

NATIONAL COUNCIL OF LEGISLATORS FROM GAMING STATES
COMMITTEE ON CASINOS
LAS VEGAS, NEVADA
FRIDUAY, JANUARY 9, 2015
1:00 P.M. – 2:00 P.M.
MINUTES

The Committee on Casinos of the National Council of Legislators from Gaming States (NCLGS) met at Paris Las Vegas in Las Vegas, Nevada, on Friday, January 9, at 1:00 p.m.

Rep. Helene Keeley of Delaware, committee chair, presided.

Other legislators present included:

Rep. Helene Keeley, DE	Rep. Louie Luchini, ME
Sen. David McBride, DE	Sen. Greg Brower, NV
Sen. Robert Bradley, FL	Sen. William Coley, II, OH
Sen. Oscar Braynon, FL	Sen. Anastasia Pittman, OK
Sen. Bill Galvano, FL	

Others present were:

Susan Nolan, Nolan Associates, NCLGS Executive Director
Andrew Williamson, Nolan Associates

MINUTES

The Committee accepted the minutes of its last meeting on June 6, 2014, in La Jolla, California.

STATE/NATIONAL CASINO GAMBLING IMPACTS

Chaka Burgess of the American Gaming Association (AGA) reported that the mission of AGA is to be the most effective champion for the gaming industry. Mr. Burgess said the AGA 2014 "Get to Know Gaming" initiative showed the broad economic impact of the gaming industry. He said the gaming industry contributes \$240 billion to the economy each year, supports 1.7 million jobs, generates \$38 billion in tax revenue, and pays U.S. workers more than \$74 billion in wages. Mr. Burgess noted there is a state-by-state economic report for 23 states on the "Get to Know Gaming" website that is annually updated.

Mr. Burgess said this year AGA will focus its research on gaming industry employees. He said the gaming industry supports jobs in retail, lodging, high-tech, mathematics and manufacturing. Mr. Burgess noted that "Gaming by the Book" is an AGA publication that allows stakeholders, policymakers, regulators, and gaming journalists to compare commercial gaming regulations in each state. He said "Gaming by the Book" focuses on five key areas of gaming, which include regulatory oversight, licensing, taxation, responsible gaming, and integrity. He said while casinos operate in, and gaming takes place in, 40 states many state policies and regulations do not reflect market realities or American attitudes on gaming. Mr. Burgess noted that gaming makes up a critical component of the U.S. economy and the AGA wants a more positive gaming policy environment. He said gaming should be treated as any other regulated business and regulators should be able to adopt gaming policy as demand necessitates.

Mr. Burgess said that as part of its 2015 agenda, AGA will review sports gaming and develop a recommendation that will protect the integrity of responsible, regulated gaming and the billions of dollars collected in legal licensed gaming.

In response to a question by Rep. Keeley as to if there were any surprises in the AGA analysis of states, Mr. Burgess responded that the study highlighted the true footprint of the gaming and casino industry and the variance in regulatory environments across the country. He said regulatory regimes are unique and states should look at the differences between neighbors.

In response to a question asked by the audience if AGA has taken an official stance on sports betting, Mr. Burgess responded that the AGA is against illegal sports betting. He said that this year AGA will analyze the sports betting market to see if it can be regulated.

THE RISE AND FALL OF CASINOS IN STATES

Michael Pollock of Spectrum Gaming said gaming saturation has become a real problem. He said there are three main principles in gaming saturation including that states use the establishment of tax rates on gaming revenue as a weapon, states decide tax rates and overall gaming policy on political considerations rather than on economic grounds, and tax rates and regulatory policies that were set when the industry was established are less viable over time and need to be adapted. Mr. Pollock said the relationship between high tax rates and economic saturation of casinos is the higher the tax rate, the more difficult it will be for an operator to set a business model to attract clientele to an establishment. He noted a lower tax rate is not an immediate remedy to issues with gaming because industry success is not guaranteed.

Toni Cowan of Catania Legal Consulting noted that the disparity between state tax rates makes the gaming industry different across states. She noted that the Nevada model, which has proven successful, isn't completely about destination gaming. She said the availability of gaming in Nevada has contributed to its success. She said Nevada hosts gaming at supermarkets, restaurants, drug stores, etc. She noted that the only stipulation is that gaming should be incidental to the primary business, but there is no way to test this in most areas of the state.

In a response to a question asked by Rep. Keeley as to how states can compete with neighboring states with lower tax rates, Mr. Pollock said lowering the tax rate is not the only solution to issues facing casinos today. He said states need to look at overall gaming policies and allow casino operators to evolve their business models. He said a more effective tax and regulatory policy will translate to a broader business model and more economic activity.

Ms. Cowan added that marketing is a critical component of gaming success in any state.

SPORTS WAGERING LITIGATION

Daniel Wallach of Becker and Poliakoff said the last time he reported to NCLGS, New Jersey's effort to legalize sports betting was on life support. He said since then New Jersey made the decision to decriminalize sports betting insofar as allowing betting at casinos and racetracks. Mr. Wallach said that the NBA, MLB, NFL and NHL have challenged the partial repeal in court, calling it a "clever work around," which seeks to accomplish indirectly what the *Professional and Amateur Sports Protection Act of 1992 (PAPSA)* prohibits. He noted that New Jersey is following a roadmap laid out by the Court of Appeals in 2013, where the opinion of the 3rd Circuit was that New Jersey was free to repeal its ban on sport betting, as well as any other state.

Mr. Wallach said the Court alluded to the decision as a policy choice, and that New Jersey could choose to repeal the ban completely or partially as it saw fit. He noted that after the opinion a temporary restraining injunction was issued by a District Court Judge in New Jersey to prohibit partial repeal of the law. Mr. Wallach said the decision is currently before the 3rd circuit and the Court must decide what the language "exact contours of prohibition are for the states to decided" means. He said the decision of the Court is of paramount importance and that New Jersey stands a chance of winning. He recommended to legislators that they monitor this case and be prepared for a decision in the near future.

Mr. Wallach said a New Jersey ruling in this case could create a country-wide movement to legalize sports betting. He noted if New Jersey is successful, the Court's decision will serve as a window of opportunity for those seeking legalized betting and a potential game changer for some states.

In response to a question asked by Senator Pittman if states should proactively create legislation dealing with sports betting, Mr. Wallach responded that if there is an appetite for sports betting in the state, then this could potentially be an opportunity to be next in line. He said if sports betting is decriminalized to any extent it will nullify PASPA and allow for regulated sports betting. He said this may raise policy issues that judges are not comfortable with and subsequently they could change the original opinion language.

INTERNET SWEEPSTAKES CAFE ENFORCEMENT

Mark Dunbar of Jones Walker said that Internet cafes are unregulated gambling enterprises that masquerade as carrying out another primary business. Mr. Dunbar said the cafes' main function is for gaming and people that frequent Internet cafes are going to gamble. He said Internet cafes thrive in areas where there is little regulatory oversight and high-play lottery communities. Mr. Dunbar said there are several policy concerns with Internet cafes, including gaming integrity, crime, and safety of customers. He noted the games played in Internet cafes are usually not even taking place in the states where they are played. He said Internet cafe games are creative games that operate under lottery or slot machine safe harbors. He said that many states have passed laws to get the Internet cafe industry out, but the games evolve to stay one step ahead.

Commissioner Schuetz of the California Gambling Control Commission said Millennials have moved past slot machines. He said social gaming and real money gaming are converging. He noted the social gaming industry has a lot of energy and entrepreneurship. He said the development of Class II gaming and digital technology have evolved and will be the future of gaming.

Kevin Mullaley of GLI said more types of gaming are taking place than ever before. He said whether gaming is regulated or unregulated, there is little transparency to the consumer. Mr. Mullaley said Internet cafes, social gaming, and Fantasy Sports gaming provide the consumer with the ability to spend and make money.

Mr. Mullaley said he has been working with the International Social Games Association to create a voluntary model to provide greater consumer transparency and provide industry

responsibility. He noted that the next step is for states to decide when they will step in and referee what is becoming an uncontrollable market.

Commissioner Shuetz added that this is an industry that is moving at a very fast speed and regulators and states are currently in a reactive mode.

ADJOURNMENT

There being no further business, the meeting is adjourned at 2:00 p.m.