

**State of Delaware**

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**Video Lottery Advisory Council**

November 4, 2011

Mr. Tom Cook  
Secretary of Finance  
State of Delaware  
Carvel State Office Building  
820 N. French Street  
8<sup>th</sup> Floor  
Wilmington, DE 19801

Dear Mr. Cook,

In accordance with Title 29, Chapter 29, Paragraph 4824 of the Delaware Code, attached is the 2011 Report of the Video Lottery Advisory Council (VLAC). This report contains legislative recommendations of the VLAC necessary to allow the Delaware gaming industry to remain competitive, given the increasing changes to the mid-Atlantic gaming environment. Members of the VLAC representing state office or the slot machine industry were not asked to vote on the recommendations included in the attached report, in respect of the sensitivity of their positions.

I, as well as the other Delaware video lottery agent representatives who serve on the VLAC, look forward to discussing the recommendations in the attached report.

Sincerely,



Edward J. Sutor  
Chairman  
Attachment

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## What is the competitive outlook for Delaware gaming?

Delaware slot revenues have declined since the opening of the first Pennsylvania casino, Harrah's Chester, in January of 2007. The 3<sup>rd</sup> quarter of 2011 marks the 15<sup>th</sup> consecutive quarter, over 45 months, of declining slot revenues.

- Maturing Pennsylvania gaming facilities with table game operations at a highly competitive tax rate:
  - *In September 2011, the newest Pennsylvania casino (SugarHouse) hit its one-year mark. All ten Pennsylvania casinos offer table games at the very low comparative table game tax rate of 16%, which will soon be dropped to 14%. This will give Pennsylvania table game operators an even greater competitive advantage; to operate stable and profitable table game operations, allowing more funds to be used for creative and embellished marketing programs and exciting capital investment projects. A Valley Forge casino is slated to open in 2012, adding to the saturated mid-Atlantic gaming market.*
- Additional Maryland casinos:
  - *Maryland Live at Arundel Mills, Maryland's third and largest casino, is set to open in spring of 2012 with 3,000 slot machines, and quickly increasing to 4,750 slot machines in the fall of 2012. While the opening of Maryland's first 2 casinos had an immediate and measurable negative impact on Delaware gaming revenue, due to location and size, this newest casino is projected to have more significant negative impact on Delaware's gaming revenues than any other single competitor to date. Maryland has also recently announced its intentions to go forward with authorizing of two additional casino locations, one in southern Maryland (Baltimore) and one in western Maryland (Rocky Gap).*
- Atlantic City:
  - *Due to the significant increase in regional gaming options in the mid-Atlantic, Atlantic City gaming revenues have suffered each quarter since the 1<sup>st</sup> quarter of 2007. However, their declines are improving as they reap the benefits of initiatives by their state government to rewrite outdated, expensive, and overly restrictive regulations and to lend budgetary support in efforts to increase tourism to the industry.*
  - *The multi-billion dollar mega-casino, Revel, is set to open in spring of 2012, which will further congest the already saturated mid-Atlantic gaming market.*
- Table game operations in West Virginia:
  - *Since the commencement of West Virginia's table game operations in July 2010 at Penn National's Charles Town Casino, the casino has retained the position as leader in table game revenue for that state. Charles Town is the closest West Virginia casino to Delaware, and actively competes for customers in Delaware's market.*

## What are the 2011 recommendations of the VLAC?

Due to the current state of the Delaware gaming industry, and the intensifying competitive landscape, the following recommendations include major structural changes to the current license fee and revenue sharing model. Recommendations from the 2010 Report will not be included, but should still be considered active. It is noted that members of the VLAC representing state office or the slot machine industry, in respect of the sensitivity of their position, were not asked to vote on the inclusion of the following recommendations.

### Legislative Recommendations

- Reinststate a tiered slot gaming tax structure.
  - *Justification: Given that the Delaware gaming industry has been faced with steadily declining slot revenues, with additional competitive pressure and no real sign of economic improvement in the near future, a high fixed rate model is no longer workable. A tiered structure, similar to the structure in place when slots began in Delaware, is necessary to allow the state to retain its share when business is good, but also to lessen the burden on the video lottery agents during downturns.*
  
- Reduce the table game tax rate to 14% (same as PA).
  - *Justification: Delaware table game revenue is being entirely consumed by gaming taxes, license fees, and payroll expenses. Relief in the form of reducing the table game tax rate to 14% (same as PA, yet still higher than AC), would allow Delaware video lottery agents to compete in this highly competitive environment, and more importantly, to preserve the 1400+ jobs added in the past year by table game operations.*
  - *As indicated in the Table Game Committee minutes of the meeting on July 27, 2009, the State would "consider reviewing" the table game tax rate and annual license fee should Pennsylvania institute table game operations. At this point, not only has Pennsylvania instituted table game operations, they are operating at a tax rate less than half of the Delaware table game tax rate, giving them significant advantage in revenue retention to be used for marketing and property reinvestment.*
  
- Eliminate the \$6.75 million annual table game license fee.
  - *Justification: Due to declining table game volume, high payroll and benefits costs, and an effective table game tax and license fee at nearly 45%, all three Delaware video lottery agents are losing money on table game operations and have had to borrow money to pay this year's table game license fees.*
  
- Eliminate the \$4 million annual slots (sports betting) license fee.
  - *Justification: Originally labeled a sports betting fee, but changed to a slot fee during the legislative process, this annual fixed fee on top of the gaming tax on slot revenues has a crippling effect on the video lottery agent's ability to compete, especially as slot revenues continue to decline.*

- Allow video lottery agents to deal (purchase or lease) directly with licensed slot machine vendors.
  - *Justification: The requirement for the state to control the purchase or lease of slot machines dates back to the inception of video lottery gaming in Delaware, 15 years ago. Under this provision, the state negotiates with machine suppliers and, although not allowed to participate in negotiations, the video lottery agents are required to pay what the state agrees to. With the recent addition of table games, the state's control procedure was to license table game vendors, and then approve purchase orders of products from those table game vendors by the video lottery agents. This process allows the agents to have more information and control on cost for budgeting and operating purposes. The table game control process could be applied to slots; the Lottery would license slot machine vendors, and the video lottery agents would not be able to add a video lottery machine without prior Lottery approval of a purchase or lease order.*

**What is the VLAC?**

The Video Lottery Advisory Council (VLAC) (aka the Advisory Council on Video Lottery Planning) was formed under House Bill #269 on June 19, 2003 to serve in a planning and advisory capacity to the Secretary of Finance.

**What is the purpose of the VLAC?**

*Per Title 29, Chapter 48 of the Delaware Code:*

The purpose of the VLAC is to consider matters relating to the growth and competitive vitality of the video lottery industry in the State, including but not limited to the following:

- (1) The status of video lottery game development issues in the State;
- (2) The status of known game problem resolution;
- (3) Personnel issues and concerns affecting the industry;
- (4) The effectiveness of current operational procedures and recommendations for new operational procedures or regulations;
- (5) The competitive vitality of the video lottery industry in the state, and recommendations for marketing and technological improvements;
- (6) Issues and concerns relating to the repair and maintenance of video lottery machines and related equipment, including preventive maintenance programs;
- (7) Video lottery agent or manufacturer specific projects that will impact the operation of the video lottery; and
- (8) Issues and concerns of the State Lottery Office relating to the video lottery operations and the status of internal control approvals.

The VLAC shall submit a report on its activities to the Secretary of Finance by November 5 of each year, together with recommendations for legislative and/or administrative changes it deems desirable. (Emphasis added.)

**What is the Mission Statement of the VLAC?**

*"To provide a forum for video lottery officials, agents, and vendors to routinely address and resolve issues related to maintaining and improving the utmost in program integrity and operational efficiency. The VLAC shall render an annual report to the State on the results of its efforts and include recommendations to improve the program's viability and to maximize the program's growth in an increasingly competitive regional market."*

**Who serves on the VLAC?**

*Per Title 29, Chapter 48 of the Delaware Code:*

Membership on the VLAC shall include:

- (1) The Acting Director of the State Lottery Office. (Vernon Kirk 302-744-1600)
- (2) One member from each licensed video lottery agent, to be designated by the respective agent. (Edward J. Sutor – Dover Downs Hotel & Casino 302-857-3206, Patti Key – Harrington Raceway 302-398-5913, Andrew Gentile – Delaware Park 302-994-2521 ext. 7206)
- (3) Two members representing all of the licensed manufacturers of the video lottery machines to be designated by the Director of the State Lottery Office, and/or the licensed manufacturer of the central computer systems to be designated by the Director of the State Lottery Office. (Brennen Lawrence – Scientific Games 770-664-3827, Tim Shortall – IGT 609-484-6301, Robert Neugebauer – Spielo 302-376-1100)

The Governor shall designate one member to serve as Chairperson of the Council, who shall serve in that capacity for two years and shall be eligible for reappointment. (Edward J. Sutor – President & CEO for Dover Downs Hotel & Casino – Term 2006 - 2007, reappointed 2008 – 2009, and 2010-2011).

**How often does the VLAC meet?**

*Per Title 29, Chapter 48 of the Delaware Code:*

The VLAC usually meets quarterly, and a meeting can be called by the Director, the Chairperson, or a majority of the members.

**When & where did the VLAC meet in 2011?**

VLAC meetings during 2011 were as follows:

<u>Date</u>	<u>Time</u>	<u>Place</u>
March 8, 2011	1:00 p.m.	Dover Downs Hotel & Casino
June 13, 2011	1:00 p.m.	Dover Downs Hotel & Casino

September 13, 2011 1:00 p.m. Dover Downs Hotel & Casino

October 25, 2011 1:00 p.m. Dover Downs Hotel & Casino

All of the VLAC meetings were open public meetings and advanced public notice of each meeting was provided. Minutes of the VLAC meetings are available on the State of Delaware website.