its partners, and of operating
19 companies under contract with the applicant.

20 (b) To ensure that a requisite level of economic development
21 benefiting the people of this state accompanies each casino for
22 which an owner's license is granted, the commission shall require
23 an applicant, as a condition to receiving and holding an owner's
24 license, to commit to provide new investment in conjunction with
25 the casino.

26 (c) The commission may not award an owner's license under
27 Section 2005.052(a) to operate a casino unless the casino project

1 meets the major economic development qualifications established by
2 this subsection. To qualify for an owner's license, the applicant
3 must demonstrate that the casino project will incur total land and
4 development costs of not less than \$400 million, or, for a casino
5 located in a county bordering on the Gulf of Mexico to be operated
6 under a license issued under Section 2005.052(a), \$250 million.
7 The commission shall revoke an owner's license for which the
8 required amount of land and development costs are not invested as
9 stated in the license application.

10 Sec. 2005.058. REVIEW OF APPLICATION. (a) The commission
11 shall issue an order approving or denying an application for an
12 owner's license not more than six months after the date of the
13 filing of the application.

14 (b) The commission may adopt rules for awarding temporary or
15 interim licensing the commission finds necessary to administer this
16 chapter.

17 Sec. 2005.059. TRANSFERABILITY. (a) An owner's license is
18 not transferable and applies only to the specific site identified
19 in the license.

20 (b) Except as provided by Section 2005.062, an owner license
21 holder that sells, transfers, assigns, or otherwise conveys any
22 interest in the owner's license or the casino owned or managed by
23 the license holder before casino operations begin at the casino or
24 before the fifth anniversary of the commencement of casino
25 operations shall remit to this state a transfer fee equal to 51
26 percent of the sales, transfer, assignment, or other conveyance
27 price received by the license holder.

1 Sec. 2005.060. DENIAL AND REVOCATION. (a) The commission
2 may deny an application or revoke an owner's license for a
3 reasonable cause.

4 (b) If the commission determines it has reasonable grounds
5 to believe that an owner license holder may be unsuitable to
6 continue to hold an owner's license, the commission shall conduct
7 an investigation and hearing under Section 2005.451 and may, based
8 on its determination, suspend, limit, or revoke the license. On
9 suspension or revocation of an owner's license, the former license
10 holder must immediately cease all gaming.

11 (c) If an owner's license holder fails to begin construction
12 of a casino within one year after the receipt of the owner's
13 license, or fails to begin gaming operations within three years
14 after the receipt of the license, the license is forfeited, unless
15 the commission, for good cause, has previously granted an
16 appropriate extension of time.

17 (d) The right to receive and hold an owner's license is a
18 revocable privilege, and not a right or property under the United
19 States Constitution or the Texas Constitution. An applicant for or
20 holder of an owner's license does not have a vested interest or
21 right in a license granted under this chapter.

22 Sec. 2005.061. REGISTRATION OF INTEREST IN LICENSE. (a)
23 Except as provided by Subsection (b), a person who directly or
24 indirectly owns an equity or creditor interest in an applicant for
25 or holder of an owner's license shall register and qualify with the
26 commission under commission rules and shall provide information the
27 commission finds necessary to determine the suitability and

1 eligibility of the person to retain the interest.

2 (b) The following persons are not required to register or
3 qualify under this section:

4 (1) a key employee of the owner license holder that is
5 required to apply for an occupational license under Section
6 2005.102;

7 (2) an institutional investor;

8 (3) a person that beneficially owns five percent or
9 less of the total equity or creditor interest of the owner license
10 holder; and

11 (4) any other group or class of persons that the
12 commission by rule exempts from registration or qualification.

13 (c) A registration filed under this section must be
14 accompanied by the application fee set out in Section 2005.251.

15 Sec. 2005.062. TRANSFERABILITY OF INTEREST. (a) Except as
16 provided by this subsection, an owner license holder may not issue
17 an equity or creditor interest to a person without the commission's
18 determination of the qualification of the proposed subscriber or
19 purchaser to hold the interest. An owner license holder that is a
20 publicly held company may issue equity or creditor interests of
21 five percent or less of its equity or creditor interest to any
22 person without the consent of the commission.

23 (b) A person beneficially owning more than five percent of
24 the equity or creditor interest of an owner license holder may not
25 transfer any portion of the interest in the license holder to any
26 person without the commission's determination of the qualification
27 of the proposed transferee to hold the interest.

1 (c) A subscriber or proposed transferee of an interest by an
2 owner license holder shall provide the commission with information
3 the commission considers necessary to determine the qualification
4 of the person. The commission, not later than 60 days after the
5 date of the application, shall determine the qualification of a
6 subscriber or proposed transferee and approve or deny the issuance
7 or transfer.

8 Sec. 2005.063. DETERMINATION OF QUALIFICATION. (a) The
9 commission shall determine the qualification of a person to acquire
10 or continue to hold an equity or creditor interest in an applicant
11 for or holder of an owner's license based on the qualification
12 requirements the commission adopts for the protection of the public
13 interest to ensure that the persons holding securities issued by
14 license holders are of good character, honesty, integrity, and
15 financial stability, and are otherwise qualified to hold the
16 interest.

17 (b) The burden of proving qualification to acquire or hold
18 an equity or creditor interest in a license holder is on the person
19 acquiring or holding the interest.

20 (c) A person is unsuitable to acquire or retain an equity or
21 creditor interest in an applicant for or holder of an owner's
22 license if the person would be unsuitable to receive an owner's
23 license under Section 2005.055(e).

24 (d) If the commission has reasonable grounds to believe that
25 a person holding an equity or creditor interest in an applicant for
26 or holder of an owner's license may be unqualified to retain
27 interest, the commission shall conduct an investigation and hearing

1 under Section 2005.451 and may, based on its determination, issue
2 an unsuitability finding and divestiture order to the holder of the
3 interest and the issuer of the interest. On receipt of a
4 divestiture order, the person holding the interest shall tender its
5 entire interest for purchase to the issuer or a third party on terms
6 the commission approves.

7 (e) If the commission issues an unsuitability finding and
8 divestiture order to a holder of an equity interest or creditor
9 interest, the person subject to the order may not:

10 (1) receive, directly or indirectly, a dividend,
11 interest, payment, or distribution of any kind relating to the
12 security that is the subject of the order; or

13 (2) exercise, directly or indirectly, any voting power
14 or other right with respect to the security to which the order
15 relates.

16 (f) A person subject to an order may receive payment for the
17 sale of the person's interest on terms the commission approves.

18 [Sections 2005.064-2005.100 reserved for expansion]

19 SUBCHAPTER C. OPERATOR'S AND OCCUPATIONAL LICENSES

20 Sec. 2005.101. OPERATOR'S LICENSE. (a) A person may not
21 provide services as a casino operator without holding an operator's
22 license.

23 (b) A casino operator must hold a separate license for each
24 casino that the casino operator operates unless the operator is
25 also the owner of the premises and holds an owner's license for the
26 premises.

27 Sec. 2005.102. OCCUPATIONAL LICENSE. (a) A person may not

1 be employed as a gaming employee without holding an occupational
2 license.

3 (b) A holder of an owner's or operator's license is not
4 required to obtain an occupational license to provide services as a
5 gaming employee in the casino to which the license relates.

6 (c) An owner must at all times have not less than one
7 occupational license holder designated as a key employee having
8 responsibility over all gaming activities who shall be available at
9 the casino at all times when gaming is conducted on the license
10 holder's premises.

11 (d) A gaming employee designated or determined to be a key
12 employee by the commission shall be issued an occupational license
13 designated as a key employee occupational license. In determining
14 whether an employee is a key employee, the commission is not
15 restricted by the title of the job performed by the employee but may
16 consider the functions and responsibilities of the employee in
17 making decisions.

18 (e) A person employed in the field of gaming as a gaming
19 employee shall obtain an occupational license designated as a
20 support occupational license. A person required to hold a support
21 occupational license may not be a gaming employee of or assist the
22 owner or operator license holder until the employee obtains a
23 support occupational license. A person licensed as a key employee
24 does not need to obtain a support occupational license.

25 Sec. 2005.103. APPLICATION. (a) Application for an
26 operator's license or an occupational license shall be made in
27 compliance with commission rules and must contain information the

1 commission finds necessary to determine the suitability and
2 eligibility of the applicant to function as a casino operator or to
3 be employed or retained as a gaming employee.

4 (b) An application for an operator's license or an
5 occupational license must be accompanied by the required
6 application fee.

7 (c) The commission may issue a temporary operator's license
8 and a temporary occupational license.

9 Sec. 2005.104. RESIDENCY. A person is eligible to apply for
10 and hold an operator's license or occupational license without
11 regard to the residency of the applicant.

12 Sec. 2005.105. DETERMINATION OF SUITABILITY. (a) The
13 commission shall determine the suitability of an applicant for or
14 holder of an operator's license or occupational license based on
15 suitability criteria the commission adopts in order to ensure that
16 a license holder:

17 (1) is of good character, honesty, and integrity;

18 (2) has sufficient business probity, competence, and
19 training or experience in the gaming industry to perform the
20 function contemplated; and

21 (3) is otherwise qualified to be licensed.

22 (b) The burden of proving suitability to receive and hold an
23 operator's license or occupational license is on the applicant or
24 license holder.

25 (c) In considering the suitability of a company applying for
26 or holding an operator's license or occupational license to receive
27 and continue to hold the license, the commission shall consider the

1 suitability of each principal manager and each holder of an equity
2 interest and creditor interest of the company to individually
3 receive and hold an occupational license based on the suitability
4 standards that apply to the applicants for the license generally.

5 (d) A person may not be found suitable to receive or hold an
6 operator's license or occupational license if that person would be
7 found unsuitable to hold an owner's license under Section
8 2005.055(e), except that an applicant for an operator's license or
9 occupational license who has been convicted of a felony may be found
10 suitable if the person is found to be adequately rehabilitated
11 under the rehabilitation requirements adopted by the commission,
12 and the applicant or license holder is otherwise suitable for
13 licensing.

14 Sec. 2005.106. DENIAL OR REVOCATION OF LICENSE. (a) The
15 commission may deny an application for or revoke an operator's
16 license or occupational license for any reasonable cause.

17 (b) If the commission determines that it has reasonable
18 grounds to believe that a license holder may be unsuitable to
19 continue to hold the license, giving due consideration to the
20 protection of the health, safety, morals, and general welfare of
21 this state and to the reputation of the state's gaming industry, the
22 commission shall conduct an investigation and hearing provided in
23 Section 2005.451 and may, based on its determination, suspend,
24 limit, or revoke any license.

25 (c) On the suspension or revocation of a license, the
26 license holder shall cease the provision of all services in any
27 capacity requiring a license under Section 2005.101 or 2005.102.

1 (d) A holder of an occupational license that has been
2 revoked or suspended may not:

3 (1) receive, directly or indirectly, any
4 compensation, consideration, or payment of any kind relating to the
5 conduct of gaming in any capacity requiring a license under Section
6 2005.101 or 2005.102, other than the payment for services rendered
7 before the suspension or revocation; or

8 (2) serve or function in a capacity that would require
9 a license under Section 2005.101 or 2005.102.

10 (e) The receipt and holding of a license is a privilege and
11 is not a right or property under the United States Constitution or
12 the Texas Constitution. An applicant for or holder of an operator's
13 license or occupational license does not have a vested interest or
14 right in a license granted under this chapter.

15 [Sections 2005.107-2005.150 reserved for expansion]

16 SUBCHAPTER D. MANUFACTURER'S, DISTRIBUTOR'S, AND OTHER
17 SERVICE PROVIDERS' LICENSES

18 Sec. 2005.151. MANUFACTURER'S OR DISTRIBUTOR'S LICENSE.

19 (a) A person may not engage in any segment of the gambling games or
20 gaming devices manufacturing or distribution industry in this state
21 for which a manufacturer's or distributor's license is required
22 under this section without obtaining a manufacturer's or
23 distributor's license covering that activity. A person must obtain
24 a separate manufacturer's license and a distributor's license to
25 manufacture and distribute gambling games or gaming devices in this
26 state.

27 (b) The commission shall adopt rules identifying segments

1 of the manufacturing and distribution industry directly involved in
2 the design, manufacture, assembly, production, programming, sale,
3 lease, marketing, distribution, repair, or modification of
4 gambling games or gaming devices or component parts of gambling
5 games or gaming devices that the commission finds appropriate for
6 licensing under this section.

7 (c) A manufacturer's or distributor's license is personal to
8 the license holder and allows the license holder to do business with
9 any casino.

10 Sec. 2005.152. CASINO SERVICE LICENSE. (a) A person may
11 not engage in any segment of the casino service industry that
12 requires a license without obtaining a casino service license.

13 (b) The commission shall adopt rules identifying segments
14 of the casino service industry directly involved with providing
15 gaming-related services, equipment, and supplies that the
16 commission finds appropriate for licensing.

17 (c) A person is required to obtain a casino service license
18 if the person:

19 (1) operates, conducts, or maintains a gaming-related
20 business in a casino; or

21 (2) furnishes goods, property, or services to a casino
22 in exchange for:

23 (A) a payment based upon a percentage of the
24 earnings, profits, or receipts from the casino; or

25 (B) a payment the commission finds to be grossly
26 disproportionate to the value of the goods, property, or service
27 provided.

1 (d) A utility company, a municipality, or another political
2 subdivision is not required to obtain a casino service license
3 under this section.

4 (e) A casino service license is personal to the license
5 holder and allows the license holder to do business with any casino.

6 Sec. 2005.153. APPLICATION. (a) Application for a
7 manufacturer's or distributor's license or casino service license
8 shall be made in compliance with commission rules and shall contain
9 information the commission finds necessary to determine the
10 suitability and eligibility of the applicant.

11 (b) An application for a manufacturer's or distributor's
12 license or casino service license must be accompanied by the
13 required application fee.

14 Sec. 2005.154. DETERMINATION OF SUITABILITY. (a) In
15 considering the suitability of a company applying for or holding a
16 manufacturer's or distributor's license or casino service license
17 to receive and continue to hold the license, the commission shall
18 consider the suitability of each principal manager and each holder
19 of an equity interest and creditor interest in the company
20 applicant to individually receive and hold a manufacturer's or
21 distributor's license or casino service license based on the
22 suitability standards that apply to the company applicant. A
23 person may not be found suitable to receive or hold a manufacturer's
24 or distributor's license or casino service license if that person
25 would be found unsuitable to hold an owner's license under Section
26 2005.055(e).

27 (b) If the commission determines that it has reasonable

1 grounds to believe that a license holder is unsuitable to hold a
2 manufacturer's or distributor's license or casino service license,
3 the commission shall conduct an investigation and hearing under
4 Section 2005.451 and may, based on its determination, suspend,
5 limit, or revoke a license.

6 (c) On suspension or revocation of a license, the license
7 holder must cease the performance of manufacturing or distribution
8 activity or casino service requiring a license under this chapter.
9 After the revocation or suspension of the license, the affected
10 license holder may not receive, directly or indirectly,
11 compensation, consideration, or payment of any kind relating to
12 manufacturing or distribution activity or provision of casino
13 services in any capacity requiring a license under this chapter,
14 other than the payment for goods or services provided before the
15 suspension or revocation.

16 (d) An owner or casino operator who has entered into a lease
17 with a manufacturer or distributor license holder or casino
18 services license holder whose license has been revoked or suspended
19 may continue to make payments on the lease based upon its original
20 terms and conditions without modification or may accelerate the
21 lease and pay it off, at the sole option of the owner or operator.

22 (e) The burden of proving suitability to receive and hold a
23 manufacturer's or distributor's license or casino service license
24 is on the applicant or license holder.

25 [Sections 2005.155-2005.200 reserved for expansion]

26 SUBCHAPTER E. LICENSE RENEWAL

27 Sec. 2005.201. TERMS; RENEWAL; TEMPORARY LICENSE. (a)

1 Before the issuance of a license, the commission may issue a
2 temporary license for six months or less and may renew the temporary
3 license as many times as the commission finds appropriate on the
4 payment of the fee and execution of the bond, if required.

5 (b) The commission may issue a temporary license only to a
6 person it believes will be determined to be qualified based on:

7 (1) the commission's review of the background
8 investigations conducted by other state agencies or other United
9 States jurisdictions with gaming activities; and

10 (2) the commission's determination that there is
11 nothing in those background investigations of the applicant that
12 would cause the applicant not to qualify for a license in this
13 state.

14 (c) An original or renewal license expires on the first
15 anniversary of the date it is issued.

16 (d) The fee for an owner's, operator's, occupational,
17 manufacturer's, or casino service license is in the amount
18 established by Section 2005.252 and must be paid annually. A
19 license holder may renew an unexpired license annually by meeting
20 the licensing requirements of the commission and by paying the
21 annual fee.

22 [Sections 2005.202-2005.250 reserved for expansion]

23 SUBCHAPTER F. APPLICATION, LICENSE, AND OTHER FEES

24 Sec. 2005.251. APPLICATION FEES. (a) An applicant for an
25 owner's license, other than a license under Section 2005.052(b),
26 pursuant to an application submitted before January 1, 2008, must
27 pay an application fee of \$750,000 for the application not later

1 than the date established by commission rule. The fees shall be
2 deposited in the casino gaming fund. An applicant for an owner's
3 license under Section 2005.052(b) pursuant to an application filed
4 before January 1, 2008, must pay an application fee of \$550,000 for
5 the application not later than the date established by commission
6 rule.

7 (b) An application during the first two years after the
8 effective date of this chapter must be filed on a date determined by
9 commission rule.

10 (c) Before January 1, 2008, an applicant may not apply for
11 an owner's license for a site in a county unless the application fee
12 for a license in that county was paid during the period established
13 by commission rule in accordance with Subsection (a).

14 (d) An applicant for an owner's license, other than a
15 license under Section 2005.052(b), pursuant to an application filed
16 on or after the date prescribed by Subsection (a) must pay an
17 application fee of \$800,000 for the application not later than the
18 date established by commission rule. An applicant for an owner's
19 license under Section 2005.052(b) must pay an application fee of
20 \$600,000 for the application not later than the date established by
21 commission rule.

22 (e) An applicant for a manufacturer's or distributor's
23 license must pay an application fee of \$100,000.

24 (f) An applicant for an operator's license must pay an
25 application fee of \$50,000.

26 (g) An applicant for a casino service license must pay an
27 application fee of \$100.

1 (h) A person registering and applying to qualify to hold an
2 equity interest or creditor interest in a license holder must pay an
3 application fee of \$100.

4 (i) An individual applying for an occupational license must
5 pay an application fee of \$100.

6 (j) All application fees must be in the form of a money order
7 or cashier's check and be payable to the Texas Gaming and Boxing
8 Commission. Application fees are nonrefundable.

9 (k) Application fees shall be applied toward the cost of
10 investigating applicants' suitability for licensing or
11 qualification under this chapter. Any costs of investigation
12 incurred in excess of the application fee shall be paid by the
13 applicant.

14 Sec. 2005.252. LICENSE FEES. (a) A holder of an owner's
15 license must pay an annual license fee of \$100,000.

16 (b) A holder of a manufacturer's or distributor's license
17 must pay an annual license fee of \$100,000.

18 (c) A casino operator holding an operator's license must pay
19 an annual license fee of \$50,000.

20 (d) A holder of a casino service license must pay an annual
21 license fee of \$100.

22 (e) A holder of an equity interest or creditor interest in
23 any license holder that is required to qualify with the commission
24 must pay an annual fee of \$100.

25 (f) A holder of an occupational license must pay an annual
26 license fee of \$100.

27 Sec. 2005.253. POKER TABLE FEE. A casino operator shall pay

1 to the commission an annual fee of \$1,000 for each poker gaming
2 table the operator has in operation at a casino.

3 [Sections 2005.254-2005.300 reserved for expansion]

4 SUBCHAPTER G. CASINO GAMING FUND

5 Sec. 2005.301. TEXAS CASINO GAMING FUND. (a) The Texas
6 casino gaming fund is a special fund in the state treasury.

7 (b) All application fees, investigation fees, and license
8 fees collected by the commission or on the commission's behalf
9 shall be deposited to the credit of the Texas casino gaming fund.

10 (c) The Texas casino gaming fund may be used only for the
11 operation of the commission and the administration of this chapter.
12 However, if the money in the fund exceeds the amount necessary for
13 the operation of the commission and the administration of this
14 chapter, the legislature may transfer any excess amount to the
15 general revenue fund.

16 (d) All proceeds from the gaming tax imposed by Section
17 2005.351 that are allocated to the state shall be deposited to the
18 credit of the general revenue fund.

19 (e) The operation of the commission and the administration
20 of this chapter shall be supported by fees generated under this
21 chapter and by a portion of the gaming taxes imposed by Section
22 2005.351. The operation of the commission may never be a charge
23 against the general revenues of this state except to the extent
24 those revenues are raised by taxes or fees imposed on gaming
25 activities.

26 [Sections 2005.302-2005.350 reserved for expansion]

SUBCHAPTER H. TAXES

1
2 Sec. 2005.351. GAMING TAX; ALLOCATION OF TAX. (a) There is
3 imposed on each holder of an owner's license a gaming tax in an
4 amount equal to 35 percent of the gross gaming revenue of the casino
5 operated under the license, excluding the amount of revenue
6 generated from the operation of video lottery terminals and
7 allocated as provided by Section 2005.3511. The tax shall be
8 computed and paid on a monthly basis as required by commission rule.

9 (b) Six-sevenths of the tax imposed by this section is
10 allocated to the general revenue fund.

11 (c) Except as provided by Subsection (e), the remaining
12 one-seventh of the tax imposed by this section is allocated as
13 follows:

14 (1) one-third to the municipality in which the casino
15 to which the license relates is located;

16 (2) one-third to the county in which the casino to
17 which the license relates is located; and

18 (3) the remainder to a special purse account to be
19 distributed to the pari-mutuel license holders who hold an owner's
20 license under this chapter in proportion to the total amount of
21 wagers made in the preceding year at each racetrack.

22 (d) The amount received by a pari-mutuel license holder that
23 operates a horse racetrack shall be allocated to the applicable
24 horse breeds in accordance with a gaming agreement or commission
25 determination for the racetrack under Section 6.095, Texas Racing
26 Act (Article 179e, Vernon's Texas Civil Statutes).

27 (e) If a casino is located in an unincorporated area,

1 two-thirds of the remaining one-seventh of the tax imposed by this
2 section is allocated to the county in which the casino to which the
3 license relates is located.

4 (f) One-tenth of one percent of the gaming tax revenue
5 allocated to general revenue under Subsection (b) shall be
6 allocated to the commission for a compulsive gambling program to be
7 established by the commission.

8 (g) The gaming taxes imposed by this section are due and
9 payable on or before the 20th day of the month following the month
10 in which the taxes are imposed.

11 (h) If the amount of gaming taxes required to be reported
12 and paid under this section is later determined to be greater or
13 less than the amount actually reported and paid by the license
14 holder, the commission shall:

15 (1) assess and collect the additional gaming taxes
16 determined to be due with interest until paid; or

17 (2) refund any overpayment, with interest, to the
18 license holder.

19 (i) Interest must be computed, until paid, at the rate of
20 one percent per month from the first day of the first month
21 following either the due date of the additional gaming taxes or the
22 date of overpayment.

23 Sec. 2005.3511. ALLOCATION OF NET TERMINAL INCOME. Net
24 terminal income derived from the operation of video lottery
25 terminals at casinos shall be distributed as provided by Section
26 466.562(a)(1), Government Code.

27 Sec. 2005.352. DETERMINATION OF GROSS GAMING REVENUE. (a)

1 In calculating gross gaming revenue, a prize, premium, drawing,
2 benefit, or ticket that is redeemable for money, merchandise, or
3 other promotional allowance, except money or tokens paid at face
4 value directly to a patron as the result of a specific wager and the
5 amount of cash paid to purchase an annuity to fund winnings, may not
6 be deducted as a loss from winnings at any game.

7 (b) Cash or the value of noncash prizes awarded to patrons
8 in a contest or tournament are not losses for purposes of
9 determining gross gaming revenue.

10 Sec. 2005.353. REFUND OF OVERPAYMENT. (a) Gaming taxes
11 that are erroneously collected may be refunded, on approval of the
12 commission, as other claims against the state are paid.

13 (b) Not later than the 90th day after the date of the mailing
14 of the notice of the commission's action on a claim for refund filed
15 under this chapter, the claimant may bring an action against the
16 commission on the grounds stated in the claim in any court of
17 competent jurisdiction for the recovery of any part of the amount of
18 the claim that has been disallowed.

19 (c) Failure to bring an action within the time specified by
20 Subsection (b) constitutes a waiver of any demand against the state
21 on account of alleged overpayments.

22 (d) If the commission fails to mail its notice of action on a
23 claim within six months after the date the claim is filed, the
24 claimant may consider the claim disallowed and bring an action
25 against the commission on the grounds set forth in the claim for the
26 recovery of any part of the amount claimed as an overpayment.

27 (e) In a case where a refund is granted, interest is allowed

1 at the rates provided in Subtitle B, Title 2, Tax Code.

2 (f) A claim for refund of gaming taxes paid in excess of the
3 amount required to be reported and paid must be filed not later than
4 two years after the date of overpayment.

5 Sec. 2005.354. DETERMINATION OF DEFICIENCY. (a) If an
6 owner license holder fails to make a report of the gaming taxes as
7 required by this chapter, or if the executive director is not
8 satisfied with the report of the gaming taxes required to be paid to
9 the state under this chapter by an owner license holder, the
10 executive director may compute and determine the amount required to
11 be paid on the basis of:

12 (1) the facts contained in the report, if any;

13 (2) an audit conducted by the executive director;

14 (3) an estimate of the amount of taxes due under this
15 chapter;

16 (4) any information in the commission's possession or
17 that may come in the executive director's possession; or

18 (5) any combination of the methods described by
19 Subdivisions (1)-(4).

20 (b) In making a determination, the commission may offset
21 overpayments and interest due against underpayments and interest or
22 penalties due for the period of the audit.

23 (c) The executive director shall give prompt written notice
24 of a determination of a deficiency under this section to the owner
25 license holder. Except in the case of fraud or intent to evade the
26 payment of the gaming tax fee imposed by this chapter, a notice of a
27 determination of a deficiency must be mailed not later than two

1 years after the last day of the calendar month following the
2 applicable reporting period in which the deficiency occurred or not
3 later than two years after the report is filed by the owner license
4 holder, whichever is later.

5 (d) If the reasons for the deficiency are not apparent, the
6 executive director shall include an explanation of those reasons in
7 the notice of a determination of a deficiency.

8 (e) If overpayments and interest exceed underpayments,
9 penalties, and interest, the excess payment shall be refunded to
10 the owner license holder.

11 Sec. 2005.355. PETITION FOR REVIEW. (a) An owner license
12 holder against whom a determination is made under Section 2005.354
13 may petition the commission for a redetermination not later than
14 the 30th day after the date of the service of notice of the
15 determination. If a petition for redetermination satisfying the
16 requirements of Subsection (c) is not filed within the 30-day
17 period, the determination becomes final.

18 (b) If a petition for redetermination satisfying the
19 requirements of Subsection (c) is filed within the 30-day period,
20 the commission shall reconsider the determination and, if the
21 petitioner requests, shall grant a hearing.

22 (c) A petition for redetermination must:

23 (1) specify the contested portions of the
24 determination of deficiency;

25 (2) specify the grounds for redetermination;

26 (3) state whether a hearing is requested; and

27 (4) be accompanied by payment in full of the

1 uncontested portion of the determination, including any interest
2 and penalties.

3 (d) An order or decision of the commission on a petition for
4 redetermination is final 10 days after the date of service on the
5 petitioner.

6 (e) A petitioner against whom an order or decision of the
7 commission becomes final may, not later than the 60th day after the
8 date the decision is final, petition for judicial review in the
9 manner provided by Chapter 2001, Government Code. The executive
10 director may not petition for judicial review.

11 Sec. 2005.356. FEES AND TAXES. (a) A county, municipality,
12 or other political subdivision of this state may not impose a
13 license fee on a person licensed to conduct gaming under this
14 chapter. This section does not prohibit the imposition of
15 generally applicable taxes or of fees for standard municipal
16 services.

17 (b) A county, municipality, or other political subdivision
18 of this state may not offer or grant any tax abatement, tax credit,
19 tax subsidy, tax exemption, or any other form of public incentive to
20 assist, develop, or aide in the establishment or operation of a
21 casino or casino gaming under this chapter.

22 (c) A building or property owned by a county, municipality,
23 or political subdivision of this state in which casino gaming is
24 operated is subject to all property taxes as if the building or
25 property were not owned by a state or local government.

26 Sec. 2005.357. REGISTRATION OF GAMING DEVICES AND VIDEO
27 LOTTERY TERMINALS. (a) An owner or operator of a casino may not

1 operate a gaming device for use in a gambling game or a video
2 lottery terminal unless the device or terminal is annually
3 registered with the commission in accordance with this section and
4 the registration certificate is affixed to the device or terminal.

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

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

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

12 (c) Chapter 2153 does not apply to a gaming device or video
13 lottery terminal.

14 Sec. 2005.358. TAX ADMINISTRATION. (a) The commission
15 shall perform all functions incident to the administration,
16 collection, enforcement, and operation of a fee or tax imposed
17 under this chapter. The commission may adopt rules and prescribe
18 forms for the administration, collection, and enforcement of a fee
19 or tax and for the reporting of a fee or tax.

20 (b) Except as modified by this chapter, Subtitle B, Title 2,
21 Tax Code, applies to the administration, collection, and
22 enforcement of a tax imposed under this chapter. For purposes of
23 the application of Subtitle B, Title 2, Tax Code, to a tax imposed
24 under this chapter, the powers and duties assigned to the
25 comptroller under that subtitle are assigned to the commission.

26 [Sections 2005.359-2005.400 reserved for expansion]

1 SUBCHAPTER I. REGULATION OF CASINO OPERATIONS

2 Sec. 2005.401. REGULATION OF CASINO OPERATIONS. (a) The
3 commission shall adopt rules applicable to the operation of casinos
4 as the commission finds necessary for the protection of the health,
5 safety, morals, and general welfare of this state and for the
6 reputation of the state's gaming industry.

7 (b) Casinos are entitled to operate 24 hours a day, seven
8 days a week. A license holder may elect other hours of operation.

9 (c) The commission may not authorize a casino to conduct
10 wagering on the outcome of a sports event or sports activity other
11 than greyhound or horse racing.

12 Sec. 2005.402. USE OF CHIPS OR TOKENS. All gaming must be
13 conducted with chips or tokens approved by the commission or with
14 the legal tender of the United States.

15 Sec. 2005.403. REPORTING REQUIREMENTS. (a) An owner
16 license holder shall keep the license holder's books and records in
17 a manner that clearly shows the total amount of gross gaming revenue
18 and other revenues received.

19 (b) The books and records kept by an owner license holder
20 relating to gaming operations are not public records and the
21 publication and dissemination of the materials by the commission is
22 prohibited. The commission may publish and disseminate gaming
23 revenues of each owner license holder at a frequency and in the
24 level of detail as it considers appropriate.

25 (c) An owner license holder shall file a report of each
26 change of the corporate officers and directors with the commission.
27 The commission shall, not later than the 90th day after the date of

1 the change, approve or disapprove the change. During the 90-day
2 period, the officer or director is entitled to exercise the powers
3 of the office to which the officer or director was elected or
4 appointed.

5 (d) An owner license holder shall report to the executive
6 director in writing a change in company employees who have been
7 designated as key employees.

8 (e) The commission may require that a company furnish the
9 commission with a copy of its federal income tax return not later
10 than the 30th day after the date the return is filed with the
11 federal government.

12 Sec. 2005.404. EXCLUSION OF PERSONS. (a) The commission by
13 rule shall provide for the establishment of a list of persons who
14 are to be excluded or ejected from a casino. The list may include a
15 person whose presence in a casino the commission determines poses a
16 threat to the interests of this state, to licensed gaming, or to
17 both interests.

18 (b) In making a determination under this section, the
19 commission may consider any:

20 (1) prior conviction of a crime that is a felony in
21 this state or under the laws of the United States or a crime
22 involving moral turpitude or a violation of the gaming laws of a
23 state; or

24 (2) violation of or conspiracy to violate the
25 provisions of this chapter relating to:

26 (A) the failure to disclose an interest in a
27 gaming establishment for which the person must obtain a license;

1 (B) wilful evasion of a fee or a tax;

2 (C) notorious or unsavory reputation that would
3 adversely affect public confidence and trust that the gaming
4 industry is free from criminal or corruptive elements; or

5 (D) a written order of a governmental agency that
6 authorizes the exclusion or ejection of the person from an
7 establishment where gaming or pari-mutuel wagering is conducted.

8 Sec. 2005.405. INTERNAL AUDIT AND CONTROL SYSTEMS. (a) An
9 owner license holder shall adopt an internal control system that
10 provides for:

11 (1) the safeguarding of its assets and revenues,
12 especially the recording of cash and evidences of indebtedness; and

13 (2) the provision of reliable records, accounts, and
14 reports of transactions, operations, and events, including reports
15 to the executive director and the commission.

16 (b) The internal control system must be designed to
17 reasonably ensure that:

18 (1) assets are safeguarded;

19 (2) financial records are accurate and reliable;

20 (3) transactions are performed only in accordance with
21 management's general or specific authorization;

22 (4) transactions are recorded adequately to permit
23 proper reporting of gaming revenue and of fees and taxes and to
24 maintain accountability for assets;

25 (5) access to assets is permitted only in accordance
26 with management's specific authorization;

27 (6) recorded accountability for assets is compared

1 with actual assets at reasonable intervals and appropriate action
2 is taken with respect to any discrepancies; and

3 (7) functions, duties, and responsibilities are
4 appropriately segregated and performed in accordance with sound
5 practices by competent, qualified personnel.

6 (c) An owner license holder and an applicant for an owner's
7 license shall describe, in a manner approved or required by the
8 executive director, the license holder's or applicant's
9 administrative and accounting procedures in detail in a written
10 system of internal control. An owner license holder and applicant
11 for an owner's license shall submit a copy of the license holder's
12 or applicant's written system to the executive director. A written
13 system must include:

14 (1) an organizational chart depicting appropriate
15 segregation of functions and responsibilities;

16 (2) a description of the duties and responsibilities
17 of each position shown on the organizational chart;

18 (3) a detailed, narrative description of the
19 administrative and accounting procedures designed to satisfy the
20 requirements of Section 2005.403(a);

21 (4) a written statement signed by the license holder's
22 chief financial officer and either the license holder's chief
23 executive officer or an owner license holder attesting that the
24 system satisfies the requirements of this section;

25 (5) if the written system is submitted by an
26 applicant, a letter from an independent certified public accountant
27 stating that the applicant's written system has been reviewed by

1 the certified public accountant and complies with the requirements
2 of this section; and

3 (6) other items the executive director may require.

4 (d) The commission shall adopt minimum standards for
5 internal control procedures.

6 Sec. 2005.406. AGE REQUIREMENTS. A person under the age of
7 21 years may not:

8 (1) play, be allowed to play, place wagers, or collect
9 winnings, personally or through an agent, from any gaming
10 authorized under this chapter; or

11 (2) be employed as a gaming employee.

12 Sec. 2005.407. ACCEPTANCE OF NEGOTIABLE INSTRUMENTS. (a)
13 A negotiable instrument evidencing a gaming transaction may be
14 enforced by legal process.

15 (b) A license holder may accept an incomplete negotiable
16 instrument that is signed by a patron and states the amount of the
17 debt. The license holder may complete the instrument as is
18 necessary for the instrument to be presented for payment.

19 (c) A license holder:

20 (1) may not accept a negotiable instrument that is
21 incomplete, except as authorized by Subsection (b); and

22 (2) may accept a negotiable instrument that is payable
23 to an affiliate or may complete a negotiable instrument in the name
24 of an affiliate as payee if the negotiable instrument otherwise
25 complies with this section and the records of the affiliate
26 pertaining to the negotiable instrument are made available to the
27 executive director on request.

1 (d) This section does not prohibit the establishment of an
2 account by a deposit of cash, recognized traveler's check, or any
3 other instrument that is equivalent to cash.

4 (e) Any person, license holder, or the agents or employees
5 of the person or license holder who violate this section are subject
6 only to the penalties provided in the provisions of this chapter
7 relating to disciplinary actions. The failure of a person to comply
8 with this section or the rules of the commission does not invalidate
9 a negotiable instrument or affect the ability to enforce the
10 negotiable instrument or the transaction that the negotiable
11 instrument represents.

12 Sec. 2005.408. GAMING DEBTS. (a) Except as otherwise
13 provided by this chapter, gaming debts not evidenced by a
14 negotiable instrument are void and unenforceable and do not give
15 rise to any administrative or civil cause of action.

16 (b) A claim by a patron of a license holder for payment of a
17 gaming debt not evidenced by a negotiable instrument may be
18 resolved by the executive director under commission rules.

19 (c) The executive director shall send a copy of the
20 director's ruling by first class mail to the attorneys of record and
21 shall keep an appropriate copy of the mailing. If a party is not
22 represented by an attorney of record, the executive director shall
23 send a copy of the ruling by first class mail to the party and shall
24 keep an appropriate record of the mailing.

25 (d) A party or attorney of record notified by mail under
26 this section is presumed to have been notified on the date on which
27 the notice is mailed.

1 (e) A party aggrieved by the executive director's ruling is
2 entitled to have the claim resolved by the commission in a contested
3 case if the party files a written complaint with the commission
4 challenging the executive director's decision not later than the
5 20th day after the date on which the party or the party's attorney
6 of record is notified by mail.

7 Sec. 2005.409. QUESTIONING AND DETENTION OF PERSONS. (a)
8 An owner license holder or the license holder's officer, employee,
9 or agent may question any person on the license holder's premises
10 suspected of engaging in any conduct that constitutes an offense
11 under this chapter, including under Section 2005.511. The owner
12 license holder or the license holder's officer, employee, or agent
13 is not criminally or civilly liable:

14 (1) as a result of the questioning; or

15 (2) for reporting the person suspected of the
16 violation to the executive director or law enforcement authorities.

17 (b) An owner license holder or the license holder's officer,
18 employee, or agent who has reasonable cause to believe a person has
19 engaged in conduct that constitutes an offense under this chapter
20 while present on the license holder's premises may take that person
21 into custody and detain the person on the premises in a reasonable
22 manner and for a reasonable length of time. The taking into custody
23 and detention does not render the license holder or the license
24 holder's officer, employee, or agent criminally or civilly liable
25 unless it is established by clear and convincing evidence that the
26 taking into custody and detention are unreasonable under all the
27 circumstances.

1 (c) An owner license holder or the license holder's officer,
2 employee, or agent is not entitled to the immunity from liability
3 provided by Subsection (a) or (b) unless there is displayed in a
4 conspicuous place in the license holder's casino a notice in
5 bold-faced type, clearly legible, and in substantially this form:

6 A CASINO LICENSE HOLDER OR AN OFFICER, EMPLOYEE, OR
7 AGENT OF THE CASINO OWNER WHO HAS A REASONABLE CAUSE TO
8 BELIEVE THAT A PERSON HAS ENGAGED IN CONDUCT THAT
9 CONSTITUTES AN OFFENSE UNDER CHAPTER 2005, OCCUPATIONS
10 CODE, ON THE PREMISES OF THE CASINO MAY QUESTION OR
11 DETAIN THAT PERSON.

12 [Sections 2005.410-2005.450 reserved for expansion]

13 SUBCHAPTER J. ENFORCEMENT

14 Sec. 2005.451. ENFORCEMENT. (a) The executive director
15 shall conduct an appropriate investigation to:

16 (1) determine whether there has been a violation of
17 this chapter or of a commission rule;

18 (2) determine facts, conditions, practices, or
19 matters that the director considers necessary or proper to aid in
20 the enforcement of a law or rule;

21 (3) aid in adopting rules;

22 (4) secure information as a basis for recommending
23 legislation relating to this chapter; and

24 (5) determine whether a license holder is able to meet
25 the license holder's financial obligations, including all
26 financial obligations imposed by this chapter, as they become due.

27 (b) If after an investigation the executive director is

1 satisfied that a license, registration, finding of suitability, or
2 prior approval by the commission of a transaction for which
3 approval was required or permitted under this chapter should be
4 limited, conditioned, suspended, or revoked, or that a fine should
5 be levied, the executive director shall initiate a hearing by
6 filing a complaint with the commission and transmit a summary of
7 evidence that bears on the matter and the transcript of testimony at
8 an investigative hearing conducted by or on behalf of the executive
9 director regarding the license holder. The complaint must be a
10 written statement of charges that must set forth in ordinary and
11 concise language the acts or omission with which the respondent is
12 charged. The complaint must specify the statute or rule that the
13 respondent is alleged to have violated. A complaint must contain a
14 factual allegation and shall not consist merely of charges raised
15 on the language of the statute or rule. On the filing of the
16 complaint, the executive director shall serve a copy of the
17 complaint on the respondent either personally or by registered or
18 certified mail at the respondent's address on file with the
19 executive director.

20 (c) Except as provided by Section 2005.355, the respondent
21 must answer not later than the 30th day after the date of the
22 service of the complaint.

23 (d) On receipt of the complaint of the executive director,
24 the commission shall review all matter presented in support and
25 shall appoint a hearing examiner to conduct further proceedings.

26 (e) The hearing examiner shall conduct proceedings under
27 Chapter 2001, Government Code. After the proceedings, the hearing

1 examiner may recommend that the commission take any appropriate
2 action, including revocation, suspension, limitation or
3 conditioning of a license, or imposition of a fine not to exceed
4 \$5,000 for each violation.

5 (f) The commission shall review the recommendation. The
6 commission may remand the case to the hearing examiner for the
7 presentation of additional evidence on a showing of good cause as to
8 why the evidence could not have been presented at the previous
9 hearing.

10 (g) The commission shall accept, reject, or modify the
11 recommendation.

12 (h) If the commission limits, conditions, suspends, or
13 revokes a license or imposes a fine, or limits, conditions,
14 suspends, or revokes a registration, finding of suitability, or
15 prior approval, the commission shall issue its written order.

16 (i) A limitation, condition, revocation, suspension, or
17 fine imposed is effective until reversed following judicial review,
18 except that the commission may stay its order pending a rehearing or
19 judicial review on terms and conditions as it considers proper.

20 (j) Judicial review of an order or decision of the
21 commission may be had under Chapter 2001, Government Code.
22 Judicial review is under the substantial evidence rule.

23 Sec. 2005.452. PRIVILEGED DOCUMENTS. (a) A communication
24 or document of an applicant or license holder that is required by
25 law or commission rule or by a subpoena issued by the commission and
26 that is to be made or transmitted to the commission or the executive
27 director is privileged and does not impose liability for defamation

1 or constitute a ground for recovery in a civil action.

2 (b) If a document or communication contains information
3 that is privileged, the privilege is not waived or lost because the
4 document or communication is disclosed to the commission or the
5 executive director.

6 (c) Notwithstanding the powers granted to the commission
7 and the executive director by this chapter:

8 (1) the commission and the executive director may not
9 release or disclose privileged information, documents, or
10 communications provided by an applicant and required by a lawful
11 court order after timely notice of the proceedings has been given to
12 the applicant or license holder without the prior written consent
13 of the applicant or license holder;

14 (2) the commission and the executive director shall
15 maintain all privileged information, documents, and communications
16 in a secure place accessible only to members of the commission and
17 the executive director; and

18 (3) the commission shall adopt procedures to protect
19 the privileged nature of information, documents, and
20 communications provided by an applicant or license holder.

21 Sec. 2005.453. RELEASE OF CONFIDENTIAL INFORMATION. An
22 application to a court for an order requiring the commission or the
23 executive director to release any information declared by law to be
24 confidential shall be made only on a motion in writing delivered not
25 later than the 10th day before the date of application to the
26 commission, the attorney general, and all persons who may be
27 affected by the entry of the order. Copies of the motion and all

1 papers filed in support of it shall be served with the notice by
2 delivering a copy in person or by certified mail to the last known
3 address of the person to be served.

4 Sec. 2005.454. EMERGENCY ORDERS. (a) The commission may
5 issue an emergency order for suspension, limitation, or
6 conditioning of a license, registration, finding of suitability, or
7 work permit or may issue an emergency order requiring a casino to
8 prohibit an individual license holder from entering the premises of
9 the casino or to not pay the license holder any remuneration for
10 services or any profits, income, or accruals on the license
11 holder's investment in the casino.

12 (b) An emergency order may be issued only if the commission
13 determines that:

14 (1) a license holder has wilfully failed to report,
15 pay, or truthfully account for a fee imposed under this chapter or
16 wilfully attempted in any manner to evade or defeat a fee or
17 payment;

18 (2) a license holder or gaming employee has cheated at
19 a gambling game; or

20 (3) the action is necessary for the immediate
21 preservation of the public peace, health, safety, morals, good
22 order, or general welfare.

23 (c) The emergency order must state the grounds on which it
24 is issued, including a statement of facts constituting the alleged
25 emergency necessitating the action.

26 (d) An emergency order may be issued only with the approval
27 of and under the signature of four or more members of the

1 commission.

2 (e) An emergency order is effective immediately on issuance
3 and service on the license holder or resident agent of the license
4 holder, gaming employee, or, in cases involving registration or
5 findings of suitability, on issuance and service on the person or
6 entity involved or resident agent of the entity involved. An
7 emergency order may suspend, limit, condition, or take other action
8 in relation to the license of one or more persons in an operation
9 without affecting other individual license holders or the casino.
10 An emergency order remains effective until further order of the
11 commission or final disposition of the case.

12 (f) Not later than the fifth day after the date of issuance
13 of an emergency order, the executive director shall file a
14 complaint and serve it on the person or entity involved. The person
15 or entity against whom the emergency order has been issued and
16 served is entitled to a hearing before the commission and to
17 judicial review of the decision and order of the commission under
18 Chapter 2001, Government Code. Judicial review is under the
19 substantial evidence rule.

20 Sec. 2005.455. INJUNCTIVE RELIEF. (a) The commission may
21 commence an action in its own name for an injunction to restrain a
22 violation of this chapter. An action under this section is in
23 addition to any other action authorized by law.

24 (b) The attorney general or the appropriate county or
25 district attorney shall represent the commission in an action under
26 this section.

27 Sec. 2005.456. CEASE AND DESIST ORDER. (a) If it appears

1 to the commission that a person who is not licensed under this
2 chapter is violating this chapter, a rule adopted under this
3 chapter, or another state statute or rule relating to gaming, the
4 commission after notice and opportunity for a hearing may issue a
5 cease and desist order prohibiting the person from engaging in the
6 activity.

7 (b) A violation of an order under this section constitutes
8 grounds for imposing a fine under this chapter.

9 [Sections 2005.457-2005.500 reserved for expansion]

10 SUBCHAPTER K. PENALTIES AND OFFENSES

11 Sec. 2005.501. FAILURE TO PAY FEES. (a) License fees and
12 other fees required by this chapter must be paid to the commission
13 on or before the dates provided by law for each fee.

14 (b) A person failing to timely pay a fee or tax when due
15 shall pay in addition a penalty of not less than \$50 or 25 percent of
16 the amount due, whichever is the greater. The penalty may not
17 exceed \$1,000 if the fee or tax is less than 10 days late and may not
18 exceed \$5,000 under any circumstances. The penalty shall be
19 collected as are other charges, license fees, and penalties under
20 this chapter.

21 Sec. 2005.502. FAILURE TO REPORT, PAY, OR ACCOUNT FOR FEE OR
22 TAX. (a) A person commits an offense if the person wilfully fails
23 to report, pay, or truthfully account for a fee or tax imposed under
24 this chapter or wilfully attempts in any manner to evade or defeat a
25 fee or tax.

26 (b) An offense under this section is a Class A misdemeanor.

27 Sec. 2005.503. FRAUD. (a) A person commits an offense if

1 the person knowingly:

2 (1) alters or misrepresents the outcome of a game or
3 other event on which wagers have been made after the outcome is made
4 sure but before it is revealed to the players;

5 (2) places, increases, or decreases a bet or
6 determines the course of play after acquiring knowledge, not
7 available to all players, of the outcome of the game or an event
8 that affects the outcome of the game or that is the subject of the
9 bet or aids anyone in acquiring such knowledge for the purpose of
10 placing, increasing, or decreasing a bet or determining the course
11 of play contingent on that event or outcome;

12 (3) claims, collects, or takes, or attempts to claim,
13 collect, or take, money or anything of value in or from a gambling
14 game, with intent to defraud, without having made a wager
15 contingent on the game, or claims, collects, or takes an amount
16 greater than the amount won;

17 (4) entices or induces another to go to a place where a
18 gambling game is being conducted or operated in violation of this
19 chapter, with the intent that the other person play or participate
20 in that gambling game;

21 (5) places or increases a bet after acquiring
22 knowledge of the outcome of the game or other event that is the
23 subject of the bet, including past posting and pressing bets;

24 (6) reduces the amount wagered or cancels the bet
25 after acquiring knowledge of the outcome of the game or other event
26 that is the subject of the bet, including pinching bets; or

27 (7) manipulates, with the intent to cheat, a component

1 of a gaming device in a manner contrary to the designed and normal
2 operational purpose for the component with knowledge that the
3 manipulation affects the outcome of the game or with knowledge of an
4 event that affects the outcome of the game.

5 (b) An offense under this section is a felony of the third
6 degree.

7 Sec. 2005.504. USE OF PROHIBITED DEVICES. (a) A person
8 commits an offense if the person, at a casino, uses or possesses
9 with the intent to use a device, other than those customarily used
10 in the conduct of gaming to assist in:

11 (1) projecting the outcome of the game;

12 (2) keeping track of the cards played;

13 (3) analyzing the probability of the occurrence of an
14 event relating to the game; or

15 (4) analyzing the strategy for playing or betting to
16 be used in the game.

17 (b) An offense under this section is a felony of the third
18 degree.

19 Sec. 2005.505. USE OF COUNTERFEIT OR UNAUTHORIZED TOKEN,
20 CHIP, OR COIN. (a) A person commits an offense if the person
21 knowingly uses counterfeit chips or tokens in a gambling game.

22 (b) A person commits an offense if the person, in playing
23 any gambling game designed to receive, be played with, or be
24 operated by chips or tokens approved by the executive director or by
25 lawful coin of the United States of America:

26 (1) knowingly uses a chip, token, or coin other than
27 chips or tokens approved by the commission or lawful coin of the

1 United States of America, or uses a coin not of the same
2 denomination as the coin intended to be used in that gambling game;
3 or

4 (2) uses any device or means to violate the provisions
5 of this chapter.

6 (c) A person, other than an authorized employee of an owner
7 license holder acting in furtherance of the person's employment,
8 commits an offense if the person knowingly has on the person's body
9 or in the person's possession on or off the premises of a casino a
10 device intended to be used to violate the provisions of this
11 chapter.

12 (d) A person, other than an authorized employee of an owner
13 license holder acting in furtherance of the person's employment,
14 commits an offense if the person knowingly has on the person's body
15 or in the person's possession on or off the premises of a casino a
16 key or device known to have been designed for the purpose of and
17 suitable for opening, entering, or affecting the operation of a
18 gambling game, a drop box, or an electronic or mechanical device
19 connected to the game or box or for removing money or other contents
20 from the game or box.

21 (e) A person commits an offense if the person knowingly
22 possesses paraphernalia for manufacturing slugs for use in gaming
23 devices. In this subsection, "paraphernalia for manufacturing
24 slugs" means the equipment, products, and materials that are
25 intended for use or designed for use in manufacturing, producing,
26 fabricating, preparing, testing, analyzing, packaging, storing, or
27 concealing a counterfeit facsimile of the chips or tokens approved

1 by the executive director or a lawful coin of the United States, the
2 use of which is an offense under Subsection (b). The term includes:

3 (1) lead or lead alloys;

4 (2) molds, forms, or similar equipment capable of
5 producing a likeness of a gaming token or United States coin;

6 (3) melting pots or other receptacles;

7 (4) torches; and

8 (5) tongs, trimming tools, or other similar equipment.

9 (f) Possession of more than one of the devices, equipment,
10 products, or materials described in this section permits a
11 rebuttable inference that the possessor intended to use them for
12 cheating.

13 (g) An offense under this section is a felony of the third
14 degree.

15 Sec. 2005.506. CHEATING. (a) A person commits an offense
16 if the person knowingly cheats at any gambling game.

17 (b) An offense under this section is a state jail felony.

18 Sec. 2005.507. POSSESSION OF UNLAWFUL DEVICES. (a) A
19 person commits an offense if the person knowingly possesses any
20 gaming device that has been manufactured, sold, or distributed in
21 violation of this chapter.

22 (b) An offense under this section is a Class A misdemeanor.

23 Sec. 2005.508. UNLAWFUL MANUFACTURE, SALE, OR DISTRIBUTION
24 OF GAMING EQUIPMENT. (a) A person commits an offense if the person
25 manufactures, sells, or distributes cards, chips, dice, a game, or
26 a device intended to be used to violate a provision of this chapter.

27 (b) A person commits an offense if the person marks, alters,

1 or otherwise modifies any associated equipment or gaming device in
2 a manner that:

3 (1) affects the result of a wager by determining win or
4 loss; or

5 (2) alters the normal criteria of random selection
6 that affect the operation of a game or determine the outcome of a
7 game.

8 (c) A person commits an offense if the person instructs
9 another person in cheating or in the use of a device for cheating at
10 any game authorized to be conducted at a casino, with the knowledge
11 or intent that the information or use may be employed to violate a
12 provision of this chapter.

13 (d) An offense under this section is a felony of the third
14 degree.

15 Sec. 2005.509. REPORTING PENALTIES. (a) A person commits
16 an offense if the person, in a license application, in a book or
17 record required to be maintained by this chapter or a rule adopted
18 under this chapter, or in a report required to be submitted by this
19 chapter or a rule adopted under this chapter:

20 (1) makes a statement or entry that the person knows to
21 be false or misleading; or

22 (2) knowingly fails to maintain or make an entry the
23 person knows is required to be maintained or made.

24 (b) A person commits an offense if the person knowingly
25 refuses to produce for inspection by the executive director a book,
26 record, or document required to be maintained or made by this
27 chapter or a rule adopted under this chapter.

1 (c) An offense under this section is a Class A misdemeanor.

2 Sec. 2005.510. GAMING BY MINORS. (a) A person commits an
3 offense if the person knowingly permits an individual that the
4 person knows is younger than 21 years of age to place a wager at a
5 casino.

6 (b) An individual younger than 21 years of age commits an
7 offense if the individual participates in gaming at a casino.

8 (c) An offense under this section is a Class C misdemeanor.

9 Sec. 2005.511. GENERAL PENALTY. (a) A person commits an
10 offense if the person knowingly or wilfully violates, attempts to
11 violate, or conspires to violate a provision of this chapter
12 specifying a prohibited act.

13 (b) Unless another penalty is specified for the offense, an
14 offense under this section is a Class A misdemeanor.

15 SECTION 2.02. Section 47.01, Penal Code, is amended by
16 amending Subdivisions (4) and (9) and adding Subdivision (10) to
17 read as follows:

18 (4) "Gambling device" means any device:

19 (A) on which a game or other activity can be
20 played or conducted for consideration; and

21 (B) that is designed, constructed, adapted, or
22 maintained to afford a user of the device an opportunity to obtain a
23 thing of value based solely or partially on chance [~~electronic,~~
24 ~~electromechanical, or mechanical contrivance not excluded under~~
25 ~~Paragraph (B) that for a consideration affords the player an~~
26 ~~opportunity to obtain anything of value, the award of which is~~
27 ~~determined solely or partially by chance, even though accompanied~~

1 ~~by some skill, whether or not the prize is automatically paid by the~~
2 ~~contrivance. The term:~~

3 ~~[(A) includes, but is not limited to, gambling~~
4 ~~device versions of bingo, keno, blackjack, lottery, roulette, video~~
5 ~~poker, or similar electronic, electromechanical, or mechanical~~
6 ~~games, or facsimiles thereof, that operate by chance or partially~~
7 ~~so, that as a result of the play or operation of the game award~~
8 ~~credits or free games, and that record the number of free games or~~
9 ~~credits so awarded and the cancellation or removal of the free games~~
10 ~~or credits; and~~

11 ~~[(B) does not include any electronic,~~
12 ~~electromechanical, or mechanical contrivance designed, made, and~~
13 ~~adapted solely for bona fide amusement purposes if the contrivance~~
14 ~~rewards the player exclusively with noncash merchandise prizes,~~
15 ~~toys, or novelties, or a representation of value redeemable for~~
16 ~~those items, that have a wholesale value available from a single~~
17 ~~play of the game or device of not more than 10 times the amount~~
18 ~~charged to play the game or device once or \$5, whichever is less].~~

19 (9) "Thing of value" means any property, money, right,
20 privilege, or other benefit, including a representation of value
21 redeemable for any property, money, right, privilege, or other
22 benefit [~~but does not include an unrecorded and immediate right of~~
23 ~~replay not exchangeable for value].~~

24 (10) "Device" includes all or part of an operable or
25 inoperable mechanical, electronic, or electromechanical
26 contrivance, machine, or apparatus.

27 SECTION 2.03. Section 47.02(c), Penal Code, is amended to

1 read as follows:

2 (c) It is a defense to prosecution under this section that
3 the actor reasonably believed that the conduct:

4 (1) was permitted under Chapter 2001, Occupations
5 Code;

6 (2) was permitted under Chapter 2002, Occupations
7 Code;

8 (3) consisted entirely of participation in the state
9 lottery or video lottery authorized by the State Lottery Act
10 (Chapter 466, Government Code);

11 (4) was permitted under the Texas Racing Act (Article
12 179e, Vernon's Texas Civil Statutes); ~~[or]~~

13 (5) consisted entirely of participation in a drawing
14 for the opportunity to participate in a hunting, fishing, or other
15 recreational event conducted by the Parks and Wildlife Department;
16 or

17 (6) was permitted under Chapter 2005, Occupations
18 Code.

19 SECTION 2.04. Sections 47.06(e) and (f), Penal Code, are
20 amended to read as follows:

21 (e) An offense under this section is a felony of the third
22 degree [~~Class A misdemeanor~~].

23 (f) It is a defense to prosecution under Subsection (a) or
24 (c) that the person owned, manufactured, transferred, or possessed
25 the gambling device, equipment, or paraphernalia for the sole
26 purpose of shipping it:

27 (1) to a casino licensed under Chapter 2005,

1 Occupations Code, for casino gaming; or

2 (2) to another jurisdiction where the possession or
3 use of the device, equipment, or paraphernalia was legal.

4 SECTION 2.05. Section 47.09(a), Penal Code, is amended to
5 read as follows:

6 (a) It is a defense to prosecution under this chapter that
7 the conduct:

8 (1) was authorized under:

9 (A) Chapter 2001, Occupations Code (Bingo
10 Enabling Act);

11 (B) Chapter 2002, Occupations Code (Charitable
12 Raffle Enabling Act); ~~[or]~~

13 (C) the Texas Racing Act (Article 179e, Vernon's
14 Texas Civil Statutes); or

15 (D) Chapter 2005, Occupations Code;

16 (2) consisted entirely of participation in the state
17 lottery or video lottery authorized by Chapter 466, Government
18 Code; or

19 (3) was a necessary incident to the operation of the
20 state lottery or video lottery and was directly or indirectly
21 authorized by ~~[~~

22 ~~[(A)] Chapter 466, Government Code~~ ~~[~~

23 ~~[(B) the lottery division of the Texas Lottery~~
24 ~~Commission,~~

25 ~~[(C) the Texas Lottery Commission, or~~

26 ~~[(D) the director of the lottery division of the~~
27 ~~Texas Lottery Commission].~~

1 SECTION 2.06. Chapter 47, Penal Code, is amended by adding
2 Section 47.091 to read as follows:

3 Sec. 47.091. DEFENSES FOR CERTAIN AMUSEMENT DEVICES. (a)

4 It is a defense to prosecution under Section 47.02 that the conduct
5 consists entirely of the use of a gambling device in which:

6 (1) skill is the predominate requirement for the user
7 to win or be awarded a thing of value; and

8 (2) the user may not win or be awarded a thing of value
9 for playing or using the device other than:

10 (A) noncash merchandise available only on the
11 premises where the device is located; or

12 (B) a ticket, coupon, or other representation of
13 value redeemable only on the premises where the device is located
14 for noncash merchandise.

15 (b) For purposes of Subsection (a)(2):

16 (1) the noncash merchandise or representation of value
17 redeemable for noncash merchandise that may be won or awarded for a
18 single play of a game or activity on the device may not have a
19 wholesale value of more than 10 times the amount charged for a
20 single play or \$5, whichever is less; and

21 (2) an item of noncash merchandise that may be won or
22 awarded for playing or using the device or for which a person may
23 redeem one or more tickets, coupons, or other representations of
24 value won or awarded for playing or using the device may not have a
25 wholesale value of more than \$50.

26 (c) It is a defense to prosecution under Section 47.02 that:

27 (1) the conduct consists entirely of the use of a

1 gambling device for which the user of the device may win or be
2 awarded only the opportunity to continue playing the game or
3 conducting an activity on the device; and

4 (2) the opportunity to continue is not exchangeable
5 for another thing of value.

6 (d) It is a defense to prosecution under Section 47.03,
7 47.04, or 47.06 that the conduct consists of or is a necessary
8 incident to offering, using, or maintaining one or more gambling
9 devices used exclusively for conduct for which Subsection (a) or
10 (c) provides a defense to a person using the device, including the
11 manufacturing, transporting, storing, or repairing of such a
12 device.

13 (e) In this section, "noncash merchandise" does not
14 include:

15 (1) cash;

16 (2) an item of cash equivalent, including a check,
17 money order, cashier's check, or traveler's check; or

18 (3) a gift certificate, gift card, coupon, voucher, or
19 other item that entitles the bearer to receive money or any other
20 thing of value at a location other than the premises where the
21 gambling device is located.

22 SECTION 2.07. Chapter 47, Penal Code, is amended by adding
23 Section 47.095 to read as follows:

24 Sec. 47.095. INTERSTATE OR FOREIGN COMMERCE DEFENSE. It is
25 a defense to prosecution under this chapter that a person sells,
26 leases, transports, possesses, stores, or manufactures a gambling
27 device with the authorization of the Texas Lottery Commission or

1 the Texas Gaming and Boxing Commission under Chapter 466,
2 Government Code, or of the Texas Gaming and Boxing Commission under
3 Chapter 2005, Occupations Code.

4 SECTION 2.08. Section 11.05, Texas Racing Act (Article
5 179e, Vernon's Texas Civil Statutes), is amended to read as
6 follows:

7 Sec. 11.05. UNLAWFUL WAGERING. A person shall not wager on
8 the result of a greyhound race or horse race in this state except as
9 permitted by this Act or by Chapter 2005, Occupations Code.

10 SECTION 2.09. All funds in the Texas casino gaming fund are
11 appropriated to the Texas Gaming and Boxing Commission for the
12 operation of the commission and the administration of Chapter 2005,
13 Occupations Code, as added by Section 2.01 of this article, for the
14 biennium ending August 31, 2009.

15 SECTION 2.10. The governor shall make the initial
16 appointments to the Texas Gaming and Boxing Commission not later
17 than January 1, 2008. In making the initial appointments to the
18 Texas Gaming and Boxing Commission, the governor shall designate
19 two members for terms expiring in 2009, two members for terms
20 expiring in 2011, and two members for terms expiring in 2013.

21 SECTION 2.11. Section 47.02(e), Penal Code, is repealed.

22 SECTION 2.12. The change in law made by this article applies
23 only to an offense committed on or after the effective date of this
24 article. An offense committed before the effective date of this
25 article is covered by the law in effect when the offense was
26 committed, and the former law is continued in effect for that
27 purpose. For purposes of this section, an offense was committed

1 before the effective date of this article if any element of the
2 offense was committed before that date.

3 SECTION 2.13. This article takes effect on the date the
4 constitutional amendment proposed by the 80th Legislature, Regular
5 Session, 2007, authorizing the operation of video lottery games at
6 racetracks, on certain Indian lands, and at 12 tourist destination
7 locations and authorizing casino gaming at 12 tourist destination
8 locations, at racetracks, and on certain Indian lands is approved
9 by the voters. If that amendment is not approved by the voters,
10 this article has no effect.

11 ARTICLE 3. TRANSFER OF POWERS AND DUTIES OF OTHER STATE AGENCIES TO
12 TEXAS GAMING AND BOXING COMMISSION

13 SECTION 3.01. Sections 466.002(1) and (3), Government Code,
14 are amended to read as follows:

15 (1) "Commission" means the Texas Gaming and Boxing
16 [~~Lottery~~] Commission.

17 (5-a) [~~(3)~~] "Division" means the state lottery
18 division established by the commission under Chapter 2004,
19 Occupations Code [~~467~~].

20 SECTION 3.02. Section 2001.002(8), Occupations Code, is
21 amended to read as follows:

22 (8) "Commission" means the Texas Gaming and Boxing
23 [~~Lottery~~] Commission.

24 SECTION 3.03. Sections 2052.002(5), (7), (9), and (20),
25 Occupations Code, are amended to read as follows:

26 (5) "Commission" means the Texas Gaming and Boxing
27 Commission [~~of Licensing and Regulation~~].

1 (7) "Division" [~~"Department"~~] means the combative
2 sports division of the commission [~~Texas Department of Licensing~~
3 ~~and Regulation~~].

4 (9) "Executive director" means the executive director
5 of the commission [~~department~~] or the executive director's
6 designated representative.

7 (20) "Ringside physician" means an individual
8 licensed to practice medicine in this state who is registered with
9 the division [~~department~~].

10 SECTION 3.04. Section 2052.051, Occupations Code, is
11 amended to read as follows:

12 Sec. 2052.051. ADMINISTRATION OF CHAPTER. The commission
13 [~~department~~] shall administer this chapter.

14 SECTION 3.05. Section 2052.052(b), Occupations Code, is
15 amended to read as follows:

16 (b) The commission may adopt rules:

17 (1) governing boxing, kickboxing, martial arts, or
18 mixed martial arts contests and exhibitions;

19 (2) establishing reasonable qualifications for an
20 applicant seeking a license or registration from the division
21 [~~department~~] under this chapter;

22 (3) recognizing a sanction, medical suspension, or
23 disqualification of a licensee or registrant by a combative sports
24 authority in any state, provided that if licensure or registration
25 is denied based on those actions, an applicant has an opportunity
26 for a hearing as prescribed by rule;

27 (4) establishing practice requirements or specialty

1 certifications that a person licensed to practice medicine in this
2 state must meet to register as a ringside physician;

3 (5) requiring a contestant to present with an
4 application for licensure or license renewal documentation of
5 recent blood test results that demonstrate whether the contestant
6 is free from hepatitis B virus, hepatitis C virus, human
7 immunodeficiency virus, and any other communicable disease
8 designated by commission rule and providing that a contestant's
9 failure to provide the required blood test results disqualifies the
10 contestant;

11 (6) providing that to participate in any event a
12 contestant must be free of hepatitis B virus, hepatitis C virus,
13 human immunodeficiency virus, and any other communicable disease
14 designated by rule;

15 (7) requiring that a contestant present with an
16 application for licensure or license renewal documentation of the
17 results of a physical examination, including an ophthalmologic
18 examination, and providing for disqualification of a contestant who
19 is determined by an examining physician to be unfit;

20 (8) establishing additional responsibilities for
21 promoters; and

22 (9) governing regulated amateur events.

23 SECTION 3.06. Section 2052.055(a), Occupations Code, is
24 amended to read as follows:

25 (a) The presiding officer of the commission, with the
26 commission's approval, may appoint a medical advisory committee to
27 advise the division [~~department~~] concerning health issues for

1 combative sports event contestants.

2 SECTION 3.07. Section 2052.109(c), Occupations Code, is
3 amended to read as follows:

4 (c) A company that issues a bond shall notify the division
5 [~~department~~] in writing of the cancellation of the bond not later
6 than the 30th day before the date on which the bond is canceled.

7 SECTION 3.08. Section 2052.114(b), Occupations Code, is
8 amended to read as follows:

9 (b) The holder of a license, registration, or permit may
10 renew the license, registration, or permit by paying a renewal fee
11 and complying with other renewal requirements prescribed by
12 division [~~department~~] rule before the expiration date. The
13 division [~~department~~] shall issue a renewal certificate to the
14 holder at the time of renewal.

15 SECTION 3.09. Sections 2052.152(a) and (c), Occupations
16 Code, are amended to read as follows:

17 (a) A person on whom a tax is imposed under Section
18 2052.151, not later than three business days after the end of the
19 event or telecast for which the tax is due, shall submit to the
20 division [~~department~~] a verified report on a form acceptable to the
21 division [~~department~~] stating:

- 22 (1) the number of tickets sold to the event;
23 (2) the ticket prices charged;
24 (3) the gross price charged for the sale or lease of
25 broadcasting, television, and motion picture rights without any
26 deductions for commissions, brokerage fees, distribution fees,
27 advertising, or other expenses or charges; and

1 (4) the amount of gross receipts obtained from the
2 event.

3 (c) The division [~~department~~] may audit a report filed under
4 Subsection (b).

5 SECTION 3.10. Section 2052.302(b), Occupations Code, is
6 amended to read as follows:

7 (b) The promoter shall surrender any purse or funds withheld
8 as provided by Subsection (a) to the executive director on demand.
9 Not later than the fifth working day after the event, the division
10 [~~department~~] shall notify in writing the promoter and any person
11 from whom a sum was withheld of the date of a hearing to determine
12 whether all or part of the purse or funds withheld should be
13 forfeited to the state. The hearing must be scheduled for a date
14 not later than the 10th day after the date of the notice. Not later
15 than the 10th day after the date of the hearing, the executive
16 director shall enter an order with findings of fact and conclusions
17 of law determining whether all or part of the purse or funds should
18 be forfeited. Any funds not forfeited shall be distributed to the
19 persons entitled to the funds.

20 SECTION 3.11. Section 2052.303(b), Occupations Code, is
21 amended to read as follows:

22 (b) The attorney general or the commission [~~department~~] may
23 file a civil suit to:

24 (1) assess and recover a civil penalty under
25 Subsection (a); or

26 (2) enjoin a person who violates or threatens to
27 violate this chapter or a rule adopted under this chapter from

1 continuing the violation or threat.

2 SECTION 3.12. Sections 1.03(3) and (5), Texas Racing Act
3 (Article 179e, Vernon's Texas Civil Statutes), are amended to read
4 as follows:

5 (3) "Commission" means the Texas Gaming and Boxing
6 [~~Racing~~] Commission.

7 (5) "Executive secretary" means the executive
8 director [~~secretary~~] of the Texas Gaming and Boxing [~~Racing~~]
9 Commission.

10 SECTION 3.13. The heading to Article 2, Texas Racing Act
11 (Article 179e, Vernon's Texas Civil Statutes), is amended to read
12 as follows:

13 ARTICLE 2. TEXAS GAMING AND BOXING [~~RACING~~] COMMISSION

14 SECTION 3.14. Section 3.09(b), Texas Racing Act (Article
15 179e, Vernon's Texas Civil Statutes), is amended to read as
16 follows:

17 (b) The commission shall deposit the money it collects under
18 this Act in the State Treasury to the credit of a special fund to be
19 known as the Texas Racing [~~Commission~~] fund. The Texas Racing
20 [~~Commission~~] fund may be appropriated only for the administration
21 and enforcement of this Act. Any unappropriated money remaining in
22 that special fund at the close of each fiscal biennium shall be
23 transferred to the General Revenue Fund and may be appropriated for
24 any legal purpose. The legislature may also appropriate money from
25 the General Revenue Fund for the administration and enforcement of
26 this Act. Any amount of general revenue appropriated for the
27 administration and enforcement of this Act in excess of the

1 cumulative amount deposited in the Texas Racing [~~Commission~~] fund
2 shall be reimbursed from the Texas Racing [~~Commission~~] fund not
3 later than one year after the date on which the general revenue
4 funds are appropriated, with 12 percent interest per year until
5 August 31, 1993, and 6 3/4 percent interest thereafter with all
6 payments first attributable to interest.

7 SECTION 3.15. Section 6.091(a), Texas Racing Act (Article
8 179e, Vernon's Texas Civil Statutes), is amended to read as
9 follows:

10 (a) An association shall distribute from the total amount
11 deducted as provided by Sections 6.08(a) and 6.09(a) of this Act
12 from each simulcast pari-mutuel pool and each simulcast
13 cross-species pool the following shares:

14 (1)(A) until January 1, 1999, an amount equal to 0.25
15 percent of each simulcast pari-mutuel pool and each simulcast
16 cross-species simulcast pool as the amount set aside to reimburse
17 the general revenue fund for amounts that are appropriated for the
18 administration and enforcement of this Act and that are in excess of
19 the cumulative amount of funds deposited in the Texas Racing
20 [~~Commission~~] fund, until the excess amount and interest on the
21 excess amount are fully reimbursed;

22 (B) an amount equal to one percent of each
23 simulcast pool as the amount set aside for the state; and

24 (C) an amount equal to 1.25 percent of each
25 cross-species simulcast pool as the amount set aside for the state;

26 (2) an amount equal to 0.25 percent of each pool set
27 aside to reimburse the general revenue fund for amounts that are

1 appropriated for the administration and enforcement of this Act and
2 that are in excess of the cumulative amount of funds deposited in
3 the Texas Racing [~~Commission~~] fund, until the excess amount and
4 interest on the excess amount are fully reimbursed;

5 (3) if the association is a horse racing association,
6 an amount equal to one percent of a multiple two wagering pool or
7 multiple three wagering pool as the amount set aside for the
8 Texas-bred program to be used as provided by Section 6.08(f) of this
9 Act;

10 (4) if the association is a greyhound association, an
11 amount equal to one percent of a multiple two wagering pool or a
12 multiple three wagering pool as the amount set aside for the
13 Texas-bred program for greyhound races, to be distributed and used
14 in accordance with rules of the commission adopted to promote
15 greyhound breeding in this state; and

16 (5) the remainder as the amount set aside for purses,
17 expenses, the sending association, and the receiving location
18 pursuant to a contract approved by the commission between the
19 sending association and the receiving location.

20 SECTION 3.16. (a) The following laws are repealed:

21 (1) Sections 2.01-2.05, Texas Racing Act (Article
22 179e, Vernon's Texas Civil Statutes);

23 (2) Sections 2.073-2.11, Texas Racing Act (Article
24 179e, Vernon's Texas Civil Statutes); and

25 (3) Sections 6.093(a) and 18.01(a), Texas Racing Act
26 (Article 179e, Vernon's Texas Civil Statutes).

27 (b) Chapter 467, Government Code, is repealed effective

1 September 1, 2009.

2 SECTION 3.17. (a) On September 1, 2008, or an earlier date
3 specified in the transition plan required under Section 3.19 of
4 this article, the following powers, duties, functions, programs,
5 and activities are transferred to the Texas Gaming and Boxing
6 Commission:

7 (1) all powers, duties, functions, programs, and
8 activities related to administrative support services, such as
9 strategic planning and evaluation, audit, legal, human resources,
10 information resources, accounting, purchasing, financial
11 management, and contract management services, of a state agency or
12 entity abolished by Section 3.22 of this article;

13 (2) all powers, duties, functions, programs, and
14 activities of the Texas Lottery Commission related to:

15 (A) the operation of the state lottery or video
16 lottery under Chapter 466, Government Code; and

17 (B) the regulation of bingo under Chapter 2001,
18 Occupations Code;

19 (3) all powers, duties, functions, programs, and
20 activities of the Texas Racing Commission under the Texas Racing
21 Act (Article 179e, Vernon's Texas Civil Statutes); and

22 (4) all powers, duties, functions, programs, and
23 activities of the Texas Commission of Licensing and Regulation and
24 the Texas Department of Licensing and Regulation under Chapter
25 2052, Occupations Code.

26 (b) On the date specified by Subsection (a) of this section:

27 (1) all obligations and contracts of a state agency or

1 entity that are related to a power, duty, function, program, or
2 activity transferred from the agency or entity under Subsection (a)
3 of this section are transferred to the Texas Gaming and Boxing
4 Commission;

5 (2) all property and records in the custody of a state
6 agency or entity that are related to a power, duty, function,
7 program, or activity transferred from the agency or entity under
8 Subsection (a) of this section and all funds appropriated by the
9 legislature for the power, duty, function, program, or activity
10 shall be transferred to the Texas Gaming and Boxing Commission; and

11 (3) all complaints, investigations, or contested
12 cases that are pending before a state agency or entity or the
13 governing body of the agency or entity and that are related to a
14 power, duty, function, program, or activity transferred from the
15 agency or entity under Subsection (a) of this section are
16 transferred without change in status to the Texas Gaming and Boxing
17 Commission.

18 (c) A rule or form adopted by a state agency or entity that
19 relates to a power, duty, function, program, or activity
20 transferred from the agency or entity under Subsection (a) of this
21 section is a rule or form of the Texas Gaming and Boxing Commission
22 and remains in effect until altered by the commission.

23 (d) A reference in law to a state agency or entity abolished
24 by Section 3.22 of this article, or to the governing body of the
25 agency or entity, that relates to a power, duty, function, program,
26 or activity transferred under Subsection (a) of this section means
27 the Texas Gaming and Boxing Commission.

1 (e) A license, permit, or certification in effect that was
2 issued by a state agency or entity abolished by Section 3.22 of this
3 article or described in Subsection (a)(4) of this section and that
4 relates to a power, duty, function, program, or activity
5 transferred under Subsection (a) of this section is continued in
6 effect as a license, permit, or certification of the Texas Gaming
7 and Boxing Commission.

8 SECTION 3.18. (a) The Texas Gaming and Boxing Commission
9 Transition Legislative Oversight Committee is created to
10 facilitate the transfer of powers, duties, functions, programs, and
11 activities between the state's gaming agencies and the Texas Gaming
12 and Boxing Commission as provided by this article with a minimal
13 negative effect on the operation of those regulated activities in
14 this state.

15 (b) The committee is composed of seven members, as follows:

16 (1) two members of the senate, appointed by the
17 lieutenant governor not later than December 1, 2007;

18 (2) two members of the house of representatives,
19 appointed by the speaker of the house of representatives not later
20 than December 1, 2007; and

21 (3) three members of the public, appointed by the
22 governor not later than December 1, 2007.

23 (c) Once the other members of the committee have been
24 appointed, the executive director of the Texas Gaming and Boxing
25 Commission serves as an ex officio member of the committee.

26 (d) An appointed member of the committee serves at the
27 pleasure of the appointing official.

1 (e) The lieutenant governor and the speaker of the house of
2 representatives shall alternate designating a presiding officer
3 from among their respective appointments. The speaker of the house
4 of representatives shall make the first appointment after the
5 effective date of this section.

6 (f) A member of the committee may not receive compensation
7 for serving on the committee but is entitled to reimbursement for
8 travel expenses incurred by the member while conducting the
9 business of the committee as provided by the General Appropriations
10 Act.

11 (g) The committee shall:

12 (1) facilitate the transfer of powers, duties,
13 functions, programs, and activities between the state's gaming
14 agencies and the Texas Gaming and Boxing Commission as provided by
15 this article with a minimal negative effect on the gaming
16 activities regulated in this state;

17 (2) with assistance from the Texas Gaming and Boxing
18 Commission and the gaming agencies listed in Section 3.17(a) of
19 this article, advise the executive commissioner of the Texas Gaming
20 and Boxing Commission concerning:

21 (A) the powers, duties, functions, programs, and
22 activities transferred under this article and the funds and
23 obligations that are related to the powers, duties, functions,
24 programs, or activities; and

25 (B) the transfer of the powers, duties,
26 functions, programs, activities, records, property, funds,
27 obligations, and employees by the entities as required by Section

1 3.17 of this article;

2 (3) meet at the call of the presiding officer;

3 (4) research, take public testimony, and issue reports
4 on other appropriate issues or specific issues requested by the
5 lieutenant governor, speaker, or governor; and

6 (5) review specific recommendations for legislation
7 proposed by the Texas Gaming and Boxing Commission or the other
8 agencies.

9 (h) The committee may request reports and other information
10 from the Texas Gaming and Boxing Commission, other state agencies,
11 and the attorney general relating to gaming in this state and other
12 appropriate issues.

13 (i) The committee shall use existing staff of the senate,
14 the house of representatives, and the Texas Legislative Council to
15 assist the committee in performing its duties under this section.

16 (j) Chapter 551, Government Code, applies to the committee.

17 (k) The committee shall report to the governor, lieutenant
18 governor, and speaker of the house of representatives not later
19 than November 15 of each even-numbered year. The report must
20 include:

21 (1) identification of significant issues within
22 gaming regulation, with recommendations for action;

23 (2) an analysis of the effectiveness and efficiency of
24 gaming regulation, with recommendations for any necessary
25 research; and

26 (3) recommendations for legislative action.

27 SECTION 3.19. (a) The transfer of powers, duties,

1 functions, programs, and activities under Section 3.17 of this
2 article to the Texas Gaming and Boxing Commission must be
3 accomplished in accordance with a schedule included in a transition
4 plan developed by the executive commissioner of the Texas Gaming
5 and Boxing Commission and submitted to the governor and the
6 Legislative Budget Board not later than September 1, 2008. The
7 executive commissioner shall provide to the governor and the
8 Legislative Budget Board transition plan status reports and updates
9 on at least a quarterly basis following submission of the initial
10 transition plan. The transition plan must be made available to the
11 public.

12 (b) Not later than March 1, 2008, the Texas Gaming and
13 Boxing Commission shall hold a public hearing and accept public
14 comment regarding the transition plan required to be developed by
15 the executive commissioner of the Texas Gaming and Boxing
16 Commission under Subsection (a) of this section.

17 (c) In developing the transition plan, the executive
18 commissioner of the Texas Gaming and Boxing Commission shall hold
19 public hearings in various geographic areas in this state before
20 submitting the plan to the governor and the Legislative Budget
21 Board as required by this section.

22 SECTION 3.20. An action brought or proceeding commenced
23 before the date of a transfer prescribed by this article in
24 accordance with the transition plan required under Section 3.19 of
25 this article, including a contested case or a remand of an action or
26 proceeding by a reviewing court, is governed by the laws and rules
27 applicable to the action or proceeding before the transfer.

1 SECTION 3.21. (a) The Texas Gaming and Boxing Commission
2 shall implement the powers, duties, functions, programs, and
3 activities assigned to the commission under this article in
4 accordance with a work plan designed by the commission to ensure
5 that the transfer of gaming regulation in this state is
6 accomplished in a careful and deliberative manner.

7 (b) A work plan designed by the commission under this
8 section must include the following phases:

9 (1) a planning phase, during which the commission will
10 focus on and stabilize the organization of the agency's powers,
11 duties, functions, programs, and activities, and which must
12 include:

13 (A) initiation of recommendations made by the
14 Texas Gaming and Boxing Commission Transition Legislative
15 Oversight Committee;

16 (B) creation of interagency and intra-agency
17 steering committees;

18 (C) development of global visions, goals, and
19 organizational strategies; and

20 (D) development of communications and risk
21 management plans;

22 (2) an integration phase, during which the commission
23 will identify opportunities and problems and design customized
24 solutions for those problems, and which must include:

25 (A) identification of key issues related to costs
26 or legal requirements for other commission activities;

27 (B) planning for daily operations; and

1 (C) validation of fiscal and program synergies;
2 (3) an optimization phase, during which the commission
3 will complete and expand on the initial transitions, and which must
4 include:

5 (A) optimization of initial implementation
6 initiatives;

7 (B) use of enterprise teaming operations;

8 (C) building infrastructures to support and
9 facilitate changes in gaming regulation and oversight; and

10 (D) identification and use of beneficial assets
11 management and facilities approaches; and

12 (4) a transformation phase, during which the
13 commission will continue implementing initial and additional
14 changes in gaming regulation and oversight, and which must include
15 implementation of changes in agency management activities.

16 SECTION 3.22. (a) The Texas Lottery Commission and the
17 Texas Racing Commission are abolished on the date on which their
18 respective powers, duties, functions, programs, and activities are
19 transferred under Section 3.17 of this article, and after that date
20 a reference in any law to the Texas Lottery Commission or to the
21 Texas Racing Commission means the Texas Gaming and Boxing
22 Commission.

23 (b) The abolition of a state agency or entity listed in
24 Subsection (a) of this section and the transfer of its powers,
25 duties, functions, programs, activities, obligations, rights,
26 contracts, records, property, funds, and employees as provided by
27 this article do not affect or impair an act done, any obligation,

1 right, order, permit, certificate, rule, criterion, standard, or
2 requirement existing, or any penalty accrued under former law, and
3 that law remains in effect for any action concerning those matters.

4 SECTION 3.23. (a) Except as provided by Subsection (b),
5 Sections 3.01 through 3.16 of this article take effect on the date
6 the Texas Lottery Commission and the Texas Racing Commission are
7 abolished under Section 3.22 of this article.

8 (b) Sections 3.17 through 3.22 of this article and this
9 section take effect on the date the amendment adding Section 47-a,
10 Article III, Texas Constitution, authorizing the operation of video
11 lottery games at racetracks, on certain Indian lands, and at
12 tourist destination locations and authorizing casino gaming at
13 tourist destination locations, at racetracks, and on certain Indian
14 lands proposed by the 80th Legislature, Regular Session, 2007,
15 becomes effective. If that amendment is not approved by the voters,
16 this article has no effect.