

Opening Statement

Kevin F. O'Toole, Executive Director
Pennsylvania Gaming Control Board
House Appropriations Committee
February 27, 2019

Good morning. I am Kevin O'Toole, Executive Director of the Pennsylvania Gaming Control Board ("Board"), and seated beside me are Commissioner Dante Santoni and Doug Sherman, who serves as the Board's Chief Counsel.

For Fiscal Year 2019-20, the Board's budget contains the following three separate requests: (1) Category 1 through 4 licensees, iGaming and sports wagering, (2) video gaming terminals and (3) fantasy sports contests. The funding for the regulation of each of these 3 areas of oversight is embodied in separate dedicated funds which requires individual authorization.

Our request for the "traditional" gaming (Category 1 through 4 licensees, iGaming and sports wagering) is \$46,067,000 which represents a decrease of \$86,000 when compared to our current fiscal year appropriation. The request includes \$40.2 million for personnel and benefits and \$5.9 million for operating and fixed asset expenses. This request is made recognizing that there is an increase of 3.7% in health benefits and as a result of the Board decreasing the number of anticipated hires in the current Fiscal Year.

In addition, the Board is requesting the following appropriations for Video Gaming Terminals and Fantasy Sports Contests.

- \$667,000 for VGTs
 - \$567,000 for personnel and \$100,000 for operating and fixed assets
- \$253,000 for Fantasy Sports Contests
 - \$153,000 for personnel and \$100,000 for operating and fixed assets

The Board has not budgeted specifically for salary increases, union or non-union, to occur during Fiscal Year 2019-20.

Our budget request supports 333.5 positions which includes 5 positions dedicated to VGTs and 1.3 positions dedicated to fantasy sports contest regulation.

As you know, the Board's operations are not funded by General Fund tax revenue. The Board's budget is primarily funded from assessments on the casino industry and gaming industry required to be made pursuant to § 1401 of the Gaming Act and from fees and expenses billed to applicants, licensees and slot machine manufacturers. The same dedicated fund structure for regulatory expenses is applicable for VGT gaming (§ 1404 accounts) as well as Fantasy Sports Contests (§ 332 accounts).

The Board is very cognizant of the need to regulate strictly but efficiently, and this year's budget request reflects that commitment. It is worth noting that since FY 10/11, the Board has operated well within its approved budget.

The Board, as well as our staff, take pride in this record of fiscal responsibility.

I would note again, that our request is lower than our current year budget and that we continue to implement the expanded gaming authorized by Act 42 of 2017.

Fantasy Contests

Act 42 provides that only an entity holding a fantasy contest license may provide fantasy contests within the Commonwealth. Nine entities applied for a fantasy contest license and have continued to operate fantasy contests while the licensing process has been moving toward completion. Licensees pay a \$50,000 license fee and a 15% tax is calculated and paid to the Department of Revenue for the General Fund.

The Department started to collect the tax in May of 2018 which has generated, as of 12/31/18, approximately \$2.3 million in tax revenue to the Commonwealth. A chart of Fantasy Contests Revenue and Taxes Paid is attached.

The list of Fantasy Contest Licensees authorized to provide fantasy contests in Pennsylvania include:

1. Sportshub Technologies
2. Yahoo Fantasy Sports
3. Fantasy Draft
4. Full Time Fantasy Sports
5. Starstreet

6. Fantasy Football Players Championship -- Licensed
7. Fanduel -- Licensed
8. DraftKings -- Licensed
9. Boom Fantasy

I note that because fantasy contests have only been regulated in Pennsylvania for about 10 months, and since fantasy contests tend to vary in play based upon the sports being played throughout the year, and since sports wagering is just being implemented throughout the Commonwealth, we cannot predict any trends going forward. However, we are hopeful that the fantasy contest operators will continue to provide a product which is successful in the State.

VGT Gaming at Truck Stops

Act 42 provides for 5 video gaming terminals at eligible truck stops through the licensing of four distinct entities: Terminal Operators, Licensed Establishments (truck stops), VGT manufacturers & VGT suppliers.

A Terminal Operator oversees the placement and service of the VGTs whereas the Licensed Establishment provides the VGT area, the required surveillance and staff to observe and monitor the area to assure underage individuals and self-excluded individuals do not access or play the VGTs.

The Act establishes the criteria that must be met to be considered a truck stop establishment, including that an applicant must:

- Be equipped with diesel islands used for fueling commercial motor vehicles;

- Have sold, on average, 50,000 gallons of diesel fuel each month for the prior 12 months or projected to do so in the next 12 months;
- Has a minimum of 20 parking spaces dedicated for commercial motor vehicles;
- Has a convenience store;
- Is located on a parcel of land not less than 3 acres; and
- The land may not be owned by the Pennsylvania Turnpike.

The Act also allowed for a county that hosts a Category 1, 2 or 3 casino facility, upon passage of a resolution and notification to the Board, to opt-out of the placement of VGTs. The following counties have exercised this option: Bucks, Dauphin, Delaware, Erie, Luzerne, Monroe, Montgomery, Northampton, Philadelphia & Washington. Two other Counties, Allegheny and Fayette were eligible to opt out but did not do so.

A County, which has opted-out, does have the option under the Act to rescind their decision to prohibit VGTs but then may not subsequently pass a resolution prohibiting truck stop VGTs.

To date the Board has received the following applications:

VGT Suppliers: 2 applications with 1 application approved

VGT Manufacturers: 5 applications with 4 applications approved and 1 application pending

Terminal Operators: 14 applications with 10 applications approved and 4 applications pending

Licensed Establishments: 65 applications with 44 conditional licenses approved and 21 applications pending

Inspections of the various establishment sites have been occurring over the last two months and we anticipate that the establishments will be coming before the Board for final action over the next several months.

Category 4 Slot Machine License Auctions

Act 42 created up to 10 Category 4 slot machine licenses which allow for a successful bidder to offer between 300 and 750 slot machines and 30 table games with the option to expand to 40 tables after one year. The Category 4 licenses were to be auctioned by the Board through an initial auction phase, a subsequent auction phase and an additional auction phase which can be conducted at the discretion of the Board.

A Category 4 auction included a statutory \$7.5 million minimum bid payable by the successful bidder within 2 business days of the auction along with a \$2.5 million fee for table games. The successful bidder was then required to present an application to the Board within a prescribed time period after the successful bid.

The Act provides that the Initial Auction Phase and the Subsequent Auction Phase close if an auction has zero bidders. As such, at this time, the Initial and Subsequent auction stages have been completed.

A total of 7 auctions were held with 5 of the auctions having a high bidder.

The Initial Auction Phase produced 4 winning bidders which have identified sites for their casinos and included:

1st Auction – Penn National (\$50,100,000) (York County)

2nd Auction – Stadium Casino (\$40,100,005) (Westmoreland County)

3rd Auction – Mt. Airy (\$21,188,888.88) (Beaver County)

4th Auction – Parx (\$8,111,000) (Cumberland County)

5th Auction – No bids received

Having received no bids in the 5th auction, the board proceeded to the Subsequent Auction Phase which produced one bidder: Penn National (\$7,500,003) (Berks County). No casino bid in the auction conducted after the Penn National Berks County location was selected and the Board stopped the auction process pursuant to statute. A chart listing the winning bids is attached.

The Board has held three public input hearings in the local municipalities of the proposed facilities and expects to hold the two additional hearings in the month of March. In addition, the Board expects to hold suitability hearings and make a final consideration of all of the Category 4 applications later this spring and summer.

For your convenience, we have provided a map which illustrates the location of the current casinos as well as the proposed Category 4 locations.

Interactive Gaming

Interactive gaming envisions a system of games similar to slot machines, table games and poker which are played by way of either an App or website portal which allows a player to gamble remotely from the brick and mortar casino. There was a total of 39 interactive gaming certificates available with 13 being in each category of slot-like games, table games and poker games. The tax rate associated with each type of interactive gaming is 52% plus a 2% local share for games which simulate slot machines, and 14% plus a 2% local share for games which simulate table games and for poker.

The majority of the certificates had been reserved by the existing casino licensees. In addition, two casinos from outside Pennsylvania sought approval to obtain iGaming certificates as qualified gaming entities. As it currently stands, of the 39 total certificates, only 1 slot certificate, 1 table game certificate and 5 poker certificates remain unallocated to a licensee.

Seven casinos sought all three types of certificates and paid a \$10 million authorization fee for those certificates. This includes Parx Casino, Harrah's Philadelphia, Mount Airy Casino Resort, Penn National Hollywood Casino, Sands Bethlehem, SugarHouse Casino and Valley Forge Casino Resort.

Stadium Casino, Presque Isle Downs and Mohegan Sun Pocono Downs Casino each have obtained Table Games and Slot certificates for \$8 million.

Two other entities, referred to in the Act as qualified gaming entities, have sought to participate in Pennsylvania's on-line gaming industry. They include MGM which is seeking three certificates for \$12 million, and Golden Nugget seeking two certificates for \$8 million.

The Board has found that the MGM and the Golden Nugget are qualified entities pursuant to the Act and both are now in the process of submitting their casino license applications to the Board.

The award of an interactive gaming certificate is the first step in a fairly involved process. Most petitioners have partnered with companies, interactive gaming operators, who will provide the platform through which the games will be offered to the public. These entities are investigated and licensed by the Board and the platforms and the games are tested by the Board's Gaming Lab or by an independent testing lab, whose work is then verified by our Gaming Lab.

In addition, the iGaming manufacturers which provide the games to be played must be approved as well. To date, the Board has received 9 iGaming manufacturer applications with 5 applications approved and 4 applications pending.

We had been expecting iGaming to commence operations in the second quarter of this year. However, the January 15th release of a legal opinion by the Department of Justice ("DOJ") about the reach of the Federal Wire Act may impact those plans. Specifically, that opinion reversed a 2011 Opinion which had stated that the Wire Act applied only to sports wagering and not to other forms of gambling which use the internet in interstate transmission of wagers and payments on wagers.

The 2019 DOJ Opinion states that the Wire Act applies to all internet-based transmission of all forms of internet-based gambling.

The impact of the new Wire Act opinion is not fully known yet, except that all gaming systems, platforms and play will have to be entirely intrastate, within the boundaries of Pennsylvania, to comply with the Wire Act.

Previously, it was thought that operators which had game servers in other jurisdictions where iGaming was legal could leverage those platforms and use them to facilitate play in Pennsylvania. The new opinion seems to contradict that prior intent and there could be some degree of delay for operators who may now have to order, purchase and deploy new servers in Pennsylvania rather than in another jurisdiction.

The other component of iGaming which needs to be completed is the submission of game platforms and game content to the Board's Gaming Laboratory for testing and approval for operation in the Commonwealth. The industry has been informed that the Gaming Lab needs about 90 days lead time for approval of the platforms and platforms just started to be received in mid-January. At this point, we are still hoping for a Q2 launch of those iGaming operators which are ready, but I do caution that delay could arise as a result of the DOJ Wire Act issue.

The Board has asked all Interactive Gaming petitioners to indicate, or provide to the Board, updated information as to how they will comply with mandates of the re-interpreted DOJ opinion memorandum regarding the Wire Act.

While this latest twist does not necessarily preclude the offering of intrastate Interactive Gaming it does add a layer of uncertainty for the launch of iGaming.

Sports Wagering

Sports wagering has been the most visible new gaming initiative to become available to the public.

A Category 1, 2, 3 or 4 slot machine licensee may petition the Board for approval of a sports wagering certificate which allows a licensee to offer sports wagering at their licensed facility and, eventually, through a mobile-based system. A Category 1 licensee may also offer sports wagering at a duly licensed off-track (“OTB”) facility.

The Act provides for a 34% tax rate which is deposited into the General Fund and a local share assessment of 2% which is allocated to the Commonwealth Financing Agency “to be used exclusively for grants for projects in the public interest in this Commonwealth.”

The Act also provides for a sports wagering certificate fee of \$10 million which is deposited into the General Fund.

To date, the Board has granted certificates for sports wagering to Penn National Hollywood Casino, SugarHouse Casino, Rivers, Parx, Harrah’s Philadelphia, Presque Isle and Valley Forge Casinos.

Penn National, SugarHouse, Rivers, Parx and Harrah’s, along with the South Philadelphia Turf Club, have already opened retail sports books. We

anticipate that Valley Forge will open in March with Presque Isle sometime after that. In addition, we believe some of the other casinos will also seek sports wagering certificates in the future.

A chart depicting Sports Wagering Revenue by Month, including State taxes and local share assessments, is attached.

In addition, sports wagering operators, which will run the sports book for a slot machine licensee, must be approved by the Board. To date the Board has received 7 sports wagering operator applications with 5 applications approved and 2 applications pending.

Category 3 Slot Machine License – Access and Size Limits

Under the Gaming Act, a Category 3 slot machine license was reserved for a well-established resort and that individuals seeking access to the gaming floor were limited to those individuals who were a guest at the resort, a patron of the amenities or who held a membership to the resort.

Act 42 provided that a Category 3 slot machine licensee could become exempt from the gaming floor restrictions through the payment of a \$1 million fee. In addition, a Category 3 licensee could petition the Board for an additional 250 machines (850 slot machines in total) with the payment of a \$2.5 million fee and an additional 15 table games (65 table games in total) with the payment of a \$1 million fee.

To date, Valley Forge Casino Resort has exercised the option to remove the access restrictions and to increase their slot machines to 850. Lady Luck Casino at Nemaquin has not made this election at this time.

Casino Simulcasting

Finally, I would note that a Category 2, 3 or 4 slot machine licensee may petition the Board for a casino simulcasting permit which would allow a licensee to offer casino simulcasting at a licensed facility without paying a fee.

As of today, no casino has elected to pursue this activity.

In closing, I want to express our appreciation for the opportunity to discuss our budget request and the various new authorizations of expanded gaming included in Act 42. Again, we appreciate this opportunity to be here and to work with you to regulate this complex and expanding industry.

Fantasy Contests Revenue and Taxes Paid

Revenue Reported by Month

Month	Revenue FY 17/18	Revenue FY 18/19	Taxes Paid FY 17/18	Taxes Paid FY 18/19
<i>May</i>	\$1,331,706		\$199,756	
<i>June</i>	\$1,017,862		\$152,679	
<i>July</i>		\$878,185		\$131,728
<i>August</i>		\$943,620		\$141,543
<i>September</i>		\$2,133,714		\$320,057
<i>October</i>		\$2,902,863		\$435,429
<i>November</i>		\$3,241,161		\$486,174
<i>December</i>		\$2,860,503		\$429,076
<i>FY Year Total</i>	\$2,349,569	\$12,960,046	\$352,435	\$1,944,007
<i>Grand Total</i>	\$15,309,615		\$2,296,442	

CATEGORY 4 AUCTIONS

<u>Winning Bid Amount</u>	<u>Winning Bidder</u>	<u>Location</u>
<u>Initial Round</u>		
1. 1/10/18 \$ 50,100,000.00	Penn National Gaming	Borough of Yoe, York County
2. 1/24/18 \$ 40,100,005.00	Stadium Casino	Derry Township, Westmoreland County
3. 2/08/18 \$ 21,188,888.88	Mount Airy #1, LLC	City of Newcastle, Lawrence County
4. 2/21/18 \$ 8,111,000.00	Greenwood Gaming	South Newton Township, Cumberland County
<u>Second Round</u>		
5. 4/04/18 \$ 7,500,003.00	Penn National Gaming	West Cocalico Township, Lancaster County

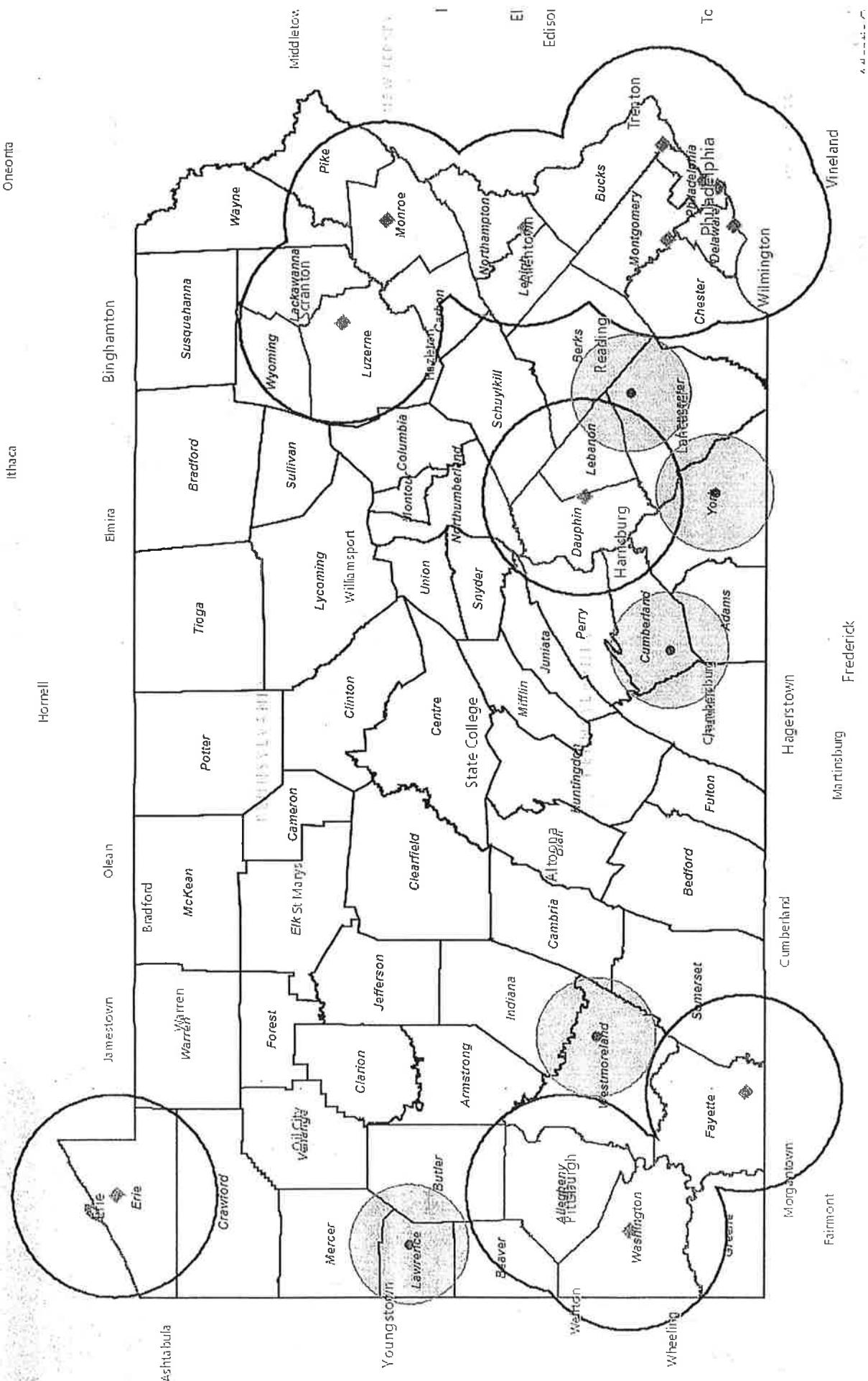
Total: \$126,999,896.88

Sports Wagering Revenue by Month

	11/30/2018	12/31/2018	1/31/2019 <i>Preliminary</i>
<u>PENN NATIONAL</u>			
Handle	\$1,414,586.55	\$5,051,730.37	\$4,817,150.85
Gross Revenue	\$508,996.60	\$299,222.07	\$284,624.20
State Tax Due (34%)	\$173,058.84	\$101,735.50	\$96,772.23
Local Share Assessment (2%)	\$10,179.93	\$5,984.45	\$5,692.49
 <u>RIVERS</u>			
Handle		\$5,581,553.41	\$9,543,112.37
Gross Revenue		\$1,066,156.55	\$853,315.68
State Tax Due (34%)		\$362,493.23	\$290,127.34
Local Share Assessment (2%)		\$21,323.13	\$17,066.32
 <u>SUGARHOUSE</u>			
Handle		\$5,539,806.46	\$10,795,121.39
Gross Revenue		\$641,167.11	\$103,512.68
State Tax Due (34%)		\$217,996.82	\$35,194.32
Local Share Assessment (2%)		\$12,823.34	\$2,070.26
 <u>Parx</u>			
Handle			\$5,382,619.66
Gross Revenue			\$1,170,347.97
State Tax Due (34%)			\$397,918.32
Local Share Assessment (2%)			\$23,406.97
 <u>Philadelphia Turf Club</u>			
Handle			\$858,130.49
Gross Revenue			\$91,835.31
State Tax Due (34%)			\$31,224.01
Local Share Assessment (2%)			\$1,836.71
 <u>Harrah's</u>			
Handle			\$615,704.00
Gross Revenue			\$103,569.25
State Tax Due (34%)			\$35,213.54
Local Share Assessment (2%)			\$2,071.38
 <u>GRAND TOTAL</u>			
Handle	\$1,414,586.55	\$16,173,090.24	\$32,011,838.76
Gross Revenue	\$508,996.60	\$2,006,545.73	\$2,607,205.09
State Tax Due (34%)	\$173,058.84	\$682,225.55	\$886,449.76
Local Share Assessment (2%)	\$10,179.93	\$40,130.92	\$52,144.13

Category 4 Casino Exclusion/Reserved Areas

April 4, 2018



= 25 Mile Exclusion Area Around Licensed Casinos Blue Circle = 15 Mile Auction Reserved Area