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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 711 Session of  
2009

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INTRODUCED BY EARLL, MELLOW, FONTANA, WOZNIAK, M. WHITE,  
KITCHEN, VANCE, WARD, TOMLINSON, TARTAGLIONE, ERICKSON,  
MUSTO, WASHINGTON, PIPPY, YAW, DINNIMAN, KASUNIC, LEACH AND  
FARNESE, JUNE 22, 2009

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REFERRED TO COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT,  
JUNE 22, 2009

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AN ACT

1 Amending Title 4 (Amusements) of the Pennsylvania Consolidated  
2 Statutes, further providing for legislative intent and for  
3 the definitions of "conviction," "licensed entity" and "slot  
4 machine licensee"; providing for the definitions of  
5 "executive-level public employee," "licensed entity  
6 representative" and "trustee"; further providing for the  
7 Pennsylvania Gaming Control Board, for powers of the board  
8 and for code of conduct; providing for expenses of  
9 Pennsylvania Gaming Control Board; further providing for  
10 license or permit application hearing process and public  
11 hearings, for board minutes and records, for regulatory  
12 authority of board, for collection of fees and fines, for  
13 slot machine license fee, for reports of board, for license  
14 or permit prohibition, for slot machine license application  
15 character requirements, for applications for license or  
16 permit, for supplier licenses, for manufacturer licenses, for  
17 additional licenses and permits and approval of agreements,  
18 for license renewals, for change in ownership or control of  
19 slot machine licensees and for nonportability of slot machine  
20 license; providing for appointment of trustee; further  
21 providing for Pennsylvania Gaming Economic Development and  
22 Tourism Fund, for transfers from State Gaming Fund and for  
23 financial and employment interests; providing for  
24 prosecutorial and adjudicative functions; and further  
25 providing for investigations and enforcement and for conduct  
26 of public officials and employees.

27 The General Assembly of the Commonwealth of Pennsylvania

28 hereby enacts as follows:

1 Section 1. Section 1102(11) of Title 4 of the Pennsylvania  
2 Consolidated Statutes is amended and the section is amended by  
3 adding paragraphs to read:

4 § 1102. Legislative intent.

5 The General Assembly recognizes the following public policy  
6 purposes and declares that the following objectives of the  
7 Commonwealth are to be served by this part:

8 \* \* \*

9 (10.1) The General Assembly has a compelling interest in  
10 protecting the integrity of both the electoral process and  
11 the legislative process by preventing corruption and the  
12 appearance of corruption which may arise through permitting  
13 campaign contributions by the gaming industry.

14 (11) It is necessary to maintain the integrity of the  
15 regulatory control and legislative oversight over the  
16 operation of slot machines in this Commonwealth; to prevent  
17 the actual or appearance of corruption that may result from  
18 [large] campaign contributions; ensure the bipartisan  
19 administration of this part; and avoid actions that may erode  
20 public confidence in the system of representative government.

21 (11.1) Completely banning political contributions by  
22 certain individuals and entities subject to this act is  
23 necessary to prevent corruption, or the appearance of  
24 corruption, that may arise when politics and gaming are  
25 intermingled.

26 Section 2. The definitions of "conviction," "licensed entity"  
27 and "slot machine licensee" in section 1103 of Title 4 are  
28 amended and the section is amended by adding definitions to  
29 read:

30 § 1103. Definitions.

1 The following words and phrases when used in this part shall  
2 have the meanings given to them in this section unless the  
3 context clearly indicates otherwise:

4 \* \* \*

5 "Conviction." A finding of guilt or a plea of guilty or nolo  
6 contendere, whether or not a judgment of sentence has been  
7 imposed as determined by the law of the jurisdiction in which  
8 the prosecution was held. The term does not include a conviction  
9 that has been expunged or overturned or for which an individual  
10 has been pardoned or an order of Accelerated Rehabilitative  
11 Disposition which has been issued.

12 \* \* \*

13 "Executive-level public employee." The term shall include  
14 the following:

15 (1) Deputy Secretaries of the Commonwealth and the  
16 Governor's Office executive staff.

17 (2) An employee of the executive branch with  
18 discretionary power which may affect or influence the outcome  
19 of a State agency's action or decision and who is involved in  
20 the development of regulations or policies relating to a  
21 licensed entity or who is involved in other matters under  
22 this part. The term shall include an employee with law  
23 enforcement authority.

24 (3) An employee of a county or municipality with  
25 discretionary powers which may affect or influence the  
26 outcome of the county's or municipality's action or decision  
27 and who is involved in the development of law, regulation or  
28 policy relating to a licensed entity or who is involved in  
29 other matters under this part. The term shall include an  
30 employee with law enforcement authority.

1           (4) An employee of a department, agency, board,  
2           commission, authority or other governmental body not included  
3           in paragraph (1), (2) or (3) with discretionary power which  
4           may affect or influence the outcome of the governmental  
5           body's action or decision and who is involved in the  
6           development of regulation or policy relating to a licensed  
7           entity or who is involved in other matters under this part.  
8           The term shall include an employee with law enforcement  
9           authority.

10           \* \* \*

11           "Licensed entity[.]" or "licensee." Any slot machine  
12           licensee, manufacturer licensee, supplier licensee or other  
13           person licensed by the Pennsylvania Gaming Control Board under  
14           this part.

15           "Licensed entity representative." A person acting on behalf  
16           of or representing the interest of any applicant, licensee,  
17           permittee or registrant, including an attorney, agent or  
18           lobbyist, regarding any matter which may reasonably be expected  
19           to come before the board.

20           \* \* \*

21           ["Slot machine licensee." A person that holds a slot machine  
22           license.]

23           \* \* \*

24           "Trustee." A fiduciary appointed by the Pennsylvania Gaming  
25           Control Board to preserve the viability of a licensed facility  
26           and the integrity of gaming in this Commonwealth.

27           \* \* \*

28           Section 3. Section 1201(b), (b.1), (f)(3), (h)(5), (7.1),  
29           (10), (11), (13), (14) and (15) and (k) of Title 4 are amended,  
30           subsection (h) is amended by adding paragraphs and the section

1 is amended by adding a subsection to read:

2 § 1201. Pennsylvania Gaming Control Board established.

3 \* \* \*

4 (b) Membership.--

5 (1) The board shall consist of the following members:

6 [(1)] (i) Three members appointed by the Governor.

7 [(2)] (ii) One member appointed by each of the

8 following:

9 [(i)] (A) The President pro tempore of the  
10 Senate.

11 [(ii)] (B) The Minority Leader of the Senate.

12 [(iii)] (C) The Speaker of the House of  
13 Representatives.

14 [(iv)] (D) The Minority Leader of the House of  
15 Representatives.

16 (2) The chairman of the Community, Economic and  
17 Recreational Development Committee of the Senate may hold a  
18 public hearing on an appointee under paragraph (1).

19 (b.1) Removal.--A member of the board shall serve at the  
20 pleasure of the appointing authority and shall be removed from  
21 office by the appointing authority:

22 (1) for misconduct in office, willful neglect of duty or  
23 conduct evidencing unfitness for office or incompetence; or

24 (2) upon conviction of an offense graded as a felony, an  
25 infamous crime, an offense under this part or an equivalent  
26 offense under Federal law or the law of another jurisdiction.

27 \* \* \*

28 (f) Qualified majority vote.--

29 \* \* \*

30 (3) Notwithstanding any other provision of this part or

1 65 Pa.C.S. § 1103(j) (relating to restricted activities), a  
2 member shall disclose the nature of his disqualifying  
3 interest, disqualify himself and abstain from voting in a  
4 proceeding under this part in which his objectivity,  
5 impartiality, integrity or independence of judgment may be  
6 reasonably questioned, as provided in subsection (h)(6) or  
7 section 1202.1(c)(3) (relating to code of conduct). If a  
8 legislative appointee has disqualified himself, the qualified  
9 majority shall consist of all of the remaining legislative  
10 appointees and at least two gubernatorial appointees.

11 \* \* \*

12 (h) Qualifications and restrictions.--

13 \* \* \*

14 (4.1) No member appointed after the effective date of  
15 this paragraph shall engage in any business, employment or  
16 vocation for which the member shall receive any remuneration  
17 except for an individual who is reappointed and who is a  
18 member of the board on the effective date of this paragraph.

19 (5) No member shall be paid or receive any fee or other  
20 compensation other than salary and expenses provided by law  
21 for any activity related to the duties or authority of the  
22 board. [Nothing in this part shall prohibit a member from  
23 engaging in any employment or receiving any compensation for  
24 such employment that is not connected to or incompatible with  
25 his service as a member of the board.]

26 \* \* \*

27 (7.1) Prior to being sworn as a member, an appointee and  
28 his immediate family shall divest any financial interest in  
29 any applicant, licensed facility or licensed entity and in an  
30 affiliate, intermediary, subsidiary or holding company

1       thereof owned or held by the appointee or known to be held by  
2       the appointee's immediate family. For the duration of the  
3       member's term and for [one year] two years thereafter, the  
4       member and the member's immediate family may not acquire a  
5       financial interest in any applicant, licensed facility or  
6       licensed entity or in an affiliate, intermediary, subsidiary  
7       or holding company thereof. For purposes of this paragraph,  
8       the term "immediate family" shall mean spouse and any minor  
9       or unemancipated child.

10       \* \* \*

11       (10) No former member may appear before the board in any  
12       hearing or proceeding or participate in any other activity on  
13       behalf of any applicant, licensed entity, or an affiliate,  
14       intermediary, subsidiary or holding company thereof, or any  
15       other licensee or permittee for a period of two years from  
16       the termination of term of office.

17       (11) No member, employee or independent contractor of  
18       the board shall accept a complimentary service, wager or be  
19       paid any prize from any wager at any licensed facility within  
20       this Commonwealth or at any other facility outside this  
21       Commonwealth which is owned or operated by a licensed gaming  
22       entity or any of its affiliates, intermediaries, subsidiaries  
23       or holding companies thereof for the duration of their term  
24       of office, employment or contract with the board and for a  
25       period of [one year] two years from the termination of term  
26       of office, employment or contract with the board. The  
27       provisions of this paragraph prohibiting wagering during the  
28       term of employment shall not apply to employees [who] when  
29       the employees utilize slot machines for testing purposes or  
30       to verify the performance of a machine as part of an

1 enforcement investigation.

2 \* \* \*

3 (13) No employee of the board [or individual employed by  
4 an independent contractor of the board] whose duties  
5 substantially involve licensing[, ] or enforcement [or], the  
6 development or adoption of laws, regulations or policy or who  
7 has other discretionary authority which may affect the  
8 outcome of an action or decision under this part, including  
9 the executive director, bureau directors and attorneys, shall  
10 do any of the following:

11 (i) [accept] Accept employment with or be retained  
12 by an applicant or licensed entity, or an affiliate,  
13 intermediary, subsidiary or holding company thereof, for  
14 a period of [one year] two years after the termination of  
15 the employment relating to the conduct of gaming [or  
16 contract with the board; or].

17 (ii) [appear] Appear before the board in any hearing  
18 or proceeding or participate in any other activity on  
19 behalf of any applicant, licensee, permittee or licensed  
20 entity, or an affiliate, intermediary, subsidiary or  
21 holding company thereof, for a period of two years after  
22 termination of the employment [or contract with the  
23 board].

24 (iii) As a condition of employment, an employee  
25 under this paragraph shall sign an affidavit that the  
26 employee will not accept employment with or be retained  
27 by any applicant, licensed entity or an affiliate,  
28 intermediary, subsidiary or holding company thereof for a  
29 period of two years from the termination of employment.  
30 An applicant or licensed entity or an affiliate,

1 intermediary, subsidiary or holding company thereof shall  
2 not employ or retain an individual who signed an  
3 affidavit signed under this subparagraph. An applicant or  
4 licensed entity or an affiliate, intermediary, subsidiary  
5 or holding company that knowingly employs or retains an  
6 individual in violation of this subparagraph shall be  
7 subject to a penalty under section 1518(c) (relating to  
8 prohibited acts; penalties).

9 (13.1) No independent contractor or individual employed  
10 by an independent contractor of the board whose duties  
11 substantially involve consultation relating to licensing,  
12 enforcement or the development or adoption of regulations or  
13 policy under this part shall:

14 (i) Accept employment with or be retained by an  
15 applicant or a licensed entity or an affiliate,  
16 intermediary, subsidiary or holding company thereof for a  
17 period of one year after the termination of the contract  
18 with the board.

19 (ii) Appear before the board in any hearing or  
20 proceeding or participate in any other activity on behalf  
21 of an applicant, licensee, permittee or licensed entity  
22 or an affiliate, intermediary, subsidiary or holding  
23 company of an applicant, licensee, permittee or licensed  
24 entity for a period of two years after termination of the  
25 contract with the board.

26 (iii) As a condition of a contract, an independent  
27 contractor or individual employed by an independent  
28 contractor of the board under this paragraph shall sign  
29 an affidavit to not accept employment with or be retained  
30 by any applicant, licensed entity or an affiliate,

1 intermediary, subsidiary or holding company of an  
2 applicant, licensed entity or affiliate for a period of  
3 one year from the termination of employment. A licensed  
4 entity or an affiliate, intermediary, subsidiary or  
5 holding company of an applicant, licensed entity or  
6 affiliate shall not employ or retain an individual who  
7 signed an affidavit signed under this subparagraph. A  
8 licensed entity or an affiliate, intermediary, subsidiary  
9 or holding company thereof that knowingly employs or  
10 retains an individual in violation of this subparagraph  
11 shall be subject to a penalty under section 1518(c).

12 (14) Upon the written request of an employee of the  
13 board, the executive branch of the Commonwealth or a  
14 political subdivision or of the agency or political  
15 subdivision employing an employee, the State Ethics  
16 Commission shall determine whether the individual's duties  
17 substantially involve the development or adoption of laws,  
18 regulations or policy, licensing or enforcement under this  
19 part or other discretionary authority which may affect the  
20 outcome of an action or decision under this part and shall  
21 provide a written determination to the employee to include  
22 any prohibition under this paragraph. An individual who  
23 relies in good faith on a determination under this paragraph  
24 shall not be subject to any penalty for an action taken,  
25 provided that all material facts set forth in the request for  
26 a determination are correct.

27 (15) If a member[, employee or independent contractor]  
28 of the board violates any provision of this section, the  
29 appointing authority [or the board may, upon notice and  
30 hearing,] may remove the person from the board[, withdraw the

1 appointment or]. A member removed under this paragraph shall  
2 be prohibited from future appointment to the board and shall  
3 be prohibited from applying for a license or permit, from  
4 becoming an independent contractor of the board, or  
5 registering as a licensed entity representative for a period  
6 of five years from the date of removal from the board. If an  
7 employee or independent contractor of the board violates any  
8 provision of this section, the board may, upon notice and  
9 hearing, terminate the employment or contract, and the person  
10 shall be ineligible for future [appointment,] employment or  
11 contract with the board and [for approval of a license or  
12 permit under this part for a period of two years thereafter]  
13 shall be prohibited from applying for a license or permit,  
14 becoming an independent contractor or registering as a  
15 licensed entity representative for a period of five years  
16 from the date of termination of the employment or contract.

17 \* \* \*

18 (k) Appointments.--[The appointing authorities] Following  
19 the initial appointment of members under subsection (b), the  
20 appointing authority shall make [their initial] appointments  
21 within 60 days of [the effective date of this part] a vacancy in  
22 an office. No appointment shall be final until receipt by the  
23 appointing authority of the required background investigation of  
24 the appointee by the Pennsylvania State Police which shall be  
25 completed within 30 days. No person who has been convicted in  
26 any domestic or foreign jurisdiction of a felony, infamous crime  
27 or gaming offense shall be appointed to the board.

28 \* \* \*

29 (m.1) Budgetary impasse.--If, in the event of a budgetary or  
30 other fiscal crisis, the Governor implements a system in order

1 to furlough employees or close any Commonwealth agency, the  
2 board and its employees and all employees of the Department of  
3 Revenue, the Pennsylvania State Police and the Office of  
4 Attorney General whose duties involve the regulation and  
5 oversight of gaming under this part shall not be subject to  
6 furlough but shall continue to perform their duties.

7 \* \* \*

8 Section 4. Section 1202(a)(4) and (b)(7), (23) and (30) of  
9 Title 4 are amended and subsections (a) and (b) are amended by  
10 adding paragraphs to read:

11 § 1202. General and specific powers.

12 (a) General powers.--

13 \* \* \*

14 [(4) The board shall establish a system of  
15 classification and compensation of its employees and shall  
16 not be subject to the provisions of the act of April 9, 1929  
17 (P.L.177, No.175), known as The Administrative Code of 1929,  
18 as to classification and compensation for its employees and  
19 conduct its activities consistent with the practices and  
20 procedures of Commonwealth agencies.]

21 (4.1) Within 90 days of the effective date of this  
22 paragraph, the board shall establish a system of  
23 classification and compensation of its employees and shall be  
24 subject to the provisions of the act of April 9, 1929  
25 (P.L.177, No.175), known as The Administrative Code of 1929,  
26 as to classification and compensation for its employees and  
27 conduct its activities consistent with the practices and  
28 procedures of Commonwealth agencies. The provisions of this  
29 paragraph shall apply to employees hired after the effective  
30 date of this paragraph. Nothing in this paragraph shall

1 prevent the board from altering a system, or establishing a  
2 new system, of classification or compensation for employees  
3 hired prior to the effective date of this section.

4 \* \* \*

5 (b) Specific powers.--The board shall have the specific  
6 power and duty:

7 \* \* \*

8 (7) To administer oaths, examine witnesses and issue  
9 subpoenas compelling the attendance of witnesses or the  
10 production of documents and records or other evidence[. The  
11 provisions of this paragraph shall apply to designated  
12 officers and employees.], or to designate officers or  
13 employees to perform these duties.

14 (7.1) To order a person to answer a question or produce  
15 evidence of any kind. If, in the course of an investigation  
16 or hearing conducted under this part, a person refuses to  
17 answer a question or to produce evidence on the grounds that  
18 the answer or evidence will expose the person to criminal  
19 prosecution, the board may adopt a resolution recommending a  
20 grant of immunity that includes the specific question to be  
21 posed or information or evidence being sought from the person  
22 as follows:

23 (i) The resolution shall be submitted to the  
24 Attorney General for approval or disapproval within 20  
25 days of receipt of the resolution. Upon the written  
26 approval of the Attorney General, the board may issue an  
27 order to compel the person to answer or produce evidence  
28 with immunity.

29 (ii) If the person who is the subject of the  
30 immunity order provides the answer or evidence, the

1 person shall be immune from criminal prosecution based on  
2 the answer or evidence that was the subject of the  
3 immunity order.

4 (iii) The person may be prosecuted for perjury  
5 committed in the answer or production of evidence or held  
6 in contempt for failing to give an answer or produce  
7 evidence in accordance with the order. The answer or  
8 evidence shall be admissible only against the person in a  
9 criminal investigation, or a trial or other proceeding  
10 for perjury or contempt.

11 (iv) Immunity under this paragraph shall not  
12 preclude the use of any other remedy or sanction  
13 authorized by law.

14 \* \* \*

15 (23) The board shall not issue or renew a license or  
16 permit unless it is satisfied that the applicant has  
17 demonstrated by clear and convincing evidence that the  
18 applicant is a person of good character, honesty and  
19 integrity and is a person whose prior activities, criminal  
20 record, if any, reputation, habits and associations do not  
21 pose a threat to the public interest or the effective  
22 regulation and control of slot machine operations or create  
23 or enhance the danger of unsuitable, unfair or illegal  
24 practices, methods and activities in the conduct of slot  
25 machine operations or the carrying on of the business and  
26 financial arrangements incidental thereto.

27 \* \* \*

28 (30) To promulgate rules and regulations necessary for  
29 the administration and enforcement of this part, including  
30 regulations in cooperation with the Pennsylvania Liquor

1 Control Board and regulations relating to the sale and  
2 service of liquor and malt and brewed beverages by licensees.  
3 [Except as provided in section 1203 (relating to temporary  
4 regulations), regulations] Regulations shall be adopted  
5 pursuant to the act of July 31, 1968 (P.L.769, No.240),  
6 referred to as the Commonwealth Documents Law, and the act of  
7 June 25, 1982 (P.L.633, No.181), known as the Regulatory  
8 Review Act.

9 (31) To collect and post information on its Internet  
10 website with sufficient detail to inform the public of the  
11 controlling interest or ownership interest of an applicant or  
12 a licensed gaming entity or affiliate, intermediary,  
13 subsidiary or holding company thereof. The posting shall  
14 include:

15 (i) The names of all persons with a controlling  
16 interest in a publicly traded domestic or foreign  
17 corporation, partnership, limited liability company or  
18 other legal entity.

19 (ii) The names of all persons who own a financial  
20 equity share or interest equal to or greater than 1% of a  
21 privately held domestic or foreign corporation,  
22 partnership, limited liability company or other legal  
23 entity.

24 (iii) The name of a trustee entitled to cast the  
25 vote of a person under subparagraph (i) or (ii).

26 (iv) The names of all officers, directors,  
27 principals and key employees of a licensed gaming entity.

28 (32) To appoint a trustee as prescribed in section 1332  
29 (relating to appointment of trustee) to act on behalf of the  
30 Commonwealth and the board to operate a licensed facility and

1 ensure compliance with this part.

2 Section 5. Section 1202.1 of Title 4 is amended to read:

3 § 1202.1. Code of conduct.

4 (a) Scope.--The board shall adopt a comprehensive code of  
5 conduct prior to the consideration of any license, permit or  
6 registration application. The code of conduct shall supplement  
7 all other requirements under this part and 65 Pa.C.S. Pt. II  
8 (relating to accountability) and shall provide guidelines  
9 applicable to members, employees, independent contractors of the  
10 board and the immediate families of the members, as defined in  
11 subsection (e), employees and independent contractors to enable  
12 them to avoid any perceived or actual conflict of interest and  
13 to promote public confidence in the integrity and impartiality  
14 of the board. At a minimum, the code of conduct adopted under  
15 this section shall include registration of licensed entity  
16 representatives under subsection (b) and the restrictions under  
17 [subsection (c)] subsections (c) and (c.1).

18 (b) Registration.--

19 (1) A licensed entity representative shall register with  
20 the board in a manner prescribed by the board, which shall  
21 include the name, employer or firm, address, telephone number  
22 of both the licensed entity representative and the [licensed  
23 entity] applicant, licensee, permittee or registrant or  
24 individual being represented.

25 (2) A licensed entity representative shall have an  
26 [ongoing] affirmative duty to update its registration  
27 information on an ongoing basis.

28 (3) The [registration list] board shall maintain a  
29 registration list which shall contain the information  
30 required under paragraph (1) and which shall be available for

1 public inspection at the offices of the board and on the  
2 board's Internet website.

3 (c) Restrictions.--A member of the board shall:

4 (1) Not engage in any ex parte communication with any  
5 person.

6 (2) Not accept any discount, gift, gratuity,  
7 compensation, travel, lodging or other thing of value,  
8 directly or indirectly, from any applicant, [licensee,]  
9 licensed entity, including any affiliate, subsidiary,  
10 intermediary or holding company thereof, permittee,  
11 registrant or licensed entity representative thereof.

12 (3) Disclose and [disqualify] recuse himself from any  
13 hearing or other proceeding in which the member's  
14 objectivity, impartiality, integrity or independence of  
15 judgment may be reasonably questioned due to the member's  
16 relationship or association with a party connected to any  
17 hearing or proceeding or a person appearing before the board.

18 (4) Refrain from any financial or business dealing which  
19 would tend to reflect adversely on the member's objectivity,  
20 impartiality or independence of judgment.

21 (5) Not hold or campaign for public office, hold an  
22 office in any political party or political committee as  
23 defined in section 1513(d) (relating to political influence),  
24 contribute to or solicit contributions to a political  
25 campaign, [party,] political party, political committee or  
26 candidate, publicly endorse a candidate or actively  
27 participate in a political campaign.

28 (6) Not solicit funds for any charitable, educational,  
29 religious, health, fraternal, civic or other nonprofit entity  
30 from an applicant, licensed entity or affiliate, subsidiary,

1 intermediary or holding company of a licensed entity,  
2 interested party, permittee or licensed entity  
3 representative. [A] Unless prohibited under § 1201(h)(4.1)  
4 (relating to Pennsylvania Gaming Control Board established),  
5 a board member may serve as an officer, employee or member of  
6 the governing body of a nonprofit entity and may attend, make  
7 personal contributions to and plan or preside over the  
8 entity's fundraising events. A board member may permit his  
9 name to appear on the letterhead used for fundraising events  
10 if the letterhead contains only the board member's name and  
11 position with the nonprofit entity.

12 (7) Not meet or engage in discussions with any  
13 applicant, [person licensed under this part] licensed entity,  
14 permittee, [or a] licensed entity representative or person  
15 who provides goods, property or services to a slot machine  
16 licensee unless the meeting or discussion occurs on the  
17 business premises of the board and is recorded in a log  
18 maintained for this purpose. The log shall be available for  
19 public inspection during the regular business hours of the  
20 board and shall be posted on the board's Internet website.  
21 The log shall include the date and time of the meeting or  
22 discussion, the names of the participants and the subject  
23 matter discussed. The provisions of this paragraph shall not  
24 apply to meetings [of the board] to consider matters  
25 requiring the physical inspection of the equipment or  
26 premises of an applicant or a licensed entity at [their] the  
27 location of the licensed facility.

28 (8) Avoid impropriety and the appearance of impropriety  
29 at all times and observe standards and conduct that promote  
30 public confidence in the oversight of gaming.

1 (9) Comply with any other laws, rules or regulations  
2 relating to the conduct of a member.

3 (c.1) Prohibitions.--

4 (1) No member or attorney of the Office of Chief Counsel  
5 advising the board on a particular licensing issue or  
6 proceeding or employee whose duties relate to licensing and  
7 who is advising the board on a particular licensing issue or  
8 proceeding shall engage in any ex parte communication with  
9 any person.

10 (2) No attorney representing the bureau or the Office of  
11 Enforcement Counsel or an applicant, licensee or permittee in  
12 any proceeding shall engage in an ex parte communication with  
13 a member, an attorney of the Office of Chief Counsel advising  
14 the board on a proceeding or a hearing officer of the board.

15 (3) No employee of the bureau or the Office of  
16 Enforcement Counsel who is involved in a proceeding shall  
17 engage in an ex parte communication with a member, an  
18 attorney of the Office of Chief Counsel who is advising the  
19 board on the proceeding or a hearing officer of the board.

20 (c.2) Procedures relating to ex parte communications.--

21 (1) An ex parte communication received or engaged in by  
22 a board member, employee or hearing officer shall be recorded  
23 in a log maintained for this purpose. The log shall be  
24 available for public inspection during the regular business  
25 hours of the board and shall be posted on the board's  
26 Internet website. The individual recording the ex parte  
27 communication shall include:

28 (i) The date and time of the ex parte communication.

29 (ii) The name of any other individual involved in  
30 the ex parte communication.

1           (iii) The subject matter and substance of the ex  
2           parte communication.

3           (2) In addition to documenting an ex parte communication  
4           under paragraph (1), notification and an opportunity to  
5           respond shall be provided to the following:

6           (i) A board member or employee shall promptly notify  
7           the board and all persons directly affected by the  
8           anticipated vote or action of the board of the substance  
9           of the communication.

10          (ii) A hearing officer shall promptly notify the  
11          board and all parties to the proceeding before the  
12          hearing officer of the substance of the communication.

13          (3) (i) A board member, employee or hearing officer who  
14          received or engaged in an ex parte communication shall  
15          recuse himself from any hearing or other proceeding  
16          related to the ex parte communication if the context and  
17          substance of the ex parte communication creates  
18          substantial reasonable doubt as to the individual's  
19          ability to act objectively, independently or impartially.

20          (ii) A board member, employee or hearing officer who  
21          elects not to recuse himself based on an ex parte  
22          communication shall state his reasons for doing so on the  
23          record prior to the commencement of the hearing or  
24          proceeding.

25          (iii) If a legislative appointee recuses himself  
26          from any hearing or other proceeding under this section,  
27          any qualified majority vote required under this part  
28          shall consist of all of the remaining legislative  
29          appointees and at least two gubernatorial appointees.

30          (iv) Failure of a hearing officer or employee to

1 recuse himself from a hearing or other proceeding due to  
2 receipt of an ex parte communication under this section  
3 shall be grounds for appeal to the board of the failure  
4 to recuse.

5 (v) Failure of a board member to recuse himself from  
6 a hearing or other proceeding due to receipt of an ex  
7 parte communication under this section shall be grounds  
8 for appeal of a decision to a court of competent  
9 jurisdiction if the board action being appealed would not  
10 have occurred without the participation of the board  
11 member who received the ex parte communication.

12 (d) Ex officio members.--The restrictions under subsection  
13 (c) (5) shall not apply to ex officio members.

14 (e) Definitions.--As used in this section, the following  
15 words and phrases shall have the meanings given to them in this  
16 subsection:

17 "Ex parte communication." An off-the-record communication  
18 engaged in or received by a member [or], employee or hearing  
19 officer of the board regarding the merits of or any fact in  
20 issue relating to a pending matter before the board or which may  
21 reasonably be expected to come before the board in a contested  
22 on-the-record proceeding. The term shall not include off-the-  
23 record communications by or between a member [or], employee or  
24 hearing officer of the board, Department of Revenue,  
25 Pennsylvania State Police, Attorney General or other law  
26 enforcement official prior to the beginning of the proceeding  
27 solely for the purpose of seeking clarification or correction to  
28 evidentiary materials intended for use in the proceedings.

29 "Immediate family." The spouse, parents, children and  
30 siblings and the spouses of any of those individuals.

1 ["Licensed entity representative." A person acting on behalf  
2 of or representing the interest of any applicant, licensee,  
3 permittee or registrant, including an attorney, agent or  
4 lobbyist, regarding any matter which may reasonably be expected  
5 to come before the board.]

6 Section 6. Title 4 is amended by adding a section to read:  
7 § 1202.2. Expenses of the Pennsylvania Gaming Control Board.

8 Members and employees of the board shall only be reimbursed  
9 for actual and reasonable expenses incurred during the  
10 performance of their duties. In order to receive reimbursement  
11 for an expense in excess of \$10, the member or employee shall  
12 submit a receipt validating the expense incurred.

13 Reimbursements, allowances or other payments in an amount  
14 greater than the expenses for which receipts are submitted are  
15 prohibited. Receipts and requests for reimbursement shall be  
16 financial records for purposes of the act of February 14, 2008  
17 (P.L.6, No.3), known as the Right-to-Know Law.

18 Section 7. Section 1205(b)(1) and (2) of Title 4 are amended  
19 and the subsection is amended by adding paragraphs to read:

20 § 1205. License or permit application hearing process; public  
21 input hearings.

22 \* \* \*

23 (b) Public input hearing requirement.--

24 (1) [Prior to licensing a facility under this part, the  
25 board shall hold at least one public input hearing on the  
26 matter.] The board shall hold at least one public input  
27 hearing prior to:

28 (i) Licensing a facility.

29 (ii) Approving the structural redesign of a licensed  
30 facility located in a city of the first class.

1           (2) All public input hearings [relating to an  
2 application for a slot machine license] under paragraph (1)  
3 shall be held in the municipality where the facility will be,  
4 or is, located and shall be organized in cooperation with the  
5 municipality.

6           \* \* \*

7           (4) In addition to any witnesses scheduled to testify  
8 under paragraph (3), the board shall establish a public  
9 comment period during which time members of the public may  
10 address the board regarding the proposed license or  
11 structural redesign under paragraph (1). The board, in its  
12 discretion, may place reasonable time limits on an  
13 individual's comments.

14       Section 8. Sections 1206(f), 1207(4), 1208(1)(i) and (ii)  
15 and 1209(b) of Title 4 are amended to read:

16 § 1206. Board minutes and records.

17       \* \* \*

18       (f) Confidentiality of information.--[All]

19       (1) The following information submitted by an applicant  
20 pursuant to section 1310(a) (relating to slot machine license  
21 application character requirements) or 1308(a.1) (relating to  
22 applications for license or permit) or obtained by the board  
23 or the bureau as part of a background or other investigation  
24 from any source shall be [considered] confidential[.] and  
25 withheld from public disclosure:

26           (i) All information relating to good character,  
27 honesty and integrity, including family, habits,  
28 reputation, history of criminal activity, business  
29 activities, financial affairs and business, professional  
30 and personal associations submitted under section 1310(a)

1 or 1308(a.1) or otherwise obtained by the board or the  
2 bureau.

3 (ii) Nonpublic personal information, including  
4 telephone numbers, Social Security numbers, educational  
5 records, memberships, medical records, tax returns and  
6 declarations, actual or proposed compensation, financial  
7 account records, creditworthiness or a financial  
8 condition relating to an applicant, licensee or permittee  
9 or the immediate family thereof.

10 (iii) Documents and information relating to  
11 proprietary information, trade secrets, patents or  
12 exclusive licenses, architectural and engineering plans  
13 and information relating to competitive marketing  
14 materials and strategies, which may include customer-  
15 identifying information or customer prospects for  
16 services subject to competition.

17 (iv) Security information, including risk prevention  
18 plans, detection and countermeasures, emergency  
19 management plans, security and surveillance plans,  
20 equipment and usage protocols and theft and fraud  
21 prevention plans and countermeasures.

22 (v) Information with respect to which there is a  
23 reasonable possibility that public release or inspection  
24 of the information would constitute an unwarranted  
25 invasion into personal privacy of any individual as  
26 determined by the board.

27 (vi) Records of an applicant or licensee not  
28 required to be filed with the Securities and Exchange  
29 Commission by issuers that either have securities  
30 registered under section 12 of the Securities Exchange

1 Act of 1934 (48 Stat. 881, 15 U.S.C. § 78a et seq.) or  
2 are required to file reports under section 15(d) of the  
3 Securities Exchange Act of 1934.

4 (vii) Records considered nonpublic matters or  
5 information by the Securities and Exchange Commission as  
6 provided by 17 CFR 200.80 (relating to commission records  
7 and information).

8 No claim of confidentiality shall be made regarding any  
9 information from a criminal history record check under 18  
10 Pa.C.S. Ch. 91 (relating to criminal history record  
11 information) or that is otherwise publicly available in this  
12 Commonwealth or another jurisdiction.

13 (2) Except as provided in section 1517(f) (relating to  
14 [investigation] investigations and enforcement), the  
15 confidential information shall be withheld from public  
16 disclosure in whole or in part, except that any confidential  
17 information shall be released upon the lawful order of a  
18 court of competent jurisdiction or, with the approval of the  
19 Attorney General, to a duly authorized law enforcement agency  
20 or shall be released to the public, in whole or in part, to  
21 the extent that such release is requested by an applicant and  
22 does not otherwise contain confidential information about  
23 another person.

24 (3) The board may seek a voluntary waiver of  
25 confidentiality from an applicant or licensed entity but may  
26 not require any applicant or licensed entity to waive any  
27 confidentiality provided for in this subsection as a  
28 condition for the approval of a license or any other action  
29 of the board. Any [person who violates this subsection]  
30 employee or contractor who publicly discloses confidential

1 information in violation of this subsection commits a  
2 misdemeanor and shall be administratively disciplined by  
3 discharge, suspension, termination of contract or other  
4 formal disciplinary action as the board deems appropriate.

5 \* \* \*

6 § 1207. Regulatory authority of board.

7 The board shall have the power and its duties shall be to:

8 \* \* \*

9 (4) Require that each licensed entity provide to the  
10 board its audited annual financial statements, with such  
11 additional detail as the board from time to time shall  
12 require, which information shall be submitted not later than  
13 [60] 90 days after the end of the licensee's fiscal year.

14 \* \* \*

15 § 1208. Collection of fees and fines.

16 The board has the following powers and duties:

17 (1) To levy and collect fees from the various  
18 applicants, licensees and permittees to fund the operations  
19 of the board. The fees shall be deposited into the State  
20 Gaming Fund as established in section 1403 (relating to  
21 establishment of State Gaming Fund and net slot machine  
22 revenue distribution) and distributed to the board upon  
23 appropriation by the General Assembly. In addition to the  
24 fees set forth in sections 1209 (relating to slot machine  
25 license fee) and 1305 (relating to Category 3 slot machine  
26 license), the board shall assess and collect fees as follows:

27 (i) Supplier licensees shall pay a fee of \$25,000  
28 upon the issuance of a license and \$10,000 for the annual  
29 renewal of a supplier license. When the renewal period  
30 under section 1317(c)(1) (relating to supplier licenses)

1 is three years, the fee shall be \$30,000 for the renewal.

2 (ii) Manufacturer licensees shall pay a fee of  
3 \$50,000 upon the issuance of a license and \$25,000 for  
4 the annual renewal of a manufacturer license. When the  
5 renewal period under section 1317.1(c)(1) (relating to  
6 manufacturer licenses) is three years, the fee shall be  
7 \$75,000 for the renewal.

8 \* \* \*

9 § 1209. Slot machine license fee.

10 \* \* \*

11 (b) Term.--A slot machine license, after payment of the fee,  
12 shall be in effect unless suspended, revoked or not renewed by  
13 the board upon good cause consistent with the license  
14 requirements as provided for in this part. Slot machine  
15 licensees shall be required to update the information in their  
16 initial applications annually, and the license of a licensee in  
17 good standing shall be updated and renewed annually for two  
18 subsequent years following the initial license issuance.  
19 Thereafter, license renewals shall be every three years. As to  
20 the renewal of a license, no additional license fee pursuant to  
21 subsection (a) shall be required.

22 \* \* \*

23 Section 9. Section 1211 of Title 4 is amended by adding a  
24 subsection to read:

25 § 1211. Reports of board.

26 \* \* \*

27 (a.1) Expenses.--Beginning 30 days after the effective date  
28 of this subsection, the board shall post by the fifteenth of  
29 each month on its Internet website a list of all its itemized  
30 expenses of employees and members for the preceding month. The

1 list shall identify the nature of the expense and the employee  
2 or board member to which an expense is attributable. The list  
3 shall include each expense for which a receipt is submitted to  
4 obtain reimbursement. If the expense is directly attributable to  
5 or paid by a licensed facility, the list shall identify the  
6 facility. By October 1 of each year, a final report of all  
7 expenses for the preceding fiscal year shall be posted on the  
8 board's Internet website and shall be transmitted to the  
9 Appropriations Committee of the Senate, the Community, Economic  
10 and Recreational Development Committee of the Senate, the  
11 Appropriations Committee of the House of Representatives and the  
12 Gaming Oversight Committee of the House of Representatives.

13 \* \* \*

14 Section 10. Section 1213 of Title 4 is amended to read:

15 § 1213. License or permit prohibition.

16 (1) [No applicant for a license or permit under this  
17 part, including principals and key employees,] The board  
18 shall be prohibited from granting a principal license or key  
19 employee license to a person who has been convicted of a  
20 felony [or gambling offense] in any jurisdiction [shall be  
21 issued a license or permit unless 15 years has elapsed from  
22 the date of expiration of the sentence for the offense].

23 (2) [When determining whether to issue a license or  
24 permit to an permit applicant who has been convicted in any  
25 jurisdiction of a felony or gambling offense,] In addition to  
26 the prohibition under paragraph (1), the board shall be  
27 prohibited from granting the following:

28 (i) A principal license or key employee license to a  
29 person who has been convicted of a gambling offense in  
30 any jurisdiction that is not classified as a felony

1 unless 15 years has elapsed from the date of the  
2 expiration of the sentence for the offense.

3 (ii) A gaming employee permit or license other than  
4 a principal license or key employee license to a person  
5 who has been convicted of a felony or gambling offense  
6 unless 15 years has elapsed from the date of the  
7 expiration of the sentence for the offense.

8 (3) In determining whether to issue a license or permit  
9 under paragraph (2), the board shall consider the following  
10 factors:

11 [(1)] (i) The nature and duties of the applicant's  
12 position with the licensed entity.

13 [(2)] (ii) The nature and seriousness of the offense  
14 or conduct.

15 [(3)] (iii) The circumstances under which the  
16 offense or conduct occurred.

17 [(4)] (iv) The age of the applicant when the offense  
18 or conduct was committed.

19 [(5)] (v) Whether the offense or conduct was an  
20 isolated or a repeated incident.

21 [(6)] (vi) Any evidence of rehabilitation, including  
22 good conduct in the community, counseling or psychiatric  
23 treatment received and the recommendation of persons who  
24 have substantial contact with the applicant.

25 Section 10.1. Section 1308 of Title 4 is amended by adding a  
26 subsection to read:

27 § 1308. Applications for license or permit.

28 \* \* \*

29 (a.1) Submission of information.--Notwithstanding the  
30 provisions of 18 Pa.C.S. § 9124(b) (relating to use of records

1 by licensing agencies), an application for a license or permit  
2 under this part shall include all arrests and convictions of the  
3 applicant, including summary offenses. The information shall  
4 include:

5 (1) A brief description of the circumstances surrounding  
6 the arrest.

7 (2) The specific offense charged.

8 (3) The ultimate disposition of the charges, including  
9 the details of any dismissal, plea bargain, conviction or  
10 sentence, including any pardon, expungement or order of  
11 Accelerated Rehabilitative Disposition.

12 \* \* \*

13 Section 10.2. Sections 1310, 1317(c)(1), 1317.1(c)(1),  
14 1321(a)(2), 1326(a), 1328(b) and 1329 of Title 4 are amended to  
15 read:

16 § 1310. Slot machine license application character  
17 requirements.

18 (a) Application.--

19 (1) Every application for a slot machine license shall  
20 include such information, documentation and assurances as may  
21 be required to establish by clear and convincing evidence the  
22 applicant's suitability, including good character, honesty  
23 and integrity. Information shall include, without limitation,  
24 information pertaining to family, habits, character,  
25 reputation, criminal history background, business activities,  
26 financial affairs and business, professional and personal  
27 associates, covering at least the ten-year period immediately  
28 preceding the filing date of the application.

29 (2) Notwithstanding 18 Pa.C.S. § 9124(b) (relating to  
30 use of records by licensing agencies), a conviction that has

1 been expunged or overturned, or for which a person has been  
2 pardoned or an order of Accelerated Rehabilitative  
3 Disposition has been issued, shall be included with an  
4 application and shall be considered by the board as part of  
5 the review of the applicant's suitability under paragraph  
6 (1).

7 (b) Civil judgments and law enforcement agency  
8 information.--Each applicant shall notify the board of any civil  
9 judgments obtained against the applicant pertaining to antitrust  
10 or security regulation laws of the Federal Government, this  
11 Commonwealth or any other state, jurisdiction, province or  
12 country. In addition, each applicant shall produce a letter of  
13 reference from law enforcement agencies having jurisdiction in  
14 the applicant's place of residence and principal place of  
15 business, which letter of reference shall indicate that the law  
16 enforcement agencies do not have any pertinent information  
17 concerning the applicant or, if the law enforcement agency does  
18 have information pertaining to the applicant, shall specify the  
19 nature and content of that information. If no letters are  
20 received within 30 days of the request, the applicant may submit  
21 a statement under oath which is subject to the penalty for false  
22 swearing under 18 Pa.C.S. § 4903 (relating to false swearing)  
23 that the applicant is or was during the period the activities  
24 were conducted in good standing with the gaming or casino  
25 enforcement or control agency.

26 (c) Gaming or casino enforcement agency information.--If the  
27 applicant has held a gaming license in a jurisdiction where  
28 gaming activities are permitted, the applicant shall produce a  
29 letter of reference from the gaming or casino enforcement or  
30 control agency which shall specify the experiences of that

1 agency with the applicant, the applicant's associates and the  
2 applicant's gaming operation. If no letters are received within  
3 30 days of the request, the applicant may submit a statement  
4 under oath which is subject to the penalty for false swearing  
5 under 18 Pa.C.S. § 4903 that the applicant is or was during the  
6 period the activities were conducted in good standing with the  
7 gaming or casino enforcement or control agency.

8 (d) Agency records.--Each applicant for a slot machine  
9 license, principal license or key employee license shall be  
10 required to apply to the Federal Government regarding agency  
11 records under the Freedom of Information Act (Public Law 89-554,  
12 5 U.S.C. § 522) pertaining to the applicant and provide the  
13 board with the complete record received from the Federal  
14 Government. The board may issue a conditional license to the  
15 applicant prior to the receipt of information under this  
16 subsection.

17 § 1317. Supplier licenses.

18 \* \* \*

19 (c) Review and approval.--Upon being satisfied that the  
20 requirements of subsection (b) have been met, the board may  
21 approve the application and issue the applicant a supplier  
22 license consistent with all of the following:

23 (1) [The license shall be for a period of one year. Upon  
24 expiration, the license may be renewed in accordance with  
25 subsection (d)] The initial license shall be for a period of  
26 one year and shall be subject to renewal annually under  
27 subsection (d) for two consecutive one-year periods following  
28 the initial issuance. Thereafter, a license shall be subject  
29 to renewal every three years. Nothing in this paragraph shall  
30 relieve the licensee of the affirmative duty to notify the

1 board of changes to any information contained in the original  
2 application.

3 \* \* \*

4 § 1317.1. Manufacturer licenses.

5 \* \* \*

6 (c) Review and approval.--Upon being satisfied that the  
7 requirements of subsection (b) have been met, the board may  
8 approve the application and grant the applicant a manufacturer  
9 license consistent with all of the following:

10 (1) [The license shall be for a period of one year. Upon  
11 expiration, a license may be renewed in accordance with  
12 subsection (d)] The initial license shall be for a period of  
13 one year and shall be subject to renewal annually under  
14 subsection (d) for two consecutive one-year periods following  
15 the initial issuance. Thereafter, a license shall be subject  
16 to renewal every three years. Nothing in this paragraph shall  
17 relieve the licensee of the affirmative duty to notify the  
18 board of any changes relating to the status of its license or  
19 relieve the licensee of its responsibility to notify the  
20 board of changes to any information contained in the original  
21 application.

22 \* \* \*

23 § 1321. Additional licenses and permits and approval of  
24 agreements.

25 (a) Requirements.--In addition to the requirements for a  
26 license or permit specifically set forth in this part, the board  
27 may require a license [or], permit or other authorization, and  
28 set a fee for the same, for any key or gaming employee or any  
29 person who satisfies any of the following criteria:

30 \* \* \*

1           (2) The person is presently not [otherwise] required to  
2 be licensed or permitted under this part and provides any  
3 goods, property or services, including, but not limited to,  
4 management contracts for compensation to a slot machine  
5 licensee at the licensed facility. The board may by  
6 regulation establish a classification system for a person who  
7 provides goods, property or services to a slot machine  
8 licensee. If the classification system requires the person  
9 providing goods, property or services to submit to a criminal  
10 history record check under 18 Pa.C.S. Ch. 91 (relating to  
11 criminal history record information), the board shall notify  
12 the slot machine licensee if the person providing goods,  
13 property or services has been convicted of a felony or  
14 gambling offense.

15       \* \* \*

16 § 1326. License renewals.

17       (a) Renewal.--All permits and licenses issued under this  
18 part unless otherwise provided shall be subject to renewal on an  
19 annual basis [upon the application of the holder of the permit  
20 or license submitted to the board at least 60 days prior to the  
21 expiration of the permit or license] for the first two years  
22 following the initial issuance. Thereafter, all permits and  
23 licenses shall be subject to renewal every three years. The  
24 application for renewal shall be submitted at least 60 days  
25 prior to the expiration of the permit or license and shall  
26 include an update of the information contained in the initial  
27 and any prior renewal applications and the payment of any  
28 renewal fee required by this part. A permit or license for which  
29 a completed renewal application and fee, if required, has been  
30 received by the board will continue in effect unless and until

1 the board sends written notification to the holder of the permit  
2 or license that the board has denied the renewal of such permit  
3 or license.

4 \* \* \*

5 § 1328. Change in ownership or control of slot machine  
6 licensee.

7 \* \* \*

8 (b) Qualification of purchaser of slot machine licensee;  
9 change of control.--The purchaser of the assets, other than in  
10 the ordinary course of business, of any slot machine licensee  
11 shall independently qualify for a license in accordance with  
12 this part and shall pay the license fee as required by section  
13 1209 (relating to slot machine license fee). A change in control  
14 of any slot machine licensee shall require that the slot machine  
15 licensee independently qualify for a license in accordance with  
16 this part, and the slot machine licensee shall pay a new license  
17 fee as required by section 1209, except as otherwise required by  
18 the board pursuant to this section. The new license fee under  
19 this section shall be paid upon the assignment and actual change  
20 of control or ownership of the slot machine license.

21 \* \* \*

22 § 1329. [Nonportability] Portability and relocation of slot  
23 machine license.

24 (a) General rule.--Each slot machine license shall only be  
25 valid for the specific physical location within the municipality  
26 and county for which it was originally granted.

27 (b) Petition.--In evaluating a petition to relocate, the  
28 board shall consider the following factors:

29 (1) The reason for the relocation.

30 (2) A comparative analysis, submitted by the petitioner,

1 detailing estimated gross terminal revenues at the new  
2 location with estimated gross terminal revenues at the  
3 original location.

4 (3) A comparative analysis, submitted by the petitioner,  
5 detailing the economic impact of the licensed facility at the  
6 new location with the estimated economic impact at the  
7 original location. The comparative analysis shall include the  
8 total cost of the project and projected direct and indirect  
9 employment figures.

10 (4) A comprehensive traffic study commissioned by the  
11 board.

12 (5) Community support or opposition.

13 (6) Any other information requested by the board.

14 (c) Relocation.--A [No] slot machine licensee [shall] may be  
15 permitted to move or relocate the physical location of the  
16 licensed facility [without] with board approval [for] upon good  
17 cause shown if:

18 (1) the relocated licensed facility remains within the  
19 same county as originally licensed;

20 (2) the relocation will facilitate the timely operation  
21 of slot machines;

22 (3) the relocated licensed facility complies with all  
23 other provisions of this part related to the siting and  
24 location of a licensed facility; and

25 (4) relocation of the licensed facility is in the best  
26 interests of the Commonwealth.

27 (d) Public input hearing.--The board shall hold at least one  
28 public input hearing in the municipality where the licensed  
29 facility will be located prior to approval of the relocation.

30 (e) No grant or loan from the Commonwealth may be awarded

1 for the purpose of relocating or developing the relocated  
2 licensed facility to comply with any conditions of approval of  
3 the relocation.

4 Section 11. Title 4 is amended by adding a section to read:  
5 § 1332. Appointment of trustee.

6 (a) Appointment.--Upon petition of the Office of Enforcement  
7 Counsel, the board may order the appointment of a trustee from  
8 the list required under subsection (j) to act on behalf of the  
9 interests of the Commonwealth and the board to assure compliance  
10 with this part and any conditions imposed upon the slot machine  
11 license in the following circumstances:

12 (1) Upon the revocation, suspension or nonrenewal of a  
13 slot machine license or a principal license of an individual  
14 who the board has determined controls a slot machine license.

15 (2) Upon the failure to renew a slot machine license or  
16 a principal license of an individual who the board has  
17 determined controls a slot machine licensee until the slot  
18 machine or principal license is renewed or until the  
19 discontinuation of the trusteeship pursuant to subsection  
20 (i).

21 (3) If necessary to protect the best interests of the  
22 Commonwealth.

23 (b) Qualifications.--The following shall apply:

24 (1) A trustee shall be required to obtain a principal  
25 license. The board may appoint a trustee and award the  
26 trustee a temporary principal license as prescribed in board  
27 regulations.

28 (2) Before assuming duties, a trustee shall execute and  
29 file a bond for the faithful performance of the trustee's  
30 duties. The bond shall be payable to the board with sureties

1 and in the amount and form required by board order. The cost  
2 of the bond shall be paid by the former or suspended  
3 licensee.

4 (c) Powers.--A trustee appointed under this section shall  
5 have all of the power and duties granted to the trustee by the  
6 board. The board's order appointing the trustee shall set forth  
7 the powers, duties and responsibilities of the trustees which  
8 may include:

9 (1) Maintaining and operating the licensed facility in a  
10 manner that complies with this part and any conditions  
11 imposed by the board.

12 (2) Maintaining and operating the licensed facility  
13 consistent with the measures generally taken in the ordinary  
14 course of business including:

15 (i) Entering into contracts.

16 (ii) Borrowing money.

17 (iii) Pledging, mortgaging or otherwise encumbering  
18 the licensed facility or property thereof as security for  
19 the repayment of the trustee's loans subject to any  
20 provisions and restrictions in any existing credit  
21 documents.

22 (iv) Hiring, firing and disciplining employees.

23 (3) Exercising the rights and obligations of the former  
24 or suspended licensee.

25 (4) Taking possession of all of the property of the slot  
26 machine licensee, including its books, records and papers.

27 (5) Establishing accounts with financial institutions.  
28 An account may not be established with a financial  
29 institution in which an affiliate of the former or suspended  
30 licensee, or in which the trustee, has a financial interest.

1           (6) Meeting with the former or suspended licensee.

2           (7) Meeting with principals and key employees at the  
3 licensed facility.

4           (8) Meeting with the independent audit committee.

5           (9) Meeting with the board's executive director and  
6 keeping the board's executive director apprised of actions  
7 taken and the trustee's plans and goals for the future.

8           (10) Hiring legal counsel, accountants or other  
9 consultants or assistants, with prior approval of the board,  
10 as necessary to carry out the trustee's duties and  
11 responsibilities.

12           (11) Settling or compromising with any debtor or  
13 creditor of the former or suspended licensee, including any  
14 taxing authority.

15           (12) Reviewing outstanding agreements to which the  
16 former or suspended licensee is a party and advising the  
17 board as to which, if any, of the agreements should be the  
18 subject of scrutiny, examination or investigation by the  
19 board.

20           (13) Obtaining board approval prior to any sale, change  
21 of ownership, change of control, change of financial status,  
22 restructuring, transfer of assets or execution of a contract  
23 outside of the ordinary course of business.

24           (14) Obtaining board approval for any payments outside  
25 of those made in the ordinary course of business.

26           (d) Compensation.--The board shall establish the  
27 compensation of the trustee and shall review and approve  
28 reasonable costs and expenses of the trustee, legal counsel,  
29 accountants or other consultants or assistants hired by the  
30 trustee and other persons the board may appoint in connection

1 with the trusteeship action. The compensation, costs and  
2 expenses shall be paid by the former or suspended licensee.  
3 Total compensation for the trustee and all individuals hired or  
4 retained by the trustee under subsection (c)(10) shall not  
5 exceed \$600 per hour in the aggregate.

6 (e) Reports.--A trustee shall file reports with regard to  
7 the administration of the trusteeship with the board in the form  
8 and at intervals as the board orders. The board may direct that  
9 copies or portions of the trustee's reports be mailed to  
10 creditors or other parties in interest and make summaries of the  
11 reports available to the public and shall post them on the  
12 board's Internet website.

13 (f) Review of actions.--A creditor or party in interest  
14 aggrieved by any alleged breach of a delegated power or duty of  
15 a trustee in the discharge of the trustee's duties may request a  
16 review of the trustee's action or inaction by filing a petition  
17 in accordance with board regulations. The petition must set  
18 forth in detail the pertinent facts and the reasons why the  
19 facts constitute the alleged breach. The board will review any  
20 petition filed under this section and take whatever action, if  
21 any, it deems appropriate.

22 (g) Effect of the trusteeship.--After issuance of an order  
23 to appoint a trustee, the former or suspended principal or slot  
24 machine licensee may not exercise any of its privileges, collect  
25 or receive any debts and pay out, sell, assign or transfer any  
26 of its property to anyone without prior approval of the  
27 appointed trustee and the board.

28 (h) Disposition of net earnings.--During the period of  
29 trusteeship, net earnings shall be deposited in an account  
30 maintained for that purpose. Payment of net earnings during the

1 period of trusteeship may not be made by the trustee without the  
2 prior approval of the board. A suspended or former principal or  
3 slot machine licensee may request payment of all or a portion of  
4 the net earnings during the period of trusteeship by filing a  
5 petition in accordance with board regulation. The suspended or  
6 former principal or slot machine licensee shall have the burden  
7 of demonstrating good cause for the payment of the net earnings  
8 requested.

9 (i) Discontinuation.--The board may issue an order to  
10 discontinue a trusteeship when:

11 (1) The board determines that the cause for which the  
12 trustee was appointed no longer exists.

13 (2) The trustee has, with the prior approval of the  
14 board, consummated the sale, assignment, conveyance or other  
15 disposition of all the property of the former principal or  
16 slot machine licensee relating to the slot machine license.

17 Upon board approval of the discontinuation of the trusteeship,  
18 the trustee shall, in an orderly manner, transfer the property  
19 of the former or suspended principal or slot machine licensee.

20 (j) List of approved trustees.--The board shall promulgate  
21 regulations to establish a list of persons approved by the board  
22 qualified to serve as a trustee. At a minimum, the regulations  
23 shall provide for the following:

24 (1) The minimum qualifications an individual must  
25 possess to be approved as a trustee, which shall include  
26 possession of a principal license.

27 (2) The procedure for placement on or removal from the  
28 list.

29 (3) Any other information the board deems necessary to  
30 carry out the intent of this section.

1 Section 12. Section 1407 of Title 4 is amended by adding  
2 subsections to read:

3 § 1407. Pennsylvania Gaming Economic Development and Tourism  
4 Fund.

5 \* \* \*

6 (e) Annual report.--The Office of the Budget in cooperation  
7 with the Department of Community and Economic Development shall  
8 submit an annual report of all distribution of funds under this  
9 section to the chairman and minority chairman of the  
10 Appropriations Committee of the Senate, the chairman and  
11 minority chairman of the Community, Economic and Recreational  
12 Development Committee of the Senate, the chairman and minority  
13 chairman of the Appropriations Committee of the House of  
14 Representatives and the chairman and minority chairman of the  
15 Gaming Oversight Committee of the House of Representatives. The  
16 report shall include detailed information relating to transfers  
17 made from the Pennsylvania Gaming Economic Development and  
18 Tourism Fund and all reimbursements, distributions and payments  
19 made under subsection (b). The report shall be submitted by  
20 January 31, 2010, and by January 31 of each year thereafter.

21 (f) Local report.--A city of the first class, city of the  
22 second class, county of the second class, convention center,  
23 professional hockey franchise, urban redevelopment authority,  
24 airport authority or other entity that receives money from the  
25 fund pursuant to an Economic Development Capital Budget under  
26 this section shall submit an annual report to the Office of the  
27 Budget, the chairman and minority chairman of the Appropriations  
28 Committee of the Senate, the chairman and minority chairman of  
29 the Community, Economic and Recreational Development Committee  
30 of the Senate, the chairman and minority chairman of the

1 Appropriations Committee of the House of Representatives and the  
2 chairman and the minority chairman of the Gaming Oversight  
3 Committee of the House of Representatives. The report shall  
4 include detailed information, including records of expenditures,  
5 payments and other distributions made from money received under  
6 subsection (b). The initial report shall include information on  
7 all funds received prior to January 31, 2010. The report shall  
8 be submitted by January 31, 2010, and by January 31 of each year  
9 thereafter until all funds under this section are distributed or  
10 received. An entity that receives funds after the effective date  
11 of this section shall submit an initial report by January 31 of  
12 the year following receipt of the funds.

13 (g) Distribution to international airport.--Notwithstanding  
14 the provisions of section 7(d) of the act of July 25, 2007  
15 (P.L.342, No.53), known as the Pennsylvania Gaming Economic  
16 Development and Tourism Fund Capital Budget Itemization Act of  
17 2007, following the distribution of \$42.5 million of funds  
18 allocated to the county for debt service and economic  
19 development projects for an international airport in a county of  
20 the second class under section 3(2)(i)(E) of said act, all  
21 remaining funds shall be distributed directly to an authority  
22 that operates an international airport in a county of the second  
23 class.

24 Section 13. Sections 1408(c) and 1512(a.5) and (b) of Title  
25 4 are amended to read:

26 § 1408. Transfers from State Gaming Fund.

27 \* \* \*

28 (c) Local law enforcement grants.--Annually, the sum of  
29 [\$5,000,000] \$3,000,000 shall be transferred to the board for  
30 the purpose of issuing grants to local law enforcement agencies

1 to enforce and prevent [the unlawful operation of slot machines]  
2 all forms of unlawful gambling in this Commonwealth. For  
3 purposes of this subsection, the term "local law enforcement  
4 agency" shall include Pennsylvania State Police activities in a  
5 municipality which does not have a municipal police department  
6 for activities in that municipality.

7 \* \* \*

8 § 1512. Financial and employment interests.

9 \* \* \*

10 (a.5) State Ethics Commission.--The State Ethics Commission  
11 shall publish a list of all State, county, municipal and other  
12 government positions that meet the definitions of "public  
13 official" as defined under subsection (b) or "executive-level  
14 public employee" [under subsection (b)]. The Office of  
15 Administration shall assist the [Ethics Commission] commission  
16 in the development of the list, which shall be published in the  
17 Pennsylvania Bulletin biennially and on the board's website.  
18 Upon request, each public official shall have a duty to provide  
19 the [Ethics Commission] commission with adequate information to  
20 accurately develop and maintain the list. The [Ethics  
21 Commission] commission may impose a civil penalty under 65  
22 Pa.C.S. § 1109(f) (relating to penalties) upon any public  
23 official or executive-level public employee who fails to  
24 cooperate with the [Ethics Commission] commission under this  
25 subsection. An individual who relies in good faith on the list  
26 published by the commission shall not be subject to any penalty  
27 for a violation of this section.

28 (b) Definitions.--As used in this section, the following  
29 words and phrases shall have the meanings given to them in this  
30 subsection:

1 ["Executive-level public employee." The term shall include  
2 the following:

3 (1) Deputy Secretaries of the Commonwealth and the  
4 Governor's Office executive staff.

5 (2) An employee of the Executive Branch with  
6 discretionary power which may affect or influence the outcome  
7 of a State agency's action or decision and who is involved in  
8 the development of regulations or policies relating to a  
9 licensed entity or who is involved in other matters under  
10 this part. The term shall include an employee with law  
11 enforcement authority.

12 (3) An employee of a county or municipality with  
13 discretionary powers which may affect or influence the  
14 outcome of the county's or municipality's action or decision  
15 and who is involved in the development of law, regulation or  
16 policy relating to a licensed entity or who is involved in  
17 other matters under this part. The term shall include an  
18 employee with law enforcement authority.

19 (4) An employee of a department, agency, board,  
20 commission, authority or other governmental body not included  
21 in paragraph (1), (2) or (3) with discretionary power which  
22 may affect or influence the outcome of the governmental  
23 body's action or decision and who is involved in the  
24 development of regulation or policy relating to a licensed  
25 entity or who is involved in other matters under this part.  
26 The term shall include an employee with law enforcement  
27 authority.]

28 "Financial interest." Owning or holding, or being deemed to  
29 hold, debt or equity securities or other ownership interest or  
30 profits interest. A financial interest shall not include any

1 debt or equity security, or other ownership interest or profits  
2 interest, which is held or deemed to be held in any of the  
3 following:

4 (1) A blind trust over which the executive-level public  
5 employee, public official, party officer or immediate family  
6 member thereof may not exercise any managerial control or  
7 receive income during the tenure of office and the period  
8 under subsection (a). The provisions of this paragraph shall  
9 apply only to blind trusts established prior to the effective  
10 date of this paragraph.

11 (2) Securities that are held in a pension plan, profit-  
12 sharing plan, individual retirement account, tax-sheltered  
13 annuity, a plan established pursuant to section 457 of the  
14 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §  
15 1 et seq.) or any successor provision deferred compensation  
16 plan whether qualified or not qualified under the Internal  
17 Revenue Code of 1986 or any successor provision or other  
18 retirement plan that:

19 (i) is not self-directed by the individual; and  
20 (ii) is advised by an independent investment adviser  
21 who has sole authority to make investment decisions with  
22 respect to contributions made by the individual to these  
23 plans.

24 (3) A tuition account plan organized and operated  
25 pursuant to section 529 of the Internal Revenue Code of 1986  
26 (Public Law 99-514, 26 U.S.C. § 529) that is not self-  
27 directed by the individual.

28 (4) A mutual fund where the interest owned by the mutual  
29 fund in a licensed entity does not constitute a controlling  
30 interest as defined in this part.

1 "Immediate family." A spouse, minor child or unemancipated  
2 child.

3 "Law enforcement authority." The power to conduct  
4 investigations of or to make arrests for criminal offenses.

5 "Party officer." A member of a national committee; a  
6 chairman, vice chairman, secretary, treasurer or counsel of a  
7 State committee or member of the executive committee of a State  
8 committee; a county chairman, vice chairman, counsel, secretary  
9 or treasurer of a county committee in which a licensed facility  
10 is located; or a city chairman, vice chairman, counsel,  
11 secretary or treasurer of a city committee of a city in which a  
12 licensed facility is located.

13 "Public official." The term shall include the following:

14 (1) The Governor, Lieutenant Governor, a member of the  
15 Governor's cabinet, Treasurer, Auditor General and Attorney  
16 General of the Commonwealth.

17 (2) A member of the Senate or House of Representatives  
18 of the Commonwealth.

19 (3) An individual elected or appointed to any office of  
20 a county or municipality that directly receives a  
21 distribution of revenue under this part.

22 (4) An individual elected or appointed to a department,  
23 agency, board, commission, authority or other governmental  
24 body not included in paragraph (1), (2) or (3) that directly  
25 receives a distribution of revenue under this part.

26 (5) An individual elected or appointed to a department,  
27 agency, board, commission, authority, county, municipality or  
28 other governmental body not included in paragraph (1), (2) or  
29 (3) with discretionary power which may influence or affect  
30 the outcome of an action or decision and who is involved in

1 the development of regulation or policy relating to a  
2 licensed entity or who is involved in other matters under  
3 this part.

4 The term does not include a member of a school board or an  
5 individual who held an uncompensated office with a governmental  
6 body prior to January 1, 2006, and who no longer holds the  
7 office as of January 1, 2006. The term includes a member of an  
8 advisory board or commission which makes recommendations  
9 relating to a licensed facility.

10 Section 14. Title 4 is amended by adding a section to read:  
11 § 1516.1. Prosecutorial and adjudicatory functions.

12 The board shall adopt regulations and procedures necessary to  
13 ensure that the Bureau of Investigations and Enforcement is a  
14 distinct administrative entity and to prevent commingling of the  
15 investigatory and prosecutorial functions of the Bureau of  
16 Investigations and Enforcement under section 1517 (relating to  
17 investigations and enforcement) and the adjudicatory functions  
18 of the board.

19 Section 15. Section 1517(a.1)(6) of Title 4 is amended,  
20 subsection (a.2)(1) is amended by adding a subparagraph and  
21 subsection (c) is amended by adding a paragraph to read:

22 § 1517. Investigations and enforcement.

23 \* \* \*

24 (a.1) Powers and duties of bureau.--The Bureau of  
25 Investigations and Enforcement shall have the following powers  
26 and duties:

27 \* \* \*

28 (6) Conduct [audits] reviews of a licensed entity as  
29 necessary to ensure compliance with this part. [An audit] A  
30 review may include the review of accounting, administrative

1 and financial records, management control systems, procedures  
2 and other records utilized by a licensed entity.

3 \* \* \*

4 (a.2) Office of Enforcement Counsel.--

5 (1) There is established within the bureau an Office of  
6 Enforcement Counsel which shall act as the prosecutor in all  
7 noncriminal enforcement actions initiated by the bureau under  
8 this part and shall have the following powers and duties:

9 \* \* \*

10 (iv) Petition the board for the appointment of a  
11 trustee under section 1332 (relating to appointment of  
12 trustee).

13 \* \* \*

14 (c) Powers and duties of the Pennsylvania State Police.--The  
15 Pennsylvania State Police shall have the following powers and  
16 duties:

17 \* \* \*

18 (14) By March 1 of each year, the Commissioner of the  
19 Pennsylvania State Police shall submit a report to the  
20 Appropriations Committee of the Senate, the Community,  
21 Economic and Recreational Development Committee of the  
22 Senate, the Appropriations Committee of the House of  
23 Representatives and the Gaming Oversight Committee of the  
24 House of Representatives. The report shall summarize law  
25 enforcement activities at each licensed facility during the  
26 previous calendar year and shall include all of the  
27 following:

28 (i) The number of arrests at each licensed facility.

29 (ii) A list of specific offenses charged for each  
30 offense.

1           (iii) The number of criminal prosecutions resulting  
2           from arrests.

3           (iv) The number of convictions resulting from  
4           prosecutions.

5           (v) The number of Pennsylvania State Police troopers  
6           assigned to each licensed facility and to the gaming unit  
7           at the Pennsylvania State Police headquarters.

8           (vi) The number and nature of disciplinary actions  
9           taken and complaints made against Pennsylvania State  
10          Police troopers in a licensed facility.

11          (vii) The closest local police station, Pennsylvania  
12          State Police station and regional Pennsylvania State  
13          Police headquarters to each licensed facility.

14          \* \* \*

15          Section 16. Section 1517.2 of Title 4 is amended to read:

16          § 1517.2. Conduct of [public officials and] board employees.

17          (a) [Ex parte discussion prohibited.--An attorney  
18 representing the bureau or the Office of Enforcement Counsel, or  
19 an employee of the bureau or office involved in the hearing  
20 process, shall not discuss the case ex parte with a hearing  
21 officer, chief counsel or member] (Reserved).

22          (b) [Other prohibitions.--A hearing officer, the chief  
23 counsel or a member shall not discuss or exercise any  
24 supervisory responsibility over any employee with respect to an  
25 enforcement hearing with which the employee is involved]  
26 (Reserved).

27          (c) Disqualification.--If it becomes necessary for the chief  
28 counsel or member to become involved on behalf of the board in  
29 any enforcement proceeding, the chief counsel or member shall be  
30 prohibited from participating in the adjudication of that matter

1 and shall designate appropriate individuals to exercise  
2 adjudicatory functions.

3 Section 17. The amendment of 4 Pa.C.S. § 1213 shall not  
4 apply to any of the following:

5 (1) An application submitted before the effective date  
6 of this section.

7 (2) Any license or permit issued prior to the effective  
8 date of this section.

9 (3) The renewal of any license or permit issued prior to  
10 the effective date of this section.

11 Section 18. This act shall take effect in 60 days.