§ 1352. Commercial gaming revenue fund. 1. (a) The commission shall pay into an account, to be known as the commercial gaming revenue fund as established pursuant to section ninety-seven-nnnn of the state finance law, under the joint custody of the comptroller and the commissioner of taxation and finance, all taxes and fees imposed by this article paid by a gaming facility licensed under title two of this article or title two-A of this article located within zone two; any interest and penalties imposed by the commission relating to those taxes; the appropriate percentage of the value of expired gaming related obligations; all penalties levied and collected by the commission; and the appropriate funds, cash or prizes forfeited from gambling activity.

(b) For any gaming facility that does not qualify under subdivision two of section thirteen hundred twenty-one-a of this article, is licensed under title two-A of this article, and is located within New York City, revenues shall be distributed in the following manner:

(i) fifty percent of the taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law; and

(ii) fifty percent of the taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes shall be deposited into the commercial gaming revenue fund established under section ninety-seven-nnnn of the state finance law by the commission and shall be appropriated or transferred only for elementary and secondary education or real property tax relief.

(c) For any gaming facility that does not qualify under subdivision two of section thirteen hundred twenty-one-a of this article, is licensed under title two-A of this article, and located within zone one but not located within New York City, revenues shall be distributed in the following manner:

(i) forty percent of the taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the

metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law;

(ii) forty percent of the taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes shall be deposited into the commercial gaming revenue fund established under section ninety-seven-nnnn of the state finance law by the commission and shall be appropriated or transferred only for elementary and secondary education or real property tax relief from the commercial gaming revenue fund;

(iii) five percent of the taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes, shall be deposited into the commercial gaming revenue fund established under section ninety-seven-nnnn of the state finance law by the commission and shall be allocated to the host county for the purpose of real property tax relief or for education assistance;

(iv) ten percent of the taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes shall be deposited into the commercial gaming revenue fund established under section ninety-seven-nnnn of the state finance law by the commission and shall be allocated to the host municipality for the purpose of real property tax relief or education assistance; and

(v) five percent of the taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes, shall be deposited into the commercial gaming revenue fund established under section ninety-seven-nnnn of the state finance law by the commission and shall be allocated among counties within the region, as defined by section one thousand three hundred ten of this article, for the purpose of real property tax relief or education assistance. Such distribution from the commercial gaming revenue fund established under section ninety-seven-nnnn of the state finance law shall be made among the counties on a per capita basis, subtracting the population of host municipality and county.

(d) For any gaming facility that qualifies under subdivision two of section thirteen hundred twenty-one-a of this article, is licensed under title two-A of this article, and is located within zone one but not located within New York City, revenues shall be distributed in the

following manner:

(i) Eighty percent of all deposits in a state fiscal year resulting from taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes shall be directed to the commercial gaming revenue fund until the total of such deposits for the state fiscal year is equal to the education aid hold harmless amount. The education aid hold harmless amount shall be equal to the greater of (A) the revenue received from the facility for education aid deposits into the state lottery fund as a video lottery gaming licensee pursuant to section sixteen hundred seventeen-a of the tax law for the twelve months immediately preceding the date on which such facility began operations as a commercial casino pursuant to title two-A of this article, or (B) the revenue received from the facility for education aid deposits into the state lottery fund as a video lottery gaming licensee pursuant to section sixteen hundred seventeen-a of the tax law for state fiscal year two thousand twenty-two. For the first fiscal year of gaming facility operations, the hold harmless amount shall reflect a pro-rata amount based on the opening date of the gaming facility. Notwithstanding section ninety-seven-nnnn of the state finance law, such deposits into the commercial gaming revenue fund shall be available exclusively for elementary and secondary education. Should these deposits resulting from taxes imposed pursuant to subdivision one-a of section thirteen hundred fifty-one of this article on the operations of a qualifying gaming facility at the conclusion of a given state fiscal year be less than the total required under this paragraph, such gaming facility shall remit the necessary payment accounting for the difference to the commission for deposit into the commercial gaming revenue fund no later than the next occurring May first.

(ii) Twenty percent of all deposits in a state fiscal year resulting from taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes, shall be distributed in the same manner as subparagraphs (iii), (iv), and (v) of paragraph (c) of this subdivision.

(iii) Once the deposits from a qualifying gaming facility as prescribed in subparagraph (i) of this paragraph exceed the education aid hold harmless amount as determined in subparagraph (i) of this paragraph in a given state fiscal year, eighty percent of all subsequent

deposits in such state fiscal year from taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law and the remaining twenty percent shall continue to be distributed in the same manner as subparagraphs (iii), (iv), and (v) of paragraph (c) of this subdivision; provided however, that once the dollar amount paid directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law matches the same dollar amount paid pursuant to the education aid hold harmless amount as determined in subparagraph (i) of this paragraph in a given state fiscal year, twenty percent of any excess dollar amounts shall be distributed in the same manner as subparagraphs (iii), (iv), and (v) of paragraph (c) of this subdivision, forty percent of any excess dollar amounts shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law, and forty percent of any excess dollar amounts shall be deposited by the commission into the commercial gaming revenue fund established under section ninety-seven-nnnn of the state finance law for the sole purposes of education aid.

* (e) For any gaming facility that qualifies under subdivision two of section thirteen hundred twenty-one-a of this article, is licensed under title two-A of this article, and is located within New York City, upon receiving tax payments from such gaming facility, the commission shall estimate and may forward from such receipts such amount due to maintain racing support payments pursuant to section thirteen hundred fifty-five of this title and remaining tax revenues shall be distributed in the following manner:

(i) Eighty percent of all remaining deposits in a state fiscal year resulting from taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes, shall be deposited in the same manner as in subparagraph (i) of paragraph (d) of

this subdivision. For the first fiscal year of gaming facility operations, the hold harmless amount shall reflect a pro-rata amount based on the opening date of the gaming facility.

(ii) Twenty percent of all remaining deposits in a state fiscal year resulting from taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes, shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law until the applicable education aid hold harmless amount as prescribed in subparagraph (i) of paragraph (d) of this subdivision has been met.

(iii) Once the remaining deposits from a qualifying gaming facility as prescribed in subparagraph (i) of this paragraph exceed the education aid hold harmless amount as determined in subparagraph (i) of paragraph (d) of this subdivision in a given state fiscal year, all subsequent remaining deposits in such state fiscal year from taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes, shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law; provided however, that once the dollar amount paid directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law matches the same dollar amount paid pursuant to the education aid hold harmless amount as determined in subparagraph (i) of paragraph (d) of this subdivision in a given state fiscal year, fifty percent of any excess dollar amounts shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law, and fifty percent of any excess dollar amounts shall be deposited by the commission into the commercial gaming revenue fund established under

section ninety-seven-nnnn of the state finance law for the sole purposes of education aid.

* NB Effective until June 5, 2027

* (e) For any gaming facility that qualifies under subdivision two of section thirteen hundred twenty-one-a of this article, is licensed under title two-A of this article, and is located within New York City, revenues shall be distributed in the following manner:

(i) Eighty percent of all deposits in a state fiscal year resulting from taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes, shall be deposited in the same manner as in subparagraph (i) of paragraph (d) of this subdivision. For the first fiscal year of gaming facility operations, the hold harmless amount shall reflect a pro-rata amount based on the opening date of the gaming facility.

(ii) Twenty percent of all deposits in a state fiscal year resulting from taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes, shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law until the applicable education aid hold harmless amount as prescribed in subparagraph (i) of paragraph (d) of this subdivision has been met.

(iii) Once the deposits from a qualifying gaming facility as prescribed in subparagraph (i) of this paragraph exceed the education aid hold harmless amount as determined in subparagraph (i) of paragraph (d) of this subdivision in a given state fiscal year, all subsequent deposits in such state fiscal year from taxes imposed by this article, and any interest and penalties imposed by the commission relating to those taxes, shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law; provided however, that once the dollar amount paid directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred

seventy-j of the public authorities law matches the same dollar amount paid pursuant to the education aid hold harmless amount as determined in subparagraph (i) of paragraph (d) of this subdivision in a given state fiscal year, fifty percent of any excess dollar amounts shall be deposited to a sole custody fund established under the gaming commission, and paid monthly, without appropriation, directly to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law, and fifty percent of any excess dollar amounts shall be deposited by the commission into the commercial gaming revenue fund established under section ninety-seven-nnnn of the state finance law for the sole purposes of education aid.

* NB Effective June 5, 2027

(f) For a municipality that was appropriated video lottery terminal aid in the year two thousand twenty-three pursuant to section fifty-four-l of the state finance law, the gaming facility licensed under title two-A of this article that was previously authorized to operate video lottery gaming pursuant to section one thousand six hundred seventeen-a of the tax law must hold the municipality harmless so that the host municipality does not receive less money in any state fiscal year under the provisions of subparagraph (ii) of paragraph (d) of this subdivision than such host municipality received in annual video lottery terminal aid in the year two thousand twenty-three. The provisions of this paragraph shall apply as of the first full state fiscal year in which video lottery terminal aid is not received by the municipality and gaming facility operations have commenced.

2. The commission shall require at least monthly deposits by the licensee of any payments pursuant to section one thousand three hundred fifty-one of this article, at such times, under such conditions, and in such depositories as shall be prescribed by the state comptroller. The deposits shall be deposited to the credit of the commercial gaming revenue fund as established by section ninety-seven-nnnn of the state finance law or to the metropolitan transportation authority commercial gaming revenue fund established under section one thousand two hundred seventy-j of the public authorities law, according to the requirements of subdivision one of this section. The commission may require a monthly

report and reconciliation statement to be filed with it on or before the tenth day of each month, with respect to gross revenues and deposits received and made, respectively, during the preceding month.