

NATIONAL COUNCIL OF LEGISLATORS FROM GAMING STATES
STATE-FEDERAL RELATIONS COMMITTEE
ATLANTIC CITY, NEW JERSEY
FRIDAY, JUNE 12, 2015
4:00 P.M. – 5:30 P.M.
DRAFT MINUTES

The State-Federal Relations Committee of the National Council of Legislators from Gaming States (NCLGS) met The Water Club at Borgata in Atlantic City, New Jersey, on Friday, June 12, at 4:00 p.m.

Rep. John Viola of Delaware, acting committee chair, presided.

Other legislators present included:

Rep. Stephanie Bolden, DE
Rep. Helene Keeley, DE
Sen. James Arnold, IN
Rep. Lois Delmore, ND
Rep. Marvin Abney, RI
Del. Eric Nelson, Jr., WV

Others present were:

Susan Nolan, Nolan Associates, NCLGS Executive Director
Candace Thorson, Nolan Associates

MINUTES

The Committee accepted the minutes of its last meeting on January 9, 2015, in Las Vegas, Nevada.

STATE-FEDERAL ONLINE GAMBLING INITIATIVES

William Pascrell III, Partner at Princeton Public Affairs Group, said that when Gov. Christie began his first term as Governor of New Jersey, he expressed concerns about a proposed internet gambling bill as related to the Wire Act. Mr. Pascrell reported that in 2010, Gov. Christie vetoed the bill after it passed both houses in the New Jersey legislature.

Mr. Pascrell said that in 2011 a revised bill in support of online gaming was submitted in New Jersey and once again passed both houses. He said that revisions and language were added to address the concerns that Gov. Christie had had with the previous bill. He stated that during the same time period, the Department of Justice (DOJ) released an opinion stating that interstate gaming did not violate the Wire Act.

Mr. Pascrell stated that there is no evidence of any negative impact of online gaming on traditional brick-and-mortar casinos but argued that it actually can work as a complement to them. He said in order for traditional casinos to remain relevant, they will need to embrace online gaming as a way to attract younger gamblers.

In response to a question from the audience, Mr. Pascrell said that while organizations such as NCLGS can help, what is needed to successfully defeat the Restoration of America's Wire Act

(RAWA) and other opposition to internet gambling is for interested parties to create an association whose sole purpose is to advocate for online gaming.

ONLINE POKER INITIATIVES & INTERSTATE COMPACTS

Mr. Pascrell of Princeton Public Affairs Group said that an interstate compact was formed by Nevada, Delaware, and New Jersey and that the compact has yet to be utilized. He indicated that despite conversations, one of the reasons we have yet to see utilization of this compact is that a number of other states, small and large, are exploring online gaming. He said there has been discussion of an international compact for liquidity sharing between the New Jersey Division of Gaming and the United Kingdom Division of Gaming Enforcement. He said this is the wave of the future for internet gambling and that he expects more compacts, both domestic and international.

MILLENNIALS AND FUTURE OF MOBILE/INTERNET GAMING

Mr. Pascrell said that the future of gaming will look much different than now and that in 20 years casino floors will look nothing like they do now. He reported that the Borgata is an example of a casino that has excelled at attracting millennials. He indicated that the future of casinos will be a gaming floor that resembles a nightclub with players playing a variety of games on their devices.

Mr. Pascrell stated that companies have their work cut out for them in order to attract a younger crowd. He reported that he had recently attended a conference that addressed the subject of casinos appealing to a younger audience and was very interested in what experts reported on the topic. He said there was much discussion that millennials are interested in different types of games than the traditional table games and slot machines. He said one interesting phenomenon is a video gaming event where tickets are sold in a stadium and seven to 10,000 spectators watch players play video games. He stated that many claim it has become popular because the spectators learn different skills from watching the players and taking their new skill sets back home with them.

Mr. Pascrell used Wynn casinos as an example of what companies need to accomplish to attract younger gamblers. He said when you look at any Wynn casino it has art work, nightclubs, golf courses, and restaurants. He said it is in the interest of the brick-and-mortar industry to rethink casinos in order to attract millennials.

NEGOTIATING WITH TRIBES IN TRIBAL STATE COMPACTS

Troy Woodward of the Office of Indian Gaming in the Bureau of Indian Affairs (BIA) said the primary function of the office has to do with compacts between tribes and states and land acquisitions for gaming. He reported that states originally attempted to regulate tribal gaming in Florida and California. He said in both cases, Federal district courts ruled that states couldn't regulate Indian gaming on Indian land. He said in response to this Congress passed the Indian Gaming and Regulatory Act in 1988. He noted that tribal state compacts are necessary if a tribe decides to engage in Class III gaming or what is called "Las Vegas style gaming."

Mr. Woodward stated that the Office of Indian Gaming was established under the Indian Gaming and Regulatory Act and is responsible for reviewing, approving, and in some cases disapproving tribal state compacts. He reported that as of 2012 Indian gaming revenue was \$27.9 billion for tribes and that there were 240 tribes operating 420 gaming establishments in

28 states. He noted that small and moderate operations make up approximately 56 percent of the tribal gaming industry.

Mr. Woodward said that the BIA operates primarily under three statutes: first, the Indian Reorganization Act passed in 1934, which was established for Congress to stop the loss of Indian lands and to begin taking some land back into trust for tribes, second, the Indian Gaming and Regulatory Act, which was passed in 1988, and third, the National Environmental Act of 1969.

Mr. Woodward reported that when Congress passed the Indian Gaming Regulatory Act (IGRA) there was a presumption that a compact would be approved automatically by law if the Secretary of Interior did not act within 45 days. He said they have a short review period so when a tribal state compact is negotiated, officials do not have time to examine the specifics of state law. He reported that they look very carefully at what Congress has authorized as appropriate to be included in a compact and that they only encompass topics directly related to gaming. He noted that sometimes a tribe and state submit a renewal of an existing compact.

Mr. Woodward said IGRA establishes three classes of gaming: Class I gaming, defined as traditional gaming associated with travel gatherings, Class II gaming, defined as bingo or bingo equivalent, and Class III gaming, defined as anything that is not Class I or Class II.

Mr. Woodward noted that currently 26 different states have entered into compacts with 278 tribes and noted that most of these compacts are in the West. He reported that California has 76 compacts, Oklahoma has 33, Washington has 28, Arizona has 20, and New Mexico has 18. He said that there are a few compacts that do not have a specific date.

In response to a question from former Sen. Geller, Mr. Woodward said in all the cases he has followed when the legislature has legally challenged a governor's authority to negotiate with tribes, the courts have ruled in favor of the legislature.

LAND ACQUISITION DURING THE OBAMA ADMINISTRATION

Mr. Woodward of the Bureau of Indian Affairs (BIA) said the Indian Gaming Regulatory Act (IGRA) prohibits tribes from conducting gaming on any land taken into trust after IGRA was passed on October 17, 1988. He said IGRA did leave some large exemptions allowing tribes to take land in trust for gaming. He noted that in 2008, 292 regulations passed that require the Department of Interior to comply with the National Environmental Policy Act. He said it is a long process but if a tribe and state agree to making trust land available for gaming, the Secretary of the Interior will make the determination if gaming on such land is in the best interest of the tribe and not detrimental to the surrounding area. Mr. Woodward noted that the governor of the state has the final say.

Mr. Woodward said exceptions under IGRA generally prohibit gaming on the acquired lands and have to do with where the land is actually located. He stated that if land is located within or continues into a tribe's reservation, then a tribe may be able to take the land into trust for gaming purposes. He noted that in Oklahoma, where tribes do not have reservations but have tribal land, a tribe can be eligible to use land that was once part of its reservation.

Mr. Woodward stated that 2719 exceptions are often used for landless tribes to be eligible for trust land to be used for gaming. He said that a settlement of a land claim is a Congressional act

where Congress has granted the tribe the authority to take land in trust as part of a settlement. He noted the Mohegan tribe in Connecticut as an example of such a settlement.

Mr. Woodward reported that under the continuous land expansion, 14 grants have been approved since 1988, two under the Obama administration. He said that under the Oklahoma exception since 1988, 15 tribes were granted land for gaming use, six under the current administration. He stated that under the last recognized reservation exception, two have been approved since 1988, none under the current administration. He said that under the initial reservation exception, five tribes have been approved since 1988, one under the current administration. He reported that under the settlement of land claims, two were approved since 1988, one under the current administration.

NATIONAL INDIAN GAMING COMMISSION INITIATIVES/ISSUES

Dan Little, Vice President of Government Relations with Aristocrat Technologies, reported that on May 13, 2015, Jonodev Osceola Chaudhuri was sworn in as Chairman of the National Indian Gaming Commission (NIGC) after a year-and-a-half confirmation process. He said that most of the day-to-day operations of the Commission are bestowed in the authority of the chair.

He said the Government Accountability Office (GAO) has been conducting an audit at the direction of the U.S. Senate Indian Affairs Committee. He reported that the Senate Committee wanted to ensure that the travel state compacts comply with NIGC and with how states and tribes regulate Indian gaming. He noticed that the Commission had developed a policy to provide technical assistance and training by regional office staff to any tribe requesting assistance.

Mr. Little said he wanted to address some tribal casino issues. He noted that in 2014 the Commission temporarily closed down the Picayune Rancheria of Chukchansi tribe casino in California due to a leadership dispute. He said the casino remains closed and the tribe is in the process of working out its leadership issues and is moving towards reopening the facility.

Mr. Little stated that the Santa Ysabel Tribe in California has opened an online Class II bingo interstate website in November of 2014. In an example of NIGC working in conjunction with the states, he said officials were able to convince the tribe to close down their internet operation. He said that while the online operation has been closed down, the tribe is currently in litigation seeking legal authorization to operate.

ADJOURNMENT

There being no further business, the Committee adjourned at 5:30 p.m.