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**Testimony for the Senate Community, Economic & Recreational
Committee**
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Good morning Ms. Chairwoman and members of the Senate Community, Economic & Recreational Committee.

On behalf of the Mohegan Tribal Gaming Authority and Mohegan Sun at Pocono Downs, I want to say we are extremely grateful that as part of the review of this issue, you have included casino operators among the parties who have the opportunity to provide insight on this subject—especially since it is a critical issue that will have a direct and significant impact on the industry and our organization.

Mohegan Sun at Pocono Downs was the first casino to open in the Commonwealth when we opened our doors on November 14, 2006. As one would suspect, there are many challenges with starting a new industry, especially one as complicated as the gaming industry where there is a myriad of unique processes and issues surrounding licensing of vendors and employees, oversight of internal controls and the many sophisticated information technology systems associated with gaming equipment. Throughout the opening process and during our operation the past 2 ½ months, we have been working diligently with the Gaming Control Board to ensure we comply with all legal and regulatory requirements and to ensure the integrity of our operation is never in question. The Board members and their staff have been a pleasure to work with and have done an excellent job in ensuring a smooth and mistake-free opening, especially our liaison Board member, Ray Angeli, who has spent a significant amount of time on our property to ensure proper execution of the opening.

In regards to the assessment of State fees, I think it is important to acknowledge that we have always understood and expected to pay the direct administrative costs incurred by the State to regulate our facility as required by the law. The real question is what should that assessment be? Naturally, our expectation was that such costs would be reasonable and would be equitably applied to all operators. While our organization was not established in Pennsylvania during passage of Act 71 in 2004, we do not believe that it was ever anticipated that it would take more than 2 years to open all the casino venues, including the Category 3 licensees, who have not even applied yet. While this extended timeline was due to factors out of the Board's control, it has always been understood and anticipated that the operators that opened first would not have a disproportionate burden of paying the expense to create the regulatory framework to start the gaming industry in the Commonwealth. Not only was this assumption made in our model and part of our application, but I suspect it was an assumption made by all licensee applicants as part of their application, and relied upon by their investors who have loaned them the funds to build their properties. Accordingly, we do not object to any scheme for the imposition of

fees provided they are consistent with these principles. We believe the correspondence sent to our attention yesterday by Chairman Thomas Decker and Secretary of Revenue Gregory Fajt concerning the initial plans for assessment is a positive development and a movement in the right direction.

Of course, we understand as the first operators, it naturally took more man hours to get our facility open because of the learning curve within the Board and throughout this new process. However, it is important to note that as more facilities are brought online, this learning curve is substantially reduced by the experience gained by opening our facility and the other initial properties to open, so that, for example, a process that may have taken 40 hours at first will now only take 40 minutes. In effect, if we are directed to pay a greater percentage of costs upfront as the first operator to open, we are being unfairly burdened with costs not incurred by those opening later. Again, it is simply not contemplated by the law or equitable for the initial operators to pay a greater percentage of costs which ultimately benefit those properties which open later.

As we formulated our model and budget, we had to make certain assumptions regarding what these fees would amount to. We looked at other jurisdictions and concluded that as a percentage of slot revenue, one percent (1%) to one and one-half percent (1 ½ %) was a fair and conservative range. For example, for those jurisdictions we have been able to obtain information from, the following are total administrative expenditures and respective percentage to gaming revenue:

<u>State</u>	<u>Gross Term. Revenue</u>	<u>Regulatory Cost</u>	<u>% of Revenue</u>
Nevada	\$12,200,000	\$41,563,000	.34%
Michigan	\$1,229,000	\$16,100,000	1.31%
New Jersey	\$5,018,272	\$68,329,526*	1.36%*

*Of the \$68,329,526 spent, only \$58,492,018 of this amount was collected from casino operators, representing 1.16% of gross gaming revenue.

Nevada has a \$41 million dollar budget to regulate over 400 non-restricted gaming licenses and about 2,900 separate entities throughout the State, which includes Administration, Audit, Technology, Enforcement, Licensing and Investigations. One of the jurisdictions with one of the most, if not the most, significant and robust regulatory framework is New Jersey, which imposed a regulatory fees which amounted to 1.16% of gaming revenues for the last publicly reported year. This includes the cost of regulating table games, which I expect consumes a relatively large chunk of regulatory resources due to the nature of these games. In Connecticut¹, where we operate our other establishment, we have an agreement with the State via a compact to pay for expenses of regulation, which include all the expenses associated with the Division of Revenue such as licensing, audit and investigation, as well as costs for State Police and Liquor Control at our facility. Notwithstanding the significant amount of licensing and 24 hour on-site

¹ We have not included Connecticut's numbers in the table above as we are unable to ascertain the total gaming dollars and percentage of cost paid by the other casino establishment operating in Connecticut as its numbers are not publicly disclosed.

presence at our facility, our annual fees for the most recent year totaled approximately .38% of gross gaming revenue.

Of course, we understand and appreciate differences exist in each jurisdiction, and Pennsylvania is unique in its own right. However, of the many jurisdictions with casino gambling, I am aware of none that exceed 1.5% of gross gaming revenue, including New Jersey—a state I would note that has a tax rate of only 8% compared to tax rates we face of 55% or greater here in the Commonwealth.

Prior to paying any of the State Administrative fees, our organization will incur taxes totaling more than 60% of our Gross Terminal Slot Revenue for our first year of operation. We are not here, however, to express any grievances about the tax rate. We did recognize prior to entering the market that we would incur a substantial tax rate and formulated our model and investment based upon this, along with a reasonable percentage for administrative fees. What we did not anticipate, nor can we absorb, are significant and unreasonable administrative fees which have the effect of materially increasing our tax rate further, making it difficult, if not impossible, to generate any reasonable return on our investment.

Any casino operator, investment banker or any other professional who understands the economics of this industry will tell you that operating at our current tax rate makes it difficult to generate any reasonable return on investment—yes, even a casino has a breaking point. The unfortunate reality is that while public officials and the general public see the revenue figures generated by casino operators, they never see the other side of the income statement. I think it is insightful to illustrate to this Committee where our gaming revenue is distributed and truly how difficult it is to achieve a return on the significant investments that are being made. For example, for the week of January 15 which is the latest week of revenues reported on the Gaming Control Board website, the Board reports Gross Terminal Revenue at our facility of \$3.04 million dollars. During this same week estimated distribution of these revenues are approximately as follows²:

Revenue	\$3,040,000
Slot Taxes (60%) ³	(\$1,824,000)
Labor (13%)	(\$395,200)
Marketing (5%)	(\$152,000)
Other Expenses (8%) ⁴	(\$271,411)
Total Expenses	<u>(\$2,642,611)</u>
Net Revenue from slots	\$397,000
Operating Margin from slots	13%

² These are merely estimates and are not actual numbers, though the non-tax percentages are consistent with other properties similar in size.

³ This includes a pro-rata amount of the annual \$10 million dollar local share taxes.

⁴ This includes expenses for operation, such as utilities, legal fees, contract labor, supplies, as well as administrative fees paid to the State at 1.5% of gross slot revenue.

You can see from this illustration, it is not difficult to understand the extremely tight margins associated with casino operations, which are well below typical industry averages and averages of other private industries. Clearly, in light of our tax rates, a small increase in the percentage of administrative fees will significantly impact the already small margins. Of course, this does not include other expenses beyond the bottom line such as maintenance cap-ex and interest expense incurred to fund the project, which in our case, is approaching \$400 million dollars thus far.

The harsh reality is that for every small increase in the percentage of administrative fees we must pay, it creates an exponential impact on our bottom line and our ability to generate any return on our investment in Pennsylvania. This is the case whether we are generating \$200, \$300 or even \$400 win per unit. This is especially true since our significant tax rate already brings us close to that breaking point.

In sum, we have no desire to evade our responsibility set forth in the statute to pay the reasonable costs of regulating our facility. What we are simply asking is that the amounts and process be reasonable, fair and equitable. We believe that not only is what is mandated by law, but it is in the long-term best interest of the Commonwealth.

Once again, thank you for allowing our organization to participate in this process.