

NATIONAL COUNCIL OF LEGISLATORS FROM GAMING STATES
STATE-FEDERAL RELATIONS COMMITTEE
DUCK KEY, FLORIDA
JANUARY 14, 2005
DRAFT MINUTES

The State-Federal Relations Committee of the National Council of Legislators from Gaming States (NCLGS) met at Hawk's Cay Resort, in Duck Key, Florida on Friday, January 14, 2005, at 8:15 a.m. Rep. Bill Oberle of Delaware, Chair of the Committee, presided.

Other members of the Committee present were:

Rep. Kevin Ryan, CT
Sen. Steve Geller, FL

Other state legislators present were:

Rep. Tom Harman, CA
Sen. Helene Keeley, DE
Rep. Tom Burch, KY
Rep. Susan Westrom, KY
Sen. William Larkin, Jr., NY
Sen. Elizabeth Little, NY
Rep. Richard Lerblance, OK
Rep. Thomas Corrigan, PA
Rep. Nick Kotik, PA
Rep. Tony Melio, PA
Rep. John Pallone, PA
Rep. Chris Sainato, PA
Rep. Tim Solobay, PA

Others present were:

Susan Nolan, Nolan Associates, NCLGS Executive Director
Ann Henstrand, MultiState Associates, Inc.

MINUTES

The Committee voted unanimously to approve, as submitted, the minutes of its June 4, 2004 meeting in Santa Fe, New Mexico.

FEDERAL GAMING LEGISLATION

Mr. Jonathan Slade of the Cormac Group and NCLGS Washington DC representative, reported on federal gaming issues.

Mr. Slade predicted that a great amount of legislation would pass within the next two years, including legislation related to gaming. He attributed this to election results when Republicans gained the majority in both the House and the Senate. He reported that Administration's priorities included Social Security reform, Iraq and its defense, tax restructuring, tort reform in terms of medical malpractice, asbestos litigation and class action reform, control of spending (such as Medicaid), energy bills, and the telecommunications act.

TRIBAL

Mr. Slade reported that the Senate Indian Affairs Committee had several publicized hearing committees in Washington about how Indian tribes are being taken advantage of.

Mr. Slade said that a major scandal in Washington involved a leading Republican lobbyist accused of over-billing several Indian tribes \$3-4 million in terms of public affairs. The tribes spent millions of dollars on lobbying and public affairs, getting no results, he said. Mr. Slade said the IRS, Justice Department, and Interior Department investigated this.

Mr. Slade said that Arizona Sen. John McCain, also a 2000 presidential candidate, is the new chairman for the Senate Indian Affairs Committee and North Dakota Sen. Byron Dorgan is the committee's new ranking Democrat. He said Sen. McCain will chair the committee for two years before he serves on the Armed Services Committee while he prepares for the 2008 presidential campaign.

INTERNET

Mr. Slade said that since 1998, Congress had tried to pass legislation regarding Internet gaming. While bills did pass in the House and the Senate, they failed to pass in conference committees, he continued. He said that casinos, Internet service providers, state lotteries, Indian tribes, pari-mutuels, and the Christian coalition each have the ability to prevent Internet gaming bills from passing. However, he said, Congress will try to pass a bill, which Mr. Slade predicts will fail on the floor in either the House or the Senate, or in a conference committee. Mr. Slade attributes this proposed failure to bill exemptions, since the bill becomes controversial in regards to who it exempts and the types of exemptions.

Mr. Slade said Congress is also considering other ways to regulate Internet gaming, such as by banning the use of credit cards or by licensing or taxing Internet gaming sites. He said, however, it was unclear whether a passed bill would meet international standards, which was an issue because of Antigua's recent challenge to the World Trade Organization (WTO), said Mr. Slade.

Mr. Slade reported that the American Gaming Association (AGA) wants to pass a bill on Internet Gaming because of its growth. In 2003, about 12 million people gambled on the Internet, with revenue of approximately \$5.7 billion, according to Mr. Slade. He

said that states have had more success regulating Internet gaming, as eight states, including Illinois, Louisiana, and Michigan, passed laws either outlawing or restricting Internet gaming.

Mr. Slade predicted that more states will pass their own Internet gaming legislation. He said he was unsure as to whether or not the legislation would stand up to the WTO challenge.

STATE/FEDERAL INITIATIVES REGARDING INDIAN GAMING EXPANSION

Mr. Slade said that in 2005 Congress may consider major issues in Indian gaming including whether or not Class II gaming should be allowed, if the commission should have more powers and ability to collect fees, types of standards to set for sharing revenue with the states, and if tribes can sue states, such as in the Seminole case. Congress will also likely examine the impact of land acquisitions and question the influence of tribal councils, reported Mr. Slade.

Mr. Slade said several players are involved in the Indian Gaming Act. He said AGA wants to equalize the field, while the Indian tribes and National Indian Gaming Association (NIGA) are trying to change the status quo. State governments are looking for more revenue and the local governments want to directly deal with the tribes instead of through the states, said Mr. Slade. The gaming slot industry is trying to expand, the Justice Department wants to end corruption, and the media wants to continue the anti-lobbying campaign, said Mr. Slade. Mr. Slade said the National Indian Gaming Commission (NIGC), the federal agency in charge of overseeing the act, wants to double its budget from \$8 million to \$14 or 15 million and to add more staff to its five regional offices.

Sen. McCain will look for ways to continue being the leading senator fighting corruption and promoting lobbying reform, said Mr. Slade.

Congress may amend the Indian Gaming Act of 1998 as it allows tribes to sue state governments for bad faith negotiations, such as revenue sharing beyond the cost of state-regulation, said Mr. Slade. He said the Seminole case against Florida led the Supreme Court to strike down that provision under the 11th Amendment, and it is an issue whether or not Congress can find a way to give the power back to the states.

Many states have revenue-sharing in their agreements with tribes, said Mr. Slade. Currently, there are 249 tribal-state compacts in 28 states, he said. The NIGC, unable to regulate growth and to pass significant reform under the current law, is looking to pass new legislation, said Mr. Slade.

Mr. Slade cited a recent Harvard study, partly funded by NIGA, which showed that the median household income for tribes with gaming increased by 35 percent, while that of non-gaming tribes increased by only 14 percent. Mr. Slade said that the family poverty rate for Indians is three-times higher than that of the rest of the United States and

that the poverty level in tribes without gaming is two times higher than that of tribes that have gaming. He said unemployment had decreased for both gaming and non-gaming tribes, and college education rates for gaming tribes were better than non-gaming tribes, due to increased revenues that helped kids attend college. In conclusion, Mr. Slade said the study showed that gaming revenues bring significant economic and social benefits to the tribes.

Sen. Geller said that NCLGS created a compact checklist of issues for states relating to tribal-state negotiating compacts for the first time or renegotiating compacts, rather than a universal compact, as each tribe has many different issues that one compact could not address. Rep. Oberle reminded the Committee about the NCLGS compact checklist, which is available on the NCLGS website, www.nclgs.org. Sen. Geller said that the checklist took three years to develop. At a NCLGS meeting in Arizona, NCLGS legislators toured two Indian reservations and observed the poverty on reservations and how gaming had affected their economies.

Mr. Dale Enos, a board member of Gila River Casinos, said that an Arizona tribe shared revenue with the state and instead of going to a general state fund, this money goes to specified areas, such as education, tourism, or health care.

Sen. Lerblance said that Oklahoma has 84 tribal casinos, ranging from double-wide mobile homes to Las Vegas-like casinos. In November, his state passed State Question 712, which allows tribes to compact with states to add new machines to their casinos, as well as allowing racetracks to add machines, he said. He said that the tribes share some of their gaming revenues with the states.

In response to a question from Mr. Joe Gibbons, commissioner of the City of Hallandale Beach in Florida, regarding local governments contracting directly with tribes, Mr. Slade said that many state governments might push for the Senate and House to add an amendment allowing local governments to establish agreements with tribes directly. He said he was unsure as to how this would all play out.

Sen. Larkin said that New York has had problems in relation to the Bureau of Indian Affairs (BIA). New York considered gaming as a quick way to get revenue after the event on September 11, 2001, said Sen. Larkin. Mr. Slade responded that the BIA had insufficient staffing, despite the growth of Indian gaming. He said one of the BIA's goals was to increase the number of staff.

INTERNET GAMING

Rep. Oberle said a NCLGS Internet Gaming Subcommittee, formed at the NCLGS meeting in Santa Fe in June 2004, had not yet met due to conflicts in schedules.

Sen. Geller said NCLGS is neither for nor against gaming, but believes that states should make their own decisions regarding the industry. Internet gaming takes this away from the states, said Sen. Geller.

Sen. Geller said NCLGS is opposed to Internet gaming for the following reasons.

- It is impossible to protect consumers against fraud.
- It does not provide tax dollars or employment to the state.
- It unfairly competes with the pari-mutuel and lottery industries because it can afford higher payouts since it does not have the same expense ratios, e.g., 35 to 40 percent going to education, etc.

Sen. Geller said that some argue that Internet gaming is impossible to stop, so it should be regulated to deal with some issues. Sen. Geller said that an argument against this is that some aspects of Internet gaming are regulated, and others are not.

Rep. Johnson said that states need to push for an Internet gaming bill. He said that the exemptions are the main obstacle in passing a law on this. The pari-mutuels want to be exempt, yet the state lotteries could not be exempt and are concerned about unequal competition from the pari-mutuels, he said.

Rep. Oberle stressed the importance of NCLGS weighing in on this issue.

Sen. Geller regretfully announced that Talmadge Heflin, former representative from Texas and one of the key members on the Internet Gaming subcommittee, was defeated in his reelection.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:30 a.m.