

EXHIBIT I

STATE OF NEW YORK

No. _____

2009-2010 Regular Session

IN ASSEMBLY

[date]

Introduced by [XXXXXXXX]

AN ACT to amend the tax law, the real property tax law, the general municipal law, and the alcoholic beverage control law to enable the State to resolve certain disputes with Indian tribes within the State, and to authorize Oneida County to resolve certain disputes with the Oneida Nation.

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

Section 1. Short title. This act shall be known and may be cited as the Oneida County Settlement Act.

Section 2. Article 28 of the Tax Law is amended to add Section 1112-b to read as follows:

TAX AGREEMENTS WITH INDIAN NATIONS OR TRIBES.

(A) FINDINGS AND PURPOSE. THE STATE HAS AN INTEREST IN AMICABLY RESOLVING LONGSTANDING DISPUTES OVER THE COLLECTION OF SALES AND EXCISE TAXES ON THE PURCHASE OF GOODS AND SERVICES TO NON-INDIANS ON LANDS BELONGING TO INDIAN TRIBES OR THEIR MEMBERS. CURRENTLY, TAXES ARE NOT COLLECTED ON SUCH PURCHASES. EXEMPTING SUCH PURCHASES FROM TAXES IMPOSED BY STATE LAW AND BY AUTHORIZED LOCAL LAW IF THE TRIBE IMPOSES ITS OWN TAX EQUAL TO OR GREATER THAN THE TOTAL TAX IMPOSED UNDER STATE AND LOCAL LAW ELIMINATES THE COMPETITIVE ADVANTAGE OF RESERVATION DISTRIBUTORS IN MAKING SALES TO NON-INDIANS WITHOUT IMPINGING ON SALES TO INDIANS.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE GOVERNOR MAY EXECUTE TAX PARITY AGREEMENTS WITH INDIAN TRIBES WITH REGARD TO THE SALES OF GOODS OR SERVICES ON THE TRIBE'S RESERVATION. SUCH TAX PARITY AGREEMENTS SHALL BE DEEMED RATIFIED AND APPROVED UPON THE GOVERNOR'S CERTIFICATION TO THE PRESIDENT PRO TEMPORE OF THE SENATE,

THE SPEAKER OF THE ASSEMBLY, AND SECRETARY OF STATE THAT THE AGREEMENT PROVIDES: (1) THAT THE TRIBE SHALL ENACT AND MAINTAIN IN EFFECT A TRIBAL ORDINANCE IMPOSING A TAX ON A SALE OF GOODS AND SERVICES EQUAL TO OR GREATER THAN THE TOTAL AMOUNT OF TAX IMPOSED ON SUCH SALE UNDER STATE LAW, INCLUDING BUT NOT LIMITED TO ANY TAX AUTHORIZED IN ARTICLES 12-A, 20, 28 OF THE TAX LAW AND ANY LOCAL LAW AUTHORIZED IN ARTICLE 29 OF THE TAX LAW; (2) FOR AN INDEPENDENT AUDIT OF RECORDS OF TAXES COLLECTED ON SALES ON THE RESERVATION; (3) WAIVER OF TRIBAL SOVEREIGN IMMUNITY FOR PURPOSES OF ENFORCEMENT OF THE AGREEMENT BY ARBITRATION OR BY A COURT.

(C) UPON THE RATIFICATION OF A TAX PARITY AGREEMENT AS PROVIDED IN SUBSECTION (A), NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE TERMS OF SUCH AGREEMENT SHALL TAKE PRECEDENCE OVER THE PROVISIONS OF THIS CHAPTER AND EXEMPT SUCH NATION FROM SUCH TAXES TO THE EXTENT THAT SUCH TAXES ARE SPECIFICALLY REFERRED TO IN THE AGREEMENT, AND THE SALE OR DISTRIBUTION OF GOODS AND SERVICES ON THE NATION'S OR TRIBE'S QUALIFIED RESERVATION SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF SUCH AGREEMENT.

(D) FOR PURPOSES OF THIS SECTION, "QUALIFIED RESERVATION" SHALL INCLUDE LAND OWNED BY A TRIBE WITHIN A RESERVATION AS DESCRIBED IN A TREATY OR AGREEMENT WITH THE STATE OF NEW YORK OR THE UNITED STATES THAT REMAINS IN EFFECT.

Section 3. The tax parity agreement with the Oneida Nation in the form of Exhibit J to the Agreement between Oneida County and the Oneida Nation of New York that is dated May _____, 2009, is hereby approved in all respects, including under Tax Law sections 284-e(5) and 471-e(5).

Section 4. Article 2 of the general municipal law is amended by adding a new section 25 to read as follows:

SECTION 25. ONEIDA COUNTY SETTLEMENT ACT.

1. AS USED IN THIS SECTION, THE TERM

A. "COUNTY" SHALL MEAN ONEIDA COUNTY.

B. "ONEIDA NATION" SHALL MEAN THE ONEIDA NATION OF NEW YORK, A FEDERALLY-RECOGNIZED INDIAN TRIBE.

C. "PARTICIPATING COMMUNITIES" SHALL MEAN ALL OF THE CITIES, TOWNS, VILLAGES, AND SCHOOL DISTRICTS LOCATED WITHIN ONEIDA COUNTY.

D. "ONEIDA COUNTY AGREEMENT" SHALL MEAN THE AGREEMENT ENTERED INTO BETWEEN ONEIDA COUNTY AND THE ONEIDA NATION ON [DATE] AND AUTHORIZED AND APPROVED BY THIS ACT.

E. "ONEIDA LAND" SHALL MEAN THE REAL PROPERTY AND IMPROVEMENTS OF THE PARCELS LISTED IN EXHIBIT C TO THE ONEIDA COUNTY AGREEMENT.

2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE ONEIDA COUNTY BOARD OF LEGISLATORS IS AUTHORIZED TO ENACT ANY LOCAL LAW NECESSARY TO IMPLEMENT THE ONEIDA COUNTY AGREEMENT. ANY PROVISION OF LAW INCONSISTENT WITH THE ONEIDA COUNTY AGREEMENT IS HEREBY SUPERSEDED BY THE ONEIDA COUNTY AGREEMENT, BUT ONLY TO THE EXTENT NECESSARY TO IMPLEMENT AND GIVE EFFECT TO THE ONEIDA COUNTY AGREEMENT.

3. ONEIDA COUNTY SHALL HAVE THE POWER, AS PROVIDED IN THE ONEIDA COUNTY AGREEMENT, TO RELEASE, DISCHARGE, OR COMPROMISE ANY TAX, ASSESSMENT, INTEREST, PENALTY OR OTHER CHARGE WITH RESPECT TO REAL PROPERTY OWNED BY THE ONEIDA NATION. NOTWITHSTANDING REAL PROPERTY TAX LAW SECTION 1182 OR ANY OTHER PROVISION OF LAW, THE CONSENT OF A PARTICIPATING COMMUNITY IS NOT REQUIRED IN ORDER TO RELEASE, DISCHARGE OR COMPROMISE SUCH A TAX, ASSESSMENT, INTEREST, PENALTY OR OTHER CHARGE.

4. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ONEIDA LAND SHALL BE EXEMPT FROM REAL PROPERTY TAXES AND ASSESSMENTS OF ANY KIND.

5. THE PROVISIONS OF ARTICLE 16 OF THE TOWN LAW AND ARTICLE 12-A OF THE GENERAL MUNICIPAL LAW SHALL NOT APPLY TO ANY PROPERTIES OWNED BY THE ONEIDA NATION WITHIN ONEIDA COUNTY. NO PARTICIPATING COMMUNITY SHALL TAKE ANY PLANNING, ZONING OR LAND USE ACTION INCONSISTENT WITH THE ONEIDA COUNTY AGREEMENT.

Section 5. Article 11 of the Alcoholic Beverage Control Law is amended by adding a new section 165 to read as follows:

17-B. PROVISIONS GOVERNING THE ONEIDA NATION.

1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FUNCTIONS, POWERS AND DUTIES OTHERWISE ASSIGNED TO THE STATE LIQUOR AUTHORITY PURSUANT THE ALCOHOLIC BEVERAGE CONTROL BOARD LAW, INCLUDING SUBSECTIONS 1-4 OF SECTION 17, SHALL BE EXERCISED SOLELY BY THE ONEIDA NATION ALCOHOLIC BEVERAGE CONTROL BOARD WITH REGARD TO THE ONEIDA NATION WITHIN THE ONEIDA RESERVATION .

2. (A) THE ONEIDA NATION ALCOHOLIC BEVERAGE CONTROL BOARD SHALL BE COMPRISED OF THREE MEMBERS WHO SHALL BE SELECTED AS FOLLOWS:

- (I) ONE MEMBER SHALL BE SELECTED BY THE CHAIR OF THE AUTHORITY;
- (II) ONE MEMBER SELECTED BY THE ONEIDA NATION; AND
- (III) ONE MEMBER CHOSEN WITH THE CONCURRENCE OF THE MEMBERS CHOSEN BY THE AUTHORITY AND THE ONEIDA NATION.

(B) EACH MEMBER OF THE ONEIDA ALCOHOLIC BEVERAGE CONTROL BOARD SHALL BE ENTITLED TO HIS EXPENSES ACTUALLY AND NECESSARILY INCURRED BY HIM IN THE PERFORMANCE OF HIS DUTIES.

(C) EACH MEMBER OF THE ONEIDA ALCOHOLIC BEVERAGE CONTROL BOARD SHALL BE COMPENSATED FOR HIS SERVICE AT THE SAME RATE AS [].

3. THE ONEIDA NATION SHALL REIMBURSE THE STATE FOR THE SALARIES AND EXPENSES ASSOCIATED WITH THE ACTIVITIES OF THE ONEIDA ALCOHOLIC BEVERAGE CONTROL BOARD.