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Date: (Filing No. H-)

VETERANS AND LEGAL AFFAIRS

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 780, L.D. 1111, Bill, “An Act To Allow Maine's Harness Racing Industry To Compete with Casino Gaming”

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'PART A

Sec. A-1. 8 MRSA §1011, sub-§2-A, as amended by PL 2011, c. 417, §2, is further amended to read:

2-A. Persons eligible for casino operator license. The board may accept an application for a casino operator license to operate slot machines and table games at a casino from a commercial track that has been selected as a successful bidder by the Department of Administrative and Financial Services pursuant to section 1018-A or a commercial track licensed to operate a slot machine facility on January 1, 2011 for the same location where slot machines were operated on January 1, 2011 and any person if that person and casino satisfy the following criteria:

- A. The casino is located on a parcel of land in Oxford County that is:
 - (1) No less than 50 acres in size; and
 - (2) Located not more than:
 - (a) Thirty miles from a Level I or Level II trauma center verified as such by the American College of Surgeons or successor organization;
 - (b) Fifteen miles from the main office of a county sheriff;
 - (c) Twenty-five miles from the main office of a state police field troop;
 - (d) Thirty miles from an interchange of the interstate highway system;
 - (e) Ten miles from a fire station;

COMMITTEE AMENDMENT

1 (f) Ten miles from a facility at which harness racing was conducted pursuant
2 to a license from the State Harness Racing Commission for the 2009 racing
3 year; and

4 (g) One-half mile from a state highway as defined in Title 23, section 1903,
5 subsection 15.

6 For the purposes of this paragraph, distances are determined by measuring along the
7 most commonly used roadway, as determined by the Department of Transportation;

8 B. The criteria adopted through rulemaking by the board regarding the licensing of
9 the operation of slot machines and table games;

10 C. The operation of a casino is approved by the voters of the municipality in which
11 the casino to be licensed is located in a referendum election or by a vote of the
12 municipal officers in the municipality in which the casino is to be licensed and
13 located held at any time after October 1, 2009 and on or before December 31, 2011;

14 D. The person owns a facility that is within 10 miles of the proposed casino at which
15 harness racing was conducted pursuant to a license from the State Harness Racing
16 Commission for the 2009 racing year; and

17 E. The slot machines and table games are located and operated in the casino.

18 **Sec. A-2. 8 MRSA §1011, sub-§3**, as amended by PL 2011, c. 417, §3, is further
19 amended to read:

20 **3. Requirements for license; continued commercial track licensure.** The board
21 may not issue a license to operate a slot machine facility or a casino to any person unless
22 that person demonstrates compliance with the qualifications set forth in sections 1016 and
23 1019. To maintain eligibility for a slot machine operator license or a casino operator
24 license under subsection 2-A issued to a commercial track with slot machines or to a
25 commercial track selected as a successful bidder by the Department of Administrative
26 and Financial Services pursuant to section 1018-A, a licensed commercial track must at
27 all times maintain a license to operate a commercial track without lapse, suspension or
28 revocation. A commercial track that is issued a casino operator license pursuant to
29 section 1018-A must also comply with the requirements of the contract negotiated with
30 the Department of Administrative and Financial Services.

31 **Sec. A-3. 8 MRSA §1018, sub-§1, ¶C-1**, as amended by PL 2011, c. 417, §4, is
32 further amended to read:

33 C-1. The initial application fee for a casino operator license is \$225,000, except that
34 the initial application fee for an applicant that is a commercial track that was licensed
35 to operate slot machines as of January 1, 2011 is \$25,000. The annual renewal fee is
36 \$80,000 plus an amount, set by rules of the board, equal to the cost to the board of
37 licensing casino operators and determined by dividing the costs of administering the
38 casino operator licenses by the total number of casino operators licensed by the
39 board. In addition, a casino operator shall pay an initial gaming table fee of \$100,000
40 for the privilege to operate each gaming table for a period of 20 years as long as the
41 casino operator is licensed. Each gaming table is also subject to an annual gaming
42 table renewal fee of \$1,000. The gaming table fees authorize the casino operator to

1 conduct any authorized table game at the gaming table during the 20-year period. A
2 casino licensed in accordance with section 1011, subsection 2-A, paragraph A is not
3 required to pay the gaming table fees until after one calendar year of table game
4 operation. Fees collected in accordance with this paragraph must be deposited to the
5 Gambling Control Board administrative expenses Other Special Revenue Funds
6 account, which is a nonlapsing dedicated account. A casino operator license issued
7 pursuant to section 1018-A is not subject to the fees required by this paragraph.

8 **Sec. A-4. 8 MRSA §1018, sub-§2**, as enacted by PL 2003, c. 687, Pt. A, §5 and
9 affected by Pt. B, §11, is amended to read:

10 **2. Term of license; renewal, renewal fees.** ~~All~~ Except for a casino operator license
11 issued pursuant to section 1018-A, all licenses issued by the board under this chapter are
12 effective for one year, unless revoked or surrendered pursuant to subchapter 5. Upon
13 proper application and payment of the required fees and taxes and in accordance with
14 rules adopted by the board, the board may renew a license for an additional year if
15 municipal approval has been obtained as provided in section 1012. The board shall
16 transfer \$25,000 of the renewal fee required by subsection 1, paragraph C to the
17 municipality in which the slot machines are operated.

18 **Sec. A-5. 8 MRSA §1018-A** is enacted to read:

19 **§1018-A. Competitive bidding process for one casino operator license for**
20 **commercial track; fee submitted as part of competitive bid**

21 **1. Competitive bidding process for one casino operator license; fee.**
22 Notwithstanding any other provision of this chapter, the Department of Administrative
23 and Financial Services may, in accordance with the process for competitive bidding set
24 out in Title 5, chapter 155, subchapter 1-A, administer a process of competitive bidding
25 for the issuance of a casino operator license to an operator of a commercial track for one
26 casino to be located in York County or Cumberland County after January 1, 2014. The
27 minimum bid for a casino operator license pursuant to this section is \$50,000,000. The
28 sum provided by the successful bidder under this section must be transferred to the board
29 as a license fee when the board issues a casino operator license to the successful bidder as
30 determined by the Department of Administrative and Financial Services.

31 **2. Reimbursement of fee upon licensure of additional facilities.** If the board
32 issues a slot machine operator license or a casino operator license authorizing the
33 operation of more than 5 slot machines at any one location in the State within one year
34 after the issuance of a casino operator license under subsection 1, the board shall
35 reimburse 90% of the license fee under subsection 1. The amount of the reimbursement is
36 reduced by 10% for each year after the first year in which no other such slot machine
37 operator license or casino operator license is issued. No reimbursement may be made
38 after 9 years of the date of issuance of the license under subsection 1.

39 **Sec. A-6. 8 MRSA §1019, sub-§6**, as amended by PL 2011, c. 417, §5, is further
40 amended to read:

41 **6. Proximity of licensed casinos and slot machine facilities.** A casino operator
42 license or slot machine operator license may not be issued under this chapter to operate
43 any casino or slot machine facility located within 100 miles of a licensed casino or slot

1 machine facility. This subsection does not apply to a casino operator license issued
2 pursuant to section 1018-A and it does not prohibit a commercial track that was licensed
3 to operate slot machines on January 1, 2011 from obtaining a casino operator license for
4 the same facility where slot machines were operated as of January 1, 2011. If a
5 commercial track is initially issued a casino operator license after January 1, 2014, the
6 commercial track may relocate to a new location that is not closer to an existing casino
7 than is the original location of the track.

8 **Sec. A-7. 8 MRSA §1019, sub-§7**, as amended by PL 2011, c. 417, §6, is further
9 amended to read:

10 **7. Statewide and county referendum; municipal vote.** After January 1, 2011, ~~any~~
11 a proposed casino or slot machine facility may not be issued a license unless it has been
12 issued a license pursuant to section 1018-A or approved by a statewide referendum vote
13 and a vote of the municipal officers or municipality in which the casino or slot machine
14 facility is to be located, except that a commercial track licensed to operate slot machines
15 on January 1, 2011 is only required, as a condition to obtain a casino license, to receive
16 approval to operate a casino by means of a referendum of the voters of the county in
17 which the commercial track is located.

18 **Sec. A-8. 8 MRSA §1019, sub-§8** is enacted to read:

19 **8. Slot machine and table game operation contingent upon facility construction.**
20 A casino operator licensed pursuant to section 1018-A may not begin operation of slot
21 machines and table games prior to the completion of all phases of construction of a resort
22 that includes a hotel, spa, pool, dining facility and entertainment venue and provides for a
23 view of the racing oval from the dining facility and from the location of slot machines
24 within the facility.

25 **Sec. A-9. 8 MRSA §1020, sub-§3, ¶A**, as amended by PL 2011, c. 585, §8, is
26 further amended to read:

27 A. Except for slot machines used for training and educational purposes at
28 postsecondary institutions as provided by section 1011, subsection 1-B, the total
29 number of slot machines registered in the State may not exceed ~~3,000~~ 4,500; and

30 **Sec. A-10. 8 MRSA §1036, sub-§2-D** is enacted to read:

31 **2-D. Distribution of table game income and slot machine income from a casino**
32 **issued a license subject to competitive bidding.** A casino operator that was issued a
33 license subject to competitive bidding pursuant to section 1018-A shall submit 1% of the
34 gross slot machine income to the Treasurer of State for deposit in the General Fund for
35 the administrative expenses of the board. The casino operator shall submit 39% of net
36 slot machine income and 16% of net table game income to the board, which shall
37 distribute that revenue as follows:

38 A. Eleven percent must be forwarded to the Treasurer of State, who shall credit the
39 money to the fund established in section 298 to supplement harness racing purses;

40 B. Four and one-half percent must be forwarded to the Treasurer of State, who shall
41 credit the money to the Agricultural Fair Support Fund established in Title 7, section
42 91;

1 C. Four and one-half percent must be forwarded to the Treasurer of State, who shall
2 credit the money to the Sire Stakes Fund created in section 281;

3 D. Four and one-half percent must be forwarded to the municipality in which the slot
4 machines and table games are located;

5 E. One and one-half percent must be forwarded to the municipalities that abut the
6 municipality in which the slot machines and table games are located. The revenues
7 must be paid in equal portions to each municipality;

8 F. One percent must be forwarded to the Treasurer of State, who shall credit the
9 money to the Fund to Stabilize Off-track Betting Facilities established by section 300.
10 The amount distributed under this paragraph must be divided equally among the
11 eligible off-track betting facilities except that no off-track betting facility may receive
12 more than 25% of the amount forwarded to the board under this paragraph. Any
13 revenues remaining after distribution to off-track betting facilities must be credited to
14 the General Fund. An off-track betting facility is eligible for a distribution under this
15 paragraph if it was licensed by the State Harness Racing Commission to conduct and
16 actually conducted wagering operations for a minimum of 250 days during the
17 preceding 12-month period in which the first payment to the fund is required.

18 G. Seventy-three percent must be deposited to the General Fund for administrative
19 expenses of the board in accordance with rules adopted by the board under section
20 1003, subsection 1, paragraph B, except that of the amount calculated pursuant to this
21 paragraph, \$100,000 must be transferred annually to the Gambling Addiction
22 Prevention and Treatment Fund established by Title 5, section 20006-B.

23 **PART B**

24 **Sec. B-1. Issuance of casino operator license.** Notwithstanding the Maine
25 Revised Statutes, Title 8, chapter 31, subchapter 2, or any other provision of law to the
26 contrary, the Department of Public Safety, Gambling Control Board shall issue a casino
27 operator license according to the provisions of the Maine Revised Statutes, Title 8,
28 section 1018-A and this Part to a commercial track that is the best-value bidder selected
29 by the Commissioner of Administrative and Financial Services, referred to in this Part as
30 "the commissioner."

31 **1. Solicit bids.** In accordance with the competitive bidding process outlined in Title
32 5, chapter 155, subchapter 1-A, the commissioner shall solicit bids for the operation of a
33 new casino to be located in York County or Cumberland County. The minimum bid for a
34 casino operator license pursuant to this section is \$50,000,000.

35 **2. Submission deadline; application fee.** A bid submitted pursuant to this section
36 must be:

37 A. Submitted no later than September 30, 2014; and

38 B. Accompanied by a nonrefundable application fee of \$250,000, which must be
39 credited to an Other Special Revenue Funds account within the division of purchases
40 within the Department of Administrative and Financial Services to be used to defray
41 the costs of managing the application process and for determining the market value
42 for a casino operator license as required by this section.

1 **3. Determination of market value for casino operator license.** Prior to the award
2 of a license to operate a casino subject to the requirements in Title 8, section 1016 and in
3 accordance with this section, the commissioner shall contract with an independent
4 consulting firm for the purpose of determining the current market value of a casino
5 operator license in York County or Cumberland County. The determination of market
6 value must take into consideration payments made by existing casino licensees as part of
7 a contract to purchase a licensed existing casino or similar contracts between casino
8 operators and entities that may have funded efforts to pass legislation authorizing the use
9 of slot machines in the State within the past 15 years.

10 **4. Information provided by bidders.** A bid submitted pursuant to this section must
11 include the building plans and site designs for the proposed casino and information
12 regarding:

13 A. The bidder's financial capacity and access to capital for use in maintaining the
14 proposed casino;

15 B. How the proposed location of the proposed casino would benefit the State;

16 C. The bidder's knowledge of the gaming industry or a related field;

17 D. The bidder's knowledge of and experience in operating a commercial harness
18 racing track;

19 E. The impact that the bidder's overall proposal will have on the economy,
20 employment and revenues of the host municipality, abutting municipalities, the host
21 county and the State; and

22 F. The bidder's willingness to construct a destination resort gaming facility with
23 harness racing, slot machines and table games.

24 A bidder must include with the information submitted pursuant to this subsection a
25 statement of whether or not the bidder has been found to have violated any state or
26 federal law or rule governing gaming and attesting to the good moral character of the
27 bidder and any principal officer of the bidder.

28 **5. Award of contract.** The commissioner shall review the bids submitted pursuant
29 to this section, consider the information provided pursuant to subsections 3 and 4 and
30 award the contract to the best-value bidder. The commissioner shall give preference to
31 any bidder who has demonstrated experience providing entertainment to residents of the
32 State through wagering on harness racing.

33 **6. Contract requirements.** As part of the contract awarded pursuant to this Part, the
34 bidder must agree according to Title 8, section 1019, subsection 8 to:

35 A. Construct a resort that includes a hotel, spa and pool and multiple dining options;

36 B. Construct an integrated, 5/8-mile, all-weather-surface harness racing track located
37 at the resort;

38 C. Include an entertainment venue at the resort; and

39 D. Include retail space at the resort.'

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SUMMARY

This amendment replaces the bill and is the minority report of the committee. The amendment establishes a competitive bidding process for a resort casino in York County and Cumberland County that includes a minimum bid of \$50,000,000 for a license fee. The competitive bidding process is administered by the Department of Administrative and Financial Services and requires that preference be given to a bidder who has demonstrated experience in providing entertainment to residents of the State through wagering on harness races. The amendment provides that a portion of the fee paid for a casino operator license subject to the competitive bidding process must be reimbursed by the Department of Public Safety, Gambling Control Board if another casino or slot machine facility with more than 5 slot machines is licensed within 10 years of the award of the casino operator license. The amendment provides for a \$250,000 application fee, which is to be used to defray the cost of the process and to fund a study to determine the fair market value of a resort casino license in York County and Cumberland County. The amendment provides that 1% of the gross slot machine revenue from the casino licensed pursuant to competitive bidding will be credited to the General Fund. It further provides that the Gambling Control Board must collect 39% of the net slot machine revenue and 16% of the net table game revenue and distribute it as follows: 11% to supplement harness racing purses; 4.5% to the Sire Stakes Fund; 4.5% to the Agricultural Fair Support Fund; 4.5% to the host municipality; 1.5% divided among abutting municipalities; 1% to the Fund to Stabilize Off-track Betting Facilities; and 73% to the General Fund.

FISCAL NOTE REQUIRED

(See attached)