Final Report
of the
Commission to Establish a Competitive Bidding Process for the Operation of Future Casinos and Slot Machine Facilities

January 2014

Commission members:

- Senator John L. Patrick, Co-chair
- Senator Garrett P. Mason
- Chief Brenda Commander, Houlton Band of Maliseet
- Chief Richard Getchell, Aroostook Band of Micmacs
- Robert Drisko
- Donald Simoneau
- Goodwin Gilman
- Sharon Terry
- Donald Barberino
- Catherine Damren
- Representative Louis J. Luchini, Co-Chair
- Representative Michael G. Beaulieu
- Chief Joseph Socobasin, Passamaquoddy Tribe
- Representative Wayne T. Mitchell, Penobscot Nation
- John Osborne
- Jack Sours
- Professor Todd Gabe
- Dennis Bailey
- Carroll Conley
- Peter Connell

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Background

The Commission to Develop a Competitive Bidding Process for the Operation of Future Casinos and Slot Machine Facilities was established by Public Law 2011, chapter 699. The Commission was created as part of a larger bill considered during the Second Regular Session of the 125th Legislature, LD 1897 An Act Regarding the Issuance of Licenses by the Gambling Control Board and To Establish a Competitive Bidding Process for the Operation of Slot Machines and Table Games in the State. LD 1897 was introduced primarily as the result of the work of a subcommittee of the Veterans and Legal Affairs Committee, which was tasked with developing a comprehensive policy governing the licensing of casino-style gaming in the State.

Immediately prior to 2003, the year when voters of the State approved the operation of slot machines at commercial tracks as proposed by a citizen-initiated referendum campaign, Maine's gambling policy stated that gambling for profit and the promotion of gambling is illegal with the following exceptions:

- Games operated by The Maine State Lottery, including games under a tri-state compact with New Hampshire and Vermont;
- Wagering on harness horse racing at commercial tracks, agricultural fairs and at licensed off-track betting facilities;
- Charitable gaming, including beano and other games of chance, conducted by bona-fide charitable non-profits, civic organizations and veterans groups with gaming proceeds to benefit charitable purposes; and
- High-stakes beano conducted by federally recognized Indian tribes in the state on tribal land.

The successful referendum in 2003 was preceded by multiple failed attempts to legalize the operation of slot machines in Maine. In fact, on the same ballot in 2003, voters were asked to consider a proposal for a larger-scale casino to be operated in Sanford (also a citizen initiated referendum). This proposal the citizens of Maine rejected. The specifics of the approved legislation authorized the operation of slot machines at commercial harness racing tracks, to be known as "racinos." As is the case today, there are two commercial harness racing tracks in Maine, one in Bangor and one in Scarborough. Thus, the legislation provided the potential for 2 racinos. One of the criteria for licensure was local approval via municipal referendum in the town or city where the commercial track was located. The deadline for receiving that approval was December 31, 2003, in accordance with the law. The people of the City of Bangor voted to approve a racino, unlike the voters of Scarborough, who voted against allowing a racino in their town.

Although, the racino referendum was successful, many were critical of the regulatory structure outlined in the legislation, citing it as significantly lacking to monitor an activity that typically requires stringent fiscal and social safeguards. Thus, the Legislature enacted LD 1820

(PL 2003, chapter 687) introduced by Governor Baldacci during the Second Regular Session of the 121st Legislature. This law established the Gambling Control Board within the Department of Public Safety and created the licensing and regulatory structure that is in place today to govern the operation of slot machines (and later, table games). In 2011, the proponents of a casino in Oxford County used this structure as a model for its initiative, the only other approved by the voters since 2003.

By the time the voters approved a casino in Oxford County, it became clear that casino-style gaming in Maine was a significant economic driver for the operator, and the multiple beneficiaries of gaming revenue named in law, including the State's General Fund. In 2009, the gross amount wagered on slot machine games at Hollywood Slots in Bangor (now Hollywood Casino) exceeded $690,000,000 (before prize payouts). Distributions made to the various entities and funds required by law exceeded $27,000,000 with just over $8,500,000 going directly to the General Fund. For 2009, Hollywood Slots reported that after statutory distributions, a municipal revenue sharing agreement with Bangor and other taxes, the facility realized revenues just under $30,000,000.

Recognizing the financial success of the racino, there was growing concern expressed by some members of the Legislature that the license fee which authorized the operation of the racino was disproportionately low. That concern, paired with the fact that the Oxford County casino initiative used the existing structure as a model (including the license fee), prompted the call for a new framework that would require significantly higher license fees and provide greater revenue to the General Fund and programs of priority to the Legislature. Supporters of a new framework argued that the State's gambling policy was being determined by the citizen initiative process, funded by gambling interests looking for an "end-run" around the legislative process and that the Legislature should be the one to set that policy. Without dismissing the possibility that future citizen initiative campaigns could promote gambling legislation that repeals or "notwithstands" a law passed by the Legislature, supporters of a comprehensive gaming framework believed that it is the responsibility of the Legislature to develop a well-informed policy on an issue of such public importance.

In 2012, during the Second Regular Session of the 125th Legislature, a subcommittee of the Veterans and Legal Affairs Committee was established to consider the development of a proposal for a comprehensive gaming policy that would govern the licensing and operation of future casinos or slot machine facilities, among other gambling-related issues. Chaired by Rep. Linda Valentino (now Senator), the subcommittee proposed a moratorium prohibiting the Gambling Control Board from issuing a license for a slot machine facility, casino or similar facility unless the applicant had been selected by a competitive bidding process administered by the Department of Administrative and Financial Services. The bill set a privilege fee of $250,000 to submit a bid and a minimum cash bid of $5,000,000 to be considered as an applicant. The bill stated that this process was only to be followed if separate legislation was enacted into law authorizing a new license for a facility where slot machines or table games would be operated. This bill, LD 1897 was amended in committee and further amended on the floor of the House of Representatives and the Senate. As enacted, the bill maintained the licensing moratorium with the exception of a slot facility license for a federally recognized Indian Tribe in Washington County, authorized to

conduct high-stakes beano. The bill also established this commission, whose work is summarized in this report.

Authorizing Legislation

Public Law 2011, chapter 699 created Commission to Establish a Competitive Bidding Procedure for the Operation of Future Casinos and Slot Machines made up of 20 members:

- Two members of the House of Representatives and members of the Senate who serve on the Joint Standing Committee of the Legislature with jurisdiction over casinos (VLA);
- One representative from each of the four Federally recognized Indian Tribes in the State;
- One person representing charitable non-profits that conduct gaming;
- One person representing veterans' organizations that conduct gaming;
- One person representing the harness horse racing industry;
- A representative of a commercial harness horse racing track not authorized to operate slot machines;
- A representative of each of the licensed casinos operating in the State;
- An off-track betting facility operator in the State;
- Representatives of 2 groups opposed to casino operation in the State, one from a statewide religious organization;
- A representative of the hospitality industry;
- A representative of agricultural fairs in the State; and
- An economist or consultant with experience studying the gambling industry.

The commission was charged with the following duties:

- Examine the impact of existing casinos on local economies and the state economy overall and any impacts on other forms of legal gambling conducted in the State;
- Examine the impact of the establishment of casinos in Massachusetts and New Hampshire and neighboring Canadian provinces on the State economy and on revenue generated by existing casinos in Maine;
- Gather information to determine the potential market for new gambling opportunities in the State;
- Consider the feasibility of the licensing of expanded gambling activities (such as slot machines and table games) by groups currently eligible to conduct games of chance, beano, high-stakes beano and those licensed to accept wagers on harness horse racing; and
- Develop recommendations for a competitive bidding process for a slot machine facility or casino with a minimum bid privilege fee of $250,000 and a minimum cash bid of $5,000,000 (deviation from these minimums permitted if the factors of geography and demographics of the location warrant deviation)

Chapter 699 authorized up to 6 meetings and tasked the Department of Administrative and Financial Services with staffing the commission and provided for drafting assistance by the Office of Policy and Legal Analysis. The commission held 4 meetings. Although DAFS was named as staff to the commission pursuant to chapter 699, the department submitted a letter to the chairs of the commission expressing concern that they may not be able to provide the level of staffing

required for the commission to meet its charge. In response to that concern, the Legislative Council submitted a letter to DAFS on September 27th, stating that they had decided to assign a legislative analyst from the Office of Policy and Legal Analysis (OPLA) to provide primary staffing to the commission. Thus, an OPLA analyst served as primary staff for the final meeting of the commission and drafted this report. DAFS continued to provide administrative assistance maintaining a website for the commission and drafting meeting summaries. The commission was charged with submitting findings and recommendations, no later than February 15, 2015, to the Veterans and Legal Affairs Committee who is authorized to submit legislation to the Second Regular Session of the 126th Legislature.

Summary of commission meetings

The commission held 4 meetings in Augusta on July 26th, September 6th, September 27th, and October 24th, 2013. Agenda for each of the meetings and copies of the meeting summaries can be found on the website maintained by the Department of Administrative and Financial Services at http://www.maine.gov/dafs/gamingcom.

July 26, 2013: The first meeting of the commission included a review and discussion of the statutory responsibilities outlined for the commission in chapter 699. Each member in attendance talked about the group for whom they were appointed to represent and the objectives they believed were important to achieve as the commission moved forward with its work. Some of those objectives included determining the market feasibility of expanded gaming in Maine, particularly considering the recent passage of legislation in Massachusetts authorizing 4 regional gaming facilities (3 casinos and 1 slot facility) and the push for casino gambling in New Hampshire. Some members expressed their interest in focusing on taking advantage of the market in Southern Maine by considering the option for a four season resort casino, particularly in light of the potential for casino development in New Hampshire. Members representing Indian Tribes in the State stressed the need for added opportunities to improve economic conditions in their communities, including gambling because it has proven successful for Tribes in other parts of the country. Members representing veterans organizations and non-profits who conduct charitable gaming discussed the decrease in gambling revenues they are experiencing with the expansion of the lottery and the advent of large casinos in the State and urged the commission to consider various forms of gaming expansion including smaller scale changes, such as the authorization of 5 or fewer slot machines at places like an Elks Lodge or an American Legion Hall. Continued support for the harness racing industry was a priority expressed by several members, stressing the industry's role in the Maine's agricultural heritage. Legislative members stated the importance of understanding the potential market for expanded gaming and the impact casinos and other gambling facilities located in neighboring states and provinces will have on existing or future gaming operations in Maine.

Also at this initial meeting, members were encouraged to share information and resources that they believed would be beneficial to the commission. A website was established for this purpose to which various articles and studies were posted throughout the course of the commission's work. http://www.maine.gov/dafs/gamingcom

September 6th, 2013: At its second meeting, the commission heard comment from member Professor Todd Gabe who provided an update on the current state of casino gaming in Maine. The data he used to provide this general information to the commission were derived from the Department of Public Safety, Gambling Control Board website. Professor Gabe began his presentation talking about the Oxford Casino, which at the time of the meeting, was operating approximately half the number of table games and slot machines it originally proposed and is authorized operate at the facility. Despite being in the early stages of operation, the casino saw wagers in excess of $65 million in its first year of operation. Going into its second year, Oxford is experiencing a 39% revenue increase according to Professor Gabe. Comparing the early revenue growth at Oxford against Hollywood Casino in Bangor (racino in the early years), Professor Gabe noted that Hollywood's growth during the first 5 years was slower, but that these years coincided with the great recession which likely impacted gambling revenues. Even though revenue growth at Hollywood was slower than Oxford's during the initial years, the Bangor facility saw significant increases over a four year period starting at $43.3 million in wagers in 2007 and reaching $62 million by the end of 2010 at which time revenues leveled off. Professor Gabe predicted that Oxford Casino, situated in a region with double the potential market of Bangor would realize several years of healthy growth before leveling off.

Following the presentation by Professor Gabe and discussion, the commission listened to member John Osborne, representing Hollywood Casino, who was asked to speak about how the operation of the Oxford Casino has affected the facility for which he is general manager. Materials presented by Mr. Osborne indicated that since Oxford's opening, Hollywood's gross gaming revenues have declined significantly. Starting in late 2012, just after Oxford Casino opened, gross gaming revenues fell 16-18% compared to the same period in 2011. (Information later presented to the commission by Professor Gabe demonstrated that, while total revenue was down only 3% at Hollywood Casino the year after Oxford Casino opened, this calculation also took into account the launch of table games during that period. Looking only at slot machines, revenue at Hollywood Casino was down 19% during that period.) Mr. Osborne further indicated that the decline in revenues has continued into 2013. Through July 2013, gross revenues are down 13.7% compared to the same period in 2012 and down 5.3% compared to the same period in 2011, prior to Oxford Casino's opening. According to Mr. Osborne, the declines are attributed directly to the Oxford Casino. Although the local customer base for the Bangor facility is consistent with prior years, the market for patrons 2 or more hours away from Hollywood Casino has diminished.

After the presentations, Senator Patrick, co-chair of the commission requested input from members about the direction the State should be taking, recognizing the large number of gaming bills pending consideration in the Second Regular Session of the 126th that propose multiple ways to expand gaming in Maine. Sharon Terry of Scarborough Downs, representing a commercial harness racing track without a license to conduct casino gaming, told the commission that revenues at the track are down more than 22%, which she attributed directly to the Oxford Casino. She explained the harness racing industry's connection to agricultural business in Maine and how many people who do not work at the track rely directly on what happens at the track for their livelihood. Chief Brenda Commander, representing the Houlton Band of Maliseet, stressed that her tribe is seeking a fair shot at competing in the gambling market. She argued that locating a casino in northern Aroostook County would be new revenue and would not have a significant

impact on the casinos in Oxford or Bangor. Donald Barberino, representing off-track betting facilities, cited the decline in revenues at OTBs and discussed ways that OTBs could partner with non-profits in the operation of slot machines where veterans groups or fraternal organizations conduct charitable gaming now. Additionally, he thinks the Legislature should move forward with internet wagering at OTBs and tracks where they currently accept wagers on horse racing. Jack Sours of Oxford Casino questioned why the state would move forward with expansion that would jeopardize existing gaming revenue distributions that are still in their infancy. He expressed concern about cannibalization within the market and noted that a highly negotiated casino gaming law recently enacted in Massachusetts established 3 casino zones for a state with a population of 7 million while Maine has 2 zones for a population of just over 1 million. Conversely, Peter Connell, representing the hospitality industry, argued that a huge untapped market for gambling revenue exists in Maine and that it is unfair to the Indian Tribes, non-profits, veterans and the harness racing industry to focus on just protecting existing facilities. Finally, Carroll Conley and Dennis Bailey, representing groups opposed to casinos, inquired why we are not doing a real cost benefit analysis of an expansion, particularly the social costs. Mr. Bailey said that Massachusetts may serve as a good model, if expansion is deemed worthwhile, with a requirement for up-front payments to cover costs.

The commission's agenda included an opportunity for public comment. Former Representative Linwood Higgins of the Maine Harness Horsemen's Association submitted a letter to the commission that stressed his view that future gaming policy should facilitate job creation and economic activity central to racing such as veterinary care, breeding and agricultural supplies necessary to support the industry. He also stated that while courting out-of-state interest was appropriate, there should be an equal effort spent on promoting and encouraging an existing Maine industry that employs 3,000 people and contributes substantial revenue to the State economy. Without State support, Mr. Higgins stressed that those involved in it will be forced to take their business out of state where there are better opportunities.

September 27th, 2013: The commission's agenda for the third meeting included a report from Patrick Fleming, Executive Director of the Gambling Control Board. This report was in response to requests made by members to receive information about criminal activity and law enforcement interventions that occur directly around the two casinos in Maine. Director Fleming noted that his records show that law enforcement responds to incidents approximately 10-15 times per month at Hollywood Casino and 20-25 times per month at Oxford Casino. The range of incidents varies from minor disturbances in the casino to problems related to traffic increases. According to Director Fleming, based on the reports he receives, local law enforcement report that they have seen no significant increase in criminal activity around the casinos. Some members of the commission inquired about incidents of embezzlement and passing bad checks by people who may be motivated to commit such crimes because of a gambling problem. Director Fleming indicated that his office does not monitor that and to do so would require a significant change in the way law enforcement collects and stores information related to such criminal activity. In response to other questions, Director Fleming spoke briefly about self-exclusion lists at both casinos and how his office works with the Office of Substance Abuse and Mental Health Services to address problem gambling.

The agenda called for staff presentations to review the existing gambling framework in the state, development of an outline for considering alternative proposals for gambling facilities, a review of gaming bills carried over from the First Regular Session and general discussion of what process should be followed to make recommendations for legislation to establish a competitive bidding process. However, at this point in the meeting Peter Connell, representing the hospitality industry on the commission, made the following motion:

"The next meeting agenda notwithstanding, I move that this Commission, pursuant to Joint Rule 353, Page 228 of the Senate and House Register, make recommendations to the Joint Standing Committee of Veterans and Legal Affairs to support changes in statute that would allow the following:

1. *Applications for a Southern Maine destination resort racino with table games be accepted by the Gambling Control Board for licensure.*
2. *An application that would allow the Passamaquoddy Tribe to operate slot machines and table games in Washington County be accepted by the Gambling Control Board;*
3. *Allow the Penobscot Nation, the Houlton Band of Maliseet, the Aroostook Band of Micmacs, and the Passamaquoddy Tribe, who are allowed to operate high-stakes beano games currently, to operate high-stakes electronic beano;*
4. *An application that would allow the Houlton Band of Maliseet to operate slot machines and table games in Aroostook County be accepted by the Gambling Control Board;*
5. *Advance deposit wagering for harness racing be authorized at existing off-track betting facilities and commercial harness racing tracks in the State of Maine;*
6. *Applications for qualified non-profit and veteran's organizations to operate and/or generate income from slot machines, be accepted by the Gambling Control Board for licensure; and*
7. *Expanded gambling opportunities for persons or groups who are eligible for existing gaming licenses should be identified and implementation allowed."*

Representative Wayne Mitchell, representing the Penobscot Nation as a member of the commission seconded the motion. Before stating support or opposition to the motion, members engaged in a lengthy discussion about process and whether or not voting on a recommendation was premature considering that the proposal in the motion was not specific with regard to the number of facilities, regulatory structure or the process by which the licenses to conduct the various forms of gambling would be granted. Several members questioned whether or not the commission had met its charge to determine the feasibility of expanded gaming and to what extent, if any, expansion should be supported. Additionally, some members objected to the fact that there had been no consideration of the competitive bidding process as was required by chapter 699. Some who supported the motion stated that they were concerned the commission was established with the purpose of delaying opportunities for new gaming so as to protect the two existing casinos. Ultimately, of the 19 members in attendance, 10 voted in favor of the motion, 8 in opposition, with one member abstaining.

Mr. Connell	yes	Sen. Patrick	no
Rep. Mitchell	yes	Rep. Luchini	no
Chief Getchell	yes	Rep. Beaulieu	no
Chief Socobasin	yes	Mr. Simoneau	no
Mr. Barberino	yes	Mr. Sours	no
Ms. Damren	yes	Mr. Conley	no
Ms. Terry	yes	Mr. Bailey	no
Chief Commander	yes	Mr. Osborne	no
Mr. Drisko	yes		
Mr. Gilman	yes		

Professor Gabe abstain
(Sen. Mason was not in attendance but stated at a later meeting that he would have voted "no.")

Following the vote on the motion, commission co-chairs Sen. Patrick and Rep. Luchini requested that Mr. Connell work with those who supported the motion to establish a framework for the proposal that would provide clear direction to facilitate the drafting of legislation based on the recommendation.

At this meeting, member Jack Sours of Oxford Casino distributed the Executive Summary of a report by Dr. Clyde Barrow of the University of Massachusetts-Dartmouth, which examines how existing Maine casinos will be impacted by the expansion of gaming in Massachusetts and the potential effect to be felt by gaming facilities proposed in New Hampshire and a Southern Maine.

Again, the commission opened the meeting to public comment. Hope Ricker spoke on behalf of the Maine Association of Agricultural Fairs about how central harness racing is to their livelihood and that it means a lot to over 750,000 people who attend the fairs each year. Chick Ciciotte, past National Vice Commander of the American Legion discussed his support of an amended version of a carryover bill being considered by the Veterans and Legal Affairs Committee – LD 31 An Act to Increase Gambling Opportunities for Charitable Fraternal and Veterans' Organizations. The amended version would allow these organizations to partner with existing off-track betting facilities in the operation of slot machines at places like American Legion halls and Eagles Clubs. Dr. Denise McNitt talked to members about her veterinary practice that she hoped to maintain here in Maine. However, she told the commission that she has been forced to relocate her practice and sell her 30 acre farm in Cumberland to a real estate developer because of the decline in the success of the harness racing industry. She indicated that she believes it is crucial to do right by the horsemen in order to preserve farms and open space in the State and allowing families to stay here in Maine.

October 24th, 2013: The agenda for the fourth and final meeting of the commission called for a presentation detailing the elements of the expanded gaming recommendation made at the 3rd meeting. Additionally, the agenda set aside time for each member of the commission to offer a presentation about how existing gaming opportunities in the State, or the prospect of expanded gaming opportunities, have or could impact the groups they were appointed to the commission to represent.

Mr. Connell, representing the hospitality industry and maker of the September 27th motion, spoke generally to the recommendation supported by a majority of the commission. He indicated that he would let the groups who would be eligible for expanded gaming opportunities under the recommendation speak to the specific elements that applied to them directly. Because his employer could be a potential bidder for a new full-scale casino under the recommendation, he felt it would not be appropriate to provide specific proposals for legislation. In his remarks, he argued that Maine is not deriving the maximum benefit it could realize from gaming, stating that the two existing facilities are only moderately integrating the tourist economy. He offered his support of a competitive bid process for a destination resort with table games and slot machines, the operator of which would have to pay a significant license fee, commit to substantial capital investments and demonstrate that the resort would have positive impacts on local and broader economies. In addition to economic impacts generally, the bidder would be required to consider the impacts on harness racing, agricultural fairs, Maine's Indian Tribes, charitable non-profits and veterans groups.

Member presentations:

Following Mr. Connell's comments, members of the commission made their presentations in accordance with the agenda. Members who voted in support of the September 27th motion were also asked to offer any specifics or details they could with regard to the scope of expanded gaming they would support for the group they represent. (Copies of the presentations that were provided in written form have been posted to the website administered by DAFS at http://www.maine.gov/dafs/gamingcom.)

Representative Henry Bear, sitting in for Chief Brenda Commander – Houlton Band of Maliseet Indians: Representative Bear told the commission that his Tribe supports the modest expansion that is proposed in a bill before VLA carried over from the First Regular Session, LD 1298 An Act to Authorize the Houlton Band of Maliseet Indians to Operate a Casino in Aroostook County. The bill would be amended based on information they heard during the course of the commission's work and based on discussion with the Houlton Band of Maliseet Tribal Council. The amended version of the bill would incorporate a county-wide referendum and require that a casino be located on trust land already dedicated for gaming (more than 100 miles from existing facilities). Their proposal would authorize 750 slot machines, which according to Representative Bear, would be sustainable and impose no significant impact on the existing casinos in Bangor and Oxford. Rep. Bear also cited a letter from Dr. Clyde Barrow written in response to an inquiry about the prospect of a casino in Houlton. The letter highlighted potential advantages of the location including distance from competition, a reasonable-sized population to support a moderate casino, the proximity to the port of entry from Canada and Interstate 95 and the tourist potential relative to hunting, fishing and camping.

Chief Joseph Socobasin, Passamaquoddy Tribe: Chief Socobasin began his presentation citing the exception to the current moratorium on casino-style gaming licenses that would allow the Passamaquoddy to operate a slot machine facility in Washington County. He noted the failed attempts to pass legislation to allow for gaming by the Passamaquoddy to conduct gaming in

Washington County, including referenda in 2007 and 2011. He stressed that a level playing field and equal opportunity is what they have been seeking all along and that he supports gaming by the stakeholders on the commission who wish to pursue that opportunity. The Passamaquoddy also have a bill that will be considered by VLA during the Second Regular Session – LD 1520 An Act to Allow the Passamaquoddy Tribe to Operate Slot Machines in Washington County in Conjunction with High-stakes Beano. Chief Socobasin indicated that the proposal he supports would allow up to 750 slot machines, high-stakes beano, harness racing and a requirement for a hotel with a minimum of 80 rooms. The proposal would be subject to a county-wide vote. Further, he stated he would support an amendment to allow for table games. Chief Socobasin indicated that he believes that a report by Professor Clyde Barrow, recognized for his work studying the gaming industry, would support his contention that a facility in Washington County would have minimal impact on existing facilities in Bangor and Oxford. The Chief stressed what he believed is a key element to the potential success of a casino in the Calais region - location. He noted that the number of border crossings from Canadian consumers as illustrated by the success of the Calais WalMart, is proof of the potential market. His market analysis shows that 60% of casino patrons would come from Canada. Additionally, the region is an ecotourism destination, so much so, that the local community college offers specialized education in hospitality and tourism.

Chief Kirk Francis (for Rep. Wayne Mitchell), Penobscot Nation: Chief Francis noted that the Penobscot Nation's high-stakes beano operation was the first tribal gaming in the country. He told the commission that he believes its work provides an important opportunity to address equitable gaming opportunities for tribes in Maine. He discussed the history of unsuccessful proposals to allow for slot machine operation in conjunction with their high-stakes beano games. Thus, their efforts are now focused more on one-touch beano technology to modernize what they offer to their patrons. However, according to Chief Francis, it is not just the technology that draws in customers, but rather the "Maine experience," which is why they combine their efforts with the promotion of eco-tours and activities that illustrate the rich culture of Maine's native people. Chief Francis also pointed out that he believes the one-touch technology for beano that they hope to employ does not threaten the business at existing casinos. Although, they are pursuing and have extensive experience in gaming, the Penobscot Nation has a diversified economic development strategy with the objective of breaking the cycle of poverty that causes the continued economic disparity among tribal populations. According to Chief Francis, they do not consider gaming to be the financial savior of the Penobscot Nation, just one element in their overall plan.

Mr. Donald Simoneau and Mr. Robert Drisko, Veterans Organizations and Charitable Non-profits: Mr. Simoneau, as Legislative Chairman of the Maine American Legion discussed the negative financial impact that increased for-profit gaming in Maine has had on veterans groups and charitable non-profits. He described a time when these groups were able to earn enough money from gaming to support their efforts well, through beano, games of chance and previously legal gaming machines. With a determination that the machines were actually illegal and the advances within the Maine State Lottery, the gaming revenues for organizations like the American Legion and the Fraternal Order of Elks decreased precipitously. He cautioned the commission to think carefully about who would provide the services that these groups provide, services often taken for granted, if they do not have a source of revenue to

fund themselves. (Mr. Simoneau provided spreadsheets showing the decline in non-profit gaming revenues).

Mr. Drisko reminded the commission that there are other types of gaming opportunities besides casinos, racinos and destination resorts. Smaller scale gaming is a middle ground that will help groups like the one he represents while having minimal impact on existing gaming. Mr. Drisko listed the programs for which the Maine Elks have raised money, including the Children's Cancer Program, Homeless Veterans, local recreational facilities and free diabetes testing clinics. Like Mr. Simoneau, Mr. Drisko asked the commission to consider who would step up to provide these services if their organizations are cannot to survive. They both stated that they support passage of their proposal, LD 31 An Act to Increase Gaming Opportunities for Charitable Fraternal and Veterans Organizations.

Mr. Goodwin "Goody" Gilman, Maine Harness Racing Industry: As a representative of the harness racing industry, Mr. Goodwin stated its mission is to establish support for a secure, reliable future for harness horse racing and the associated agricultural industries that support harness racing. They see the way to achieve this goal is by allowing the establishment of a fully-integrated racino in southern Maine. According to Mr. Gilman, if such an effort was successful, it would not only create positive economic impacts for the State, harness racing and agricultural industries, but will also preserve about 150,000 acres of farmland. Mr. Goodwin cited a report on the DAFS website, "Pennsylvania Got it Right" which he says indicates that Maine has not reached its potential for generating gaming revenue. He believes a facility in southern Maine, given the population and tourism base, could double the gaming revenue coming into the State. He described the long-term relationship between the industry and agricultural fairs and noted that increased opportunities such as a racino will allow for that supportive relationship to continue.

Ms. Sharon Terry, commercial track without a slot machine facility (Scarborough Downs): Ms. Terry stated that Scarborough Downs hopes for the commission to support two things, a gaming design that is a fair deal for the people of Maine and an honest assessment of the impacts of modern gaming on traditional wagering models and a way to expand licensing to mitigate those impacts. She indicated that a few out-of-state investors (operators of existing casinos) have continued to stand in the way of efforts by Scarborough Downs to expand into modern gaming facilities. The proposal that she supports would allow for a slot facility or casino at a commercial track in southern Maine (current location or a replacement location for the track) subject to local approval by referendum. Under her proposal, there would be a requirement to maintain a true four-season resort with racing conducted immediately adjacent to the facility. Her proposal would create a system of distribution that maintains revenue levels for existing recipients of casino revenues by compensating them for any losses incurred due to the establishment of a southern Maine Resort Casino with a commercial track. She stated that her proposal would also set significant license fees ($50,000,000 if the proposal is subject to just a local referendum rather than a statewide vote).

Mr. Donald Barberino, off-track betting facilities: Mr. Barberino described the establishment of the OTB system in 1993. According to his presentation, OTBs were established to help fund pursues for harness racing by providing an additional means for wagering with the

arrangement dividing gross revenues between the industry and the OTBs evenly. However, Mr. Barberino indicated that the OTBs paid all of the expenses, creating a less than even split. Because of the amount they pay to the industry and the inability to offer alternative forms of wagering, Mr. Barberino says that with this business model, OTB survival will be a significant challenge. Mr. Barberino took issue with the concern over cannibalization of casinos, which he cites as too great a focus in current deliberations, particularly because discussion seems to ignore how casinos have consumed a large percentage of revenues from pre-existing gaming entities, like OTBs. He cited that the OTB handle was down 9.2% last year, with the Lewiston OTB alone seeing a 22% handle decrease due to its proximity to the Oxford Casino. Mr. Barberino supports the expansion of gaming through advanced deposit wagering as proposed by carryover bill LD 519 An Act to Establish Advance Deposit Wagering for Harness Racing. This bill allows for internet wagering on racing. He also stated support for an amended version of LD 31 An Act to Increase Gaming Opportunities for Charitable Fraternal and Veterans' Organizations. The amended version, according to Mr. Barberino, would allow the organizations to contract the OTBs to supply and operate machines for the charitable gaming purposes. Recognizing that some may not support the amended version of LD 31, Mr. Barberino said the Legislature should consider instant racing as an option. He stated that instant racing is a pari-mutuel game that is played like a slot machine where people bet on previously run races.

Mr. Jack Sours and Mr. John Osborne, representing casino operators: Mr. Sours of the Oxford Casino and Mr. Osborne of Hollywood Casino, both stated that the 7-part motion made at the September 27th meeting was premature and had no supporting data. In particular, they stated that the motion, made before the commission completed its work, disregarded the duties of the commission established by law and that the motion was based more on sentiment than data analysis. Mr. Osborne stated that the casinos in Bangor and Oxford have resulted in development in areas where it was needed and that the casinos have served as partners with the communities that host them, citing as examples the Bangor Auditorium and waterfront concerts that have benefitted the area. Both Mr. Sours and Mr. Osborne noted that the revenue distributions required of both Hollywood Casino and Oxford Casino provide significant revenues to those represented on the commission. Mr. Osborne cited the increase in the number of harness races run at the Bangor track and the increase in purses from 2005 to 2012 and the new arrangement to allow wagers on the races to be placed at the casino as an illustration of Hollywood Casino's partnership with the harness racing industry. Mr. Sours talked about a report by Dr. Clyde Barrow, completed when the effort to pass the Oxford Casino legislation was happening, where he correctly predicted the impact that a casino in Oxford would have on Bangor (a 20% decrease to Hollywood Casinos net revenue). Mr. Sours said that a more recent report by Dr. Barrow (the executive summary to which was distributed at the previous meeting – see http://www.maine.gov/dafs/gamingcom). examined the impact of Massachusetts casinos, a potential New Hampshire Casino and another potential southern Maine casino on the Bangor and Oxford facilities. Mr. Sours stated that the report concludes that another Maine casino facility like "Biddeford Downs" would cannibalize 95% of its patrons from existing Maine facilities. According to Mr. Sours statements, the report indicates that another Maine casino would cut into Oxford Casino's revenues by 50% and into Hollywood Casino's by 29.1%. Mr. Sours argued, that with this analysis, there is no economic benefit to authorizing a southern Maine casino and that the Oxford Casino requires time to

stabilize so that it can move forward with its development into a destination resort. Mr. Sours and Mr. Osborne also presented slides that show what they see as the economic benefits of the Hollywood Casino and Oxford Casino to the state and the beneficiaries of gaming distributions as prescribed by law.

Professor Todd Gabe, economist with experience studying the gaming industry: Professor Gabe, who does not take a position on the gaming proposals and thus abstained from voting on the motion from September 27th, focused his comments on the development of a competitive bidding process, which the law says must include a $250,000 non-refundable bidding fee and a minimum license fee of $5,000,000. Professor Gabe noted that the current operators of the two existing casinos in the State are not the entities that funded the campaigns to pass the legislation that authorized them via citizen initiative. Penn National Gaming, which operates Hollywood Casino, purchased the licensing rights from Capital Seven (Shawn Scott). Churchill Downs recently purchased Oxford Casino. Although, the price paid by Penn National was never publicized, Professor Gabe stated that an estimate from what he could gather from a cryptic item in a Penn National annual report shows that they paid a market rate to Capital Seven for the rights to a racino license. The sale of Oxford to Churchill Downs was announced as $160 million, also market rate (including land and buildings). Professor Gabe noted that even though these licenses were established via referendum and the statutory fees have been cited as too low, real money did change hands. He believes that if Maine knew then what we know today with regard to these transactions, the license fee structure may have been set differently. Professor Gabe told the commission that if the state wants to get in the business of selling these licenses, it will be important to get good data on the transactions that have happened so far and then adjust them depending on scale and scope of new facilities.

Carroll Conley, representing statewide religious organization opposed to casinos: Mr. Conley began his presentation by stating that a person or group can be opposed to gaming and casinos without being anti-veteran, anti-agricultural or insensitive to the struggles of Indian Tribes in Maine. He expressed his disappointment in a process that was diverted by a parliamentary maneuver at the third meeting, which ignored the statutory charge of the commission. Mr. Conley presented a graphic representation of Maine marked with dice to show the potential for the number of gaming facilities that could be operated in the State if the 7-part motion were passed into law. Additionally, Mr. Conley distributed a pie-chart that cited a Creative Insights poll from 2012 which reported that 87% of respondents believe voters should have a say via referendum if additional casinos were to be authorized in the State. Mr. Conley also provided a county-by-county breakdown of how Mainers voted in 2011 on the proposals to allow a casino in Lewiston (all counties opposed) and measure that would have allowed a casino in Biddeford and a racino in Washington County (4 of 16 counties voted yes). Mr. Conley argued that he and Mr. Dennis Bailey of "Casinos No" represent the people of Maine who want to have a say in the expansion of gambling in this State.

Mrs. Catharine Damren, representing agricultural fairs: Mrs. Damren began her remarks by informing the commission that she is one of the very few members of the commission that actually took part in the negotiations that resulted in the racino authorized in Bangor. She urged the commission to remember the important partnership between the harness racing industry and agricultural fairs. The industry has supported the fairs for decades, even those

fairs that do not have live racing. According to Mrs. Damren, the harness racing industry is not only crucial to the survival of the fairs but to Maine's agricultural economy. She believes a gaming facility at a track in southern Maine is what is required to secure the industry's future which will, in turn, maintain the fairs and the agricultural economy. She stated that the fairs feel strongly that the commission should develop a plan to license additional gaming establishments in Maine that specifies license fees and requires a guarantee about development of the facility and includes a similar revenue distribution formula to what Hollywood Casino has today. She indicated that the fairs support County referendum votes to qualify a casino, but not a state-wide vote.

Mr. Peter Connell, representing the hospitality industry: Mr. Connell, who works for Ocean Properties, began his remarks talking about the successful history his employer has had in Maine developing and operating premier hospitality establishments. He went on to comment that the overall policy in the State with regard to gaming is unfair to Maine's federally recognized Indian Tribes, to veterans groups and fraternal charitable organizations. He supports a new framework that creates opportunities in a fair manner and also maximizes the potential for gaming revenue in Maine. Mr. Connell warned the commission about developments in New Hampshire to support a casino and a law that will allow casino development in Massachusetts by stating that Maine needs to act quickly to keep the state's untapped potential gaming revenue within our borders. Mr. Connell also took issue with a recent study by Dr. Clyde Barrow saying that the scope of the study is limited, and the study does not differentiate between resort destination casinos (like he supports in Southern Maine) and facilities like Hollywood Casino and Oxford Casino which he deems "convenience casinos." A facility like the proposed Biddeford Downs would be a true destination resort according to Mr. Connell, partly because of its proximity to Maine's premier beaches which draw a huge number of tourists to the State. Mr. Connell provided the commission with a memo in response to Dr. Barrow's study and another memo that that looks at the potential revenue from a gaming facility in Southern Maine.

Written materials provided to the commission as part of member presentations can be viewed on the DAFS website:
http://www.maine.gov/dafs/gamingcom/minutes/meeting20131024.html

CONCLUSION

The Commission to Develop a Competitive Bidding Process for the Operation of Future Casinos and Slot Machine Facilities held 4 meetings from July – October 2013. Each member of the commission was provided an opportunity to talk about how Maine's existing gaming structure impacts the groups that they were appointed to represent and what they hope to see with regard to proposals for expanded gaming in the State. At the third meeting of the commission a motion was made proposing that the commission recommend that the Veterans and Legal Affairs Committee support statutory changes to allow for the following (taken directly from the 7-part motion made September 27, 2013):

1. *Applications for a Southern Maine destination resort racino with table games be accepted by the Gambling Control Board for licensure;*
2. *An application that would allow the Passamaquoddy Tribe to operate slot machines and table games in Washington County be accepted by the Gambling Control Board;*
3. *Allow the Penobscot Nation, the Houlton Band of Maliseet, the Aroostook Band of Micmacs, and the Passamaquoddy Tribe, who are allowed to operate high-stakes beano games currently, to operate high-stakes electronic beano;*
4. *An application that would allow the Houlton Band of Maliseet to operate slot machines and table games in Aroostook County be accepted by the Gambling Control Board;*
5. *Advance deposit wagering for harness racing be authorized at existing off-track betting facilities and commercial harness racing tracks in the State of Maine;*
6. *Applications for qualified non-profit and veteran's organizations to operate and/or generate income from slot machines, be accepted by the Gambling Control Board for licensure; and*
7. *Expanded gambling opportunities for persons or groups who are eligible for existing gaming licenses should be identified and implementation allowed."*

The motion passed by a vote of 10-8.

Mr. Connell	yes	Sen. Patrick	no
Rep. Mitchell	yes	Rep. Luchini	no
Chief Getchell	yes	Rep. Beaulieu	no
Chief Socobasin	yes	Mr. Simoneau	no
Mr. Barberino	yes	Mr. Sours	no
Mrs. Damren	yes	Mr. Conley	no
Ms. Terry	yes	Mr. Bailey	no
Chief Commander	yes	Mr. Osborne	no
Mr. Drisko	yes		
Mr. Gilman	yes		

Professor Todd Gabe stated that he does not take a position on gaming proposals and thus abstained from voting on the motion. Sen. Mason, who was not in attendance on September 27th indicated his opposition to the motion at the commission's October 24th meeting.

Following this motion for a recommendation to the Veterans and Legal Affairs Committee, members were provided the opportunity to offer additional information and speak to their position with regard to the 7-part proposal. Members in support of the proposal spoke to the benefits to their groups, the overall benefits to the economy and to the principle of fairness that expanded opportunities for gaming could provide. Those in opposition believe that the motion was made prematurely, without the benefit of reasonable data collection and analysis of the market for expanded gaming in the Maine, particularly in light of regional casino development and without due consideration of the impact on existing gaming conducted in the State.

A note about staff and preparation of this report: Public Law 2011, chapter 699 named the Department of Administrative and Financial Services (DAFS) as staff to the commission (with legislative drafting assistance from the Office of Policy and Legal Analysis). On September 27, 2013, in response to a communication from DAFS expressing concern that they may not be able to provide the level of staffing required by the commission, the Legislative Council assigned a legislative analyst with the Office of Policy and Legal Analysis to provide primary staffing to the commission. The appearance of this report is slightly different than those prepared by the Office of Policy and Legal Analysis when officially assigned as staff pursuant to law or Joint Order. The report does provide background information, a comprehensive summary of the commission's work and its final recommendations.