S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N A S S E M B L Y

February 6, 2009

Introduced by M. of A. MORELLE, MARKEY, WEISENBERG, DelMONTE, GIANARIS, WEPRIN, McENENY, DESTITO, PAULIN, PHEFFER, KOON, MAGNARELLI, LATIMER -- Multi-Sponsored by -- M. of A. BING, CANESTRARI, ENGLEBRIGHT, FITZPATRICK, GUNTHER, LUPARDO, MILLER -- read once and referred to the Committee on Tourism, Arts and Sports Development

AN ACT to amend the state finance law, in relation to the tribal-state compact revenue account; and to amend the state finance law and the economic development law, in relation to creating the tourism economic development fund and providing for supplemental tourism grants

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative intent. The legislature hereby recognizes the importance of tourism to the New York state economy. As the state's second largest industry, tourism employs hundreds of thousands of New Yorkers and generates billions in economic activity. Therefore, it is the intent of the legislature to facilitate the growth of this industry by increasing the funding source available for tourism promotion. The legislature finds moneys from the casino gaming compacts to be an adequate and appropriate source for such funding. Additionally, the legislature finds that the creation of a supplemental local tourism grants program will be a suitable measure to effectuate a more equitable disbursement of tourism funding throughout the state. The legislature further finds that special consideration should be given to promoting New York state casinos which provide revenue to the state through gaming compacts. This promotion will further enhance the fund from which tourism promotion dollars are derived.

S 2. Subdivision 3 of section 99-h of the state finance law, as amended by chapter 747 of the laws of 2006, is amended to read as follows:

3. Moneys of the account, following appropriation by the legislature, shall be available for purposes including but not limited to: (a)

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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reimbursements or payments to municipal governments that host tribal casinos pursuant to a tribal-state compact for costs incurred in connection with services provided to such casinos or arising as a result thereof, for economic development opportunities and job expansion programs authorized by the executive law; provided, however, that for any gaming facility located in the county of Erie, the municipal governments hosting the facility shall collectively receive a minimum of twenty-five percent of the negotiated percentage of the net drop from electronic gaming devices the state receives pursuant to the compact, and provided further that for any gaming facility located in the city of Niagara Falls, county of Niagara a minimum of twenty-five percent of the negotiated percentage of the net drop from electronic gaming devices the state receives pursuant to the compact shall be distributed in accordance with subdivision four of this section, and provided further that for any gaming facility located in the county or counties of Cattaraugus, Chautauqua or Allegany, the municipal governments of the state hosting the facility shall collectively receive a minimum of twenty-five percent of the negotiated percentage of the net drop from electronic gaming devices the state receives pursuant to the compact; and provided further that pursuant to chapter five hundred ninety of the laws of two thousand four, a minimum of twenty-five percent of the revenues received by the state pursuant to the state's compact with the St. Regis Mohawk tribe shall be made available to the counties of Franklin and St. Lawrence, and affected towns in such counties. Each such county and its affected towns shall receive fifty percent of the moneys made available by the state; [and] (b) TOURISM PROMOTION, AS PROVIDED IN SECTION NINETY-SEVEN-JJJJ OF THIS ARTICLE, AND MADE AVAILABLE FOR APPROPRIATION AND ALLOCATION TO THE DEPARTMENT OF ECONOMIC DEVELOPMENT FOR THE PURPOSE OF FUNDING THE PROMOTION, ATTRACTION, STIMULATION, DEVELOPMENT, AND EXPANSION OF TOURIST TRAVEL, RESORT, VACATION, CULTURAL, AND CONVENTION ACTIVITIES AUTHORIZED UNDER THE ECONOMIC DEVELOPMENT LAW; PROVIDED, FURTHER, THAT NOT LESS THAN THIRTY-FIVE PERCENT OF SUCH FUNDS SHALL BE AVAILABLE FOR THE PAYMENT OF MATCHING FUNDS TO TOURIST PROMOTION AGENCIES AS PROVIDED FOR BY THE ECONOMIC DEVELOPMENT LAW; AND (C) support and services of treatment programs for persons suffering from gambling addictions. Moneys not appropriated for such purposes shall be transferred to the general fund for the support of government during the fiscal year in which they are received.

S 3. The state finance law is amended by adding a new section 97-jjjj to read as follows:

S 97-JJJJ. TOURISM ECONOMIC DEVELOPMENT FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE "TOURISM ECONOMIC DEVELOPMENT FUND".

2. SUCH FUND SHALL CONSIST OF: (A) AN AMOUNT EQUAL TO NOT LESS THAN THIRTY PERCENT OF THE NEGOTIATED PERCENTAGE OF THE NET DROP FROM ELECTRONIC GAMING DEVICES THE STATE RECEIVES PURSUANT TO PART B OF CHAPTER THREE HUNDRED EIGHTY-THREE OF THE LAWS OF TWO THOUSAND ONE, PROVIDED, HOWEVER, THAT IN THE EVENT THAT MORE THAN FOUR CASINOS BECOME OPERATIONAL PURSUANT TO PART B OF CHAPTER THREE HUNDRED EIGHTY-THREE OF THE LAWS OF TWO THOUSAND ONE, AND ANY TRIBAL-STATE COMPACT, THE AGGREGATE PERCENTAGE OF THE NEGOTIATED PERCENTAGE OF THE NET DROP FROM ELECTRONIC GAMING DEVICES REQUIRED TO BE DEPOSITED INTO THE TOURISM ECONOMIC DEVELOPMENT FUND PURSUANT TO THIS SECTION SHALL DECREASE BY FIVE PERCENT AS EACH ADDITIONAL CASINO BECOMES OPERATIONAL AND MAKES NEW DEPOSITS INTO THE TRIBAL-STATE COMPACT REVENUE ACCOUNT PROVIDED FURTHER THAT NO SUCH

DECREASES SHALL OCCUR ONCE THE AGGREGATE PERCENTAGE REQUIRED FOR DEPOSIT REACHES TEN PERCENT; (B) ALL MONEYS APPROPRIATED FOR THE PURPOSE OF SUCH FUND AND ALL MONEYS TRANSFERRED TO SUCH FUND PURSUANT TO LAW; AND (C) ANY INTEREST EARNED BY THE INVESTMENT OF MONEYS IN SUCH FUND, WHICH SHALL BE ADDED TO SUCH FUND.

3. REVENUES IN THE TOURISM ECONOMIC DEVELOPMENT FUND SHALL BE KEPT SEPARATE AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONEYS IN THE CUSTODY OF THE COMPTROLLER. ALL DEPOSITS OF SUCH REVENUES SHALL, IF REQUIRED BY THE COMPTROLLER, BE SECURED BY OBLIGATIONS OF THE UNITED STATES OR THE STATE HAVING A MARKET VALUE EQUAL AT ALL TIMES TO THE AMOUNT OF SUCH DEPOSITS. ALL BANKS AND TRUST COMPANIES ARE AUTHORIZED TO GIVE SECURITY FOR SUCH DEPOSITS. ANY SUCH REVENUES IN SUCH FUND MAY, UPON THE DISCRETION OF THE COMPTROLLER, BE INVESTED IN OBLIGATIONS IN WHICH THE COMPTROLLER IS AUTHORIZED TO INVEST PURSUANT TO SECTION NINETY-EIGHT-A OF THIS ARTICLE.

4. MONEYS OF SUCH FUND SHALL BE AVAILABLE FOR APPROPRIATION AND ALLOCATION TO THE DEPARTMENT OF ECONOMIC DEVELOPMENT FOR THE PURPOSE OF FUNDING THE PROMOTION, ATTRACTION, STIMULATION, DEVELOPMENT, AND EXPANSION OF TOURIST TRAVEL, RESORT, VACATION, CULTURE, AND CONVENTION ACTIVITIES WITHIN THE STATE AND ITS REGIONS PURSUANT TO PROGRAMS AND ACTIVITIES AUTHORIZED UNDER THE ECONOMIC DEVELOPMENT LAW.

5. (A) WITH RESPECT TO THE MONIES ANNUALLY DEDICATED IN THE TOURISM ECONOMIC DEVELOPMENT FUND, NOT LESS THAN THIRTY-FIVE PERCENT SHALL BE MADE AVAILABLE FOR THE PAYMENT OF MATCHING FUNDS TO TOURIST PROMOTION AGENCIES AS PROVIDED FOR BY THE ECONOMIC DEVELOPMENT LAW.

(B) OF THE MONEYS MADE AVAILABLE FOR THE PAYMENT OF MATCHING FUNDS BY PARAGRAPH (A) OF THIS SUBDIVISION NOT LESS THAN THIRTY PERCENT SHALL BE MADE AVAILABLE FOR THE PAYMENT OF SUPPLEMENTAL TOURISM GRANTS AS PROVIDED BY SECTION ONE HUNDRED SIXTY-FOUR-A OF THE ECONOMIC DEVELOPMENT LAW.

S 4. The economic development law is amended by adding a new section 164-a to read as follows:

S 164-A. SUPPLEMENTAL TOURISM GRANTS. (A) THE COMMISSIONER SHALL, WITHIN THE AMOUNT APPROPRIATED PURSUANT TO SUBDIVISION FIVE OF SECTION NINETY-SEVEN-JJJJ OF THE STATE FINANCE LAW, ALSO AWARD TO TOURIST PROMOTION AGENCIES RECEIVING SUCH MATCHING FUNDS A SUPPLEMENTAL TOURISM GRANT. SUCH GRANT SHALL BE DISTRIBUTED BY THE COMMISSIONER IN A MANNER THAT ALLOWS FOR AN EQUAL PERCENTAGE OF THE AGGREGATE TO BE ALLOCATED UPON THE RECOMMENDATION OF THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, AND SPEAKER OF THE ASSEMBLY RESPECTIVELY.

(B) OF ANY MONEY AVAILABLE TO A TOURIST PROMOTION AGENCY WHICH HAS BEEN DESIGNATED TO REPRESENT A COUNTY WHOLLY WITHIN A CITY, NOT LESS THAN FIFTY PERCENT OF THE TOTAL AMOUNT APPROPRIATED SHALL BE AVAILABLE TO SUCH TOURIST PROMOTION AGENCY FOR DISCRETIONARY USE FOR TOURISM PROMOTION PURPOSES, AS SPECIFIED IN SUBDIVISION FOUR OF SECTION NINETY-SEVEN-JJJJ OF THE STATE FINANCE LAW. OF THE REMAINING FIFTY PERCENT, SUCH MONEY SHALL BE USED FOR TOURISM PROMOTION PURPOSES, AS SPECIFIED IN SUBDIVISION FOUR OF SECTION NINETY-SEVEN-JJJJ OF THE STATE FINANCE LAW, ON A PER CAPITA BASIS IN A MANNER THAT AWARDS A TOURIST PROMOTION AGENCY A SHARE OF THE TOTAL AMOUNT APPROPRIATED WHICH IS PROPORTIONAL TO THAT OF THE POPULATION, BASED UPON THE MOST CURRENT FEDERAL DECENNIAL OR SPECIAL CENSUS, RESIDING IN THE COUNTY OR COUNTIES REPRESENTED BY THE TOURIST PROMOTION AGENCY RELATIVE TO THE POPULATION OF THE ENTIRE STATE.

(C) THE COMMISSIONER IS HEREBY AUTHORIZED TO SET REASONABLE DEADLINES FOR THE SUBMISSION OF APPLICATIONS FOR EACH FISCAL YEAR COVERED BY APPROPRIATIONS IN ORDER TO ASSIST SUCH AGENCIES IN THE FINANCING OF

THEIR RECOGNIZED ADVERTISING PROGRAMS. BEFORE ANY SUCH GRANTS MAY BE EXPENDED, THE TOURIST PROMOTION AGENCY SHALL HAVE MADE APPLICATION TO THE DEPARTMENT FOR SUCH GRANTS, AND SHALL HAVE THEREIN SET FORTH THE SCHEDULE, BUDGET, SCOPE, AND THEME OF THE PROPOSED ADVERTISING PROGRAM TO BE UNDERTAKEN FOR THE PURPOSE OF ENCOURAGING AND STIMULATING TOURIST TRAVEL, RESORT, VACATION, CULTURE AND CONVENTION ACTIVITIES IN THE COUNTY OR COUNTIES WITHIN ITS AREA. SAID APPLICATION SHALL FURTHER STATE, UNDER OATH OR AFFIRMATION, WITH EVIDENCE THEREOF SATISFACTORY TO THE DEPARTMENT, THAT ALL ADVERTISING PURCHASED WITH GRANTS APPROPRIATED UNDER THIS ARTICLE SHALL FOLLOW CENTRAL CONCEPTUAL THEMES USED BY THE DEPARTMENT IN ITS ADVERTISING FOR STATE TOURISM PROMOTION INCLUDING USING ANY LOGO-TYPE OR SIMILAR ADVERTISING CONSTRUCT IN USE BY THE DEPARTMENT.

(D) AFTER REVIEW OF A SUBMITTED APPLICATION, IF SATISFIED THAT THE PROGRAM OF THE TOURIST PROMOTION AGENCY APPEARS TO BE IN ACCORD WITH THE PURPOSES OF THIS ARTICLE, THE COMMISSIONER SHALL AUTHORIZE IN WRITING THE PAYMENT OF A SUPPLEMENTAL TOURISM GRANT APPROPRIATED PURSUANT TO THIS ARTICLE TO SUCH TOURIST PROMOTION AGENCY EQUAL TO FUNDS ALLOCATED BY SUCH AGENCY TO THE PROGRAM DESCRIBED IN ITS APPLICATION. PROVIDED THAT SUFFICIENT FUNDS ARE APPROPRIATED, NO SUCH GRANT SHALL BE LESS THAN TEN THOUSAND DOLLARS PER COUNTY REPRESENTED BY SUCH TOURIST PROMOTION AGENCY. NO SUCH MINIMUM GRANT SHALL ALLOW THE AWARDING OF SUPPLEMENTAL MATCHING GRANTS FOR APPLICATIONS OTHER THAN THOSE MEETING THE GUIDELINES ESTABLISHED BY THE DEPARTMENT.

(E) NO SUPPLEMENTAL TOURISM GRANTS AWARDED TO A TOURIST PROMOTION AGENCY PURSUANT TO THIS SECTION MAY BE USED FOR TRAVEL, FOOD, LODGING, ENTERTAINMENT, TRANSPORTATION OR EXPENSES UNRELATED TO THE APPROVED ADVERTISING PROGRAM.

(F) APPLICATIONS REQUIRED BY THIS SECTION SHALL BE SUBMITTED ONLY UPON FORMS PROVIDED BY THE DEPARTMENT. SUCH FORMS SHALL CONTAIN A STATEMENT OF THE GUIDELINES WHICH THE COMMISSIONER SHALL USE TO EVALUATE THE APPLICATIONS. SUCH GUIDELINES SHALL BE ESTABLISHED BY THE COMMISSIONER ON AN ANNUAL BASIS AND, ONCE ESTABLISHED, SHALL NOT BE CHANGED UNTIL THE FOLLOWING YEAR.

(G) NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED AS TO PROHIBIT A TOURIST PROMOTION AGENCY FROM ESTABLISHING A LOCAL TOURISM PROMOTION MATCHING FUNDS PROGRAM RELATING TO ANY SUPPLEMENTAL TOURISM GRANT AWARD, FOR THE PURPOSE OF TOURISM PROMOTION, AS SPECIFIED IN SUBDIVISION FOUR OF SECTION NINETY-SEVEN-JJJJ OF THE STATE FINANCE LAW, OF A COUNTY REPRESENTED BY SUCH TOURIST PROMOTION AGENCY.

S 5. This act shall take effect immediately; provided, however, that the amendments to subdivision 3 of section 99-h of the state finance law made by section two of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith.