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Michael Anderson predicts the future

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Story Published: Nov 28, 2008

Story Updated: Nov 26, 2008

LAS VEGAS – Michael Anderson didn't bring a crystal ball to the Las Vegas Convention Center, but he did make a series of predictions with an upbeat view of the future of Indian gaming on the 20th anniversary of the Indian Gaming Regulatory Act.

At a panel called "IGRA's Impact: 20 years of federal oversight of Indian Gaming" during the Global Gaming Exposition Nov. 18-20, Anderson offered predictions and speculations – along with a couple of caveats, cautions and strategies – for the next several years.

The seventh annual Global Gaming Exposition, or G2E, is a mammoth four-day event that attracts 30,000 attendees, including members of the tribal gaming community, experts from global commercial gaming and 700 exhibitors.

Anderson is a graduate of Georgetown University Law School and a former Deputy Assistant Secretary-Indian Affairs at the Interior Department now in private practice with Anderson and Tuell in Washington. He delivered his predictions and speculations within the context of two overarching trends that are pushing against each other: As tribes have become more successful, opposition to Indian gaming has grown.

- American Indian tribal governments with successful gaming operations will continue to increase their participation and influence in political elections and more American Indian candidates funded by tribes will be elected to federal and state offices.

"The election that just took place shows in a number of ways the power of Indian tribes who are

utilizing their gaming resources and revenues to influence elections both in increasing turnout from Native vote projects across the states. … and in the margins that sometimes can be directly attributed to Indians,” Anderson said.

Both Republican and Democratic parties actively seek support from Indian country.

“If you go to the big fundraisers in Washington. … you’ll see tables of Indian tribes and supporters there in force. That is something new. I’ve been in Washington for 28 years and certainly in the last decade it’s something that’s grown.”

Questions have been raised, including in the Senate Indian Affairs Committee, about whether it is appropriate to use gaming revenues for political elections. At this time there is no legal prohibition against doing so, but it’s an issue to monitor, Anderson said.

“So far there’s still very strong bipartisan support in getting your money so as long as that’s the case I think it’s unlikely that Congress would prohibit gaming dollars being used for elections.”

- American Indian tribal governments will continue to defeat congressional attacks on Indian gaming whether it is proposed land in to trust

G2E Future Watch

The Global Gaming Exposition’s annual Future Watch survey focused this year on the issues facing Indian gaming. The survey probed the thoughts of tribal gaming executives, regulators and analysts on the Indian Gaming Regulatory Act, Class II gaming and other regulatory and legal matters. Here are some highlights:

- Tribal gaming generated around \$26 billion in revenues last year while commercial gaming brought in around \$34 billion – 38 percent of respondents think Indian gaming revenues will exceed commercial gaming revenues within three to five years.
- 71 percent believe the economic downturn has been less severe for Indian casinos than for commercial casinos.
- 43 percent of respondents said that convention and business facilities will be the most important non-gaming aspect of tribal casinos 10 years from now.
- 81 percent said that IGRA as implemented by the National Indian Gaming Commission has had a positive effect on Indian country.
- 62 percent believe some minor changes to IGRA might serve Indian country well.
- 33 percent believe IGRA should not be amended.
- 5 percent said some major changes to IGRA are necessary.
- Last year, the top 15 percent of Indian casinos took in roughly 70 percent of gaming revenues – 62 percent of respondents said economic progress in Indian country needs to be more widespread and there might be better ways to make prosperity more widespread while the remaining 38 percent said no changes need to be made because as with any industry those doing best

restrictions or proposed tax initiatives. One caveat is the potential of enactment of labor provisions.

Anderson cited the successful efforts by the National Indian Gaming Association, the National Congress of American Indians, tribal leaders and others over the last decade to counter attempts to restrict land into trust and “the united front” in Indian country in defeating proposals in the 1990s to tax tribes directly.

With the same kind of unification and support from “champions” of Indian sovereignty in Congress, the nations will continue to see defeat of such land into trust and tax initiatives, Anderson said.

There is one caveat, however: labor relations. Many Democrats strongly support the interests of labor unions and there might be an effort to assert that interest “even beyond the San Manuel decision,” Anderson said, referring to a 2-1 panel ruling in the D.C. circuit court in January 2007, that the Nation Labor Relations Act has jurisdiction over employees at casinos on sovereign tribal land.

Allowing unions to organize under federal law, rather than tribal, law is a huge infringement on tribal sovereignty and is linked to the misleading argument of viewing Indian tribes as corporations, Anderson said.

That trend can be countered by tribes’ “continuous efforts to educate the public and in public relations campaigns,” he said.

are inevitably going to be taking in the lion’s share of revenues.

- During the Bush administration 13 of the 15 tribes seeking federal recognition were denied. 86 percent of respondents thought it is very likely or somewhat likely that this trend would continue.
- 81 percent said it’s very likely or somewhat likely that tribes will expand their gaming operations into the commercial realm over the next five to 10 years.
- 81 percent agreed that the Seminole case in which the legislature has challenged the governor’s authority to sign a gaming compact with the tribe sets a bad example for legislatures everywhere, but only 62 percent said state governors should be allowed to negotiate tribal-state compacts without approval of the legislature.
- 86 percent agreed that the NIGC’s proposed regulations redefining Class II machines that were recently withdrawn would have had “serious, negative economic consequences.”
- 81 percent think NIGC will revisit the issue within the next five to 10 years.
- 81 percent said a Narragansett win in the U.S. Supreme Court land into trust case would be an important victory for Indian country.
- 76 percent of respondents opposed the idea of having state level equivalents of the NIGC to ensure regulatory requirements are being met.

- Overall gaming revenues, which reached almost \$27 billion last year, will continue to increase by more than \$1 billion a year and more due to expansions and new Indian gaming facilities.

Several tribes, including the Mashpee Wampanoags in Massachusetts and others in California and elsewhere will be opening new gaming facilities.

- Over the next two to five years perhaps a dozen or more landless tribes will open facilities and three to five newly recognized tribes will initiate gaming facilities.

Only two to three so-called two part off reservation gaming applications will be approved during the next administration.

Only three off reservation land into trust approvals for gaming have been granted since IGRA began and it's not likely that the process will become any easier, given that the proposal must gain approval from the local government and governor, and meet rigorous environmental standards.

- Competition from state-sanctioned gaming will put more pressure on Indian gaming.

As states look to offset decreases in their budgets, they will increasingly compete with Indian gaming enterprises. Three out of five ballot initiatives that will expand non-Indian gaming passed in the recent election.

- Indian casinos will continue to pioneer and develop environmentally friendly green gaming facilities.

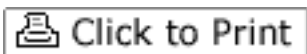
Indian casinos and reservations will continue to experience growth in destination tourism.

Green development and destination tourism will continue to attract customers nationwide, Anderson said. Green development enhances the public image of Indians as stewards of the land and cultural tourism helps to educate and broaden knowledge about tribal governments and tribal sovereignty.

“We have challenges both in terms of pressure from states and from the viewpoint of American Indian casinos, but we also have enormous opportunities. I can't image that the next 20 years will be any less successful than the past 20 years, so I think the future is bright and we will have a part of that as well,” Anderson said.

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