

THE HISTORY OF GAMING IN NEVADA AND NEVADA'S PLACE IN THE GAMING INDUSTRY

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INTRODUCTION

First off, I would like to thank Dean Hamilton, the Boyd School of Law, and UNLV for having me here tonight. It is an absolute honor. I am proud to speak to all of you and I am incredibly humbled to be among the other distinguished past speakers at the Faiss Lecture on Gaming Law and Policy.

First, a note about Bob [Faiss]. I worked with Bob for many years. I had the pleasure of working with him on many complex matters and traveling with him to places like Dubai and Vietnam. I think it's wonderful that we remember his name and who he was by events like this. Bob wasn't just a professional, he was the consummate professional. He was always kind, courteous, and treated everyone with respect. He had a quality that I think many of us try to emulate. He had a dignified approach to solving complex problems. While we were technically on opposite sides, he instilled in everyone he met the notion that we were still all on the same team. For him that team was the State of Nevada.

I miss Bob, and perhaps someday I will see him again, and be able to ask him what he thought of my tenure as Chair of the GCB. I think I know that regardless of what he really thinks deep down, he will be kind and courteous, a true gentleman in every sense of the word.

HISTORY OF GAMING IN NEVADA AND NEVADA'S PLACE IN THE GAMING INDUSTRY

Tonight, I am going to talk about Nevada, and its place in the gaming regulatory world. I'll give some history, and some ideas on what the future might hold.

I'll start off with a story, that I will finish in the end. There was a major gaming conference here in Las Vegas some years ago. I was the Chairman of the Nevada Gaming Control Board at that time, and I was too busy working, running the agency, to attend. One of my chiefs, however, did attend. He reported back to me that there was a panel on a topic that had garnered a lot of attention in the gaming world. All of you know this happens often: there are always hot-button topics that everyone is focused on, things I like to call

“*issues du jour*” in gaming. These are the items that capture everyone’s interest, become the topics of every conference, [cause much] debate and discussion regarding gaming, and wind up in the gaming magazines and internet commentaries. If you’ve been around a while, it’s gone from ticket-in-ticket-out to tribal and riverboat gaming, private equity investments to bankruptcies, internet gaming, and now it is sports betting.

That’s the exciting thing about the gaming industry. It’s what keeps us so interested in this ever-changing business.

During this particular conference, the “*issue du jour*” was being discussed heavily. The world was wondering what regulators might think or do about this particular issue, and if they might ever address it. A very high-level and influential gaming industry executive whispered to the Board Chief that was there, and said, “You know, you guys don’t want to be the tip of the spear on this.” Later, when my chief told me this, I laughed, and shook my head. “Tip of the spear?” I asked. “Tell him we’re not just the *tip* of the spear, we *are* the spear.”

And this is what separates us, the Nevada Gaming Control Board and Nevada Gaming Commission, and therefore the state of Nevada, from all other gaming jurisdictions. Don’t get me wrong, I am not slighting any other jurisdiction; I have a great relationship with many other jurisdictions and have enjoyed great friendships with them.

But let me explain what I mean.

We are here tonight in the epicenter of gaming. I say that seriously, and without reserve. Yes, there are places like Macau and Singapore, where gaming revenues shoot through the ceiling nearly every year, but the game, literally and figuratively, started here. Not only that, but the most commonly-replicated, if not outright copied, regulatory scheme grew up here.

I’m not going to through the history of gaming in Nevada, nor will I go through the history of how the gaming regulatory system was set up. This is, after all, a tribute to one of those fellows who started all this, Bob Faiss. His oral history, by the way, which is on file here at the University, is a must-read for anyone in the gaming industry, period.

Besides, if Macau doesn’t huge cash-flow amounts in terms of gross gaming revenue, something is literally wrong. The population of the Special Administrative Region is around 660,000 souls, so not huge. But if you add Hong Kong, only a boat ferry and now a short drive away, you add 8 million people. Going out a bit further, within the Pearl River estuary in Guangdong Province, there are nearly 110 million people. Mainland China, of course, has nearly 1.4 billion. And culturally, the Chinese love to gamble. Barring a pandemic, or social or political unrest, they will always be higher in revenue earnings. By way of comparison, the Las Vegas metro area has a population of just over 2 million, thus fueling a strong local’s market. 2018 year to date (YTD) visitation to Las Vegas was over 42 million. The second largest metropolitan area in the United States, L.A., behind New York, has a total

population of around 20 million. The total United States population is around 330 million.

But tiny little Nevada did something incredible. We exported not just integrated resort gaming to the rest of the world, but how gaming was regulated. The model of what is deemed to be “best practices” in gaming regulation and compliance throughout the world came from none other than right here in the desert of Las Vegas and the northern mountains of Carson City.

When I was Chairman, I learned that many regulators around the world looked to Nevada for leadership and to set an example on the myriad issues that arise in gaming. What the regulators do here has a ripple effect that goes throughout the world.

The following are examples of where the Nevada regulators have led the way, and set the example for other jurisdictions to follow, not only in the United States, but throughout the world:

- We began early regulation of public companies and private equity ownership
 - Finding ways to allow public companies to thrive in a highly-regulated market that essentially led to the downfall of many unsavory ownership interests in gaming, all while seeing the gaming business legitimized on Wall Street
 - The Board’s Corporate Securities Unit regulates public companies alongside federal agencies such as the SEC
- We allowed Institutional investor ownership
 - Where financial institutions can own shares in public gaming companies in a regulated manner, allowing for greater investments into the public companies doing business in Nevada
- We moved first on internet gaming
 - Including the investigation and licensure of service providers, who conduct geolocation, identity verification, and other services that are used well outside internet gaming
- We started legalized sports betting, ensuring integrity and strict regulation
- We confronted Issues related to the legalization in Nevada of marijuana
- We continue to work side by side with federal counterparts on criminal enforcement of complex financial crimes and federal violations
- We worked side by side with the FTC on anti-trust issues,

conducting our own merger analyses when large scale mergers were taking place

- We confronted problem gaming issues, delving into the science of addiction while ensuring operators treated problem gamblers appropriately
- We began requiring higher levels of overall corporate governance and compliance; we began the trend, now used for even non-Nevada gaming companies, for using compliance committees for extra regulatory protection
- We continue to ensure a nearly 100% taxation collection rate
- We started the trend on new forms of gaming and betting, looking at betting on eSports and allowing skill-based gaming

And, overall, I believe we continue to set an example of a regulatory agency that refuses to be captured by the industry it regulates, stands firm on its decisions, and has a reputation for always doing the right thing. For that, I stand here extremely proud not just of the Gaming Control Board (GCB) and the Nevada Gaming Commission (NGC), but of the state of Nevada.

As the “tip of the spear,” the decisions we make, and the actions or inactions we choose to take, set the tone for everyone and everywhere else. Obtaining a license in Nevada still means that you will essentially get a license everywhere else. But what is the current state of affairs here in Nevada, as far as growing the industry all while regulating it properly?

I think we are in a good place, but as always, there is much more that needs to be done.

In fiscal year 2018, our statewide gaming balance sheet reads as follows: Of 289 major licensees, there are total assets of \$101 billion. This includes cash, receivables, and fixed assets such as land and buildings. Revenues from gaming came in at \$11.6 billion; revenues from other sources, such as rooms, food and beverage took up over \$15 billion, nearly \$4 billion more than gaming. Las Vegas has become an entertainment destination, not a just gaming destination.

While gaming made up about 43 percent of Nevada’s overall revenue, other items, such as hotel rooms, food beverage and entertainment, made up 57 percent. Room occupancy over the year averaged high at 85.2 percent, the lowest being 74 percent in January and the highest being 92 percent in July.

So, while gaming revenue is strong, other revenues appear to be stronger.

Revenue balances have shifted, but this is not news. The shift has been gradual, starting in roughly the late 1980s with the opening of casinos like the Mirage, which evolved the city, in the first of its many evolutions, to what it is now: a true tourist entertainment destination. Again: In 2018, gaming made up about 43 percent of overall revenue, while other items made up 57 percent. Compare those numbers to 1990, where gaming revenue was over 60 percent of

the total, with other items being the remaining 40 percent.

It's easy to take that as bad, but consider that in Nevada, overall combined numbers for the casino entertainment experience continue to rise. In 1990, combined revenues were about \$8 billion. In 2018, they were \$27.1 billion. Since 2008, compounded gaming revenues have grown less than 1 percent, while compounded revenues for rooms have grown 2 percent, food has grown 1 percent, and beverage revenues have increased nearly 4 percent.

Governor Sandoval would hold periodic briefings on the economic numbers of various industries. When my turn came to present gaming numbers to him, we noticed a visible trend: slots and other games were periodically flat to increasing slightly, while revenues from other sources were growing. I always told him that I felt we needed to increase our strengths and decrease our weaknesses. This meant enhancing the tourist experience by allowing growth where it could be found from other sources, but looking hard at where gaming was going, including allowing new forms of gaming, such as skill games and removing regulations of certain themed gaming devices, and allowing new technologies in gaming.

But back to the numbers.

In 2018, Clark County's win made up 86% of the state's overall win, with Washoe County, Elko, and Tahoe behind that. In gaming, penny slots and multi-denom slots are the most popular, and the state benefits most from gross gaming revenue percentage taxes, bringing \$683 million to the state's coffers. The live entertainment tax, debated in previous legislative sessions, but now has been finally settled upon, brought in the second-highest amount of tax revenue at \$100 million. Along with other taxes such as quarterly and annual slots and games taxes, in 2018 gaming brought over \$866 million dollars to the State of Nevada.

Gaming regulators in Nevada continue to regulate this incredibly well. Changes in the industry are always on the regulatory plate, and change is always in the air. Remember that pursuant to Nevada law, Nevada regulators have an interesting balance to strike. On one hand, they must "strictly regulate the industry" to ensure only good actors are involved, but on the other hand, they must perform their work so that the industry succeeds.

This is a careful balancing act.

The gaming regulatory system is set up in such a way that we have great flexibility for quick change. All it takes is a decision by policymakers to make a change and things can move fast. If the legislature amends the statutes and provides enabling language to the regulators mandating regulatory change, the GCB staff moves instantly to draft regulation changes.

Aside from Live Entertainment Tax regulations, we are not beholden to the Nevada Administrative Code for issuing regulations; we can easily put regulation drafts forward in short notice for workshops or for actual amendments. Because of this, a regulation change, in an emergent situation, can be done in Nevada within a month or two, compared to other jurisdictions

where it can take much longer.

Even better, most of the regulatory work regarding a crucial but ever-changing segment of the industry, that of gaming technology, can be changed with even simpler amendments to the technical standards.

Two points: First, I have talked with other regulators around the country, such as Pennsylvania, New Jersey, Massachusetts, and Louisiana, and they are all envious of this ability. Second, the process is very open. When I was Chairman, I always looked forward to regulation workshops. They are open meetings, anyone can speak, and I always eagerly awaited input from all stakeholders, and that input always informed the eventual outcome.

We are fortunate that while Nevada mandates strict regulation and compliance, regulators and licensees can still meet together to discuss changes to the system in order to make the entire system, and therefore the state, better. And I have found that there is willingness on both sides.

While we may disagree and have frustrations with each other, there is no better way to “herd cats,” as it were. Let’s pause for a moment to talk about “herding cats.” Specifically, the Nevada regulators have nearly 3,000 “cats to herd.” This is more than any other jurisdiction I am aware of.

Here are the numbers, which I find very interesting and very telling.

In 2018, the GCB and NGC regulated a total of 2,895 licensees. There were 1,961 restricted licensees and 443 nonrestricted licensees. There were 5,494 table and counter games, 739 card games, and 164,413 slots, for a total of 170,646 gaming products being offered in our state. As of February 2019, there were a total of 34 public companies with licenses in Nevada, and more entities who are institutional investors approved to hold investments in our gaming companies. The Board, by way of comparison, has 393 full-time employees. The Commission has one.

During the 2017 Nevada legislative session, I presented a slide to legislators that was meant to put the cost of regulation into perspective. You can still find this slide as part of my testimony during that session where I went over the GCB and NGC budgets. The slide compares Regulatory Agency Budgets against each other, along with a “Cost per Casino” for that regulation. For example:

Mississippi 28 casinos

Indiana 13 casinos

Louisiana 20 casinos

Illinois 10 casinos

Pennsylvania 12 casinos

New Jersey 8 casinos

Nevada 458 casinos

Now, to compare these jurisdictions, here is the cost of regulating each

casino as compared to taxes and regulatory fees:

Regulatory cost per casino (comparing tax and regulatory fees to agency numbers):

Mississippi \$368,000 per casino
Indiana \$1.3 million per casino
Louisiana \$1.5 million per casino
Illinois \$3 million per casino
Pennsylvania \$6 million per casino
New Jersey \$6.9 million per casino
Nevada \$95,000 per casino

I can tell you unequivocally that all of the regulatory jurisdictions I just mentioned watch Nevada and wait to see what we do. I can tell you that whatever Nevada does will have an impact on what happens in those jurisdictions.

And that's just the United States. Never mind Macau, Singapore, the UK, Australia, and Africa. Never mind Canada and South America, and other countries within Europe that have gaming, where all our licensees have spread themselves and are doing business, be they resort operator or manufacturer, be they public company or privately-held. Nevada is truly the epicenter. The standards and regulations, expertise and experience in Nevada had been exported to all those places.

Further, issues we explore and confront in Nevada typically turn into the "issue du jour" around the world. Internet gaming. Sports betting. Marijuana in gaming. Going further back, mergers and acquisitions, anti-trust analyses in gaming, gaming technology, skill games, on and on.

Again, I am not demeaning any other jurisdiction. There are many things to learn from other jurisdictions and how they handle the issues they encounter. We should never be so bold as to say we are unwilling to learn from anyone else, for adopting best practices, regardless of where they originate, make Nevada better, as they should. Meeting with other jurisdictions and discussing important issues with them not only keeps our much-needed relationships strong, but allows us to look in the mirror and make changes or enhancements where we should.

And finally, to finish the story I told at the beginning regarding the high-level VIP mentioning to one of my Chiefs that Nevada did not want to be the "tip of the spear" on a particular issue that was being discussed at the gaming conference several years ago.

The issue was Daily Fantasy Sports (DFS), and whether they constitute a form of gaming or not. We had been looking at that issue internally for several months, and were poised to give our opinion. We never had any issue with

DFS, but I was aware that they were gearing up powerful lobbyists to eventually lobby our state legislature to either not be regulated, or be regulated differently. We simply told them they were conducting a form of gambling and invited them to file for licensure to do so.

We were the tip of the spear on that issue, and we will remain the tip of the spear on many more to come.

Lastly, let's talk about what is to come. What's next? Like it or not, changes are coming and Nevada must be the tip of the spear. Like I said to Governor Sandoval years ago, we must enhance our strengths and minimize our weaknesses.

We are now witnessing sports betting expansion, and with it the Nevada model of sports betting regulation is expanding as well. New models of sports betting are popping up weekly, with start-ups venturing into the space to see where money can be made. We always discuss changes in technology. While I agree, I would also add that Moore's Law, which essentially states that technology doubles itself in computing power periodically is being felt in the gaming industry, that we must also recognize that "gamers" are changing too.

The challenge for gaming companies is to be forward-thinking while keeping an eye on the bottom line and pleasing shareholders on a quarterly basis. This means having Research and Development teams busy within manufacturing companies to look at skill games, block chain technology, and other media changes such as virtual reality, augmented reality, and someday, one can envision quantum computing that changes the world of random number generation. What will 5G do in the gaming world? Will it have an effect?

Digital currencies, and the sheer fact that cash is going extinct, will pave the way for innovative payment methods on casino floors. Electronic wallets are essentially being used now, and how will that change gaming? We must allow new changes such as these while still adhering to our mandate to protect the consumer. What does that mean for the future? Will problem gaming groups recognize the new reality of electronic payments?

Operators are looking at ways to enhance the gaming experience, testing new gaming areas to see what works like they've never had to before.

We get new versions of phones and tablets yearly with new technologies that gaming companies must understand. App stores are growing exponentially, and the games people play literally have calculated lifespans on only months. People are more connected to their devices than ever before, and that simply will not change. How does that translate to casinos?

Video gamers are the next generation that will turn 21 and become the next market; they aren't interested in slot machines as you see them today. They are interested in handheld devices and those devices evolve with the patron. The gamer of the 2020s and beyond will one day be more integrated into their devices, even potentially having computing, probably within a decade being quantum-based, embedded within their physical bodies one day.

Regulators must be given the budgets and the manpower to keep up as

well. Regulators must also be given not just broad authority to regulate new technologies, but the mandate to embrace them in a careful, cognizant and responsible way that still calls for strict regulation but with a mindset toward enhancing gaming. Also, the enforcement side of regulation must always be cared for, because as new technological interfaces for gaming arise, new ways to cheat and scam the system do too.

Investigators at the GCB must be at the cutting edge of investigative technologies, as well. Protecting gaming device security and ensuring that good, qualified people work in the industry are still paramount.

CONCLUSION

So, regulators can no longer look for what's right down the road. They have to look down the road, around the corners of the road, beyond the road to the highway, and into the next city. Things are moving fast, but I am confident that this can be done.

While the process isn't perfect, it is transparent and flexible enough so that we can continue to make our way toward the ultimate goal of strict and fair regulation with a mindset toward economic success for Nevada. The goal of the Nevada regulator is to ensure success for the state's main industry but to do it in a way that protects the State and the people who live here and visit here.

This is only feasible when it is guided by dedicated public servants and ethical gaming counsel and gaming licensees. Sometimes, regulators have to stand up to powerful forces in the name of doing what is right for the entire state at times, but fortunately those forces usually "get it" and understand strength through proper regulation.

The process started here, it can evolve here, and will evolve here, if it's allowed to be flexible and to always evolve. Because of that, Nevada will always be the epicenter. It will be the place where the pebbles hit the water, and the ripples flow outward into the rest of the gaming world.

We have collectively looked at the issues, we have confronted the issues, and will continue to look at the issues and confront them in a fair and objective fashion. The GCB and NGC will hopefully stay strong, objective, and fair. By definition, I believe that makes us the "tip of the spear."

Thank you for having me, it is truly my honor.