

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to I.B. 1, L.D. 1370, "An Act To Enact the Maine Tribal Gaming Act"

Amend the bill by striking out the title and substituting the following:

'An Act To Enact the Maine Casino Gaming Act'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 25 MRSA Pt. 11 is enacted to read:

PART 11

GAMING

CHAPTER 501

MAINE CASINO GAMING ACT

§5001. Short title

This chapter may be known and cited as "the Maine Casino Gaming Act."

§5002. Legislative intent

This Act is intended to benefit the people of this State by promoting tourism and assisting economic development. The public's confidence and trust will be maintained only through:

2 1. Supervision. Comprehensive law enforcement supervision;
and

4 2. Regulation. Strict regulation of facilities, persons,
6 associations and gaming operations under this Act.

8 **§5003. Definitions**

10 As used in this chapter, unless the context otherwise
12 indicates, the following terms have the following meanings.

14 1. Affordable housing. "Affordable housing" means decent,
16 safe and sanitary dwellings, apartments or other living
 accommodations within the means of employees who may be employed
 by the gaming facility and related employer.

18 2. Bazaar game. "Bazaar game" means a game, sport,
20 amusement, diversion, scheme, plan, project, contest, undertaking
 or enterprise in which chance, fortune, luck or lot is the
22 predominating factor or element in the winning or awarding of a
 prize but does not include a lottery or any game, sport,
24 amusement, diversion, scheme, plan, project, contest or
 undertaking in which the skill, accomplishment, art or adroitness
26 of the operator or participant is the primary factor in the
 winning or awarding of a prize.

28 3. Enterprise. "Enterprise" means an individual, trust,
30 corporation, partnership or other legal entity of any kind. With
 respect to any corporation, "enterprise" includes each other
32 corporation or other legal entity that, directly or indirectly,
 controls a majority of the voting interests in that corporation.
34 With respect to any partnership, trust or other form of
 unincorporated business organization, "enterprise" includes each
36 corporation or other legal entity that, directly or indirectly,
 controls a majority of the voting interests in that organization.

38 4. Gaming. "Gaming" means any game of chance or other
40 gaming or wagering activity, including, but not limited to, those
 activities specifically identified in section 5005.

42 5. Gaming employee. "Gaming employee" means any natural
44 person employed in the operation or management of gaming
 facilities, whether employed by a licensed gaming operator or by
46 an enterprise providing on-site services to the licensed gaming
 operator within a gaming facility.

48 6. Gaming equipment. "Gaming equipment" means a machine or
50 device that is specifically designed or manufactured for use in
 the operation of any gaming activity.

2 7. Gaming facility. "Gaming facility" means a room or
rooms in which gaming is conducted on the site.

4 8. Gaming operation. "Gaming operation" means an
6 enterprise operated by the licensed gaming operator on the site
for the conduct of gaming in a gaming facility.

8 9. Gaming school. "Gaming school" means an enterprise
10 organized to provide specialized training to gaming employees for
the conduct of gaming other than a program operated by the
12 licensed gaming operator.

14 10. Gaming services. "Gaming services" means the provision
of goods or services to a licensed gaming operator directly in
16 connection with the operation of gaming in a gaming facility,
including maintenance or security services for the gaming
18 facility, junket services, gaming schools, laboratory testing of
gaming equipment including video facsimile machines and lottery
20 tickets and the manufacture, distribution, maintenance or repair
of gaming equipment, but not including professional or financial
22 services provided by persons licensed or registered under the
laws of the State, the Federal Government or other states of the
24 United States.

26 11. Junket services. "Junket services" means any
arrangement to facilitate the attendance at a gaming facility of
28 patrons selected by reason of their propensity to gamble by
providing to such patrons any consideration, including cash or
30 rebates or reduced charges for goods or services such as
transportation, lodging, food, beverage or entertainment.
32 "Junket services" does not include enterprises that function
solely to provide common transportation to a gaming facility for
34 the public without limitation to selected patrons.

36 12. Labor market average weekly wage. "Labor market
average weekly wage" means the average weekly wage as determined
38 by the Department of Labor for the labor market or markets in
which a site is located for the 12 most recently reported months
40 preceding the date on which an application under section 5004 is
filed.

42 13. Labor market unemployment rate. "Labor market
44 unemployment rate" means the average unemployment rate as
determined by the Department of Labor for the labor market or
46 markets in which a site is located for the 12 most recently
reported months preceding the date on which an application under
48 section 5004 is filed.

1.2.25

COMMITTEE AMENDMENT "A" to I.B. 1, L.D. 1370

2 14. Licensed gaming operator. "Licensed gaming operator"
3 means a corporation, partnership, limited partnership, limited
4 liability company or other entity established for the purpose of
5 developing, owning or operating a gaming facility or gaming
6 facilities or a gaming operation or gaming operations that is
7 licensed by the state gaming agency to conduct gaming under this
8 chapter.

9
10 15. Lottery. "Lottery" means any gaming for which tickets
11 are sold, the winning ticket or tickets being secretly
12 predetermined or ultimately selected in a chance drawing, in
13 which the holders of winning tickets receive money or something
14 of value.

15
16 16. Principal. "Principal" means with respect to an
17 enterprise:

18 A. Each of its officers and directors;

19
20 B. Each of its principal management employees, including
21 any chief executive officer, chief financial officer, chief
22 operating officer or general manager;

23
24 C. Each of its general partners if the enterprise is a
25 general or limited partnership;

26
27 D. Each of its managing members if the enterprise is a
28 limited liability company;

29
30 E. Each of its shareholders who owns more than 10% of the
31 shares of the enterprise if the enterprise is a corporation;

32
33 F. Each of its owners or partners if the enterprise is an
34 unincorporated business other than a limited partnership or
35 a limited liability company; and

36
37 G. Each person, other than a banking institution, pension
38 fund, commercial finance company, equipment leasing company,
39 investment bank, qualified institutional buyer as defined in
40 Rule 144A of the United States Securities and Exchange
41 Commission, insurance company, regulated investment company,
42 other financial institution, state of the United States,
43 political subdivision of a state of the United States and
44 agency, authority or instrumentality of a state or political
45 subdivision, that has provided financing for the enterprise
46 constituting more than 10% of the total financing of the
47 enterprise provided that a person who purchases indebtedness
48 of an enterprise through a nationally recognized securities
49 exchange or bond trading system is not considered a
50 principal.

COMMITTEE AMENDMENT

2 17. Site. "Site" means one or more contiguous parcels of
land owned or leased by a licensed gaming operator within a
4 single city, town or plantation of the State or within 2 or more
contiguous cities, towns or plantations of the State provided
6 that the legislative body of each such city, town or plantation
has approved the parcel or parcels for the conduct of all gaming
8 operations permitted under this chapter.

10 18. State. "State" means the State of Maine and its
authorized officials, agents and representatives.

12 19. State gaming agency. "State gaming agency" means the
14 Department of Public Safety.

16 20. State law enforcement agency. "State law enforcement
agency" means the Maine State Police.

18 21. Video facsimile. "Video facsimile" means any
20 mechanical, electrical or other device, contrivance or machine
that, upon insertion of a coin, currency, token or similar object
22 or upon payment of any consideration whatsoever, is available to
play or operate, the play or operation of which includes, but is
24 not limited to, the playing of a facsimile of a game of chance or
skill, and that may deliver or entitle the person playing or
26 operating the machine to receive cash or tokens to be exchanged
for cash or to receive any merchandise or thing of value, whether
28 the payoff is made automatically from the machine or in any other
manner whatsoever.

30 §5004. Selection of licensed gaming operator; site

32 1. Selection of gaming operator to be licensed; rules. The
34 state gaming agency shall adopt rules consistent with this
chapter establishing the application procedure and minimum
36 requirements for selection as a licensed gaming operator. The
state gaming agency may license only one gaming operator in the
38 State and only one site. Selection must be through a competitive
bid process in which at least the following factors are
40 considered in making a selection that will maximize the benefit
to the people of this State:

42 A. The applicant has a legal interest in real property
44 meeting the site selection criteria under subsection 2; and

46 B. The amount of the fee to be paid under section 5014,
subsection 3.

48 2. Prohibited locations. The site may not be reservation
50 lands of either the Penobscot Nation or the Passamaquoddy Tribe.

may not be Indian lands within the meaning of 25 United States Code, Section 2703, may not be Indian country within the meaning of the Johnson Act, 15 United States Code, Section 1175 and may not be Passamaquoddy Indian territory or Penobscot Indian territory within the meaning of Title 30, section 6203.

3. Site selection criteria; rules. The state gaming agency shall adopt rules for the selection of the site. In selecting the site, the state gaming agency shall give priority to sites that meet the following requirements:

A. The site is within a labor market area for which the labor market unemployment rate is greater than the state unemployment rate at the time of application under subsection 1;

B. The site is within a labor market area for which the labor market average weekly wage is below the state average weekly wage at the time of application under subsection 1;

C. The requirements contained in paragraphs A and B may be waived for a site that is within a labor market area that has sustained a greater than 5% loss of population or workforce during the 3-year period immediately preceding the time of application under subsection 1 if the loss is caused by business closings; and

D. The site is located within reasonable commuting distance of a sufficient quantity of affordable housing to accommodate the projected number of employees.

4. Economic development incentives; ineligibility. A licensed gaming operator is not eligible to receive any economic development incentives for which a recipient must report under Title 5, section 13070-J.

5. Licensing agreement. Once a gaming operator is licensed by the state gaming agency pursuant to this chapter, the licensed gaming operator and the state gaming agency shall enter into a licensing agreement that sets out the requirements and conditions of the license, including the gaming license fee to be paid to the State pursuant to section 5014, subsection 3.

§5005. Authorized gaming operations

1. Authorized games. The licensed gaming operator may conduct, on one site and subject to this chapter and notwithstanding any other provision of the laws of the State, any and all forms of gaming and wagering, including without limitation:

2 A. Card games, table games and other games of chance,
4 including without limitation blackjack, poker, dice,
roulette, baccarat, money wheels and bingo;

6 B. Any bazaar game, but only if conducted solely for
8 merchandise prizes;

10 C. Any lottery game; and

12 D. Video facsimiles, including without limitation video
14 facsimiles of any card game, table game or other game of
chance, including without limitation those described in
paragraph A.

16 2. Prohibition on attendance of minors. A person under the
18 minimum age for purchase of alcoholic beverages under the laws of
the State may not be admitted into any gaming facility other than
20 facilities limited to the play of bazaar games or be permitted to
place any wager, directly or indirectly, other than on bazaar
22 games, except that minors may receive lottery tickets or chances
as gifts and minors may be employed in the gaming facilities if
24 they are licensed in accordance with section 5007 and are not
employed in serving intoxicating liquors and their employment is
26 in all respects in conformity with the laws and rules of the
State.

28 3. Compliance with reporting requirements. The licensed
30 gaming operator shall comply with all applicable reporting and
withholding requirements of the Internal Revenue Service relating
32 to all forms of gaming conducted at the site, shall maintain
accurate records of all such reports and returns and shall
34 implement policies and procedures adequate to ensure compliance
with such obligations in its gaming operations.

36 4. Expiration of authority. Unless extended, the authority
38 granted under this chapter to conduct gaming operations
terminates on the 20th anniversary of the date of legislative
40 approval of the rules proposed by the state gaming agency under
section 5010.

42 **§5006. Law enforcement matters**

44 1. Application of existing laws. Title 17, chapter 14 and
46 Title 17-A, chapter 39 do not apply to gaming conducted pursuant
to this chapter.

48 2. Powers of state law enforcement officers. Officers of
50 the state law enforcement agency must be accorded free access to
any gaming facilities for the purpose of maintaining public order

and public safety and enforcing applicable criminal laws of the State as permitted under this section; and personnel employed by the licensed gaming operator shall for such purposes provide officers of the state law enforcement agency access to locked and secure areas of the gaming facilities in accordance with the standards of management and operation adopted pursuant to section 5009. The state law enforcement agency may station one or more officers at the site to coordinate law enforcement within the site generally.

§5007. Licensing of gaming employees

1. Requirements for employee licensing. A person may not commence or continue employment as a gaming employee unless that person is the holder of a valid current gaming employee license issued by the state gaming agency in accordance with rules adopted by the state gaming agency pursuant to section 5010.

2. License denial. The state gaming agency may deny a gaming employee license to an applicant who:

A. Has been determined to be a person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the effective regulation of gaming or create or increase the danger of unfair or illegal practices, methods and activities in the conduct of the gaming activities permitted under this chapter; provided that the State may not apply standards for approval of licenses pursuant to this section more rigorously than those actually applied in the approval of employee licenses in gaming enterprises operated or regulated exclusively by the State; or

B. Has failed to provide any information reasonably required to investigate the application for a gaming employee license or to reveal any fact material to such application or has furnished any information that is untrue or misleading in connection with such application.

3. Revocation or suspension of license. The state gaming agency or the state law enforcement agency may investigate any person who holds a gaming employee license at any time and the state gaming agency may suspend or revoke any gaming employee license issued pursuant to this chapter if new information concerning facts arising either prior to or since the issuance of the original license or any license renewal comes to the attention of the state gaming agency, which information would justify denial of the original license or any license renewal pursuant to subsection 2. A license may not be revoked or suspended except after notice and hearing as generally required

for similar administrative actions under the Maine Administrative Procedure Act.

4. Appeal of license decisions. A decision of the state gaming agency to deny, suspend or revoke a license pursuant to this section, following any administrative review or appeal that may be permitted by the state gaming agency in accordance with procedures that it may establish, constitutes final agency action subject to judicial review in the manner provided by the laws of the State for judicial review of administrative actions affecting similar rights.

5. Investigation of nongaming employees. The state law enforcement agency may investigate misconduct of employees of the licensed gaming operator or any other entity who are not gaming employees but who are employed in ancillary facilities located within the same building as any gaming facility; and such employees must be dismissed from such employment upon notification by the state law enforcement agency that their conduct in the course of their employment in such ancillary facilities poses a threat to the effective regulation of gaming or creates or enhances the dangers of unfair or illegal practices, methods and activities in the conduct of gaming, subject to the same rights of appeal as are provided in the Maine Administrative Procedure Act.

§5008. Registration of gaming services enterprises

1. Requirement for registration. An enterprise may not provide gaming services or gaming equipment to the licensed gaming operator unless it is the holder of a valid current gaming services registration issued by the state gaming agency in accordance with rules adopted by the state gaming agency pursuant to section 5010.

2. Denial of registration. The state gaming agency may deny a gaming services registration to any applicant upon its determination that the applicant or any principal identified with the applicant:

A. Is a person or entity whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the effective regulation of gaming or create or increase the danger of unfair or illegal practices, methods and activities in the conduct of the gaming activities permitted under this chapter. The State may not apply standards for approval of registrations pursuant to this section more rigorously than those actually applied in the approval of similar licenses in gaming enterprises operated or regulated exclusively by the State; or

2 B. Has failed to provide any information reasonably
4 required to investigate the application for a gaming
6 services registration or to reveal any fact material to the
 application or has furnished any information that is untrue
 or misleading in connection with the application.

8 3. Revocation or suspension of registration. The state
10 gaming agency or the state law enforcement agency may investigate
12 any enterprise or principal of such enterprise that holds a
14 gaming services registration license at any time and the state
16 gaming agency may suspend or revoke any gaming services
18 registration issued pursuant to this chapter if new information
20 concerning facts arising either prior to or since the issuance of
22 the original registration or any registration renewal comes to
24 the attention of the state gaming agency, which information would
26 justify denial of such original registration or any registration
 renewal pursuant to subsection 2; provided that a registration
 may not be revoked or suspended except after such notice and
 hearing as is generally required for similar administrative
 actions under the administrative procedures applicable to
 agencies of the State; and provided that the enterprise is
 entitled to any payment due for services provided or goods
 delivered prior to the effective date of suspension or revocation
 of its registration.

28 4. Appeal of registration decisions. A decision of the
30 state gaming agency to deny, suspend or revoke a registration
32 pursuant to this section, following any administrative review or
34 appeal that may be permitted by the state gaming agency in
 accordance with procedures that it may establish, constitutes
 final agency action subject to judicial review in the manner
 provided by the Maine Administrative Procedure Act.

36 5. Investigation of nongaming enterprises. Any enterprise
38 that provides goods or services to the licensed gaming operator
40 other than gaming services or gaming equipment in a total amount
42 exceeding the sum of \$50,000 in a single calendar year and any
44 labor organization seeking to represent employees of the licensed
46 gaming operator must be identified by the licensed gaming
48 operator to the state gaming agency and shall agree to cooperate
50 with the state gaming agency and the state law enforcement agency
 in any investigation considered necessary by either agency
 relative to the fitness of the enterprise or labor organization
 to engage in business with a gaming operation or relative to the
 conduct of the enterprise or labor organization in connection
 with that activity. The state gaming agency may bar an
 enterprise from providing goods or services to the licensed
 gaming operator or a labor organization from receiving dues from
 licensed employees of the licensed gaming operator or may bar the

2 principal of a labor organization from representing the employees
3 upon a determination that the enterprise or labor organization or
4 a principal of such labor organization is a person or entity
5 whose prior activities, criminal record, if any, or reputation,
6 habits and associations pose a threat to the effective regulation
7 of gaming or create or enhance the dangers of unfair or illegal
8 practices, methods and activities in the conduct of gaming;
9 provided that the enterprise or labor organization may appeal a
10 determination in the manner provided pursuant to the Maine
11 Administrative Procedure Act.

12 **§5009. Standards of operation and management**

14 The state gaming agency shall adopt standards of operation
15 and management to govern all gaming operations by the licensed
16 gaming operator. The standards must protect the public interest
17 in the integrity of the gaming operations and must reduce the
18 dangers of unsuitable, unfair or illegal practices and methods
19 and activities in the conduct of gaming.

20 **§5010. Rules**

22 Not later than 90 days after the effective date of this
23 chapter, the state gaming agency shall propose rules providing
24 for the application procedure and minimum requirements for
25 selection as a licensed gaming operator, selection of the site,
26 the licensing of gaming employees, the registration of gaming
27 services enterprises and other aspects of the gaming facility.
28 Rules proposed by the state gaming agency pursuant to this
29 section are major substantive rules pursuant to Title 5, chapter
30 375, subchapter 2-A.

32 **§5011. State assessment for costs of oversight**

34 **1. Imposition of assessment for state regulatory**
35 **expenditures.** The State shall make annually an assessment
36 sufficient to compensate the State for the reasonable and
37 necessary costs of regulating gaming operations and conducting
38 law enforcement investigations pursuant to this chapter. The
39 assessment must include any costs of fringe benefits for
40 personnel.

42 **2. Procedure for assessments.** On or before August 1st
43 annually, starting with the first August 1st following the
44 commencement of gaming operations under this chapter, the State
45 shall render to the licensed gaming operator a statement of the
46 total cost of regulation and law enforcement for the preceding
47 fiscal year ending June 30th, together with proposed assessments
48 for the forthcoming fiscal year based on the preceding fiscal
49 year cost, except that, in the first year after the effective
50 year cost, except that, in the first year after the effective

2 date of this chapter, the assessment must be prospective and
3 based upon a pro rata allocation of costs in the year in which
4 this chapter becomes effective and must be established following
5 consultation with the licensed gaming operator. On September 1st
6 annually, the State, after receiving any objections to the
7 proposed assessments and making such changes or adjustments as
8 may be indicated, shall provide a written notice that assesses
9 the licensed gaming operator for the costs of regulation and law
10 enforcement. Annually, the licensed gaming operator shall pay
11 1/3 of the assessment within 20 days of the receipt of the
12 written notice and shall pay the remaining 2/3 of the assessment
13 in 2 equal payments on January 1st and April 1st. The payments
14 must be deposited with the State Treasurer. The money deposited
15 must be credited to the General Fund and must be accounted for as
16 the State considers appropriate.

17 3. Procedure for appeal of assessments. If the licensed
18 gaming operator is aggrieved because of any assessment levied
19 pursuant to this chapter, the licensed gaming operator, not later
20 than one month from the time provided for the payment of the
21 assessment, may appeal the assessment to the Superior Court for
22 Kennebec County.

23 4. Adjustment of excess assessments. In the event that the
24 total assessment paid by the licensed gaming operator during any
25 fiscal year of the State exceeds the reasonable and necessary
26 costs of regulating gaming operations and conducting law
27 enforcement investigations pursuant to this chapter during that
28 fiscal year, the State shall adjust the assessment for the
29 succeeding fiscal year in the amount necessary to offset such
30 excess assessment. If the licensed gaming operator is aggrieved
31 because of any failure by the State to make such an adjustment,
32 any claim for such an adjustment must be presented in the appeal
33 of the assessment as provided in subsection 3.

34 **§5012. Enforcement**

35 1. State gaming agency. The state gaming agency shall
36 employ nonuniformed inspectors who are present in all gaming
37 facilities during all hours of operation and who are under the
38 supervision of personnel accountable solely to the state gaming
39 agency and not to any management employees of the licensed gaming
40 operator. Such inspectors must have unfettered access to all
41 areas of the gaming facilities at all times, and personnel
42 employed by the licensed gaming operator shall for such purposes
43 provide the inspectors access to locked and secure areas of the
44 gaming facilities in accordance with the standards of management
45 and operation adopted pursuant to section 5009. The inspectors
46 shall report any failure by the licensed gaming operator to
47 comply with this chapter. Inspectors assigned by the state
48 comply with this chapter. Inspectors assigned by the state
49 comply with this chapter. Inspectors assigned by the state
50 comply with this chapter. Inspectors assigned by the state

2 gaming agency shall also receive consumer complaints within the
4 gaming facilities and shall assist in seeking voluntary
6 resolution of such complaints. The state gaming agency may
8 investigate any report of a failure to comply with this chapter
10 or the applicable rules of the state gaming agency and may
12 require the licensed gaming operator to correct the failure upon
14 such terms and conditions as the state gaming agency may
16 determine necessary. The licensed gaming operator shall prepare
18 a plan for the protection of public safety and the physical
20 security of patrons in its gaming facilities, following
consultation and agreement with the state law enforcement agency,
the security department of the licensed gaming operator and the
state gaming agency. The licensed gaming operator shall provide
the state gaming agency with copies of its floor plans and
surveillance systems for its gaming facilities and confer with
the state gaming agency regarding the adequacy of such plans and
systems. The state gaming agency shall require that all security
incidents and patron complaints reported by or to the security
department of the licensed gaming operator be reported on a daily
basis to the state gaming agency.

22 2. Audit. State gaming agency personnel must have access
24 to all areas of the gaming facilities without prior notice for
26 the purpose of audits of the licensed gaming operator. Personnel
28 employed by the state gaming agency may attend the regular count
30 conducted by the licensed gaming operator in accordance with the
32 standards of operation and management adopted pursuant to section
34 5009. Personnel employed by the state gaming agency may not
36 interfere with the conduct of the gaming operations at the site
38 except as may be required to perform the audit functions.
40 Auditors employed by the state gaming agency must have unfettered
42 access during ordinary hours of operation to inspect and copy all
44 records, including computer log tapes, of the licensed gaming
46 operator. All records of the licensed gaming operator must be
48 considered confidential and proprietary financial information
50 belonging to the licensed gaming operator and must be protected
by the State from public disclosure without the express written
consent of the licensed gaming operator. The licensed gaming
operator shall cause its gaming operations to be subjected to an
annual audit by an independent certified public accountant in
accordance with procedures adopted by the independent auditor
following consultation with the state gaming agency. The audit
must include any additional procedures required by the state
gaming agency not otherwise required by the independent auditor,
which additional procedures must be performed at the sole expense
of the state gaming agency. The state gaming agency must be
provided an opportunity to review the audit findings with the
independent auditor prior to issuance of the audit report and
must receive copies of the audit report, engagement letter,
management's representation letter, lawyer's contingency letter

and such other workpapers as the state gaming agency considers necessary.

3. Investigations; subpoena powers. The state gaming agency may conduct such investigations and may employ subpoena powers with which it may be vested under the laws of the State as it considers appropriate to investigate violations of this chapter with respect to the licensed gaming operator.

4. Enforcement authority of state gaming agency. If the state gaming agency determines that the licensed gaming operator is not in compliance with the provisions of this chapter, the state gaming agency shall deliver a notice of noncompliance to the licensed gaming operator setting forth the nature of the noncompliance and the action required to remedy the noncompliance before commencing any enforcement action.

5. Civil penalties. Subject to such rules as may be adopted by the state gaming agency, the state gaming agency may levy and collect appropriate civil penalties, not to exceed \$25,000 per violation, against the licensed gaming operator or any gaming services enterprise subject to section 5008, subsection 1 for any violation of this chapter or standard of operation adopted under this chapter. A penalty may not be levied under this subsection except upon a written complaint delivered by the state gaming agency to the licensed gaming operator and, if applicable, the affected gaming services enterprise stating the alleged acts or omissions that provide the basis for the penalty and the specific statutory provisions alleged to have been violated. The state gaming agency shall, by rule, provide an opportunity for appeal and hearing before the state gaming agency of any penalty levied by the state gaming agency under this subsection. A decision of the state gaming agency to levy a civil penalty under this subsection, following any such review, constitutes final agency action subject to judicial review in the manner provided by the Maine Administrative Procedure Act.

§5013. Application of state regulatory standards

1. Health and safety standards. A gaming facility is subject to the laws and rules of the State relating to public facilities with regard to building, sanitary and health standards and fire safety and to the laws and rules of the State relating to water discharges by public facilities.

2. Regulation of alcoholic beverages. Service of alcoholic beverages within a gaming facility is subject to the laws and rules of the State applicable to the sale or distribution of alcoholic beverages. The price of an alcoholic beverage sold to

2 a gaming customer in partial consideration for amounts wagered
3 need not be billed by separate charge to the individual customer;
4 provided that the price of each alcoholic beverage determined
5 sold to a gaming customer in partial consideration for amounts
6 wagered may be no less than the price required for such sales
7 pursuant to the laws of the State and must be separately
8 accounted for by the licensed gaming operator. Any tax due under
9 the laws of the State for the retail sale of such beverages must
10 be paid with respect to such sales, and daily and monthly records
11 must be maintained with respect to such sales and be available
12 for inspection by the state gaming agency and by the Department
13 of Public Safety, Bureau of Liquor Enforcement.

14 3. Traffic standards. The licensed gaming operator shall
15 provide access from gaming facilities located on the site onto
16 public highways of the State adequate to meet standards of the
17 Department of Transportation or shall enter into agreements with
18 the Department of Transportation for the provision of such access
19 by the State, including provisions for compensation by the
20 licensed gaming operator of the costs incurred by the State in
21 constructing such improvements to the public highways, including
22 traffic control signals, as may be necessary. The State shall
23 cooperate with the licensed gaming operator in providing at the
24 expense of the licensed gaming operator such signs as are
25 reasonable and appropriate in order to permit members of the
26 traveling public to locate the site from the major road
27 approaches.

28 **§5014. State taxation and revenue sharing**

29
30
31 1. Property taxes. All real or personal property owned by
32 the licensed gaming operator in connection with gaming operations
33 and other activities at the site is subject to levy and
34 collection of real and personal property taxes by any taxing
35 authorities, including municipalities having jurisdiction over
36 the site.

37 2. State corporation taxes. The licensed gaming operator
38 is subject to state corporation taxes in accordance with its
39 particular form of organization. With respect to gaming
40 operations and other activities at the site, the licensed gaming
41 operator is subject to all sales and use taxes, including liquor
42 and tobacco taxes, of general application within the State.

43
44 3. Gaming license fee. So long as no change in state law
45 occurs to tax or exact any fee on the gaming operations or other
46 activities at the site except as provided in subsections 1 and 2,
47 the licensed gaming operator shall pay to the State an annual fee
48 equal to a percentage not less than 25% of the gross revenues of
49 gaming operated by the licensed gaming operator, the fee to be
50

deemed for all purposes of state law a valid business expense. For purposes of this subsection, "gross revenues" means the total sum wagered less amounts paid out as prizes. The fee is payable on or before the 15th day of each month. On each such day other than July 15th, the fee is that percentage as determined under the licensing agreement with the licensed gaming operator of the gross revenues of the licensed gaming operator from the operation of gaming during the portion of the fiscal year of the State concluding on the last day of the preceding calendar month. On July 15th of each year, the fee is that percentage as determined under the licensing agreement with the licensed gaming operator of the gross revenues of the licensed gaming operator from the operation of gaming during the preceding fiscal year of the State. In either case, the cumulative amount of the fee paid by the licensed gaming operator prior to such date with respect to the operation of gaming during the applicable fiscal year of the State must be deducted from the fee due on the 15th day of each month. The licensed gaming operator shall provide the State with detailed reporting of the gross revenues of gaming and the determination of the fee under this subsection, which is subject to audit by the State in accordance with this chapter.

4. Use of revenue. The amounts paid to the State pursuant to subsection 3 must be deposited by the State Treasurer and allocated as follows:

A. A portion of amounts paid to the State pursuant to subsection 3 must be allocated by the State in each year to pay for mitigation of costs resulting from gaming operations conducted pursuant to this chapter; and

B. Of the amounts paid to the State pursuant to subsection 3 that are not allocated pursuant to paragraph A:

(1) Ninety percent must be allocated each year to supplement, not supplant, the statutorily required deposits to be made to the Local Government Fund established under Title 30-A, section 5681 to be used for residential property tax relief;

(2) Five percent must be allocated in each year to provide gambling addiction services; and

(3) Five percent must be allocated in each year to the Maine State Grant Program, Title 20-A, chapter 419-A.

5. Annual report. The Department of Administrative and Financial Services, Bureau of Revenue Services shall issue an annual report to the Legislature, on or before February 1st, that includes a detailed statement of the aggregate gross revenues

2 paid to the State pursuant to subsection 3 and the allocations
3 made by the State pursuant to subsection 4.

4 **§5015. Johnson Act exemption**

6 Pursuant to the provisions of 15 United States Code, Section
7 1172 governing the transportation of gambling devices in
8 interstate and foreign commerce, the State exempts from that
9 statute the transportation of any gambling device used or
10 intended for use at, and transported to or from, a gaming
11 facility operated under this chapter.

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13 **Sec. 2. Statutory referendum procedure; submission at statewide**
14 **election; form of question; effective date.** This Act must be submitted
15 to the legal voters of the State of Maine at the next statewide
16 election in the month of November following passage of this Act
17 as a competing measure with Initiated Bill 1, Legislative
18 Document 1370 of the 121st Legislature, "An Act To Enact the
19 Maine Tribal Gaming Act." The municipal officers of this State
20 shall notify the inhabitants of their respective cities, towns
21 and plantations to meet, in the manner prescribed by law for
22 holding a statewide election, to vote on the acceptance or
23 rejection of this Act by voting on the following question:

24
25 "Do you want the Maine Casino Gaming Act to become law to
26 allow a competitive bidding process to select the operator
27 of a casino in Maine and to build the casino in an area with
28 high unemployment, low wages and available housing?"

29
30 The legal voters of each city, town and plantation shall vote by
31 ballot on this question and the question established by the
32 Secretary of State for Initiated Bill 1 and shall designate their
33 choice by a cross or check mark placed within a corresponding
34 square next to either the question relating to Initiated Bill 1,
35 the question relating to the competing measure or an option
36 against both Initiated Bill 1 and the competing measure. The
37 ballots must be received, sorted, counted and declared in open
38 ward, town and plantation meetings and returns made to the
39 Secretary of State in the same manner as votes for members of the
40 Legislature. The Governor shall review the returns and, if it
41 appears that a majority of the legal votes are cast in favor of
42 the Act, the Governor shall proclaim that fact without delay, and
43 the Act takes effect 30 days after the date of the proclamation.
44 The Secretary of State shall prepare and furnish to each city,
45 town and plantation all ballots, returns and copies of this Act
46 necessary to carry out the purpose of this referendum.'

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SUMMARY

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This amendment is offered as a competing measure to Initiated Bill 1. It authorizes the state gaming agency to develop selection criteria and select and license, through a competitive bid process, a licensed gaming operator to operate a casino in Maine. The selection must maximize the benefit of the casino to the people of this State. Part of the selection criteria is the fee that the licensed gaming operator will pay from the gaming revenues. Other criteria include selection of a site in an area in which there is higher than average unemployment, lower than average wages, a loss of population or workforce because of business closings and proximity to affordable housing.

FISCAL NOTE REQUIRED
(See attached)



**121st Maine Legislature
Office of Fiscal and Program Review**

LD 1370

An Act to Enact the Maine Casino Gaming Act

LR 2023(02)

Fiscal Note for Initiated Bill as Amended by Committee Amendment " "

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Initiated Bill - Potential Referendum Costs

Potential Costs - General Fund

Potential Revenue Increase - Other Special Revenue Funds

Correctional and Judicial Impact Statements

Potential increase of criminal and civil cases filed in the courts.

Referendum Costs

Month/Year	Election Type	Question	Length
Nov-03	General	Initiated Bill	Standard

The Secretary of State's budget includes sufficient funds to accommodate one ballot of average length for the general election in November. If the number or size of the referendum questions increases the ballot length, an additional appropriation of \$8,000 or more may be required. If the number of questions exceeds the limit that can be printed on one ballot, the Secretary of State will require an additional appropriation of \$121,392 for the cost of a second ballot. This is a competing measure to the original initiated bill. If enacted by the Legislature, this amended bill and the original initiated bill must both be submitted to the voters in November 2003, resulting in at least two questions on the ballot in November. The final costs to the Secretary of State will depend on the total number of questions on the statewide ballot and can not be determined at this time.

Fiscal Detail and Notes

The implementation of this bill is contingent upon approval by the voters, by the local governmental body where the casino is proposed and by a vote of the Penobscot Nation and the Passamaquoddy Tribe.

If these contingencies are met, this bill will increase dedicated revenue collected by the State. The State's share of the revenue will vary depending on the location and size of the casino and resort. The revenue received by the State, equal to 25% of the gross revenue of video facsimile, will be distributed as follows: 90% to the Local Government Fund; 5% for gambling addiction services; and 5% to the Finance Authority of Maine for enhancing postsecondary opportunities for students.

In addition, this bill establishes an assessment for state regulatory and law enforcement expenditures that will be received as General Fund revenue. The amount of the additional costs that will be incurred by the Department of Public Safety will be \$2,279,656 for the first full year of operation and \$2,260,312 for each year thereafter. The additional costs for the Department of the Attorney General will be \$366,240 for the first full year of operation and each year thereafter. If this bill is approved by the voters, the Second Regular Session of the 121st Legislature will be required to appropriate these amounts to the aforementioned departments. The Bureau of Revenue Services can absorb the costs pertaining to this bill within currently budgeted resources. The shift of expenditures from Lottery ticket sales and Pari-mutuel wagering to the casino will reduce both General Fund and dedicated revenue.

Presented below is an example of the potential revenue that may be generated by a casino assuming that it is located in southern Maine with a facility that includes a 200,000 square-foot casino, 875-room hotel, 2,000-seat theater, 100,000 square-foot convention center, 20,000 square-foot spa and 10 restaurants and nightclubs.

	Year 1	Year 2	Year 3	Year 4	Year 5
Gaming Revenue - Total	\$495,600,000	\$548,200,000	\$575,610,000	\$592,900,000	\$610,700,000
Share from Video Facsimile	\$386,568,000	\$427,596,000	\$448,975,800	\$462,462,000	\$476,346,000
25% Annual Fee to State	\$96,900,000	\$106,800,000	\$112,200,000	\$115,600,000	\$119,100,000
Required Distribution of Annual Fee to State:					
90% to Local Gov't Fund	\$87,210,000	\$96,120,000	\$100,980,000	\$104,040,000	\$107,190,000
5% to Gambling Addiction	\$4,845,000	\$5,340,000	\$5,610,000	\$5,780,000	\$5,955,000
5% to FAME to Non-profits	\$4,845,000	\$5,340,000	\$5,610,000	\$5,780,000	\$5,955,000
Impact on Lottery - Diverted "Gaming/Gambling" Revenue to Casino					
5% of Gross Revenue	\$24,780,000	\$27,410,000	\$28,780,500	\$29,645,000	\$30,535,000
25% General Fund Transfer	(\$6,195,000)	(\$6,852,500)	(\$7,195,125)	(\$7,411,250)	(\$7,633,750)
Impact on Harness Racing - Diverted "Gaming/Gambling" Revenue to Casino					
2% of Gross Revenue	\$9,912,000	\$10,964,000	\$11,512,200	\$11,858,000	\$12,214,000
Loss of Revenue from diverted revenue by Fund/Account:					
General Fund	(\$148,680)	(\$164,460)	(\$172,683)	(\$177,870)	(\$183,210)
Other Special Revenue Funds					
- Purse Supplements	(\$178,416)	(\$197,352)	(\$207,220)	(\$213,444)	(\$219,852)
- Sire Stakes Fund	(\$98,129)	(\$108,544)	(\$113,971)	(\$117,394)	(\$120,919)
- Agricultural Support Fund	(\$113,988)	(\$126,086)	(\$132,390)	(\$136,367)	(\$140,461)
- Racetracks	(\$122,909)	(\$135,954)	(\$142,751)	(\$147,039)	(\$151,454)
- Promotional Board	(\$247,800)	(\$274,100)	(\$287,805)	(\$296,450)	(\$305,350)
Subtotal Dedicated Revenue	(\$761,242)	(\$842,035)	(\$884,137)	(\$910,694)	(\$938,035)
Annual Assessment for Law Enforcement and Regulatory Costs:					
- Maine State Police	\$2,279,656	\$2,260,312	\$2,260,312	\$2,260,312	\$2,260,312
- Attorney General	\$366,420	\$366,420	\$366,420	\$366,420	\$366,420