



January 18, 2011

By First Class Mail

John D. Red Eagle, Principal Chief
Osage Nation
P.O. Box 779
Pawhuska, OK 74056

Re: Osage Nation gaming ordinance amendments

Dear Principal Chief Red Eagle:

This letter responds to your request for the National Indian Gaming Commission to review and approve two amendments enacted by Bill Nos. ONCA 10-73 and 11-09. ONCA 10-73 increases the number of Gaming Commissioners from one to three and creates a Commission Director. ONCA 11-09 includes the following amendments:

- Adds notices regarding the Privacy Act and false statements;
- Provides the Commission with broader authority regarding gaming and non-gaming licenses; and
- Revises its patron dispute resolution system consistent with its compact with the State of Oklahoma.

Thank you for bringing these amendments to our attention and for providing us a copy of the updated ordinance. The ordinance is approved as it is consistent with the requirements of the Indian Gaming Regulatory Act and the NIGC's regulations. If you have any questions, please feel free to contact Staff Attorney Dawn Sturdevant Baum at 202-632-7003.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tracie Stevens".

Tracie Stevens
Chairwoman

1 OSAGE NATION CONGRESS

2
3 1st Session of the 2nd Congress

4
5 BILL NUMBER ONCA 10-73

6
7 ENROLLED

8
9 October 4, 2010

OCT 22 2010

10
11 SPONSOR: Mark Simms

12
13 CO-SPONSOR(S): Geoffrey Standing Bear

14
15 **An Act**

16 To amend the Osage Nation Gaming Law by establishing three (3) Commissioners on the Gaming
17 Commission; to establish a Commission Director within the Gaming Commission.

18
19 *Be it enacted by the Congress of the Osage Nation:*

20
21 **SECTION 1. AMENDING ONCA 07-09**

22
23 The Osage Nation Gaming Law, ONCA 07-09, Sections 2 through 12, shall be
24 amended to read as follows:

25
26 **"SECTION 2. FINDINGS; PURPOSE**

27
28 (a) FINDINGS. The Osage Nation Congress finds that:

- 29 1. The Osage Nation adopted a new Constitution on Saturday, March 11, 2006.
30 2. The existing Osage Tribe Gaming Ordinance was enacted on March 14, 2005,
31 prior to the creation of the 2006 Constitution of the Osage Nation and should be
32 updated to reflect the Constitutional framework of the Osage Nation.

33 (b) PURPOSE.

34 The purpose of this law is to update the Osage Nation Tribal Ordinance so it will
35 be consistent with the powers and authorities established in the Constitution of the Osage
36 Nation as ratified on March 11, 2006 and signed on May 6, 2006.

37
38 **SECTION 3. TITLE**

39 The title of the law shall be the "Osage Nation Gaming Law".

40
41 **SECTION 4. DEFINITIONS.** Unless a different meaning is set forth below, the terms used
42 in this chapter shall have the same meaning as defined in the Indian Gaming Regulatory
43 Act, Public Law 100-497, 102 Stat. 2467 (Oct. 17, 1988), 25 U.S.C. 2701 et seq. (IGRA).

44 (a) "Applicant" means any person, partnership, corporation, joint venture or other entity
45 applying for, or requesting renewal of, any license described in or required by this
46 chapter.

47 (b) "Application" means a request for the issuance or renewal of a license described in or

48 required by this chapter.

49 (c) **"Congress"** means the Osage Nation Congress.

50 (d) **"Chairman"** means the Chairman of the National Indian Gaming Commission
51 defined at 25 U.S.C. 2703(2), unless specified as the Chairman of the Osage Gaming
52 Commission.

53 (e) **"Class II Gaming"** means Class II Gaming as defined at 25 U.S.C. 2703(7)(A), and
54 any regulations promulgated hereunder.

55 (f) **"Class III Gaming"** means Class III Gaming as defined at 25 U.S.C. 2703(8), and any
56 regulations promulgated hereunder.

57 (g) **"Commission"** means the Office of the Commissioners of the Osage Nation Gaming
58 Commission, the Commission Director and the Commission employees.

59 (h) **"Commission Director"** means the person employed by the Gaming Commissioners
60 authorized to supervise and administer the daily licensing, compliance and enforcement
61 duties of the Commission.

62 (i) **"Commissioner"** means a Public Officer appointed by the Principal Chief and
63 confirmed by the Osage Nation Congress to carry out the duties of the Gaming Statute of
64 the Osage Nation, or as authorized by any other gaming Statutes, resolutions, or laws
65 enacted by the Osage Nation Congress.

66 (j) **"Fiscal Year"** means the period beginning at 12:01 a.m. on October 1 of each year
67 and ending at midnight, September 30 of the following year.

68 (k) **"Gaming"** means any Class II or Class III Gaming activity, either individually or
69 collectively, whether authorized or unauthorized.

70 (l) **"Gaming Device"** means any equipment or mechanical, electromechanical or
71 electronic contrivance, component or machine, used remotely or directly in connection
72 with any gaming which affects the result of a wager by determining or predicting the
73 outcome of such game or the odds of winning or losing such game. The term shall be
74 broadly construed to promote the purposes of this chapter and shall also include any
75 devices, machines, components or contrivances which do or are capable of affecting, in
76 any way, the playing of any gaming.

77 (m) **"Supplier or Vendor of Gaming Goods and Services"** means any person who
78 manufactures, sells, leases, distributes, supplies or makes modifications to, any gaming
79 device of the Nation and all persons holding any direct or indirect financial interest in
80 such gaming device supplier.

81 (n) **"Gaming Establishment"** means any premises where gaming is operated or
82 conducted on the Nation's Indian Lands and includes all buildings, improvements,
83 appurtenances, equipment and facilities used or maintained in connection with such
84 gaming.

85 (o) **"Gaming Operation"** means any business enterprise owned by the Nation, the
86 revenues of which are primarily derived from gaming or from any gaming establishment.

87 (p) **"Gross Revenue"**. *Gross revenue* means the total of all of the following, less the total
88 of all cash paid out as losses to patrons and any items made deductible as losses by
89 calculation of gross revenues:

90 (i) Cash received as winnings;

91 (ii) Compensation received for
92 conducting any game in which the licensee is not a party to
93 a wager.

For the purposes of this definition, cash or the value of non-cash prizes awarded to patrons in a contest or tournament are not losses. The term does not include:

- (i) Counterfeit money or tokens;
- (ii) Coins of other countries which are received in gaming devices;
- (iii) Cash taken in fraudulent acts perpetrated against a licensee for which the licensee is not reimbursed; or
- (iv) Cash received as entry fees for contests or tournaments in which the patrons compete for prizes.

Calculation of Gross Revenues. Certain expenses are not deductible.

- (1) In calculating gross revenue, any prizes, premiums, drawings, benefits or tickets which are redeemable for money or merchandise or other promotional allowance, except money or tokens paid at face value directly to a patron as the result of a specific wager and the amount of cash paid to purchase an annuity to fund winnings must not be deducted as losses from winnings.
- (2) In calculating gross revenue from gaming devices, the actual cost to the licensee of any personal property distributed to a patron as the result of a legitimate wager may be deducted as a loss, but not travel expenses, food, refreshments, lodging or services. For the purposes of this section, "as the result of a legitimate wager" means that the patron must make a wager prior to receiving the personal property, regardless of whether the receipt of the personal property is dependent on the outcome of the wager.

(q) **"Indian Lands"** shall have the same meaning as set forth in the Indian Gaming Regulatory Act.

(r) **"Key Employee"** shall have the same definition as set forth in 25 C.F.R. Part Section 502.14.

(s) **"License"** means any authorization granted by the Commission, pursuant to this chapter, to any person which is required for such person to perform certain acts or engage in certain activities. The issuance of a license shall not create a property or liberty interest in such license for the benefit of the licensee.

(t) **"Licensee"** means any person who has been issued a valid and current license pursuant to the provisions of this chapter.

(u) **"Management Contract"** means any contract, agreement or other document, including all collateral agreements, establishing a relationship between the Nation's government and any person, pursuant to which such person has managerial responsibilities in or for any gaming operation.

(v) **"Management Entity or Controlling Shareholder"** means:

- (a) Any person having a direct financial interest in any management contract, including those persons who own five percent or more of any management entity's outstanding capital stock;
- (b) When a trust is a party to a management contract, any beneficiary or trustee of such trust;
- (c) When a partnership is a party to a management contract, any partner, general or limited, in such partnership;
- (d) When a corporation is a party to a management contract, any person who is an

officer or director of such corporation, or who holds five percent or more of the issued and outstanding capital stock of such corporation, either alone or in combination with a spouse, parent, child or sibling; or

(e) With respect to any non-natural person with an interest in a trust, partnership or corporation that has an interest in a management contract, all beneficiaries, trustees, partners, or directors of, and five percent stockholders of, such non-natural person.

(w) **“Management Fee”** means any monies paid from gaming revenue to any person pursuant to an NIGC approved contract to operate a gaming establishment. Such term shall not include monies paid for the operating expenses of such gaming establishment.

(x) **“Nation”** means the Osage Nation.

(y) **“Net Revenue”** means gross revenues of an Indian gaming activity less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees.

(z) **“NIGC”** means the National Indian Gaming Commission.

(aa) **“Non Gaming Revenue”** means gross revenue that is generated from any non-gaming operations.

(bb) **“Operating Expense”** means any expense incurred in the operation of gaming that is specifically designated as an operating expense in any management contract or which by operation of generally accepted accounting principles, consistently applied, is so treated.

(cc) **“Patron”** means any person who participates in gaming, or who is physically present on premises wherein or whereon gaming is conducted.

(dd) **“Person”** means any association, partnership, corporation, firm, trust or other form of business association or entity, as well as a natural person.

(ee) **“Primary Management Officials”** shall have the same meaning as set forth in 25 C.F.R. Part 502.19.

(ff) **“Rules”** means any rules governing the conduct of games or the control of internal fiscal affairs of gaming operations as may be promulgated by the Commission established pursuant to this chapter.

(gg) **“Secretary”** means the Secretary of the United States Department of the Interior.

(hh) **“Statute”** means the Osage Nation Gaming Statute, as amended from time to time, and any rules promulgated under this Statute

Chapter I

Purpose, Public Policy, Applicability and Authorizations

Section 1.01 Short Title.

This Statute shall be known and cited as the “Osage Nation Gaming Statute.”

Section 1.02 Purpose.

The Osage Nation Congress enacts this Statute in order to regulate all forms of gaming on the Nation’s Indian lands.

Section 1.03 Public Policy.

(a) All gaming which is conducted within the Nation’s Indian lands and which is otherwise authorized by law shall be regulated and licensed pursuant to the provisions of this Statute.

- (b) The Congress hereby finds and declares it to be the public policy of the Nation that:
- (1) Regulation of licensed gaming is important in order that licensed gaming is conducted honestly and that gaming is free from criminal and corruptive elements.
 - (2) Public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, associations and activities related to the operation of licensed gaming establishments and the manufacture or distribution of Gaming Devices.
 - (3) All management entities or controlling shareholders, primary management officials, key employees, gaming establishments and suppliers of gaming goods and services must therefore be licensed and controlled to protect the public health, safety, morals, good order and general welfare of the Nation.

Section 1.04 Class II and Class III Gaming Authorized.

Class II and Class III Gaming is hereby authorized to be conducted on the Nation's Indian lands; provided, however, that such Gaming shall be conducted only in accordance with the provisions of this Statute, the rules, and IGRA.

Section 1.05 Location of Gaming.

The Commission shall ensure that such gaming as it authorizes and licenses pursuant to this Statute is conducted on the Nation's Indian lands.

Section 1.06 Ownership of Gaming.

The Nation shall have the sole proprietary interest in any gaming operation authorized by this Statute. The Nation shall receive, at a minimum, not less than 60 percent of the net revenues from any gaming operation.

Section 1.07 Use of Gaming Revenue.

Net revenues from any form of gaming authorized under this Statute shall be used only for the following purposes: to fund the Nation's government operations and programs; to provide for the general welfare of the Nation and its members; to promote the Nation's economic development; to make donations to charitable organizations or to help fund operations of local government agent.

Section 1.08 Unauthorized Gaming.

Any person who commits any act of unauthorized gaming on the Nation's Indian lands shall be guilty of a crime and shall be prosecuted in the Nation's Courts or any other court of competent jurisdiction.

Section 1.09 Conduct of Games.

All gaming shall be conducted by persons duly licensed by the Commission. No person licensed by the Commission shall engage in, conduct or condone any gaming that is not conducted in accordance with such rules governing the conduct of games as may be promulgated by the Commission under this Statute.

Section 1.10 Applicability of Statute.

All provisions of this Statute shall apply to Class II and Class III Gaming including, but not limited to, all licensing and background investigation procedures.

Chapter II

Establishment, Administration and Powers of Commission

Section 2.01 Gaming Commission Established.

In order to provide for the orderly development, administration, and regulation of gaming activities within the jurisdiction for the Osage Nation, there is established the Osage Nation Gaming Commission which shall consist of three (3) Gaming Commissioners, one (1) Commission Director, and staff necessary to carry out the provisions of this Statute, and any regulations promulgated thereunder. The Gaming Commissioners shall elect a Chairman and Vice-Chairman from their membership. The Vice-Chairman shall serve as the Chairman of the Commission in the absence of the Chairman.

Section 2.02 Appointment and Term of Commissioners.

The Principal Chief shall nominate three members of the Osage Nation to serve as the Commissioners, subject to confirmation by the Osage Nation Congress. The terms of the Commissioners shall be for a period of three (3) years, from the date of confirmation. Each Commissioner is eligible to serve in the interim period between the expiration of the three year term and a Congressional confirmation granting the Commissioner a subsequent term or until the Commissioner is replaced, but the interim service period shall not exceed three (3) months.

Initial terms for Commissioners shall be staggered. When confirmed by the Congress, the first position shall be assigned a term of three(3) years, the second position shall be assigned a term of two (2) years, and the third position shall be assigned a term of one (1) year. Appointments made by the Principal Chief shall designate each appointment in accordance with this section. After the initial terms expire, all terms shall be for three (3) years.

Section 2.03 Outside Employment and Activities of Commissioners.

The Commissioners may not hold other Nation positions. The Commissioners may be engaged in business, provided, however, that the Commissioners shall not engage in any business which is subject to provisions of this Statute or which has commerce with any licensee under this Statute. The Commissioners shall post a bond with the Osage Nation in the amount of One Hundred Thousand Dollars (\$100,000.00). Such bond shall be funded from the fund appropriated to the Osage Nation Gaming Commission.

Section 2.04 Removal from Office.

(a) The Commissioners may be removed from office prior to the end of any term in accordance with Article XII of the Osage Nation Constitution for one or more of the following causes:

- (1) Dishonesty, gross misconduct, or incompetence in office;
- (2) Conviction of a felony or any crime involving dishonesty

under federal, state, or Nation law;
(3) Directly or indirectly engaging in activities or transactions constituting a conflict of interest under the laws of the Osage Nation or any other applicable laws, rules, or regulations;
(4) Being employed by the Osage Nation or by any other board or authority of the Osage Nation;

Section 2.05 Duties.

The Commission shall be charged with the responsibility of administering and enforcing the provisions of this Statute. The daily administration and enforcement duties shall be carried out by the Commission Director. It shall be the responsibility of the Commission to promulgate regulations necessary to administer provisions of this Statute. These duties shall include but not be limited to the following:

- (a) Printing and making available application forms for initial review;
- (b) Supervising the collection of all fees and taxes prescribed in this Statute;
- (c) Processing all license applications;
- (d) Issuing licenses;
- (e) Determining applicable license fees;
- (f) Auditing all enterprise income, expenditures, funds and assets;
- (g) Reviewing all gaming operation contracts, records, documents, and anything else necessary and pertinent to the financial accountability of licensees or to the enforcement of any provision of this Statute or Osage Nation Gaming Commission regulations;
- (h) Denying any application; limiting, conditioning, suspending, or restricting any license or permit; making a finding of suitability or approval of the license or permit; or a finding of suitability or approval of or the imposition of a fine upon any person licensed or permitted for any cause deemed reasonable by the Commission;
- (i) Performing additional duties as required in the Statute or any amendments thereto, or other duties that may hereafter be specified by the Commission;
- (j) Employing legal counsel with the consent of the Osage Nation under applicable laws;
- (k) Defending this Statute in any court of law;
- (l) Acting as designee agent for service of process for any legal disputes that may arise at any of the Nation's gaming facilities.
- (m) Reviewing and enforcing the Minimum Internal Control Standards of the Osage Nation or as set out by the National Indian Gaming Commission;
- (n) Any other duties that are deemed by the Commission as necessary to carry out the provisions of this Statute, the Commission's regulations, or rules of the National Indian Gaming Commission.

Section 2.06 Authority of Commission.

(a) The Commission may exercise any proper power and authority necessary to perform the duties assigned by this Statute. The Commission may organize any functional divisions as may be necessary and from time to time alter such plan of organization as may be expedient. The Commission shall recommend the Osage Nation Gaming Commission budget to the Principal Chief and Osage Nation Congress, and take any other steps necessary to fulfill the duties and responsibilities under the Statute. In adopting, amending, or repealing any Osage Nation Gaming Commission regulations, the

Commission shall give prior notice of the proposed action to all licensees and other persons whom the Commission has reason to believe have a legitimate and bona fide interest in such proposed action. The Commission shall also be responsible for ensuring that the Nation's gaming operations are constructed, maintained, and operated in a manner that adequately protects the environment, public health and safety.

(b) The Commission is a public body and it must have a quorum of two (2) Commissioners present to consider or take action on the following:

- (1) Employment or termination of Legal Counsel;
- (2) Hiring or dismissal of the Commission Director;
- (3) Initiating investigations or legal action;
- (4) Issuing Subpoenas;
- (5) Holding hearings;
- (6) Amending, repealing, or supplementing the rules and regulations of the Commission;
- (7) Changing License Fees;
- (8) Approving or executing contracts;
- (9) Approving the annual budget of the Commission prior to submission to the Principal Chief;
- (10) Approving, amending or adopting the form of license applications;
- (11) Other items deemed appropriate for consideration by the Commission as a body.

(c) The Commission Director shall have the authority to supervise and direct all staff of the Gaming Commission in accordance with the rules and regulations of the Commission. The Commission Director shall not have the authority to direct the staff to take any action that requires the approval of the Commission as a body according to Osage law or Commission rules and regulations.

(d) The Commission Director shall have supervisory and administrative authority over the processing of all gaming licenses, monitoring the compliance with the Indian Gaming Regulatory Act of each gaming facility, and general enforcement of this gaming law and all regulations issued in relation hereto.

(e) The Commissioners shall maintain the responsibility to hold hearings in accordance with Chapter V of this Act.

Section 2.07 Reports of the Commission.

The Osage Gaming Commission, through its Chairman, shall provide to the Principal Chief, Assistant Principal Chief, and Osage Nation Congress, quarterly reports of the activities of the Commission. In addition, the Chairman shall provide any other report requested by the Principal Chief, Assistant Principal Chief, and Osage Nation Congress, or as requested by the National Indian Gaming Commission.

Chapter III

Licenses, Applications and License Procedures

370
371 **Section 3.01 Gaming License Required.**

372 The Commission is hereby authorized to issue all licenses for the conduct of all gaming
373 authorized under this Statute or any other license related to gaming which the
374 Commission may by rule require.

375 (a) **Persons.** The following persons must obtain licenses as a pre-condition to
376 employment in or management of any gaming operation:

- 377 (1) Any management entity or controlling shareholder. Any person deemed a
378 controlling shareholder must comply with the same licensing requirements as if
379 such person were a primary management official; however, if any controlling
380 shareholder is a non-natural person, such controlling shareholder shall be subject
381 to management entity licensing procedures;
382 (2) All primary management officials;
383 (3) All key employees;
384 (4) Suppliers or vendors of gaming goods and services. Any person who is a
385 supplier of gaming goods and services must comply with the same licensing
386 requirements as if such person were a primary management official; however, if
387 any supplier is a non-natural person, such supplier shall be subject to management
388 entity licensing procedures; and
389 (5) Non-gaming revenue vendors.
390 (6) Any other employee or class of employees as determined by Commission
391 Rules.

392 (b) **Gaming Establishments.** Each place, facility, or location where gaming is
393 conducted must obtain a separate facility license from the Commission.
394

395 **Section 3.02 Standard for License.**

396 Licenses issued hereunder shall be issued according to requirements at least as stringent
397 as those set forth at 25 C.F.R. §§ 556 and 558, and any amendments thereto.
398

399 **Section 3.03 Application for License.**

400 (a) No license shall be issued under this Statute except upon a sworn application filed
401 with the Commission, in such form as may be prescribed by the Commission, containing
402 a full and complete showing, at a minimum, of the following:

- 403 (1) Satisfactory proof that the applicant is of good character and reputation, and is
404 financially responsible;
405 (2) If applicable, a complete description of the premises at which gaming will be
406 conducted;
407 (3) Agreement by the applicant to abide by all conditions of the license, this
408 Statute, the rules, and IGRA;
409 (4) A separately sworn statement that the applicant has never been convicted of,
410 or entered a plea of guilty or no contest to, any of the following criminal offenses:
411 (a) Any felony, other than a felony conviction for an offense under
412 subsection (b), (c), or (d), within the preceding ten years; provided,
413 however, that this record limitation to the preceding ten years shall not
414 apply to any applicant which is a management entity or controlling
415 shareholder,

- 416 (b) Any gaming-related offense,
417 (c) Fraud, misrepresentation or any other crimes of moral turpitude in any
418 context, or
419 (d) A violation of any provision of this Statute, the rules, or any other
420 Statute or rules of the Nation.
- 421 (5) The applicant's fulfillment of all applicable requirements of IGRA, all
422 provisions of this Statute, including, but not limited to, those in Chapter IV.
- 423 (b) No license shall be issued to any applicant who is determined by the Commission to
424 be a person whose prior activities, criminal record, reputation, habits or associations pose
425 a threat to the public interest or to the effective regulation and control of gaming, or
426 create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or
427 activities in the operation of gaming or the carrying on of the business and financial
428 arrangements incidental thereto.
- 429 (c) The issuance of licenses shall also be subject to the provisions of Chapter IV of this
430 Statute regarding background investigations.
- 431 (d) The following notices shall be placed on the application form for a key employee,
432 management entity, primary management official or supplier of gaming goods and
433 services before such form is completed by an Application:
- 434 (i) "In compliance with the Privacy Act of 1974, the following information
435 is provided: Solicitation of the information on this form is authorized by
436 25 U.S.C. 2701 et seq. The purpose of the requested information is to
437 determine the eligibility of individuals to be employed in a gaming
438 operation. The information will be used by the Commission, the State of
439 Oklahoma, and/or the National Indian Gaming Commission members and
440 staff who have need for the information in the performance of their official
441 duties. The information may be disclosed to appropriate federal, Tribal,
442 state, local, or foreign law enforcement and regulatory agencies where
443 relevant to civil, criminal or regulatory investigations or prosecutions or
444 when pursuant to a requirement by a Tribe or the National Indian Gaming
445 Commission in connection with the hiring or firing of an employee, the
446 issuance or revocation of a gaming license, or investigations of activities
447 while associated with a Tribe or a gaming operation. Failure to consent to
448 the disclosures indicated in this notice will result in a Tribe's being unable
449 to hire you in a primary management official or key employee position.
- 450 (ii) "The disclosure of your social security number (SSN) is voluntary.
451 However, failure to supply a SSN may result in errors in processing your
452 application.
- 453 (iii) "A false statement on any part of your application may be grounds for
454 not hiring you, or for firing you after you begin work. Also, you may be
455 punished by fine or imprisonment. (18 U.S.C. 1001)"

456
457 **Section 3.04 Required Application Forms.**

- 458 (a) Each individual applying for a license, whether as a primary management official or
459 key employee, and any person who is subject to a background investigation in connection
460 with a gaming entity application for a license, shall be required to complete the following
461 forms:

- 462 (1) Application for gaming license by individual, if
463 applicable;
464 (2) Personal history record, with attached personal financial
465 questionnaire, including statement of assets and statement of liabilities;
466 (3) Two complete fingerprint cards;
467 (4) Request to release information - individual.
468 (b) Each individual in subsection (a) of this section applying for a license renewal shall
469 supplement the personal history record and shall also be required to complete the
470 following forms:
471 (1) Application for gaming license by individual, if applicable;
472 (2) Request to release information - individual.
473 (c) Each gaming entity, including a management entity and supplier of gaming goods and
474 services, applying for a license must complete the following forms:
475 (1) Application for gaming license by entity;
476 (2) Request to release information - entity.
477 (d) Each non-gaming entity and key employees of non-gaming entities may, at the
478 discretion of the Commission, complete abbreviated application forms and releases.
479 (e) The Commission may request any additional forms or information from an applicant
480 as it deems necessary or appropriate.
481 (f) Pursuant to the compact the Commission shall create an individual file for each
482 applicant which includes the applicant's personal history record and all background
483 information compiled by the Commission.
484

485 **Section 3.05 Fingerprint Cards Required.**

486 All applicants for a license are required to submit fingerprint cards. The Gaming
487 Commission is hereby identified as the enforcement agency to take fingerprints. Pursuant
488 to 25 C.F.R. § 522.2(h), the Commission shall forward an applicant's fingerprint cards to
489 the NIGC to be processed by the Federal Bureau of Investigation National Criminal
490 Information Center. The Commission may submit an applicant's fingerprint card to any
491 additional Tribal, local or state criminal history check system or center as the
492 Commission or the Executive Director deem necessary or appropriate. Reports obtained
493 from such fingerprint processing shall be incorporated into the applicant's personnel file.
494

495 **Section 3.06 Withdrawal of Application.**

496 An application may not be withdrawn without the permission of the Commission. An
497 applicant may request to withdraw an application by submitting to the Commission a
498 written request for withdrawal. The Commission retains the right, in its sole discretion, to
499 grant or deny a request for withdrawal.
500

501 **Section 3.07 Continuing Duty to Provide Information.**

502 Applicants and licensees shall have a continuing duty to provide any materials, assistance
503 or other information required by the Commission, and to fully cooperate in any
504 investigation conducted by or on behalf of the Commission. If any information provided
505 on the application changes or becomes inaccurate in any way, the applicant or licensee
506 shall promptly notify the Commission of such changes or inaccuracies.
507

Section 3.08 Term of License; License Fees; Parameters of License.

(a) Licenses, except provisional licenses (see section 3.12 provisional license), shall be for a term of one year, and shall expire on the anniversary of the effective date of such licenses.

(b) In order for the Nation to recover the costs of complying with federal, Tribal, and state regulatory processes applicable to Class II and Class III Gaming, annual license fees shall be imposed:

(1) In the amount of \$7,500.00 annually on each party, other than the Nation, to a management contract;

(2) On any persons required to obtain a license, in accordance with a fee schedule to be established by the Commission; and

(3) In addition to the license fees imposed pursuant to subsection (b)(1) and (2) of this section, the Commission may impose such fees on licensees as are reasonably related to costs of enforcement, including investigations and proceedings before the Commission, and which will in the aggregate be sufficient to enable the Nation and the Commission to recover its reasonable costs of enforcing this Statute. Such costs may be estimated by the Commission and imposed prior to a final Commission action regarding a particular licensee or applicant.

(c) Violations of any provision of this Statute or the rules, or relevant license provisions, by a licensee shall be deemed contrary to the public health, safety, morals, good order and general welfare of the Nation and the inhabitants of the Reservation, and shall be deemed grounds for refusing to grant or renew a license, or for suspending or revoking a license. Acceptance of a license, or renewal thereof by a licensee, constitutes an agreement on the part of the licensee to be bound by the provisions of this Statute and the rules as they are now, or as they may hereafter be amended or restated, and to cooperate fully with the Commission. It is the responsibility of the licensee to remain informed of the contents of this Statute, the rules and all other applicable regulations, amendments, provisions, and conditions, and ignorance thereof will not excuse violations. A license issued hereunder is a privilege license and no right shall attach thereto.

Section 3.09 Conditions of License.

All licensees shall comply with such reasonable conditions as may be fixed by the Commission including, but not limited to, the following conditions:

(a) Facility licensees-

(1) The licensee shall at all times maintain an orderly, clean and neat gaming establishment, both inside and outside the premises of the gaming establishment;

(2) The gaming establishment shall be subject to patrol by the Nation's security and law enforcement personnel and, when authorized, local and state law enforcement, and the licensee shall cooperate at all times with such security and law enforcement officials;

(3) The gaming establishment shall be open to inspection by authorized Nation officials at all times during business hours;

(4) There shall be no discrimination in any gaming operations by reason of race, color, sex or creed; provided, however, that nothing herein shall prevent the

licensee from granting preferences to Native Americans as permitted by law; and
(b) Persons, management entities and suppliers of gaming goods and services
licensed by the Commission shall comply with such conditions of the license as the
Commission, in its reasonable discretion, may require.

Section 3.10 Facility License.

The Commission may issue an annual facility license to a gaming establishment, if the
gaming establishment:

- (a) Is a sound physical structure with adequate and safe plumbing, electrical, heating,
cooling and ventilation systems in place and operational;
- (b) Has been inspected and approved for safety by a building and fire inspector
designated by the Commission;
- (c) Is adequate in all respects to accommodate the gaming intended to be carried on
within the structure;
- (d) Is equipped with security and surveillance equipment meeting or exceeding
provisions set forth in regulations established by the Commission;
- (e) Meets all requirements of applicable federal, Nation and state law; and
- (f) Has paid all applicable license fees and costs.

Section 3.11 Certification of Gaming Devices.

All gaming devices purchased, leased or otherwise acquired by the Nation must, meet the
technical equipment standards set forth therein. The Commission shall maintain a
complete list of all gaming devices (whether or not such devices are in use) located at any
gaming establishment.

Section 3.12 Provisional License.

The Commission may issue provisional licenses pending the satisfactory completion of
all background investigations and other requirements of this Statute, IGRA, and, if
applicable, pending expiration of the 30-day NIGC review period provide for at 25
C.F.R. § 558. In no event shall a provisional license be valid for greater than 90 days,
subject to the issuance of another provisional license if such background investigations
are not completed so long as no information to date has been received which would
otherwise disqualify the applicant for a license.

**Section 3.13 Provisional Employment Pending Issuance of License and During
Temporary License Period.**

As provided in section 3.12, primary management officials and key employees may be
employed in gaming operations prior to the issuance of a license hereunder and during
the period that a license shall be effective on a provisional basis, but such employment
shall be provisional only and subject to the requirements of this section. Employment
may begin prior to issuance of a license only if the Commission has made a preliminary
finding of eligibility for employment in gaming operations, which shall require a
preliminary determination that the primary management official or key employee in
question is not a person whose prior activities, criminal record or reputation, habits or
associations pose a threat to the public interest or to the effective regulation and control
of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices,

600 methods, or activities in the operation of gaming or the carrying on of the business and
601 financial arrangements incidental thereto. Provisional employment shall be terminated
602 upon the occurrence of any of the following:
603 (a) Denial of a relevant license by the Commission;
604 (b) Unsatisfactory completion of a background investigation or NIGC review resulting in
605 nullification of a provisional license, as described in section 3.12; or
606 (c) To the extent required under 25 C.F.R. § 558 and, at the end of 30 days after the
607 starting date of provisional employment, if at the end of such period no license has been
608 issued hereunder or if a license issued hereunder remains effective only on a provisional
609 basis, as provided in section 3.12; provided, however, that provisional employees
610 terminated for the reason described in this subsection shall be qualified for reemployment
611 upon the satisfactory completion of background investigations and NIGC reviews.
612

613 **Section 3.14 Assignment or Transfer.**

614 No license issued under this Statute may be assigned or transferred unless the proposed
615 assignee or transferee would independently be qualified to hold the license proposed to
616 be assigned or transferred and the Commission approves of such assignment or transfer.
617

618
619 **Chapter IV**

620 **Background Investigations and License Decisions**

621
622 **Section 4.01 Required Background Investigations.**

623 Background investigations shall be conducted by the Commission, or other agent retained
624 by the Commission, under the supervision and direction of the Commission, on all
625 persons specified in section 3.01 of this Statute.
626

627 **Section 4.02 Standards for Background Investigations.**

628 All background investigations shall be conducted to ensure that gaming operations shall
629 not employ or contract with persons whose prior activities, or reputation, habits and
630 associations pose a threat to the public interest or to the effective regulation of gaming, or
631 create or enhance the dangers of unsuitable, unfair or illegal practices and methods and
632 activities in the conduct of such gaming. Such investigations shall be conducted
633 according to requirements at least as stringent as those set forth at 25 C.F.R. §§ 556 and
634 558, and this Chapter. Background investigations shall be conducted in a manner which
635 takes all reasonable steps to ensure the confidentiality of the information generated by the
636 investigation as well as that submitted by the applicants. Any willful or careless breach of
637 this requirement may result in a penalty ranging from censure, suspension, removal from
638 office, and a fine of up to \$5,000.00. The Commission shall have jurisdiction to hear and
639 decide upon any such claims.
640

641 **Section 4.03 Information Required for Background Investigations.**

642 (a) Each person subject to a background investigation under section 4.01 of this Statute
643 shall be required to provide, subject to the Privacy Act of 1974, to the Commission, all of
644 the following information:

- 645 (1) Full name, other names used, social security number(s), birth date, place of

- birth, citizenship, gender, all languages (spoken or written);
- (2) Currently and for the previous ten years, all business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
- (3) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under subsection (a)(2) of this section;
- (4) Current business and residence telephone numbers;
- (5) A description of any existing and previous business relationships with any Native American Indian Tribe including, but not limited to, a description of the amount and type of ownership interest in those businesses;
- (6) A description of any existing and previous business relationships with gaming including, but not limited to, a description of the amount and type of ownership interest in those businesses;
- (7) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to any gaming or gambling, whether or not such license or permit was granted;
- (8) For each felony for which there is an ongoing prosecution or conviction, the charge, the name and address of the court involved, and the date and disposition, if any;
- (9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations), within ten years of the date of the application, the name and address of the court involved and the date and disposition;
- (10) For each criminal charge (excluding misdemeanor traffic charges, but including any DWI, reckless or careless driving charges), **whether or not there is a conviction**, if such criminal charge is within ten years of the date of the application and is not otherwise listed, the type of criminal charge, the name and address of the court involved and the date and disposition of such charge;
- (11) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
- (12) A current photograph;
- (13) Any other information the Commission deems relevant; and
- (14) Fingerprints consistent with the provisions of section 3.05.

(b) Background investigations conducted by the Commission must be sufficient to make the determination described in section 4.08(a). In conducting a background investigation, the Commission or its agents, shall make every reasonable effort to maintain the confidentiality of the identity of each person interviewed in the course of the investigation. Willful or careless violations of this requirement are subject to penalty ranging from censure, suspension, removal from office and a fine of up to \$5,000.00.

Section 4.04 Completion of Investigation.

Upon completion of the investigation, the Commission may either (i) grant a license to the applicant, or (ii) notice the applicant for a hearing under Chapter V of this Statute. The Commission may notice the applicant for a hearing at any time during the

investigation.

Section 4.05 Issuance of License.

The Commission after a hearing conducted under Chapter V of this Statute, may subject to the requirements of section 4.09, issue a license only after it has determined that the following minimum requirements have been met:

- (a) The applicant has fully completed all required application forms and has provided the Commission with all other information that the Commission has requested;
- (b) The applicant meets all of the licensing requirements of this Statute;
- (c) The applicant meets all of the licensing requirements and criteria contained in the compact;
- (d) The Commission has reviewed the applicant's criminal history record and deems the applicant's criminal history to be satisfactory to hold a license; and
- (e) All applicable license fees and costs have been paid.

Section 4.06 Denial of a License Application.

The Commission, after a hearing conducted pursuant to Chapter V of this statute, may deny an applicant a license only after it has determined that the minimum requirements contained in section 4.05 have not been met by the applicant or the applicant's application, or if the Commission determines that the applicant is a person whose prior activities, criminal record, reputation, habits or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, or activities in the operation of gaming or the carrying on of the business and financial arrangements incidental thereto.

Section 4.07 Cancellation or Suspension.

Licensees and applicants shall be legally responsible for any violation of this Statute, any relevant license provisions, the rules, or IGRA. Any license issued hereunder may be canceled, limited, revoked, suspended, terminated or modified by the Commission, for the breach of any of the provisions of the license, this Statute, or rules. In addition:

- (a) Unless otherwise stated in this Statute or the rules, a licensee's attorney has the right to be present and to participate in any proceeding concerning the cancellation, limitation, revocation, suspension, termination or modification of a license;
- (b) A license may be summarily suspended, without a prior hearing, only upon notice to that effect from the NIGC; and
- (c) All decisions of the Commission regarding the cancellation, limitation, revocation, suspension, termination or modification of licenses shall be final, unless appealed as provided in Chapter V of this Statute. No gaming shall be conducted by the licensee after cancellation, even during the pendency of an appeal.

Section 4.08 Eligibility Determination and Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission.

- (a) The Commission shall review an applicant's prior activities, criminal record, reputation, habits and associations to make a finding concerning the eligibility of a key

employee or primary management official for employment in a gaming operation. If the Commission determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the gaming operation shall not employ that person.

(b) When a key employee or primary management official commences work at a gaming operation, the Commission shall within a reasonable period of time forward to the NIGC a completed application for employment for such key employee or primary management official, and shall conduct all necessary background investigations. The Commission shall make the eligibility determination referred to in subsection (a) of this section.

(c) A report shall be submitted to the NIGC within 60 days after a key employee or primary management official commences work at a gaming operation or within 60 days of the approval of this Statute by the Chairman. Such report shall, at a minimum, include all of the following:

- (1) Steps taken in conducting the background investigation;
- (2) Results obtained;
- (3) Conclusions reached by the Commission;
- (4) The Commission's basis for those conclusions; and
- (5) A copy of the eligibility determination made pursuant to section 4.08(a).

(d) Subject to the provisions of section 3.13, no gaming operation shall continue to employ as a key employee or primary management official any person who does not have a license within 90 days of commencing work at a gaming operation.

(e) If a license is not issued to an applicant, the Commission:

- (1) Shall notify the NIGC; and
- (2) May forward copies of its eligibility determination and any relevant report regarding a background investigation of the applicant to the NIGC for inclusion in the Indian Gaming Individuals Records System.

(f) With respect to key employees and primary management officials, applications for employment and reports of background investigations shall be retained by the Commission for inspection by the Chairman or his designee for no less than three years from the date of termination of employment of each key employee or primary management official.

Section 4.09 Granting a Gaming License.

(a) If, within a 30-day period after the NIGC receives all required applications and reports, the NIGC notifies the Nation that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official, the Commission may issue a license to such applicant.

(b) The Commission shall respond in a timely manner to requests for additional information from the Chairman concerning key employees or primary management officials who are the subject of any report filed with the NIGC by the Commission. Any such request by the Chairman shall suspend the 30-day period referred to in this section until the Chairman receives the additional information requested.

(c) If, within a 30-day period after the NIGC receives all required applications and reports, the NIGC provides the Nation with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom

the Commission has submitted an application and all required reports to the NIGC, the Commission shall reconsider the application, taking into account the objections itemized by the NIGC. The Commission shall make the final decision whether to issue a license to such applicant.

Section 4.10 License Revocation and Suspension Following Receipt of Information from NIGC.

(a) If, after the issuance of a license, the Nation receives information from the NIGC indicating that a management entity or controlling shareholder, key employee, or primary management official is not eligible for employment under section 4.02 of this Statute, the Commission shall suspend such license, shall notify the licensee in writing of such suspension and the potential revocation of the licensee's license, and shall conduct a hearing in accordance with the rules regarding the proposed license revocation.

(b) After a hearing, the Commission shall revoke or reinstate a license suspended pursuant to subsection (a) of this section. The Commission shall notify the NIGC of its decision. A decision of the Commission to revoke a license after the hearing called for by subsection (a) of this section shall be final and there shall be no appeal. A management entity whose license has been revoked or suspended pursuant to this section may not operate a gaming operation.

Section 4.11 Show Cause Hearing for Manager and Primary Management Officials.

Excepting the provisions of section 4.10 and notwithstanding the foregoing, in the event that the Commission obtains reliable information that the duly licensed manager and/or a primary management official may have breached any provision of this Statute, IGRA, or its license, the Commission shall issue a notice for show cause to the licensee prior to any action of suspension or the giving of notice of a revocation hearing with respect to its/their licenses. The notice for show cause shall describe the alleged breach, shall describe the steps necessary to effect a cure and shall provide the licensee with an opportunity to meet with the Gaming Commission to discuss the matter. The discontinuance or correction of the alleged breach shall constitute a cure thereof, except where such alleged breach constitutes a criminal violation by the manager or the primary management official. If the alleged breach is not corrected or discontinued as required herein, then the Gaming Commission shall institute the notice and hearing procedure set forth above.

Chapter V

Rules of Procedure for Hearings

Section 5.01 Scope of Rules of Procedure.

All hearings conducted pursuant to this Statute except hearings regarding the removal of a Commissioner and hearings resulting from patron disputes shall be governed by this Chapter of the Statute.

Section 5.02 Hearings.

(a) The Commission shall afford an applicant an opportunity for a hearing prior to any final action by the Commission on an application, other than an unconditional grant of a license.

(b) The Commission shall afford a licensee the opportunity for a hearing prior to taking final action resulting in the revocation of the license or the imposition of any penalties which the Commission is authorized to impose pursuant to these rules and the Statute.

(c) Nothing in this section shall limit the Commission's authority to summarily suspend or revoke a license without a hearing pursuant to section 4.07(b) of this chapter.

Section 5.03 Notice of Hearing.

(a) The Commission shall provide written notice to the applicant or licensee of the hearing at least seven days prior to the date set for the hearing. The day the applicant or licensee receives the notice shall be considered a full day's notice under this section. The notice shall be sent by registered or certified mail, or may be personally served upon the applicant or licensee. The notice shall state the date, time and place of the hearing. The notice shall also contain an indication of the actions being considered by the Commission including, but not limited to:

(1) Whether the Commission is holding the hearing for the purpose of obtaining further information from the applicant;

(2) Whether the Commission will be considering the grant or denial of the license application;

(3) Whether the Commission will be examining any alleged violations of the Statute, the IGRA, the conditions of any license issued by the Commission, any order by the Commission, or any other applicable laws, regulations or agreements; or

(4) Whether any other sanctions or penalties will be considered.

(b) The notice shall also contain a short, plain statement of the reasons the Commission determines the hearing is necessary.

Section 5.04 Ex Parte Communications.

(a) No *ex parte* communication relative to the actions being considered by the commission, or a threat or offer of reward shall be made, before a decision is rendered, to any member of the Commission by or on behalf of the applicant or licensee, or any legal representative or counsel of the applicant or licensee.

(b) Nothing in this section shall prohibit the applicant, licensee or its authorized agent from communicating with the Commission's legal counsel, its investigators or other authorized agents.

(c) Any member of the Commission who receives an *ex parte* communication shall immediately report such communication to the Commission's legal counsel.

(d) For purposes of this section only, the actions being considered by the Commission shall be those matters identified in the written notice as provided in section 5.03(a) of this Statute, as well as any other matters that are actually considered by the Commission during a hearing. All matters identified in the written notice shall be subject to the prohibition against *ex parte* communications. All matters not identified in the written notice that are considered by the Commission during a hearing become subject to the prohibition against *ex parte* communications as soon as they are discussed during the hearing.

(e) The Commission shall have the power to impose any sanction pursuant to this Statute upon its determination that an applicant or licensee has made an *ex parte* communication in violation of this section.

Section 5.05 Appearance through counsel.

(a) Parties to all hearings governed by this Statute may appear personally or through an attorney, except that a party must personally attend any hearing on the merits unless his attendance has been waived, in writing, by the Commission.

(b) When a party appears through an attorney, service of all notices, motions, orders, decisions and other papers shall thereafter be made upon the attorney, unless the party requests otherwise in writing.

(c) When a party is represented by an attorney, the attorney shall sign all motions, notices, requests, and other papers on behalf of the party, including a request for subpoenas.

Discovery procedures for hearings.

(a) The Commission's legal counsel and the licensee shall exchange a list of persons that each party intends to call as witnesses no later than five business days before a scheduled hearing. The day the list is received shall be considered a full day's notice under this section. Each witness shall be identified by name, if known, position, and business address. If no business address is available, a home address for the witness shall be provided. Any witness not identified in accordance with this section may be prohibited from testifying at a hearing in the Commission's discretion.

(b) The Commission's legal counsel and the licensee shall exchange a copy of all documents or tangible things that they intend to offer as evidence in support of the party's case in chief. This exchange shall be made to the opposing party no later than five business days before a scheduled enforcement hearing. The day the documents are received shall be considered a full day's notice under this section. Failure to make available any document or tangible thing in accordance with this section may, in the Commission's discretion, be grounds to deny the admission into evidence of such document or tangible thing.

Section 5.07 Confidential materials.

(a) Prior to making any documents available to the Commission's legal counsel or designated agent, the applicant or licensee may designate any document it believes to contain confidential information as subject to a confidentiality claim by so marking the document prior to providing a copy of the document to the Commission's legal counsel.

(b) Documents provided to the Commission's legal counsel or designated agent which have been marked in accordance with paragraph (a) above, and any nonpublic information contained within the document, shall not be made a part of the public record of the Commission proceedings otherwise disclosed by the Commission to any person (except as may be required under any applicable law, rule, regulation, court or administrative order, or the compact), without first providing the applicant or licensee with the opportunity to seek a ruling by the Commission that the document or nonpublic information contained therein should not be made public. The request for such a ruling and any discussions relating to the document shall be heard and ruled upon by the Commission in an executive session meeting. If the request for such a ruling is made during a public hearing session, the hearing session shall be adjourned and Commission shall conduct an executive session meeting in order to hear and rule upon the applicant's or respondent's request. The applicant or licensee may present to the Commission in executive session written and oral argument regarding the confidentiality claim, along with any facts the applicant or licensee believes to be relevant to such argument.

(c) In determining whether a document marked in accordance with subsection (a) above should be made part of the public record of the Commission proceedings on the application, the Commission will balance the applicant's claimed confidentiality concerns against the materiality of the information to the application, the public's right to be made aware of the information, and the Commission's need to make the information part of the public record in order to remain fully accountable for the licensing decision. In making this determination, the Commission shall consider all facts and circumstances relevant to making a proper ruling.

(d) In the event that the Commission rules during executive session that the document in question and/or information contained therein should be made part of the public record of the Commission's proceedings on the application, the document and/or information contained therein will be made part of the public record unless the applicant withdraws the document from the Commission's possession. In the event the applicant chooses to withdraw the document from the Commission's possession, the Commission will then weigh the withdrawal along with the other evidence in making its determination on the application. Withdrawal of documents from the application process shall be looked upon by the Commission with disfavor, and, depending on the facts and circumstances, the Commission may deem the withdrawal of any document to be sufficient cause in and of itself for denial of the license.

(e) In the event that the Commission rules during executive session that the document and/or information contained therein should not be made part of the public record, the document shall be designated "Confidential" and will not be made part of the public record. The Commission may consider the document and information contained therein in camera in making its determination on the application.

(f) At the conclusion of the Commission proceedings on the license application, the Commission will return to the applicant all documents marked as "Subject to a Confidentiality Claim" pursuant to paragraph (c) above that were not (i) made part of the public record of the gaming license application or (ii) designated as "Confidential" and considered by the Commission in camera.

956 **Section 5.08 Subpoenas.**

957 (a) The Commission has the power and discretion to issue subpoenas and to impose such
958 reasonable penalties for noncompliance.

959 (b) Subpoenas may be issued to compel any person to appear at the hearing on the merits
960 of the case, to give oral testimony, or to produce documents or other tangible things.

961
962 **Section 5.09 Hearing procedures.**

963 (a) The Commission shall preside over all hearings, and the Chairman shall call the
964 proceedings to order, control the presentation of evidence, the appearance of witnesses,
965 and the order of the proceedings.

966 (b) The Commission may require any person including, but not limited to, any applicant
967 or licensee, or any agent, employee or representative of any applicant or licensee, to
968 appear and testify before it with regard to any matter within its jurisdiction at such time
969 and place as it may designate. Such testimony shall be under oath and may include any
970 matters which the Commission deems relevant to the discharge of the Commission's
971 official duties. Testimony shall be recorded by a duly certified court reporter and may be
972 used by the Commission as evidence in any proceeding or matter before the Commission.
973 Failure to appear and testify fully at the time and place designated shall result in
974 sanctions. Failure to appear may constitute grounds for:

975 (1) The refusal to grant or renew a license to the person summoned, and /or that
976 person's principal, or employer;

977 (2) The revocation or suspension of a license held by the person summoned,
978 and/or that person's principal, or employer; or

979 (3) The inference that the testimony of the person summoned would have been
980 adverse to that person and/or that person's principal or employer.

981 (c) Any party to the hearing may call and examine witnesses. The Commission shall
982 exercise its discretion to limit the testimony of witnesses where that testimony is
983 argumentative or repetitive.

984 (d) The Commission shall have the authority to eject from the hearings any person who is
985 disruptive, disorderly, or who shows a lack of proper respect for the Commission or the
986 nature of the proceedings.

987 (e) Persons shall be permitted to speak only when recognized by the Chair. This
988 provision also applies to administrative hearings under section 5.03 (a).

989 (f) Any member of the Commission may ask questions of witnesses, and may request or
990 allow additional evidence at any time.

991 (g) Any party to the hearing may conduct cross examinations reasonably required for a
992 full and true disclosure of the facts.

993 (h) All hearings held under this Chapter shall be open to the public.

994 (i) The Commission, in its discretion, has the power to sequester witnesses
995

996 **Section 5.10 Evidence.**

997 (a) In hearings governed by this Chapter, the Commission shall not be bound by technical
998 rules relating to evidence and witnesses. The Commission shall admit all testimony
999 having reasonable probative value, but shall exclude immaterial, irrelevant or unduly
1000 repetitious testimony. The Commission shall give effect to the rules of privilege unless
1001 such privilege is waived. Basic principles of relevancy, materiality and probative force

shall govern the proof of all questions of fact. Objections to evidentiary offers and offers of proof of evidence not admitted may be made and shall be noted in the record

(b) All evidence, including records and documents in the possession of the Commission or of which the Commission desires to avail itself, shall be duly offered and made a part of the record in the case. Every party shall be afforded adequate opportunity to rebut or offer countervailing evidence.

(c) The Commission may take official notice of any generally recognized fact or any established technical or scientific fact, but parties shall be notified either before or during the hearing or by full reference in preliminary reports or otherwise, of the facts so noticed, and they shall be afforded an opportunity to contest the validity of the official notice.

(d) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy to the original.

(e) The record in a hearing governed by these rules shall include:

(1) All applications, intermediate rulings and exhibits and appendices thereto.

(2) Evidence received or considered stipulations and admissions, including but not limited to confidential evidence received pursuant to section 5.07 of this Statute.

(3) A statement of matters officially noticed.

(4) Questions and offers of proof, objections, and rulings thereon.

(5) Any decision, opinion, findings or report by the Commission.

(6) The transcript prepared by a duly certified court reporter

Section 5.11 Determinations by the Commission.

(a) The Commission shall make all determinations of issues before it by a majority vote of the Commission.

(b) All determinations made by the Commission involving the grant, denial, cancellation, revocation, limitation or modification of a license, a finding of a violation of this Statute, the rules, IGRA, the conditions of any license issued by the Commission, any order by the Commission, or any other applicable laws, regulations or agreements, and the imposition of any sanctions or penalties shall be made by motion and on the record.

(c) A copy of any resolution reached pursuant to section 5.11(b) of this chapter shall be served upon the applicant or licensee by registered or certified mail, or may be served personally.

Section 5.12 Sanctions.

If any party or its attorney fails to comply with any provision of this Statute, the rules, IGRA, the conditions of any license issued by the Commission, any order by the Commission, or any other applicable laws, regulations or agreements including, but not limited to, any agreement regarding any matter including, but not limited to, discovery matters and the failure to appear at a hearing at the scheduled time, the Commission, upon motion or upon its own initiative, may in its discretion impose upon such party or attorney, or both, appropriate sanctions in regard to the failures as are just including, but not limited to, the following:

(a) An order prohibiting the use of any witness, document or tangible thing which should

have been disclosed, produced, exhibited or exchanged pursuant to these rules or any order of the Commission;

(b) An order that designated facts shall be taken to be established;

(c) An order that the disobedient party may not support or oppose designated claims or defenses;

(d) An order striking any pleadings or parts thereof, or staying further proceedings or dismissing the proceeding or any part thereof, or entering a judgment by default against the disobedient party;

(e) A finding against the disobedient party; or

(f) Any sanction otherwise set forth in this Statute.

Chapter VI

Appeals

Section 6.01 Petition for Review.

As imposed by the Commission, any person found to be in violation of any provision of this Statute or regulation of the Osage Nation Gaming Commission may seek review of the Commission's decision by filing a Petition for Review of the Commission's decision with the Trial Court of the Osage Nation within thirty (30) days of said decision. Failure to file a Petition for Review shall make the decision of the Commission final and not subject to further judicial review. Upon receiving notice of the filing of a Petition for Review, the Commission shall, within fifteen (15) days of receiving notice, file the record of proceeding in its entirety with the Trial Court of the Osage Nation.

Section 6.02 Standard for Review.

Upon hearing of the appeal, the Trial Court of the Osage Nation shall give proper deference to the administrative expertise of the Commission. The Trial Court of the Osage Nation shall not set aside, modify, or remand any determination by the Commission unless it finds the termination to be arbitrary and capricious, unsupported by substantial evidence, or contrary to law.

Section 6.03 Legal Representation.

The Petitioner may be represented by legal counsel in any proceedings or reviews of the Trial Court, and the Commission shall be represented by the attorney for the Gaming Commission.

Section 6.04 Trial Court Decision.

Trial Court of the Osage Nation shall issue a written decision on all appeals. In no event shall the Court be authorized to award or order payment of damages or to fashion any remedy against the Commission. In the event that the Trial Court affirms the decision of the Commission or the Osage Nation, the Court shall award costs and reasonable attorneys' fees to the Osage Nation Gaming Commission with the provision that any part of the attorneys' fees collected shall be paid to the Treasury of the Osage Nation.

Section 6.05 Appeal of Trial Court Decision.

If the Petitioner receives an adverse decision from the Trial Court, then the Petitioner

may appeal to the Supreme Court within thirty (30) days after the Trial Court enters the decision. The appeal shall be limited to the record on appeal. The decision of the Osage Supreme Court shall be final.

Chapter VII

Auditing and Internal Control

Section 7.01 Minimum procedures for control of internal fiscal affairs.

The Commission shall promulgate rules governing the control of internal fiscal affairs of all gaming operations. At a minimum, such rules shall require the consistent application of generally accepted accounting principles, and shall:

- (a) Prescribe minimum procedures for the safeguarding of a gaming operation's assets and revenues, including recording of cash and evidence of indebtedness, and mandatory count procedures. Such rules shall establish a controlled environment, accounting system, and control procedures that safeguard the assets of the gaming operation, ensure that operating transactions are properly recorded, promote operational efficiency, and encourage adherence to prescribed policies;
- (b) Prescribe minimum reporting requirements to the Commission;
- (c) Provide for the adoption and use of internal audits conducted;
- (d) Formulate a uniform regulation of accounts and accounting classifications to ensure the consistency, comparability and effective disclosure of financial information. Such a regulation shall require that records be retained that reflect statistical drop (amount of cash wagered by patrons), statistical win (amount of cash won by the gaming operation), and the percentage of statistical win to statistical drop, or provide similar information for each type of game in each gaming operation;
- (e) Prescribe the intervals at which such information shall be furnished;
- (f) Provide for the maintenance of documentation, (i.e., checklists, programs, reports, etc.), to evidence all internal work performed as it relates to the requirements of this section; and
- (g) Provide that all financial statements and documentation referred to in this section be maintained for a minimum of five years.

Section 7.02 Oversight of Internal Fiscal Affairs.

The Commission shall require independent audits of the financial statements of all gaming operations. Such independent audits must apply and require the consistent application of generally accepted accounting principles, and shall:

- (a) Be conducted by independent accountants, knowledgeable in casino audits and operations and licensed or certified to practice public accounting in the State of Oklahoma;
- (b) Include an opinion, qualified or unqualified, or if appropriate, disclaim an opinion on the financial statements taken as a whole in accordance with standards of the accounting profession established by rules and regulations of the Oklahoma State Council of Accountancy and the American Institute of Certified Public Accountants;
- (c) Disclose whether the accounts, records and control procedures maintained by the gaming operation conform with this Statute and the rules; and
- (d) Provide a review of the internal financial controls of the audited gaming operation to

disclose any deviation from the requirements of this Statute and the rules and report such findings to the Commission and the management of the audited gaming operations; and
(e) Provide such other information as the Commission deems necessary or appropriate.

Section 7.03 Conduct of Audit.

(a) The Commission shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the NIGC.
(b) All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of \$25,000.00 annually, except contracts for professional legal and accounting services, and any other information the Commission deems necessary or appropriate shall be specifically included within the scope of the audit described in section 7.03(a).

Section 7.04 Prohibition Against Embezzlement.

Any delay or action of any kind which, in the opinion of the Commission, is effectuated by any licensee to unlawfully or improperly divert gaming or other proceeds properly belonging to the Nation shall constitute grounds for taking disciplinary action against that licensee. If the Commission finds an unlawful diversion was attempted, it may sanction the licensee, report the matter to appropriate law enforcement and gaming regulatory agencies for further action and take such other action as it deems necessary or appropriate. Sanctions may include the imposition of fines, and/or the revocation, suspension, or limitation of, or refusal to renew, any license.

Section 7.05 Noncompliance.

Failure to comply with any of the requirements of this article, or the rules promulgated hereunder may be found to constitute a violation of this Statute.

Chapter VIII

Exclusion or Reflection of Individuals

Section 8.01 Prohibition Against Certain Individuals.

It shall be a violation of this Statute for any licensee to knowingly fail to exclude or eject from the gaming area of a gaming establishment any individual who:

- (a) Is visibly under the influence of liquor, a drug or other intoxicating substance;
- (b) Is under the age of 18 years;
- (c) Is displaying disorderly conduct;
- (d) Is a person known to have committed a gaming related felony;
- (e) Is known to have a reputation for cheating or manipulation of games; or
- (f) Has been personally excluded, or is a member of any group or type of persons which has been excluded, for cause from gaming establishments by a resolution of the Commission.

Section 8.02 Right to Exclude or Remove.

Nation, the Commission may exclude or remove any persons from the premises of any gaming operation. Any person so excluded shall be entitled to a hearing for reconsideration as provided for by section 5.03 (c) and shall have the rights provided to an applicant therein. The manager of any gaming operation shall also have the authority

to exclude or remove any person from the gaming establishment, and all such actions shall be reported to the Commission within 24 hours of the taking of such action.

Chapter IX

Prohibited Acts

Section 9.01 Enumeration.

In addition to other civil and criminal acts that may be regulated or prohibited by this Statute, other Nation law, or applicable federal law, the following shall constitute prohibited activities and unauthorized gaming under this Statute and shall subject any perpetrator to Commission action including, but not limited to, the imposition of civil penalties, referral to appropriate law enforcement authorities for criminal proceedings, and license suspension or revocation:

- (a) Altering or misrepresenting the outcome of gaming or other event on which wagers have been made after the outcome of such gaming or event has been determined but before such outcome is revealed to the players;
- (b) Placing or increasing a bet or wager after acquiring knowledge of the outcome of the gaming or event which is the subject of the bet or wager, including past-posting and pressing bets;
- (c) Aiding anyone in acquiring such knowledge referred to in subsection (b) of this section for the purposes of increasing or decreasing any bet or wager, or for the purpose of determining the course of play;
- (d) Claiming, collecting or taking, or attempting to claim, collect or take, money or anything of value in or from a game with intent to defraud or claiming, collecting or taking an amount greater than the amount actually won in such game;
- (e) Knowingly to entice or induce another to go to any place where gaming is conducted or operated in violation of the provisions of this Statute, with the intent that the other person play or participate in such gaming;
- (f) Reducing the amount wagered or canceling a wager after acquiring knowledge of the outcome of the game or other event which is the subject of the bet or wager, including pinching bets;
- (g) Manipulating, with intent to cheat or defraud, any component or part of a game in a manner contrary to the designed and normal operational purpose for such component or part, with knowledge that such manipulation will affect the outcome of the game, or with knowledge of any event that affects the outcome of the game;
- (h) Defrauding the Nation, any licensee or any participant in any gaming;
- (i) Participating in any gaming not authorized under this Statute;
- (j) Knowingly providing false information or making any false statement with respect to an application for employment or for any license, certification or determination provided for in this Statute;
- (k) Knowingly providing false or misleading information or making any false or misleading statement to the Nation, the Commission or the Executive Director in connection with any contract for services or property related to gaming;
- (l) Knowingly making any false or misleading statement in response to any official inquiry by the Commission or its agents;
- (m) Offering or attempting to offer any thing of value, to a licensee in an attempt to

induce the licensee to act or refrain from acting in a manner contrary to the official duties of the licensee under this Statute, the rules, Nation and Federal law or IGRA;

(n) Acceptance by a licensee of any thing of value with the expectation that receipt of such thing of value is intended, or may be perceived as intended, to induce the licensee to act or refrain from acting, in a manner contrary to the official duties of the licensee under this Statute, the rules, Nation and Federal law or IGRA;

(o) Falsifying, destroying, erasing or altering any books, computer data, records, or other information relating to a gaming operation in ways other than is provided in approved internal control procedures;

(p) Taking any action which interferes with or prevents the Commission or the Congress from fulfilling its duties and responsibilities under this Statute, the rules, or IGRA; and

(q) Entering into any contract, or making payment on any contract for the delivery of goods or services to a gaming operation, when such contract fails to provide for or result in the delivery of goods or services of fair value for the payment made or contemplated.

Section 9.02 Prohibition Against Electronic Aids.

Except as specifically permitted by the Commission, no person shall possess, with the intent to use in connection with gaming, either individually, or in concert with others, any calculator, computer, or other electronic or mechanical device to assist in projecting the outcome or odds of such gaming, to keep track of or analyze cards, or to change probabilities of any game or the playing strategies regularly utilized in such gaming.

Chapter X

National Indian Gaming Commission and Compact

Section 10.01 Regulation of the Commission.

Notwithstanding any provision in this Statute or the rules, the Commission is hereby fully empowered to comply with all regulations promulgated by the NIGC including, but not limited to, reporting requirements relating to Statutes, contracts, license applications, background checks, and other information.

Section 10.02 Assessment.

Notwithstanding any provision in this Statute or the rules, the Commission is hereby fully empowered to comply with all assessments authorized by the NIGC. Such assessments shall be payable solely from funds of gaming operation revenues as an operating expense.

Chapter XI

General Requirements

Section 11.01 Security and Surveillance.

Each gaming establishment must provide for full security and surveillance within the gaming establishment at all times. All security personnel in a gaming establishment must be licensed by the Commission. The security and surveillance departments shall interact when necessary to carry out their official duties and to coordinate their activities in order to effectuate the best protection for the gaming patrons, the Nation, management interests, and the assets of the enterprise.

Section 11.02 Compliance With Other Laws.

The construction, maintenance and operation of any gaming operation shall be in a manner which protects the environment, public health and safety, and shall comply with all applicable Nation and federal laws relating to environmental protection and public health and safety including, but not limited to, 25 C.F.R. § 522.4(b)(7).

Section 11.03 Amendments.

All provisions of this Statute are subject to amendment by the Congress. All rules promulgated by the Commission are subject to proper revision, repeal, or amendment by the Commission. All amendments to this Statute shall be effective upon the date of passage by the Congress.

Section 11.04 Severability.

If any provision of this Statute, or any portion of any provision to this Statute, is found to be invalid by any court of competent jurisdiction, the full remainder of such provisions shall not be affected.

Section 11.05 Words and Terms.

Tense, number and gender. In interpreting the provisions of this Statute, save when otherwise plainly declared or clearly apparent from the context:

- (a) Words in the present tense shall include the future tense;
- (b) Words in masculine, feminine and neuter genders shall include all genders; and
- (c) Words in the singular shall include the plural, and words in the plural shall include the singular.

Section 11.06 Repeal.

To the extent that they are inconsistent with this Statute, all prior gaming laws, rules, Statutes or regulations of the Nation are hereby repealed.

Section 11.07 Unclaimed Winnings.

(a) Any winnings, whether property or cash, which are due and payable to a participant in any gaming activity, and which remain unclaimed at the end of a gaming session, shall be held in safekeeping for the benefit of such participant if his or her identity is known. Such winnings shall be held for 12 months or such longer period as the Commission deems reasonable in consideration of all relevant facts and circumstances. The Commission shall make such efforts as are reasonable under the circumstances to locate such participant. At the end of the safekeeping period, such winnings shall revert to the ownership of the Nation's Casino Gaming Enterprise and shall be transferred to the account or place designated by the enterprise.

(b) In the event the identity of a participant entitled to unclaimed winnings is unknown, the Commission shall use its best efforts to learn the identity of such individual and shall follow the procedure set forth in section 11.08 if the Commission is able to identify such individual with reasonable certainty; provided, however, if after six months from the time the winnings were payable, the Commission has been unable to identify the individual entitled thereto, such winnings shall revert to the ownership of the Nation's Casino

Gaming Enterprise.

Section 11.08 Patron Disputes.

Any person who has any dispute, disagreement or other grievance with the gaming operation that involves currency, tokens, coins, or any other thing of value, may seek resolution of such dispute from the following persons and in the following order:

- (a) A member of the staff relevant of the gaming operation;
- (b) The supervisor in the area of the relevant gaming operation in which the dispute arose;
- (c) The manager of the relevant gaming operation; and
- (d) The Commission.

Section 11.09 Patron Rights Regarding Disputes.

When a person brings a dispute for resolution pursuant to section 11.08, the complainant has the right to explain his or her side of the dispute, and to present witnesses in connection with any factual allegations. At each level, if the dispute remains unresolved, the complainant shall be informed of the right to take the dispute to the next higher level as set forth in section 11.08. Resolution of any dispute by the personnel of a gaming operation shall always involve two or more staff members. All disputes, whether resolved or not, shall be reported in detail by the staff persons involved to their supervisor, or, in the case of the general manager of the gaming operation, to the Commission.

Section 11.10 Gaming Commission Action on Patron Disputes.

All disputes which are submitted to the gaming Commission shall be decided by the Commission based on information provided by the complainant, including any witnesses for or documents provided by or for, the complainant. The decision of the Commission shall be in writing, shall be issued within 14 days of submission of the matter to the Commission, and shall be provided to the general manager of the gaming operation and to the complainant. The decision of the Commission shall be final and shall not be subject to judicial review.

Section 11.11 Agent For Service of Process.

The Commission Chairman shall be designated agent for service of process for the Osage Nation Gaming Commission. The Chairman shall promptly report any such service to the Commission, and shall promptly provide the Commission with a copy of any complaints or other documents served.

Section 11.12 Consent to Jurisdiction.

Any person, who applies for a license under this Statute, applies for employment in any gaming establishment, enters into any contract or agreement related to gaming, or participates in any Nation gaming activity, shall be deemed to consent to the civil jurisdiction of the Nation, the Commission and the Nation's Courts. Nothing in this section shall limit the jurisdiction of the Nation, the Commission or the Nation's Courts under any circumstances not explicitly contemplated in this Statute.

1370 **Section 11.13 Comity and Concurrent Jurisdiction.**

1371 The Commission is empowered to seek comity and enforcement of the orders of the
1372 Commission by the courts of any other jurisdiction whose assistance may be required to
1373 give effect to the orders of the Commission. The Commission is also empowered to issue
1374 orders to enforce the lawful orders of other gaming regulatory agencies and the courts of
1375 foreign jurisdictions.

1376
1377 **Section 11.14 Other Powers of the Commission.**

1378 In addition to and in conjunction with the powers and responsibilities listed in this
1379 Statute, rules and other applicable laws and regulations the Commission shall have power
1380 to:

- 1381
1382 (a) Initiate civil and criminal actions in court to enforce provisions of this Statute, Nation
1383 gaming regulations or the IGRA;
1384 (b) Negotiate and approve management agreements for Class II and Class III Gaming to
1385 be submitted to the Congress for approval by congressional resolution;
1386 (c) Approve, deny or revoke gaming licenses for Class II or Class III Gaming;
1387 (d) Monitor all gaming activities conducted on Osage Nation Trust lands on a continuing
1388 basis;
1389 (e) Ensure that background investigations are conducted as required by this Statute and
1390 the IGRA as well as conduct such additional investigations as the Commission may deem
1391 necessary;
1392 (f) Demand access to and inspect, examine, copy and audit all papers, books and records
1393 concerning activities and revenues of any gaming activity conducted on Osage Trust
1394 lands and any other matters necessary to carry out their duties under this Statute;
1395 (g) Conduct such hearings as the Commission may deem appropriate in carrying out its
1396 duties, including administering oaths or affirmations to witnesses and issuing subpoenas
1397 to compel witnesses to appear at such hearings;
1398 (h) When information is received through audits or other investigations that indicates a
1399 violation of Nation, federal or applicable state Statutes, laws or regulations, to treat as
1400 confidential and provide such information to the appropriate law enforcement officials;
1401 (i) Adopt regulations deemed necessary to clarify or enforce provision of this Statute or
1402 Nation rights and interests established in approved management agreements; and
1403 (j) Adopt an Osage Nation Class II and Class III Gaming license application.

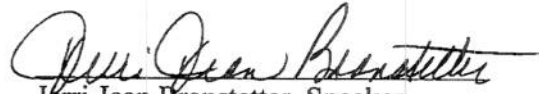
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1405 **Section 11.15 Enforcement Provisions.**

- 1406 (a) All matters and occurrences which indicate that a criminal act under the Nation's
1407 Statute, federal law or state law may have occurred in or around any gaming
1408 establishment shall be immediately reported to the appropriate law enforcement agency
1409 and to the Commission.
1410 (b) All matters and occurrences contrary to this Statute, rules or regulations promulgated
1411 by the Commission which are not covered under a criminal Statute shall be deemed to be
1412 a civil violation. The Commission is hereby authorized to establish a civil violations list
1413 of penalties and fines which shall be imposed by the Commission for all such civil
1414 violations with the violator afforded the rights to a hearing as provided in Chapter V of
1415 this Statute.

1416
1417 **ARTICLE CHAPTERS XIII-XL RESERVED***
1418
1419
1420

1421
1422 ENACTED by the Osage Nation Congress on this 4TH day of October, 2010.
1423

1424
1425 IN WITNESS WHEREOF, the Speaker of the Osage Nation Congress has
1426 hereto attached her signature.
1427

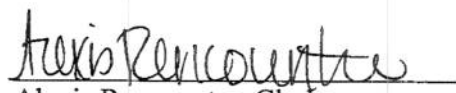
1428
1429 
1430 Jerri Jean Branstetter, Speaker
1431 Osage Nation Congress
1432
1433

1434 I, THE UNDERSIGNED, CERTIFY THAT THE FOREGOING IS A TRUE
1435 EXTRACT FROM THE MINUTES OF THE Osage Nation Congress comprised of
1436 twelve members and one ex-officio member with 11 members attending this meeting on
1437 the 4TH day of October, 2010, and that the above is in conformity with the provisions
1438 therein adopted by a vote of 10 in favor, 0 against, and 2 absent.
1439

1440	Daniel Boone	yes
1441	Jerri Jean Branstetter	yes
1442	Shannon Edwards	yes
1443	John Free	yes
1444	Alice Goodfox	absent
1445	Archie Mason	absent
1446	Raymond Red Corn	yes
1447	Eddy Red Eagle, Jr.	yes
1448	Anthony Shackelford	yes
1449	Mark Simms	yes
1450	Geoffrey Standing Bear	yes
1451	William Supernaw	yes

1452

1453 Said Bill has not been rescinded or amended in any way and the above is the
1454 signature of the Speaker of the Osage Nation Congress.
1455

1456
1457 
1458 Alexis Rencountre, Clerk
1459 Osage Nation Congress
1460
1461

1462 **APPROVAL**

1463

1464 I, the Principal Chief of the Osage Nation, hereby affix my signature this 5th day of

1465 October, 2010, to the above Bill No. ONCA 10-73 authorizing it to become

1466 a law under the Constitution of the Osage Nation.

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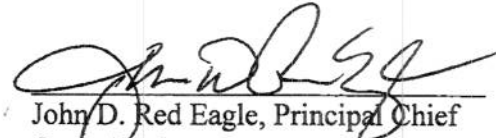
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John D. Red Eagle, Principal Chief
Osage Nation

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OSAGE NATION CONGRESS

4th Special Session of the 2nd Congress

BILL NUMBER ONCA 11-09

ENROLLED

December 13, 2010

SPONSOR: Mark Simms

An Act

To amend the Osage Nation Gaming Law, ONCA 07-09, as amended, to comply with National Indian Gaming Commission (NIGC) regulations; to update the gaming license requirements; to add new gaming vendor, non-gaming vendor and non-gaming employee definitions; to allow for closed hearings of the gaming commission; to give the commission authority to issue a conditional license; to give the commission authority to make the final decision on license issuance after NIGC objection; and to except compact covered tort and prize claims from patron dispute sections.

Be it enacted by the Congress of the Osage Nation:

SECTION 1. AMENDING SECTION 3.01 OF ONCA 07-09

Section 3.01 of ONCA 07-09, as amended, shall be amended to read as follows:

Section 3.01 License Required.

The Commission is hereby authorized to issue all licenses for the conduct of all gaming authorized under this Statute or any other license related to gaming which the Commission may by rule require. The Gaming Commission may by regulation create tiers of gaming and gaming related vendor classifications for licensing purposes and background investigations.

(a) **Persons.** The following persons must obtain licenses as a pre-condition to employment in or management of any gaming operation:

(1) Any management entity or controlling shareholder. Any person deemed a controlling shareholder must comply with the same licensing requirements as if such person were a primary management official; however, if any controlling shareholder is a non-natural person, such controlling shareholder shall be subject to management entity licensing procedures;

(2) All primary management officials;

(3) All key employees;

(4) Suppliers or vendors of gaming goods and services. Any person who is a supplier of gaming goods and services must comply with the same licensing requirements as if such person were a primary management official; however, if any supplier is a non-natural person, such supplier shall be subject to management entity licensing procedures; and

(5) Any other employee or class of employees as determined by Commission Rules.

(b) **Gaming Establishments.** Each place, facility or location where gaming is conducted must obtain a separate facility license from the Commission.

(c) **Non-Gaming Vendors.** For non-gaming vendors, the Gaming Commission is authorized to create a less stringent vendor licensing process, including a due diligence check rather than a full background investigation as laid out in Section 4.01. The Gaming Commission may investigate such vendors when appropriate and may conduct audits in addition to monitoring gaming enterprise purchases.

(d) **Exemption for Vendors Licensed by Recognized Regulatory Authorities.** The Gaming Commission may adopt regulations naming specific licensing authorities that it recognizes and may authorize exemptions to the vendor licensing process for vendors which have received a license from one of the named regulatory authorities.

(e) **Non-Gaming Employees.** For non-gaming employees, the Gaming Commission is authorized to create a less stringent licensing process. The Gaming Commission may perform a lesser level of investigation on these employees, focusing on criminal history and financials, rather than a full background investigation.

SECTION 2. AMENDING SECTION 3.03(D) OF ONCA 07-09

Section 3.03(d) of ONCA 07-09, as amended, shall be amended to read as follows:

(d) The following notices shall be placed on the application form for a key employee, management entity, primary management official or supplier of gaming goods and services before such form is completed by an Applicant:

(i) "In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 et seq. The purpose of the requested information is to determine the eligibility of the individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory agencies where relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the National Indian Gaming Commission in connection with the issuance, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license you for a primary management official or key employee position."

(ii) "The disclosure of your social security number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application."

(iii) "A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment. (US Code, Title 18, Section 1001)."

SECTION 3. AMENDING SECTION 3.05 OF ONCA 07-09

Section 3.05 of ONCA 07-09, as amended, shall be amended to read as follows:

Section 3.05 Fingerprints.

Each applicant for an employee gaming license, a gaming vendor license, and vendor technician license shall be required to have fingerprints taken as part of the license application procedure. The Gaming Commission is hereby identified as the responsible law enforcement agency to take fingerprints. Pursuant to 25 C.F.R. § 522.2(h), the Commission shall send an applicant's fingerprints to the NIGC for processing through the Federal Bureau of Investigation (FBI) and National Criminal Information Center (NCIC). The Commission may submit an applicant's fingerprints to any additional Tribal, local or state criminal history check system or center as the Commission deems necessary or appropriate. Reports obtained from such fingerprint processing shall be incorporated into the applicant's file.

SECTION 4. AMENDING SECTION 3.08(A) OF ONCA 07-09

Section 3.08(a) of ONCA 07-09, as amended, shall be amended to read as follows:

(a) Licenses, except provisional licenses (see section 3.12 provisional license), shall be for a term of up to two years, and shall expire no later than the second anniversary of the effective date of such licenses.

SECTION 5. AMENDING SECTION 4 OF ONCA 07-09

Insert the following new definitions into Section 4 of ONCA 07-09, as amended:

(ii) "Gaming Vendor" includes a Supplier or Vendor of Gaming Goods and Services as defined herein at subsection (i), and any person or entity providing to the Osage Nation Gaming Enterprise any equipment, components, item, device, apparatus, goods, supplies, or services used directly or indirectly in the conduct, operation, or play of a gambling activity, the placement of a bet or wager; any promotion or promotional activity where monetary prizes are awarded; or securing, locking, or providing access to gaming equipment/systems.

(jj) **"Non-Gaming Vendor"** means any person or entity providing to the Osage Nation Gaming Enterprises non-gaming goods, supplies, or services that constitute neither gaming nor gaming-related goods, supplies, or services, but who are compensated with funds of the revenue of the Osage Nation Gaming Enterprise. Non-gaming vendors are vendors who provide goods or services that do not have the ability to impact the integrity of the gaming operations.

(kk) **"Non-Gaming Employee"** employees who are licensed for employment in non-gaming areas, and are not a Key Gaming employee or Primary Management Official. These individuals work in maintenance, facilities, cooks, bartenders, beverage serves, etc. They are not employed in restricted areas of the casino and do not work directly with gaming machines or gaming revenue. The ONGC may perform a lesser level of investigation on these employees, and may focus criminal history and financials.

SECTION 6. AMENDING SECTION 4.03(A)(2) OF ONCA 07-09

Section 4.03(a)(2) of ONCA 07-09, as amended, shall be amended to read as follows:

(2) Currently and for the previous five years, all business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;

SECTION 7. AMENDING SECTION 4.04 OF ONCA 07-09

Section 4.04 of ONCA 07-09, as amended, shall be amended to read as follows:

Section 4.04 Completion of Investigation.

Upon completion of the investigation, the Commission may either (i) grant a license to the applicant, (ii) notice the applicant for a hearing under Chapter V of this Statute, or (iii) issue a conditional license. The Commission may notice the applicant for a hearing at any time during the investigation.

SECTION 8. AMENDING SECTION 4.10(A) OF ONCA 07-09

Section 4.10(a) of ONCA 07-09, as amended, shall be amended to read as follows:

(a) If the NIGC objects to the issuance of a license, the Gaming Commission shall reconsider the application, taking into account the objections itemized by the NIGC. If the Gaming Commission is provided new evidence by the NIGC that was not available during the initial review and approval, the Commission shall evaluate whether its original decision should stand. The Commission shall make the final decision whether to issue a license to such applicant. If the Gaming Commission determines to suspend and deny the license, the Commission shall

conduct a hearing.

SECTION 9. AMENDING SECTION 4.04 OF ONCA 07-09

Section 4.04 of ONCA 07-09, as amended, shall be amended to read as follows:

Section 4.11 Show Cause Hearing for Manager and Primary Management Officials.

Excepting the provisions of section 4.10 and notwithstanding the foregoing, in the event that the Commission obtains reliable information that the duly licensed manager and/or a primary management official may have breached any provision of this Statute, IGRA, or its license, the Commission shall issue a notice for show cause to the licensee prior to any action of suspension or the giving of notice of a revocation hearing with respect to its/their licenses. However, if such reliable information shows that the breach immediately endangers the integrity of Osage Nation gaming operations, the Commission may suspend the license pending the outcome of a hearing in order to protect the gaming operations. The notice for show cause shall describe the alleged breach, shall describe the steps necessary to effect a cure and shall provide the licensee with an opportunity to meet with the Gaming Commission to discuss the matter. The discontinuance or correction of the alleged breach shall constitute a cure thereof, except where such alleged breach constitutes a criminal violation by the manager or the primary management official. If the alleged breach is not corrected or discontinued as required herein, then the Gaming Commission shall institute the notice and hearing procedure set forth above.

SECTION 10. AMENDING TITLE OF CHAPTER V

The title of Chapter V of ONCA 07-09, as amended, shall be amended to read as follows:

**Chapter V
Rules of Procedure for Administrative Hearings**

SECTION 11. AMENDING SECTION 5.06 OF ONCA 07-09

Section 5.06 of ONCA 07-09, as amended, shall be amended to read as follows:

Section 5.06 Discovery Procedures for Administrative Hearings.

(a) The parties shall exchange a list of persons that each party intends to call as witnesses no later than five business days before a scheduled hearing. The day the list is received shall be considered a full day's notice under this section. Each witness shall be identified by name, if known, position, and business address. If no business address is available, a home address for the witness shall be provided. Any witness not identified in accordance with this section may be prohibited from testifying at a hearing in the Commission's discretion.

(b) The parties shall exchange a copy of all documents or tangible things that they intend to offer as evidence in support of the party's case in chief. This exchange shall be made to the opposing party no later than five business days before a scheduled enforcement hearing. The day the documents are received shall be considered a full day's notice under this section. Failure to make available any document or tangible thing in accordance with this section may, in the Commission's discretion, be grounds to deny the admission into evidence of such document or tangible thing.

SECTION 12. AMENDING SECTION 5.07(A) OF ONCA 07-09

Section 5.07(a) of ONCA 07-09, as amended, shall be amended to read as follows:

(a) Prior to making any documents available to the Commission's legal counsel or designated agent, the applicant or licensee may designate any document it believes to contain confidential information as subject to a confidentiality claim by so marking the document prior to providing a copy of the document to the Commission's legal counsel or designated agent.

SECTION 13. AMENDING SECTION 5.09(H) OF ONCA 07-09

Section 5.09(h) of ONCA 07-09, as amended, shall be amended to read as follows:

(h) Hearings shall be open to the public. The Gaming Commission or its designee may order a hearing or any part thereof closed, where to do so would be in the best interests of the parties, a witness, the public, or other affected persons, or the subject matter of the hearing contains sensitive or proprietary information. Any order closing the hearing shall set forth the reasons for the decision. Any objections thereto shall be made a part of the record. The "Public" shall mean anyone who is not a member of the Gaming Commission or its staff, a party to the hearing (including representative thereof), or a witness.

SECTION 14. AMENDING SECTIONS 11.08, 11.09 AND 11.10 OF ONCA 07-09

Sections 11.08, 11.09 and 11.10 of ONCA 07-09, as amended, shall be amended to read as follows:

Section 11.08 Patron Disputes.

Except for Tort and Prize Claims covered by the Compact, any person who has any dispute, disagreement or other grievance with the gaming operation that involves currency, tokens, coins, or any other thing of value, may seek resolution of such dispute from the following persons and in the following order:

- (a) A member of the staff relevant of the gaming operation;
- (b) The supervisor in the area of the relevant gaming operation in which the

dispute arose;
(c) The manager of the relevant gaming operation; and
(d) The Commission.

Section 11.09 Patron Rights Regarding Disputes.

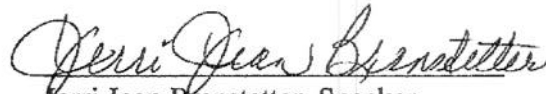
Except for Tort and Prize Claims covered by the Compact, when a person brings a dispute for resolution pursuant to section 11.08, the complainant has the right to explain his or her side of the dispute, and to present witnesses in connection with any factual allegations. At each level, if the dispute remains unresolved, the complainant shall be informed of the right to take the dispute to the next higher level as set forth in section 11.08. Resolution of any dispute by the personnel of a gaming operation shall always involve two or more staff members. All disputes, whether resolved or not, shall be reported in detail by the staff persons involved to their supervisor, or, in the case of the general manager of the gaming operation, to the Commission.

Section 11.10 Gaming Commission Action on Patron Disputes.

Except for Tort and Prize Claims covered by the Compact, all disputes which are submitted to the gaming Commission shall be decided by the Commission based on all relevant information pertaining to the matter. The decision of the Commission shall be in writing, shall be issued within 14 days of submission of the matter to the Commission, and shall be provided to the general manager of the gaming operation and to the complainant. The decision of the Commission shall be final and shall not be subject to judicial review.

ENACTED by the Osage Nation Congress on this 13th day of December, 2010.

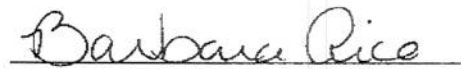
IN WITNESS WHEREOF, the Speaker of the Osage Nation Congress has
hereto attached her signature.


Jerri Jean Branstetter, Speaker
Osage Nation Congress

I, THE UNDERSIGNED, CERTIFY THAT THE FOREGOING IS A TRUE
EXTRACT FROM THE MINUTES OF THE Osage Nation Congress comprised of
twelve members and one ex-officio member with 9 members attending this meeting on
the 13th day of December, 2010, and that the above is in conformity with the provisions
therein adopted by a vote of 9 in favor, 0 against, and 3 absent.

Daniel Boone	yes
Jerri Jean Branstetter	yes
Shannon Edwards	absent
John Free	absent
Alice Goodfox	yes
Archie Mason	yes
Raymond Red Corn	yes
Eddy Red Eagle, Jr.	yes
Anthony Shackelford	yes
Mark Simms	yes
Geoffrey Standing Bear	absent
William Supernaw	yes

Said Bill has not been rescinded or amended in any way and the above is the
signature of the Speaker of the Osage Nation Congress.


Barbara Rice, Clerk
Osage Nation Congress

APPROVAL

I, the Principal Chief of the Osage Nation, hereby affix my signature this 13th day of
December, 2010, to the above Bill No. ONCA 11-09 authorizing it to become
a law under the Constitution of the Osage Nation.


John D. Red Eagle, Principal Chief
Osage Nation