

NATIONAL COUNCIL OF LEGISLATORS FROM GAMING STATES  
STATE-FEDERAL RELATIONS COMMITTEE  
DUCK KEY, FLORIDA  
FRIDAY, JANUARY 12, 2007  
DRAFT MINUTES

The State-Federal Relations Committee of the National Council of Legislators from Gaming States (NCLGS) met at the Hawk's Cay Resort in Duck Key, Florida, on Friday, January 12, 2007, at 10:45 a.m.

Senator Steven Geller from Florida, Acting Chair of the Committee, presided.

Other members of the Committee present were:

Rep. Kevin Ryan, CT  
Rep. Helene Keeley, DE  
Sen. Richard Lerblance, OK  
Rep. Tim Solobay, PA

Other legislators present were:

Rep. Joseph Miro, DE  
Rep. Bill Oberle, DE  
Rep. Pamela Thornburg, DE  
Rep. John Viola, DE  
Rep. Joe Gibbons, FL  
Rep. Jim Waldman, FL  
Rep. Matt Whetstone, IN  
Rep. Tom Burch, KY  
Rep. Anthony Lourey, MN  
Sen. Ann Rest, MN  
Rep. Chris Sainato, PA

Others present were:

Susan Nolan, Nolan Associates, NCLGS Executive Director  
Nicholas Brozean, Nolan Associates, NCLGS Assistant Legislative Coordinator

#### MINUTES

The Committee voted unanimously to accept, as submitted, the minutes of its June 2, 2006, meeting in Boston, Massachusetts.

#### UNLAWFUL INTERNET GAMBLING ENFORCEMENT ACT OF 2006

Mr. Michael Bolcerek, President of Poker Players Alliance (PPA), said PPA is a new grassroots organization of poker players, which represents 135,000 members. He said PPA lobbies on behalf of their members in regard to poker at a federal level.

Mr. Bolcerek said PPA is concerned with current online and offline poker game legislation. He said PPA's membership is targeted to grow this year to 1,000,000 members. He said the

organization has a wide networking base with much media activity and professional representation.

Mr. Bolcerek said PPA and American poker players want licensing regulation of internet poker. He said charitable poker (I-Poker), and regulated terrestrial poker should exist in all fifty states. He said poker is a skill game, which should be internet accessible.

Mr. Bolcerek said recent internet gambling legislation has chased some of the largest publicly traded companies out of the market. He said the largest public poker operators work offshore and have stopped taking bets from US citizens. He said a few private companies are still offering poker to the US.

Mr. Bolcerek said the Unlawful Internet Gambling Enforcement Act of 2006 has yet to be fully enforced. He said the internet gaming industry is still waiting to see how the US Treasury decides to regulate banks and overseas internet wagers.

Mr. Bolcerek said the internet wagering prohibition does not offer safeguards for underage gaming, responsible gaming, or financial transparency. He said that under the legislation, less player protections exist in regard to withdrawals and deposits of funds. He said formation of rogue sites in unregulated jurisdictions have increased.

Mr. Bolcerek said many non-US internet wagering sites are regulated. He said internet poker is interstate and international in nature, and therefore should be licensed and regulated federally. He said interstate and compacting regulation will be problematic, but it is a states rights issue.

Mr. Bolcerek said remote gaming is regulated in the United Kingdom, Italy, and Spain. He said internet poker is regulated easier than terrestrial poker. He said internet poker accounts for data histories of all transactions and monitors collusion, allowing for individuals rights to be protected. Mr. Bolcerek said unlike some land-based casinos, legitimate internet poker websites use on-line databases to obtain financial records from top banks, credit agencies, and motor vehicles in order to prevent identity theft and fraud.

Mr. Bolcerek said internet poker software can be audited. He said E-Cobra is a UK-based organization that analyzes random number generators for poker to ensure cards are dealt fairly and randomly. He said compliance and support for US regulation could be easily monitored and obtained.

Mr. Bolcerek said standardized licensing requirements establishing protections are difficult to enact on a state level, but should include age verification, financial strength and reporting, background checks, responsible gaming, state boundaries, and consumer safeguards. He said after doing an economical analysis of internet poker, the US could generate \$3.3 billion in tax revenue if the US allowed for the industry's regulation. He said this does not include revenue obtained from possible US-based companies.

Mr. Bolcerek said technology has advanced far enough to allow for state boundaries and state level opt-out for poker. Mr. Bolcerek said possible state tax revenue is estimated at one billion

dollars annually, which does not incorporate potential revenues from corporate income taxes and payroll taxes from domestic poker industries.

Mr. Bolcerek said problems foreseen with state-by-state level regulation of I-Poker include incompatibility of standards and safeguards making state-by-state compliance virtually impossible, hardships and costs to enable a multi-state model, and the undefined international nature of the Internet.

Mr. Bolcerek said in the 21<sup>st</sup> century, poker players deserve the right to participate freely because poker is an American tradition.

#### NCLGS FEDERAL BUREAU

Mr. Jon Alexander, Senior Council for The Cormac Group, NCLGS Federal Bureau, presented a federal gaming update. He said a new day exists in Washington DC, as the balance of power has shifted and Democrats now control both the House and Senate for the first time in over a decade.

Mr. Alexander said Democrats have since taken over committee chairmanships and the ability to control agendas. He said key gaming committees in the legislature include Senate Indian Affairs Committee, House Resources Committee, House Judiciary Committee, and Senate Judiciary Committee.

Mr. Alexander said the Senate Indian Affairs Committee had previously been headed by John McCain and focused on off-reservation gaming, as well as other issues related to the Abramoff scandal. He said the new chair, Byron Dorgan (D-ND), is generally sympathetic to Indian tribes. He said Craig Thomas from (R-WY) will be the ranking minority member.

Mr. Alexander said Nick Rahall (R-WV) replaced Richard Pombo (R-CA) as Chairman of the House Resources Committee, who was not re-elected to his seat. He said Don Young (R-AK) was selected to be the ranking member. He said Richard Pombo pushed off-reservation gaming restrictions in the last Congress.

Mr. Alexander said John Conyers (D-MI) will focus on interstate gaming through the House Judiciary Committee. He said Conyers has been opposed to banning internet gaming, which increases the chance that the issue might be readdressed in the new Congress. He said Lamar Smith (R-TX) will be the ranking minority member.

Mr. Alexander said Patrick Leahy (D-VT) will now chair the Senate Judiciary Committee, previously chaired by Arlen Specter. He said the committee has jurisdiction over interstate commerce, including online gaming and gambling.

#### *INTERNET GAMING*

Mr. Alexander said the Unlawful Internet Gambling Enforcement Act was passed last October after being pushed by many conservative Republicans. He said the Senate leader, Senator Frist, had attached the bill to a port security conference report in the final hours of Congress. Mr. Alexander said many Senators were hesitant to oppose the act because it was attached to that legislation.

Mr. Alexander said the act prohibits banks and credit card companies from processing payments for online gambling bets. He said it is an attempt to stop money from flowing to Internet gaming sites based in the Caribbean and Europe. He said fantasy sports, state lotteries and horse racing were exempt from the law. He said it is possible that online poker could be granted an exception to this rule under the new Congress, but it is not a Democratic priority.

Mr. Alexander said although the bill to ban online gaming passed, there is little evidence it has actually reduced the number of people who are gambling online. He said most Americans deposit their money in bank accounts overseas and then transfer the money to gaming websites. He said this allows US players to avoid US taxes.

Mr. Alexander said Rep. John Porter (R-NV) is a proponent of online gambling, although the gaming bill was pushed by socially conservative Republicans. He said other Republicans went along with the bill, but many have since expressed that they don't believe the law is effective and believe it will lead to a black market. Mr. Alexander said some Republicans are now considering backing legislation that would regulate and tax internet gaming.

#### *INDIAN GAMING*

Mr. Alexander said in the House, Rep. Pombo's legislation aimed to end alleged abuses of the Indian gaming Regulatory Act (IGRA). He said the act provided a regulatory framework for a 1987 Supreme Court decision affirming the rights of American Indian tribal governments to conduct gaming operations on their sovereign reservation land. He said the bill would have prohibited tribes from setting up off-reservation casinos, but it failed in a vote on the House floor.

Mr. Alexander said the new chairman, Rep. Rahall, supported the Pombo bill. He said Rep. Rahall will be the key force in shaping the direction of Indian gaming. He said Rahall helped to negotiate Pombo's bill, but initially objected many items, including possible threats to tribal gaming. He said Rahall saw a need for the legislation, and may address the bill again in the future.

Mr. Alexander said that Sen. McCain (R-AZ) introduced legislation to standardize Indian gaming by regulating Class III gaming, limiting the lands eligible for gaming, and imposing other regulations, but the bill never made it to the Senate floor. He said since Sen. McCain no longer chairs the Indian Affairs Committee, the legislative process will start all over. Mr. Alexander said Indian gaming is expected to be at a standstill for the next two years because of controversial issues.

Dr. Guy Clark, Chairman of the National Coalition against Legalized Gambling (NCALG), said he believes challenges to the internet gambling ban will not be presented this year. He said strong support remains in the House for the ban, as well as by NCALG.

Sen. Geller, President of NCLGS, said the internet gaming bill that was passed is consistent with a NCLGS position on internet gaming, as stated in a NCLGS resolution formed in the late 1990's.

Mr. Frank Catania, a representative of the Interactive Gaming Council (IGC), said the Unlawful Internet Gambling Enforcement Act did not amend the Wire Act and no new legislation exists in regard to illegal gambling. He said the bill did make methods to transfer funds for gambling activity illegal. He said the Wire Act only applies to sports betting. He said the regulation of internet gambling should be a states' rights issue with no involvement from the federal government.

#### TRIBAL-STATE COMPACT OFF-RESERVATION TRIBAL GAMING ISSUES

Mr. Phil Hogen, Chairman of the National Indian Gaming Commission (NIGC), said Indian gaming was active in regards to tribal state compacts last year. He said tribes would like to amend and expand compacts to increase the number of gaming devices within their facilities in California. He said the governor was in favor of tribal expansion, but the legislature did not act due to session end. Mr. Hogen said the Secretary of the Interior and the NIGC agree in their belief that tribal-state compacts ensure a balance of power.

Mr. Hogen said change has taken place in slot machine gaming in Florida, which puts into question compacts between tribes and the state. He said, in the meantime, tribes in Florida are trying to address this by getting secretarial procedures through the Secretary of the Interior. He said these procedures could possibly address Class III gaming in Florida.

Mr. Hogen said in terms of off-reservation gaming, the Department of Interior has been drafting regulations to clarify a process that has been called a two-part determination. He said two-part determination is a best interest requirement for tribes to get Secretary of Interior and state approval when a tribe wants to go off-reservation.

Mr. Hogen said in New York many questions exist regarding what Class III gaming and Indian lands are. He said a long-standing approval of tribal-state compacts is prevalent since Turning Stone Casino of the Oneida Tribe has been operational and regulated. He said the legislature challenged its lack of involvement in the compact process. He said the court had agreed and revoked the Oneida compact. Mr. Hogen said newly elected Governor Spitzer will need to address the situation as action has been taken to close the casino.

Mr. Mark Van Norman, Executive Director of the National Indian Gaming Association, said in 2005 Indian gaming gross revenue was \$22.6 billion before wages, operating expenses, cost of goods and services, etc. He said American Indians and their neighbors provided 600,000 jobs nationwide. He said Indian gaming generated \$7.6 billion in federal taxes and revenue savings, \$2.2 billion in state taxes revenue sharing and regulatory payments, and more than \$100 million in payments to local governments.

Mr. Van Norman said in the 109<sup>th</sup> Congress, a McCain bill would have placed NIGC in control of Class III gaming over tribal-state compacts and required federal approval of gaming-related contracts between tribes and third parties. He said many states and tribes were opposed to this bill because they had worked hard to obtain compacts and have a working partnership with one another. He said a federal contract approval requirement would interfere with access to free market. Mr. Van Norman said the bill did not make it to the floor of the Senate and died at the end of Congress's session.

Mr. Van Norman said the Pombo bill would have changed section 20 of IGRA, for off-reservation gaming and two-part consultation. He said Chairman Pombo tried to end the two-part consultation process, adding new requirements for tribes acquiring facilities to obtain state, county and local government approval. He said the Pombo bill was brought up on the suspension calendar in September and failed. He said an effort to bring it back in a lame duck session failed also.

Mr. Van Norman said ongoing the House will emphasize to the Senate the need to reevaluate suspended legislation, such as the Indian Care and Health Improvement Act and Indian Trust Fund Lawsuit. He said within the next six months the new Congress will most likely not enact any new Indian gaming legislation, but will address previous issues.

Dr. Guy Clark said, in his report on tribal initiatives, NCALG concurred with parts of both the McCain and Pombo bills. He said he believed increases in federal regulation are a good thing for states because states feel as though they cannot regulate enough.

Dr. Clark said NCALG believes a new bill for two-year moratorium should have been enacted, and that IGRA needs to be rewritten because not just approval of new tribes, off-reservation casinos and Class III vs. Class II gaming should be considered, but public interest and sovereignty. He said NCALG did not truly support either bill being brought through Congress because public interest is being denied at the cost of off-reservation gaming.

In response to Sen. Geller's question regarding the definition of two-part determination and NCALG opinion, Dr. Clark said that Section 20 of IGRA states tribes must receive determination by the Secretary of Interior in order to acquire off-reservation gaming facilities. He said NCALG feels this standard allows local citizens and state legislatures to get more involved in off-reservation gaming and tribal expansion.

Mr. Van Norman said Section 20 of IGRA also allows tribes acquired before 1988 exceptions to off-reservation expansion. He said newly and historically recognized tribes must go back to the land they originally settled. He said with two-part determination, tribal governments must first decide if off-reservation expansion is in the best interest of a tribe and then it becomes a local government decision. Mr. Norman said after that, the decision goes to the state for secretarial and governor approval.

## ADJOURNMENT

There being no further business, the meeting adjourned at 11:45 a.m.

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