



November 29, 2014

Danielle Fox  
Legislative Analyst  
Office of Policy and Legal Analysis  
Maine State Legislature  
#13 State House Station  
Augusta, Maine 04333

Subject: Maine Legislature Veterans and Legal Affairs Committee (VLA) – Questions

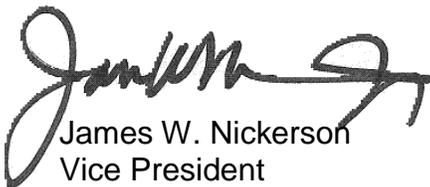
Ms. Fox,

As a follow-up to the Market Feasibility Study Related to Expanded Gaming in Maine Report presented in September 2014, the Maine Legislature Veterans and Legal Affairs Committee (VLA) recently posed 6 questions, 3 of which deal with the potential variations of using the indicated capacity for a 4<sup>th</sup> casino license in Northern Maine.

This was done over a very few days during the Thanksgiving Holiday, so we also offer the opportunity to further discuss these questions in more detail in the coming days.

Following are the posed questions and WhiteSand's initial responses.

Regards,



James W. Nickerson  
Vice President

1. (VLA) If a proposal for Northern Maine recommends using the capacity of 250 slot machines and 10 table games by licensing 2 smaller facilities (one in Washington County and the other in Aroostook County), are there economies of scale that should be considered in terms of number of slot machines and table games at each facility? Also, how should the license fees, required investments and reinvestments be prorated? *(A stated objective in this proposed division of capacity was fairness for the Tribes in those counties with a focus on maintaining a revenue stream for the Tribes, not necessarily the state's General Fund. However, the proposal envisions the state breaking even with regard to regulatory costs)*

- Even though the capacity for a 4<sup>th</sup> license, as stated in report, recommends a single facility with 250 slot machines and 10 table games, authorizing 2 separate facilities (presumably one in Aroostook County and one in Washington County) would likely necessitate a different mix.
  - While the minimum numbers for slots and tables above are accurate to what we recommend in terms of the minimum facilities that should be considered for the two northern locations, potential caps should be considered for the facilities as well. While we do not want to stifle potential demand for facilities in these areas, we also do not believe they warrant extensive gaming facilities.
  - If the operators believe sufficient demand is present in the market, a facility could include more than 250 slot positions and 10 table games, but we would hesitate to allow numbers far above these figures (perhaps a cap of 300-350 slot positions and 16 - 20 table games in the event the operators want to expand their facilities after opening).
  - The economies of scale to provide for adequate revenue, jobs and ongoing sustainability do not readily allow for dividing the capacity stated for a single 4<sup>th</sup> license to be divided straight down the middle.
  - In order to provide for a facility, even on a smaller scale relative to the suggested Southern Maine resort casino, that fits within what we perceive as Maine's "brand," the minimum number of slot machines should be 150, with no less than 8 table games (8-10 table games would be a minimum required to justify the required capital and labor required for minimum table game operations).
  - We caution Maine to exempt a tribe from a gaming tax, especially if there are no requirements attached, as to what the tribe would do with an untaxed revenue stream. For this reason, we would recommend a tribal-state compact for these facilities, in the context of which Maine could determine, for a specific period, the terms of the arrangement including consent to regulation, specific use of the funds (health care, education etc.) along with a taxation scheme.

- Potential bidders will want to know that there is an associated cost of doing business for all locations, even if that cost is lower based on surrounding area demographics and extent of the licensable facilities.
- The committee may want to consider authorizing electronic table games, which are gaining popularity, at the Northern Maine facility (facilities), as they are less expensive to operate due to the reduced staff required to operate them and could potentially then enhance the profitability of the facility.
- We do caution with regard to structuring the Northern licenses to provide for no revenue stream to the state (or dedicated funds), beyond covering the state's regulatory costs, as it this is less conducive to a robust and fair competitive bid process and would be more compatible with a straight award to the intended operators.
- This scenario could result in facilities in Northern Maine that are of lesser quality than the state may envision and desire. This structure would also have an impact on the potential pool of bidders for the Southern Maine facility, and dilute the quality of potential operators.
- An appropriate license fee should be prorated to the maximum number of gaming positions allowed and an allowance for the required background investigations and regulatory approvals be enforced.

**2. (VLA) Are the reinvestment % requirements for the Northern Maine license proportional to the Southern Maine license in terms of being based on the minimum capital investment?**

- Yes, the reinvestment requirements are proportional for the Northern Maine license, in a similar manner to the recommended Southern Maine facility reinvestment requirements.
- The reinvestments in Northern Maine would be primarily for the gaming offerings with a relatively smaller portion going to what would likely be more limited food, beverage and accommodation offerings.
- The annual reinvestment rates, given that they represent a percentage of annual gaming revenues, are somewhat higher for the southern facility (3-4% of gaming revenues) as these need to support reinvestment in more extensive facilities (larger number of hotel rooms, greater F&B outlets, spa, retail, etc.), whereas the northern facilities will primarily offer gaming product with some ancillary facilities (smaller number of hotel rooms, 1 - 2 F&B outlets, gas station, convenience store), so a slightly smaller percentage of annual gaming revenues allocated to property reinvestment should suffice (2-3%).
- Our initial analysis used a \$25 million minimum capital investment based on a 250 slot machine facility, which, on a pro rata basis, equates to \$100,000 per slot machine.

**3. (VLA) The report states that a smaller scale Northern Maine license will have relatively minor impact on existing facilities (and a future southern Maine facility). Does that stand true for a proposal to issue 2 Northern Maine licenses (per proposal stated above)?**

- Yes, the minimal impact on the two existing facilities and a potential future Southern Maine facility, remains minimal with the authorization of two Northern casinos. There would be little to no impact with either one or two facilities.
- Given the distance from Bangor and Oxford, even two smaller facilities would not have a material effect on the existing, gaming facilities as the type of facilities are quite different in terms of what they're offering the consumer. If anything, they could increase the total spend of the consumer as the northern facilities act as more of an 'impulse buy' than destination gaming facilities, the rationale being travelers passing these facilities may choose to refuel or spend a night at one of these facilities in order to spend additionally at the gaming facilities than travelling to one of the existing facilities or the new, potential facility specifically for their gaming and ancillary products.

**4. (VLA) The report states an inverse relationship between a (high) license fee and the amount of capital investment. Would this be similarly true for the relationship between tax rate and capital investment (and/or sustaining profitability)?**

- Yes, there is a direct, inverse relationship between the tax rate and the rate of capital investment. Page 42 of the report discusses this, but we recognize from the discussion in September, that this issue may need further clarification.
  - The recommendation of a 35% tax rate was the upper limit considered by the report, to allow for the level of capital investment envisioned for a high quality facility in an area such as the Southern Maine beaches region.
  - Higher quality operators/bidders, understanding what is required to operate a successful resort casino, will likely avoid bidding on a licensing opportunity with a higher tax rate, recognizing the effect on profitability, and the resulting overall success and sustainability of a quality operation.
  - Potential saturation of gaming opportunities is a major factor when considering the potential pool of bidders for a Southern Maine resort casino – bidders will be very selective, so the mix of tax rate, license fees and capital investment requirements must be just right.
  - Even if mitigating the negative financial impact on existing facilities (Bangor/Oxford), were not a consideration, we would not recommend an increase in the recommended 35% tax rate for slots and 16% for table games.

**5. (VLA) The report indicates a potential 20% cannibalization impact on the Oxford Casino with the development of a Southern Maine resort facility. Is that % based on the capacity of 1500 machines or the 1000 machine model used for revenue projections? What would the cannibalization rate be for each (1000/1500)?**

- The 20% figure was based on the same model used for revenue projections which was a facility with 1000 machines.
- The cannibalization rate would not see any significant change if a Southern Maine resort casino operated 1500 machines. The cannibalization rate is primarily driven by drive time with some consideration to the quality and variety of additional amenities. While better and more amenities could marginally drive more business to the new facility, more consideration is given simply to whether or not consumers wish to game.
- Given the same utility is achieved from the gaming activity, whether at a facility like Oxford with little in terms of amenity offerings, or a southern facility with a greater amenity mix, the marginal cannibalization beyond those choosing to utilize the facility with the closer drive-time would come from how much they value the other facilities offered at the potential, southern facility.
- Simply adding 500 more slot machines would not add any additional utility to the southern facility beyond what the facility offers at 1,000 slot machines, unless the facility expanded its other offerings in parallel to increasing its machine count.

**6. (VLA) Do you recommend a requirement that the Southern Maine facility bid require the inclusion of a commercial harness racing track? And, what impact would such a requirement have on the pool of potential bidders for the large-scale resort facility?**

- We understand that Maine has a strong connection to the traditional sport of horse racing. However, we would not recommend including a requirement that competitive bids include a commitment to operate a commercial harness racing track.
- There are very few, if any, potential bidders that have the appropriate skill set to successfully operate a commercial horse track. Among existing casino/track operators in the country, some of whom have the skill set, many are asking to be relieved of the requirement to operate a track as a condition of operating a casino.
- The pool of bidders would be diminished with such a requirement and ultimately, Maine would not end up with a facility that fits with the Maine “brand” and maximizes financial benefits to the state.
- The support of the commercial track by the casino under this scenario would equate to an additional “tax”.