



INTERVIEW with **BEN KIECKHEFER** Nevada Gaming Commissioner

By Ian DeValiere and Greg Giordano

Ben Kieckhefer was appointed by Governor Sisolak to the Nevada Gaming Commission in October 2021. He serves alongside Chair Jennifer Togliatti, Commissioner Rosa Solis-Rainey, Steven Cohen, and Ogonna Brown.

Commissioner Kieckhefer is the Director of Client Relations at McDonald Carano, and previously served as a Nevada State Senator representing District 16 for three consecutive four-year terms. His professional background also includes serving the State of Nevada as Communications Director for Governor Jim Gibbons and as the Public Information Officer for the Department of Health and Human Services. He is also a former journalist, having worked for the Reno Gazette-Journal and the Associated Press covering government and politics.

He holds a Bachelor of Arts degree in English from DePaul University and a Master of Arts degree in public affairs reporting from the University of Illinois, Springfield.



What brought you to Nevada and what was your first interaction with the gaming industry?

I grew up just outside of Chicago and, like a lot of people east of the Mississippi, my only picture of Nevada was Las Vegas. Since I wasn't from the area, I didn't really understand Nevada's unique economic background, the diverse demographics, or even the distance between cities. That quickly changed when I came to Nevada in 2003 to cover the 72nd Legislative Session as a reporter for the Associated Press. It was an interesting session with a big fight over the modified business tax. The gaming industry played a significant role in creating a broad-based business tax and worked closely with Governor Guinn in its passage. It was one of the more contentious legislative sessions, and it was an interesting preview of Nevada politics. The gaming industry was front and center, so it was an early introduction to the influence that gaming had on state politics and policy.



You previously worked in the Governor's office, Department of Health and Human Services, and served in the Nevada Senate for three consecutive terms. What drove you to public service?

My dad was a reporter, and my mom was a teacher; in our household, government and politics mattered. They stressed the importance of what the government did and how it interacted with its citizens. I started off my career as a journalist covering government and politics. I was following my father's footsteps in that way, but I wanted to try and ensure that citizens engaged with their government. My motivation in choosing this career path was to make sure we had an informed electorate. It really brought me into government in a new way and drove me to get my master's degree in public affairs reporting. When I played that role of a professional observer at the legislative session in Carson City, it gave me the perspective of what it took to be a successful elected official.

I felt after covering the legislative session, serving in the governor's office, and working in the department director's office, that I could be an effective elected official. I ran for the Senate in 2010 and was lucky enough to succeed in that election. I then served for almost 11 years until this opportunity presented itself. I am incredibly grateful to Governor Sisolak for the faith he showed in appointing me. This is an important role and one that a lot of people would be happy to serve in, so I feel honored that I was given this opportunity.

How has your appointment to the Commission changed your life or your perspective in public service?

Well, I will say, the best part of voting in the recent primary was that my name wasn't on the ballot. This role is a brand-new way to serve. I loved serving in the legislature and enjoyed my time in the Senate, but I didn't know how I was going to continue to use the knowledge I've gained to serve our state once it was over. This is an opportunity to serve in a way that I hadn't really imagined, and it wasn't something that was expected. Frankly, it's been refreshing, interesting, and fun. Not much else that you can ask for.

My family likes the new role too. My thirteen-year-old kids were in a stroller when I ran for office for the first time and have only ever known me in public office. For me not to be elected has been a breath of fresh air. No mailers coming to our house with their pictures on it and nobody calling their dad a bad name is great for them. I think they also have come to understand that the job that I'm doing now on the Gaming Commission is important. It gives them a broader perspective on what the government does. They were trained up well on one branch of government, but now they're starting to get a little peek into the executive branch too, which is good.



What has been the most difficult part of your transition from policymaker to regulator, and who has been the most helpful in your first few months on the Commission?

Regulating is different in so many ways, but the gaming regulatory space in Nevada is what good regulation should look like. Effective regulation maintains the highest standards and integrity without acting as a punishing agency or barrier to entry. Gaming regulation requires working with the industry to make it successful, while also serving its ultimate function of consumer protection. I think that we do a good job at striking that balance. We work with industry to fulfill the public policy mission of gaming control in Nevada. It's a learning process for me, but it's one that I am embracing wholeheartedly.

The staff of the Gaming Control Board has been incredibly helpful and professional in my transition from a policymaker to a regulator. That mental shift is still a work-in-progress, but the Gaming Control Board staff does an excellent job in helping me get there. I am incredibly thankful to them for being patient with me and answering all my questions while I try to really get my arms around the industry. I do not have a lot of experience in gaming, and even on the policy side, I never served on the Senate Judiciary Committee where gaming policy matters go. In that sense, this is uncharted territory for me. The staff knows this industry better than anyone. I am working hard to learn as much as I can as quickly as possible. Everyone at the agency who I ever asked for assistance is willing to take the time out of their day to be helpful. So, for them, I am incredibly grateful.

What are some of your top priorities or changes you want to bring to the Nevada Gaming Commission?

Most importantly, I don't want to step on anybody's toes. I don't want to pretend that I know more than I do, because I know that there are a lot of people who've been working in this space for their entire lives. With that fully on the table, I certainly believe we need to be thinking about the future and what continuous advances in technology mean for the gaming industry. If we aren't thinking about the future when we regulate, things can get out in front of us quickly. I want to make sure that the state of Nevada is positioned to continue overseeing the industry in a way that is meaningful and reflective of these technological advances. Customers adapt quickly and are going to want whatever is new and hot. Our customers are the lifeblood of our state. We need to make sure that what is afforded them meets their needs, but also continues to protect the state and the industry.

Take blockchain, for example. It is an incredibly powerful technology for any number of industries and can play an essential role in industries where record keeping is so important, like gaming. On top of that, I think we're just starting to see the next steps on that pathway into cryptocurrency. We will need to consider what the industry is going to want in their ability to accept cryptocurrency wagers and evaluate the state's ability to regulate, tax, oversee, and monitor cryptocurrency wagers. We've got a little bit of runway in front of us, but it's going to get shorter the longer we wait to evaluate it.



Is there anything that's surprised you about the Nevada Gaming Commission?

The amount of lobbying and behind the scenes arm-twisting that goes on in a legislative process was something I was used to after dealing with it for six legislative sessions. I had expected there to be some sort of that at the regulatory level, but there's not. I will say that the gaming industry is incredibly respectful of the process and the deference these companies seem to show regulators is remarkable. The industry trusts us to take our time, follow the process, and reach conclusions based on the materials that are presented and the testimony at the Commission meetings. It's been frankly surprising but refreshing.



After a few months on the Gaming Commission, do you think there are any issues in the industry or related to the Commission that legislators can address in the 2023 Legislative Session?

From a budgetary perspective, there are things that I understand now that I didn't fully understand when I was serving on the Senate Finance Committee. There are some needs within the agency that should be addressed sooner rather than later, and I hope I am able to effectively make that case to the legislature for budgetary augmentation in the 2023 session.



What are some of the largest issues that you see facing the gaming industry, and what role do you think the Commission has in addressing them?

Two of the big things that keep coming up on the Gaming Commission agendas since I joined in October are the consolidation of the industry and the transition to divestiture of property and real estate. Those are going to continue to be important for us to keep an eye on as we move forward.

Outside of Nevada, the industry is facing a whole host of issues with the expansion of gaming in our country. Nevada, rightfully so, has always had sort of an outsized role when it comes to leadership within the gaming industry in the United States. We've been doing it the longest and we've been wildly successful in regulating this industry. It all starts with the practitioners within Nevada. This is not just regulators and our staff, but the attorneys who work in this space and the industry professionals who have operated in Nevada for a long time.

When it comes to legalization, licensing, and regulation of gaming, particularly with the significant expansion of sports wagering, you're seeing Nevada companies, operators, lawyers, and former regulators playing an important role in the national debate. We have the expertise to try and ensure that other states can learn from our experience and establish an efficient regulatory structure. They don't have to do it the same way, and they probably shouldn't do it the same way, since every state has its own needs. However, after it's set up, if they have a question, it's probably something we've dealt with before and there are folks who are willing to lend their expertise they gained working in Nevada's most highly regulated industry.



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Greg Giordano is the Vice Chair of the State Bar of Nevada's Gaming Law Section, a co-editor of the *Nevada Gaming Lawyer* magazine, and a gaming law partner with McDonald Carano LLP with over 35 years of experience in practicing gaming law. His practice is concentrated in the areas of gaming compliance, licensing and regulation, especially regarding publicly traded gaming companies, financing and other transactions. He served as the first Chief of the Corporate Securities Division of the Nevada State Gaming Control Board from 1989 to 1993. He also served as a Deputy Attorney General in the Nevada Attorney General's Office from 1984 to 1989, including in its Gaming Division. He is a member of the Nevada and California Bars, a member of the International Association of Gaming Advisors and the International Masters of Gaming Law, a member of the UNLV Boyd School of Law Gaming Law Advisory Board, and is also Vice Chair of the ABA Business Law Section's Gaming Law Committee.