

ECONOMIC DEVELOPMENT AND POLICY COMMITTEE

November 28, 2022

Santa Fe, NM

Fred Heinrich, Sunland Park Racetrack & Casino
General Counsel & Compliance Officer

Email: fheinrich@sprcnm.com

Direct: 575/874-5240

Opportunities for Innovation in New Mexico's Gaming Industry

1. Opening—introduction and thank you.
2. Big picture-- exciting times in the gaming and horse racing industries
 - a. 2018—Supreme Court struck down federal law making sports betting illegal.
 - b. Consumer demand and technology are driving new products like mobile sports betting and internet gaming.
 - c. New technology is also leading to new products unlike things we've seen before.
 - d. E-sports are gaining in popularity, where teams of players are playing sophisticated video games against other teams. Betting markets have developed around these E-sports.
3. National landscape—let's look at some figures about the gaming industry on a national basis. These figures all come from the American Gaming Association and are as of December 31, 2021.
 - a. Legal gambling in 44 states in some form.
 - b. There are 981 casino gaming locations across the nation.
 - c. 1.8 million jobs are supported. (Almost the population of New Mexico!)
 - d. \$261.36 billion annual economic impact.

- e. Total annual tax impact and Tribal revenue sharing payments to governments is \$40.79 billion.
 - f. AGA also provides some figures to evaluate how the industry is doing nationally, as of September 30, 2022 (end of Q3)—Q1-3 2022 over 2021:
 - i. Total GGR is \$44.38B (14.7% increase)
 - ii. Slot GGR is \$25.73B (6.2% increase)
 - iii. Table Game GGR is \$7.46B (18.4% increase)
 - iv. Sports Betting GGR is \$4.78B (71.4% increase)
 - v. iGaming GGR is \$3.62B (38.1% increase)
 - vi. Takeaways—largest increases are in the Sports Betting and iGaming verticals. Businesses providing those products are gaining all of the economic advantages. States that do not permit new technologies and products are losing economic ground to the states that have them.
4. Where are the Opportunities for New Mexico?

The pandemic changed consumer behavior — people were looking for new forms of entertainment where they don't have to leave home. This must inform our thinking.

- a. Sports Betting
 - i. There is no law in New Mexico right now that makes it legal. That should be cleaned up. New Mexico's regulated racetracks and casinos need to be included in sports betting legislation.
 - ii. Mobile betting is the wave of the future, as proven by other states' experiences.
- b. Internet Gaming (including smart phones)
 - i. This is going on now and will be the future of gaming.
 - ii. This form of gaming is already taking place nationally and needs to be done through legal means, through our formally regulated gaming facilities.

- iii. Skill based and virtual reality games are developing markets.
 - c. Horseracing
 - i. Mobile wagering.
 - ii. Advance deposit wagering.
 - iii. Fixed odds betting (only pari-mutuel betting is currently legal).
 - d. Table games for Racetrack Casinos—roulette, blackjack, craps, poker
 - e. Low hanging fruit.
 - i. Alcohol inside the Casinos—New Mexico is the only state where a patron can gamble and have an alcoholic beverage, but can't do both at the same time this hurts the industry and suppresses the tax revenue to the state, and the purse money to the horseman. This is part of allowing adults the opportunity to engage in legal activities, without artificial restraints.
 - ii. Allowing complimentaries. Tribal casinos are allowed to provide complimentaries to their customers, but the racetrack casinos are not. This dramatically hurts the racetrack/casino ability to compete. Complimentaries help with marketing opportunities to create value in loyalty programs. Examples include free or reduced price food and other products or services.
 - f. Gaming opportunities must be looked at within the framework of responsible gaming. Racetrack casinos set aside significant funds to support responsible gaming efforts, including a hotline and free counseling. Those efforts must carry through to sports betting and online gaming.
- 5. To put these issues in context, it is helpful to look at what our neighboring states been doing.
 - a. Arizona (27 Tribal casinos and gaming venues)
 - i. Legalized Sports Betting in April, 2021
 - ii. Land based AND online

- iii. By Q4 2021, Arizona was the fifth largest US sports betting market by revenue
- iv. Tribal Compacts were amended in 2021 to allow Tribal Gaming Operators to offer sports betting
- v. Expanded gaming through their Tribal Compacts to add additional table games—roulette and craps
- vi. In 2021, sports betting alone generated \$6.0 million in state tax revenue and no matter how much money NM has in our budget, these millions of dollars in additional tax revenues can be applied to schooling, infrastructure, and many other wonderful uses for our citizens.

As a point of reference, Arizona’s tax rates:

- 1. 8% tax rate on land-based sports betting
- 2. 10% tax rate on online sports betting

b. Colorado (33 commercial gaming facilities in 3 historic mountain towns)

- i. Legalized land-based sports betting in 2019—Casinos can also offer online sports betting
- ii. By the end of 2021, 25 online sports platforms were available
 - 1. Online sports betting was over 98% of sports betting handle
- iii. 2021 gaming revenue was up 92.8% over 2020 (pandemic) due to first full year of legal sports betting, and legal changes that allowed wider range of table games and removing maximum wager limits

c. Oklahoma (2 commercial casinos at racetracks; 136 Tribal casinos and gaming venues)

- i. Governor signed new compacts with two Tribes to offer sports betting and additional casino games, with the state receiving a larger share of tribal gaming revenue—struck down by the Oklahoma Supreme Court because the new games were not legalized by the legislature.

Moral of the story: the legislature must be involved.

- d. Texas—wild card—currently has no legal Class III gaming.
 - i. Tribal gaming—US Supreme Court decision regarding the Ysleta del Sur Pueblo (Speaking Rock) in El Paso, Texas—Class II gaming in 3 locations (El Paso; Eagle Pass—border town along the Rio Grande; Livingston—east central Texas)
 - ii. What about Class III gaming—traditional casinos? It’s not whether it will happen, but when. And when it does, it will have a seriously negative impact on our business in New Mexico – now is the time for us to act, while the sun is shining, when the window of opportunity is open
 - iii. Profound impact on all neighboring states, including New Mexico’s racetrack and Tribal casinos, which draw many patrons from Texas.
 - iv. Who is supporting it?
 1. Former Governor Rick Perry joined the Texas Sports Alliance (which was started by Jerry Jones, the Dallas Cowboys, the Mavericks, the Astros and others) to support sports betting (November 17, 2022 news).
 2. Las Vegas Sands—formed Texas Sands PAC and is lobbying hard and making significant donations.
 3. 2023 and future legislative sessions need to be watched!

6. What can New Mexico do?

- a. Customer preferences are shifting and our regulated gaming venues are being left behind by outdated legislation and competitive restraints. Unless we can provide our customers according to their current preferences, we will lose them to other states and businesses that are permitted to provide the types and places for gaming that they demand. We can continue to produce the equivalent of manual typewriters when everyone else is providing word processors, and then look back and wonder where our racetracks, casinos, jobs and tax revenues went. If we are not permitted to offer the products that are in demand in the marketplace, then consumers will take their business elsewhere, and other states will get our jobs and our tax revenues. It’s pretty simple.

It’s time to dust off the gaming and racing legislation—which has benefited from no major changes in 20 years. Many issues to consider, and different perspectives. The time is now, and the matter is urgent.

- b. The key is to immediately initiate discussions among the stakeholders.
- c. Who are the stakeholders? The State, the gaming Tribes and the Racetracks.
- d. Appoint someone (or a small group) to lead the effort.

It's an urgent matter. Now is the time to gain market share and benefit from consumer loyalty to the products and services offered by our local businesses.

- i. Win-Win-Win is the goal—all the parties won't always agree on the issues, but with some thoughtful compromise it can be achieved.
 - ii. Although face to face meetings are sometimes preferable, we learned during the pandemic that virtual meetings are often a good and efficient way of getting things done.
 - iii. New Mexico has incredible landscapes and history, from the mountains to the desert. Tourism is a big part of our state. Casino gaming, both Tribal and tied to the racetracks, and horse racing are a part of that. Let's do what it takes to make New Mexico a destination for gaming to bolster our gaming and tourism industry.
- e. ***We're already behind*** the eight ball. Let's START the conversation. We are a small state and we know who needs to be involved in the discussion. Sometimes that might be a disadvantage, but in this situation it is an opportunity we need to take advantage of. We are small enough to move quickly, and benefit greatly.

- 7. Unabashed plug for Sunland Park Racetrack & Casino-- mark these dates: racing starts December 30th and our Sunland Derby is March 23, 2023. We would love to have you visit. Please join us!

Thank you for your consideration and all the work you do for the citizens of New Mexico!