

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Kathleen Sebelius at
Chairperson

1:30 ~~xxx~~/p.m. on Monday, February 10, 1992 in room 313-S of the Capitol.

All members were present except:
Representative Joan Wagnon - Excused

Committee staff present:
Mary Galligan, Kansas Legislative Research Department
Lynne Holt, Kansas Legislative Research Department
Mary Torrence, Office of the Revisor of Statutes
Connie Craig, Secretary to the Committee

Conferees appearing before the committee:
Representative Robert H. Miller, House Minority Leader, State of Kansas
Rob Gaskell, Chairman, People Against Casinos (Northeast Kansas Ad Hoc Group)
Reverend Richard Taylor, Kansans For Life At Its Best!
Staci Charles, Hiawatha, Kansas

Chair Sebelius began the Committee meeting by introducing the Speaker of the House of Representatives Marvin Barkis.

Speaker Barkis appeared before the Committee to request introduction of a bill establishing statutory authority for negotiating gaming compacts with Native American Tribes, Attachment #1.

Representative Krehbiel made a motion to introduce a bill as requested by Speaker Barkis. Representative Graeber made a second to the motion, which passed on a voice vote.

Chair Sebelius announced that she had a second request for bill introduction from the Adjutant General's Department of the Kansas National Guard dealing with statutory increase for state active duty in National Guard increases.

Representative Hamilton made a motion to introduce a bill dealing with the request from the Adjutant General's Department of the Kansas National Guard. Representative Graeber made a second to the motion, which passed on a voice vote.

HCR 5039

Chair Sebelius had copies of SB 521, Attachment #2, and SCR 1632, Attachment #3, distributed to the members of the Committee.

Members of the Committee paused to wish Representative Jones a Happy Birthday.

Mary Torrence briefed the Committee on SB 521 and SCR 1632.

Representative Robert H. Miller appeared before the Committee as a proponent of HCR 5039, Attachment #4.

- The Committee asked Representative Miller the following questions:
- Did you introduce this legislation in prior legislative sessions?
 - Is this legislation in direct response to the Compact being requested from the Indian Nation, or is there some other reason?
 - Have you looked at the issue of bad faith, and the State's obligation to negotiate in good faith with the Indian Nation in a legal sense?
 - In terms of the people's participation, why choose an April election instead of the November election?
 - Do you anticipate as many people to participate in the November election that participate in the April election?
 - Did you support initiative and referendum last year?
 - Were you Chairman of the House Federal and State Affairs Committee during the public hearings for the lottery?

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,
room 313-S, Statehouse, at 1:30 ~~xxxx~~/p.m. on Monday, February 10, 1992.

- You were an opponent of the lottery, but you carried the legislation on the Floor of the House?
- Do you think that the people of Kansas, at that time, understood that lottery meant Class III Gaming?
- Do you think the people, at that time, thought the money from the lottery would be spent on education?
- Do you think the people understood what reappraisal and classification meant at the time they voted for it?

The Committee discussed whether or not the people of Kansas understood the meaning of lottery at the time it was voted on.

Rob Gaskell presented to the Committee testimony, Attachment #5, in favor of HCR 5039.

Reverend Richard Taylor appeared before the Committee as a proponent of HCR 5039, Attachment #6.

Staci Charles presented testimony to the Committee, Attachment #7, in favor of HCR 5039.

The Committee received written testimony, Attachment #8, from Ruth Picton, Hiawatha, Kansas.

Attachment #9 is written testimony from George Wahquahboshkuk, Chairman, Prairie Band of Potawatomi Indians.

Chair Sebelius announced that the Committee will continue hearing from conferees on HCR 5039 tomorrow in Room 526-S. Chair Sebelius adjourned the meeting.

Monday, February 10, 1992

HCR 5039

PROPOSERS

Representative Robert Miller, House Minority Leader, Kansas
Rob Gaskell, Chairman of People Against Casinos, Horton, KS
Staci Charles, Co-Founder of People Against Casinos, Horton, KS
Rev. Richard Taylor, Kansans For Life At Its Best!

Written Testimony only - Ruth Picton, Brown County Silver-Haired
Legislator, Democrat Precinct Committee
Person

STATE OF KANSAS
HOUSE OF REPRESENTATIVES



ROOM 380 W, STATE CAPITOL
TOPEKA, KANSAS 66612
(913) 296-7651

REPRESENTATIVE, SIXTH DISTRICT
MIAMI COUNTY
ROUTE 2, BOX 150
LOUISBURG, KANSAS 66053

MARVIN WM. BARKIS
SPEAKER

TO: House Federal and State Affairs Committee
FROM: Speaker Marvin Wm. Barkis
RE: Establishing statutory authority for negotiating gaming compacts with Native American Tribes
DATE: February 10, 1992

I request that the Federal and State Affairs Committee introduce a bill that addresses the question, "Who is authorized to negotiate gaming compacts with Native American tribal organizations?"

Federal law requires the state to negotiate.
The Governor fulfilled that responsibility only to be criticized for doing so. It appears clarification is necessary.

I would request that you begin with a plan modeled after the Minnesota law, which designates the Governor or her representatives, with the state attorney general as counsel, as the office charged with the negotiation responsibility.

We need to resolve this issue. To this point the state has acted in accord with the federal mandate for good-faith negotiation, and has done so in a manner that has protected our state's interest.

Therefore, we are in a position to shape and be a part of whatever compact is finally approved by the federal government. If we can clarify the negotiation authority in law, we can maintain our positive position, and not sacrifice our interests to a court appointed arbitrator.

This proposal also provides for a system by which the Legislature can request input into the development of a compact, or can request the renegotiation of a compact.

It is imperative that this proposal be considered. The Native American Nations must get a clear signal as to whom they must approach for negotiations, and the Governor of the state of Kansas must get a clear signal from this Legislature.

*House Federal & State Affairs
February 10, 1992
Attachment # 1*

M N

§ 3.922

LEGISLATURE

Laws 1983, c. 301, § 59, inserted sentence of subd. 5 providing that all employees are in the unclassified service.

Laws 1983, c. 260, substituted "council" for "intertribal board" throughout the section.

1986 Amendments. Laws 1986, c. 344, in subd. 5, inserted three sentences regarding power to contract, approval of contracts, and application and receipt of grants and gifts of money.

Laws 1986, c. 444, removed gender specific references applicable to human beings throughout Minn.Stats. by adopting by reference proposed amendments for such revision prepared by the revisor of statutes pursuant to Laws 1984, c. 480, § 21, and certified and filed with the secretary of state on Jan. 24, 1986. Section 3 of Laws 1986, c. 444, provides that the amendments "do not change the substance of the statutes amended."

1987 Legislation

Laws 1987, c. 186 in subd. 1 pursuant to a revisor's instruction substituted "commissioner" for "executive director" in reference to the head of the housing finance agency. This revisor's instruction provided that no substantive change is intended by the substitution of terms.

Laws 1987, c. 312, art. 1 in subd. 1 pursuant to a revisor's instruction changed the reference to commissioner of energy and economic development to the commissioner of trade and economic development.

Laws 1987, c. 375 added pars. (14), (15), and (16) in subd. 6.

1988 Legislation

Laws 1988, c. 469, art. 1 was contained in a revisor's bill which by its title purported to remove redundant and obsolete language, to simplify grammar and syntax, and to improve language style without causing changes in meaning.

Laws 1988, c. 629, §§ 1, 2, added the last sentence of subds. 3 and 8, relating to the expiration date of the council.

3.9221. Indian tribes; compacts to be negotiated

Subdivision 1. Definition. For purposes of this section, "act" means the Indian gaming regulatory act, Public Law Number 100-497,¹ and future amendments to it.

Subd. 2. Negotiations authorized. The governor or the governor's designated representatives shall, pursuant to section 11 of the act,² negotiate in good faith a tribal-state compact regulating the conduct of class III gambling, as defined in section 4 of the act,³ on Indian lands of a tribe requesting negotiations. The agreement may include any provision authorized under section 11(d)(3)(C) of the act. The attorney general is the legal counsel for the governor or the governor's representatives in regard to negotiating a compact under this section.

Subd. 3. Time limits. (a) In the case of negotiations undertaken pursuant to a request for negotiations received before April 20, 1989, the authority granted under subdivision 2 to negotiate with an Indian tribe expires 180 days after April 20, 1989.

(b) In the case of negotiations undertaken pursuant to a request for negotiations received after April 20, 1989, the authority granted under subdivision 2 to negotiate with an Indian tribe expires 180 days after receipt of the request by the governor.

Laws 1988, c. 689, art. 2, § 1, added clause (17), relating to out-of-home placement of Indian children, to subd. 6.

1989 Legislation

Laws 1989, c. 209, was a revisor's instruction correcting erroneous, ambiguous, and omitted text and obsolete references; eliminating certain redundant, conflicting, and superseded provisions; and making miscellaneous technical corrections to statutes and other laws. Article 1, § 52 repealed Laws 1976, c. 134, § 2, which had amended § 3.922, subd. 2, before Laws 1976, c. 314, § 1 rewrote the section, and Art. 1, § 53 amended Laws 1976, c. 134, § 79 by removing § 3.922, subd. 3 from the list of sections to be repealed (see main volume Historical Note).

1991 Legislation

The 1991 amendment in subds. 3 and 8 deleted a concluding sentence which provided that the council expires on June 30, 1993.

Cross References

Archaeological or historic sites, review by Indian affairs council, see § 138.40.

Financial information in applications regarding Indian business development loan programs, private data, see § 13.761.

State archaeologist, appointment, consultation with Indian affairs council, see § 138.35.

United States Supreme Court

Indian Civil Rights Act, actions against tribe or tribal officers, see Santa Clara Pueblo v. Martinez, 1978, 98 S.Ct. 1670, 436 U.S. 49, 56 L.Ed.2d 106.

Indian Provisional Courts, criminal jurisdiction over non-Indians, see Oliphant v. Suquamish Indian Tribe, 1978, 98 S.Ct. 1011, 435 U.S. 191, 55 L.Ed.2d 209, on remand 573 F.2d 1137.

Navajo Indian Tribe, prosecution under tribal code and federal law, double jeopardy, see United States v. Wheeler, 1978, 98 S.Ct. 1079, 435 U.S. 313, 55 L.Ed.2d 303.

LEGISLATURE

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LEGISLATURE

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nal Courts, criminal jurisdiction see Oliphant v. Suquamish In- 98 S.Ct. 1011, 435 U.S. 191, 55 emand 573 F.2d 1137.

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LEGISLATURE

§ 3.9222

Subd. 4. Terms of compact; rights of parties. A compact agreed to on behalf of the state under this section must contain:

(1) a provision recognizing the right of each party to the agreement, including the legislature by joint resolution, to request that the agreement be renegotiated or replaced by a new compact, and providing the terms under which either party, including the legislature, can request a renegotiation or the negotiation of a new compact; and

(2) a provision that in the event of a request for a renegotiation or a new compact the existing compact will remain in effect until renegotiated or replaced.

Subd. 5. Report. The governor, the attorney general, and the governor's designated representatives shall report to the house and senate committees having jurisdiction over gambling regulation semiannually. This report shall contain information on compacts negotiated, and an outline of prospective negotiations.

Laws 1989, c. 44, § 1, eff. April 20, 1989. Amended by Laws 1991, c. 336, art. 2, § 1, eff. June 5, 1991.

1 25 U.S.C.A. § 2701 et seq.

2 25 U.S.C.A. § 2710.

3 25 U.S.C.A. § 2703.

Historical and Statutory Notes

1991 Legislation

The 1991 amendment added subd. 5 requiring a report to the house and senate.

COMMISSION ON ECONOMIC STATUS OF WOMEN

3.9222. Legislative commission on the economic status of women

Subdivision 1. A legislative commission is created to study and report on the economic status of women in Minnesota.

Subd. 2. The commission consists of five members of the house of representatives appointed by the speaker and five members of the senate appointed by the committee on committees. Members serve until the expiration of their legislative terms.

Subd. 3. The commission shall study all matters relating to the economic status of women in Minnesota, including:

- (1) economic security of homemakers and women in the labor force,
- (2) opportunities for education and vocational training,
- (3) employment opportunities,
- (4) the contributions of women to the economy,
- (5) women's access to benefits and services provided to citizens of this state, and
- (6) laws and business practices constituting barriers to the full participation by women in the economy.

The commission shall study also the adequacy of programs and services relating to families in Minnesota, including single-parent families and members beyond the nuclear or immediate family.

Subd. 4. The commission shall report its findings and recommendations to the governor and the legislature by December 15 of each even-numbered year and supplement its findings and recommendations by December 15 of each odd-numbered year. The report shall recommend legislation and administrative action to enable women to achieve full participation in the economy. The report shall also recommend methods to encourage the development of coordinated, interdepartmental goals and objectives and the coordination of programs, services and facilities among all state departments and public and private providers of services related to children, youth and families.

SENATE BILL No. 521

By Senators Bond, Burke, Winter, Bogina, Ehrlich, Frahm, Gaines, Hayden, D. Kerr, F. Kerr, Langworthy, Lee, McClure, Montgomery, Morris, Rock, Salisbury, Sallee, Thiessen, Vidricksen, Walker, Webb and Yost

1-23

11 AN ACT concerning gambling; prohibiting the operation of certain
12 lotteries by the Kansas lottery and providing penalties for viola-
13 tions; amending K.S.A. 21-4302 and K.S.A. 1991 Supp. 21-4306,
14 21-4307, 74-8702 and 74-8710 and repealing the existing sections.
15

16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. K.S.A. 21-4302 is hereby amended to read as follows:
18 21-4302. (1) A "bet" is a bargain in which the parties agree that,
19 dependent upon chance, one stands to win or lose something of
20 value specified in the agreement. A bet does not include:

21 (a) Bona fide business transactions which are valid under the law
22 of contracts including, but not limited to, contracts for the purchase
23 or sale at a future date of securities or other commodities, and
24 agreements to compensation for loss caused by the happening of the
25 chance including, but not limited to, contracts of indemnity or guar-
26 anty and life or health and accident insurance;

27 (b) offers of purses, prizes or premiums to the actual contestants
28 in any bona fide contest for the determination of skill, speed,
29 strength, or endurance or to the bona fide owners of animals or
30 vehicles entered in such a contest;

31 (c) a lottery as defined in this section;

32 (d) any bingo game by or for participants managed, operated or
33 conducted in accordance with the laws of the state of Kansas by an
34 organization licensed by the state of Kansas to manage, operate or
35 conduct games of bingo;

36 (e) ~~a lottery~~ any instant lottery, keno or lotto game operated by
37 the state pursuant to the Kansas lottery act; or

38 (f) any system of parimutuel wagering managed, operated and
39 conducted in accordance with the Kansas parimutuel racing act.

40 (2) A "lottery" is an enterprise wherein for a consideration the
41 participants are given an opportunity to win a prize, the award of
42 which is determined by chance. As used in this subsection, a lottery
43 does not include ~~a lottery~~ any instant lottery, keno or lotto game

1 operated by the state pursuant to the Kansas lottery act.

2 (3) "Consideration" means anything which is a commercial or
3 financial advantage to the promoter or a disadvantage to any
4 participant.

5 Mere registration without purchase of goods or services; personal
6 attendance at places or events, without payment of an admission
7 price or fee; listening to or watching radio and television programs;
8 answering the telephone or making a telephone call and acts of like
9 nature are not consideration.

10 As used in this subsection, consideration does not include:

11 (a) Sums of money paid by or for participants in any bingo game
12 managed, operated or conducted in accordance with the laws of the
13 state of Kansas by any bona fide nonprofit religious, charitable, fra-
14 ternal, educational or veteran organization licensed to manage, op-
15 erate or conduct bingo games under the laws of the state of Kansas
16 and it shall be conclusively presumed that such sums paid by or for
17 such participants were intended by such participants to be for the
18 benefit of the sponsoring organizations for the use of such sponsoring
19 organizations in furthering the purposes of such sponsoring organi-
20 zations, as set forth in the appropriate paragraphs of subsection (c)
21 or (d) of section 501 of the internal revenue code of 1986 and as
22 set forth in K.S.A. 79-4701 and amendments thereto;

23 (b) sums of money paid by or for participants in any lottery
24 *instant lottery, keno or lotto game* operated by the state pursuant
25 to the Kansas lottery act; or

26 (c) sums of money paid by or for participants in any system of
27 parimutuel wagering managed, operated and conducted in accor-
28 dance with the Kansas parimutuel racing act.

29 (4) A "gambling device" is a contrivance which for a consideration
30 affords the player an opportunity to obtain something of value, the
31 award of which is determined by chance, or any token, chip, paper,
32 receipt or other document which evidences, purports to evidence
33 or is designed to evidence participation in a lottery or the making
34 of a bet. The fact that the prize is not automatically paid by the
35 device does not affect its character as a gambling device.

36 (5) A "gambling place" is any place, room, building, vehicle, tent
37 or location which is used for any of the following: Making and settling
38 bets; receiving, holding, recording or forwarding bets or offers to
39 bet; conducting lotteries; or playing gambling devices. Evidence that
40 the place has a general reputation as a gambling place or that, at
41 or about the time in question, it was frequently visited by persons
42 known to be commercial gamblers or known as frequenters of gam-
43 bling places is admissible on the issue of whether it is a gambling

1 place.

2 Sec. 2. K.S.A. 1991 Supp. 21-4306 is hereby amended to read
3 as follows: 21-4306. (1) Dealing in gambling devices is manufacturing,
4 transferring or possessing with intent to transfer any gambling device
5 or sub-assembly or essential part thereof.

6 (2) Proof of possession of any device designed exclusively for
7 gambling purposes, which device is not set up for use or which is
8 not in a gambling place, creates a presumption of possession with
9 intent to transfer.

10 (3) Dealing in gambling devices is a class E felony.

11 (4) It shall be a defense to a prosecution under this section that
12 the gambling device is an antique slot machine and that the antique
13 slot machine was not operated for gambling purposes while in the
14 owner's or the defendant's possession. A slot machine shall be
15 deemed an antique slot machine if it was manufactured prior to the
16 year 1950.

17 (5) It shall be a defense to a prosecution under this section that
18 the gambling device or sub-assembly or essential part thereof is
19 manufactured, transferred or possessed by a manufacturer registered
20 under the federal gambling devices act of 1962 (15 U.S.C. 1171 *et*
21 *seq.*) or a transporter under contract with such manufacturer with
22 intent to transfer for use:

23 (a) By the Kansas lottery or Kansas lottery retailers *for use in*
24 *instant lottery, keno or lotto games operated by the Kansas lottery*
25 as authorized by law and rules and regulations adopted by the Kansas
26 lottery commission;

27 (b) by a licensee of the Kansas racing commission as authorized
28 by law and rules and regulations adopted by the commission; or

29 (c) in a state other than the state of Kansas.

30 Sec. 3. K.S.A. 1991 Supp. 21-4307 is hereby amended to read
31 as follows: 21-4307. (1) Possession of a gambling device is knowingly
32 possessing or having custody or control, as owner, lessee, agent,
33 employee, bailee, or otherwise, of any gambling device.

34 Possession of a gambling device is a class B misdemeanor.

35 (2) It shall be a defense to a prosecution under this section that
36 the gambling device is an antique slot machine and that the antique
37 slot machine was not operated for gambling purposes while in the
38 owner's or the defendant's possession. A slot machine shall be
39 deemed an antique slot machine if it was manufactured prior to the
40 year 1950.

41 (3) It shall be a defense to a prosecution under this section that
42 the gambling device is possessed or under custody or control of a
43 manufacturer registered under the federal gambling devices act of

1 1962 (15 U.S.C. 1171 *et seq.*) or a transporter under contract with
2 such manufacturer with intent to transfer for use:

3 (a) By the Kansas lottery or Kansas lottery retailers *for use in*
4 *instant lottery, keno or lotto games operated by the Kansas lottery*
5 as authorized by law and rules and regulations adopted by the Kansas
6 lottery commission;

7 (b) by a licensee of the Kansas racing commission as authorized
8 by law and rules and regulations adopted by the commission; or

9 (c) in a state other than the state of Kansas.

10 Sec. 4. K.S.A. 1991 Supp. 74-8702 is hereby amended to read
11 as follows: 74-8702. As used in this act, unless the context otherwise
12 requires:

13 (a) "Commission" means the Kansas lottery commission.

14 (b) "Executive director" means the executive director of the Kan-
15 sas lottery.

16 (c) "Gaming equipment" means any electric, electronic or me-
17 chanical device or other equipment unique to the Kansas lottery
18 used directly in the operation of any lottery and in the determination
19 of winners pursuant to this act.

20 (d) "Kansas lottery" means the state agency created by this act
21 to operate a lottery or lotteries pursuant to this act.

22 (e) "Lottery retailer" means any person with whom the Kansas
23 lottery has contracted to sell lottery tickets or shares, or both, to
24 the public.

25 (f) "Lottery" or "state lottery" means the lottery or lotteries op-
26 erated pursuant to this act.

27 (g) "Major procurement" means any gaming product or service,
28 including but not limited to facilities, advertising and promotional
29 services, annuity contracts, prize payment agreements, consulting
30 services, equipment, tickets and other products and services unique
31 to the Kansas lottery, but not including materials, supplies, equip-
32 ment and services common to the ordinary operations of state
33 agencies.

34 (h) "Person" means any natural person, association, corporation
35 or partnership.

36 (i) "Prize" means any prize paid directly by the Kansas lottery
37 pursuant to its rules and regulations.

38 (j) "Share" means any intangible manifestation authorized by the
39 Kansas lottery to prove participation in a lottery game.

40 (k) "Ticket" means any tangible evidence issued by the Kansas
41 lottery to prove participation in a lottery game.

42 (l) "Vendor" means any person who has entered into a major
43 procurement contract with the Kansas lottery.

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1 (m) "Returned ticket" means any ticket which was transferred to
2 a lottery retailer, which was not sold by the lottery retailer and
3 which was returned to the Kansas lottery for refund by issuance of
4 a credit or otherwise.

5 (n) "Instant lottery game" means a game that offers preprinted
6 tickets that indicate immediately whether the player has won.

7 (o) "Keno game" or "lotto game" means any game, including an
8 on-line game, in which the player selects a specified group of num-
9 bers out of a predetermined range of numbers in an attempt to
10 match numbers determined by chance.

11 (p) "On-line game" means any instant lottery, keno or lotto game
12 hooked up to a central computer via telecommunications lines.

13 Sec. 5. K.S.A. 1991 Supp. 74-8710 is hereby amended to read
14 as follows: 74-8710. The commission, upon the recommendation of
15 the executive director, shall adopt rules and regulations governing
16 the establishment and operation of a state lottery as necessary to
17 carry out the purposes of this act. Temporary rules and regulations
18 may be adopted by the commission without being subject to the
19 provisions and requirements of K.S.A. 77-415 through 77-438, and
20 amendments thereto, but shall be subject to approval by the attorney
21 general as to legality and shall be filed with the secretary of state
22 and published in the Kansas register. Temporary and permanent
23 rules and regulations may include but shall not be limited to:

24 (a) The types of lottery games to be conducted, ~~including but~~
25 ~~not limited to instant lottery, on-line and traditional~~ which shall
26 be limited to instant lottery, keno or lotto games.

27 (b) The manner of selecting the winning tickets or shares, except
28 that, if a lottery game utilizes a drawing of winning numbers, a
29 drawing among entries or a drawing among finalists, such drawings
30 shall always be open to the public and shall be recorded on both
31 video and audio tape.

32 (c) The manner of payment of prizes to the holders of winning
33 tickets or shares.

34 (d) The frequency of the drawings or selections of winning tickets
35 or shares.

36 (e) The type or types of locations at which tickets or shares may
37 be sold.

38 (f) The method or methods to be used in selling tickets or shares.

39 (g) Additional qualifications for the selection of lottery retailers
40 and the amount of application fees to be paid by each.

41 (h) The amount and method of compensation to be paid to lottery
42 retailers, including special bonuses and incentives.

43 (i) Deadlines for claims for prizes by winners of each lottery

1 game.

2 (j) Provisions for confidentiality of information submitted by ven-
3 dors pursuant to K.S.A. ~~1987~~ 1991 Supp. 74-8705, and amendments
4 thereto.

5 (k) Information required to be submitted by vendors, in addition
6 to that required by K.S.A. ~~1987~~ 1991 Supp. 74-8705, and amend-
7 ments thereto.

8 (l) The major procurement contracts or portions thereof to be
9 awarded to minority business enterprises pursuant to subsection (a)
10 of K.S.A. ~~1987~~ 1991 Supp. 74-8705, and amendments thereto, and
11 procedures for the award thereof.

12 Sec. 6. K.S.A. 21-4302 and K.S.A. 1991 Supp. 21-4306, 21-4307,
13 74-8702 and 74-8710 are hereby repealed.

14 Sec. 7. This act shall take effect and be in force and after its
15 publication in the Kansas register.

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Senate Concurrent Resolution No. 1632

By Senators Bond, Burke, Winter, Bogina, Ehrlich, Frahm, Gaines, Hayden, Kanan, F. Kerr, Langworthy, Lee, McClure, Montgomery, Morris, Oleen, Rock, Salisbury, Sallee, Thiessen, Walker, Webb and Yost

1-23

11 A PROPOSITION to amend section 3c of article 15 of the constitution
12 of the state of Kansas, relating to a state-owned and operated
13 lottery.
14

15 *Be it resolved by the Legislature of the State of Kansas, two-thirds*
16 *of the members elected (or appointed) and qualified to the Senate*
17 *and two-thirds of the members elected (or appointed) and qualified*
18 *to the House of Representatives concurring therein:*

19 Section 1. The following proposition to amend the constitution
20 of the state of Kansas shall be submitted to the qualified electors of
21 the state for their approval or rejection: Section 3c of article 15 of
22 the constitution of the state of Kansas is hereby amended to read
23 as follows:

24 "§ 3c. State-owned and operated lottery. (a) Notwithstand-
25 ing the provisions of section 3 of article 15 of the constitution
26 of the state of Kansas, the legislature may provide for a state-
27 owned and operated lottery, ~~except that such state-owned~~
28 ~~lottery shall not be operated after June 30, 1990, unless~~
29 ~~authorized to be operated after such date by a concurrent~~
30 ~~resolution approved by a majority of all of the members~~
31 ~~elected (or appointed) and qualified of each house and~~
32 ~~adopted in the 1990 regular session of the legislature. Such~~
33 ~~lottery may include only the following, as defined by law: (1)~~
34 ~~Instant lottery, keno and lotto games, and electronic or com-~~
35 ~~puterized versions of those games; and (2) if specifically au-~~
36 ~~thorized by law, video lottery games on machines that do not~~
37 ~~dispense coins, cash or tokens. The state shall whenever pos-~~
38 ~~sible provide the public information on the odds of winning a~~
39 ~~prize or prizes in a lottery game.~~

40 (b) *One-half of the net revenues derived from any state-*
41 *owned and operated lottery shall be used exclusively to fund*
42 *economic development in Kansas and the remaining one-half*
43 *shall be used exclusively for education."*

House Federal Reserve Bill 10, 1992 Oklahoma and #3

*HF § SA
2-10-92
Att. 3*

1 Sec. 2. The following statement shall be printed on the ballot
2 with the amendment as a whole:

3 *“Explanatory statement.* This amendment would limit the
4 types of lottery games that the state may conduct and would
5 require the revenues to be spent on economic development
6 and education.

7 “A vote for this proposition would limit the state lottery to
8 instant lottery, keno and lotto games and, if specifically au-
9 thorized by law, certain video lottery games and would require
10 one-half of the net revenues to be spent on economic devel-
11 opment and one-half on education.

12 “A vote against this proposition would continue to authorize
13 the legislature to allow the state lottery to conduct all types
14 of lottery games and would not require a specific use of rev-
15 enues from the state lottery.”

16 Sec. 3. This resolution, if approved by two-thirds of the members
17 elected (or appointed) and qualified to the Senate and two-thirds of
18 the members elected (or appointed) and qualified to the House of
19 Representatives, shall be entered on the journals, together with the
20 yeas and nays. The secretary of state shall cause this resolution to
21 be published as provided by law and shall cause the proposed amend-
22 ment to be submitted to the electors of the state at the general
23 election in the year 1992 unless a special election is called at a
24 sooner date by concurrent resolution of the legislature, in which
25 case it shall be submitted to the electors of the state at the special
26 election.

HF: SA
2-10-92
3-2

Testimony on HCR 5039

House Federal & State Affairs Committee

February 10, 1992

given by Representative Robert H. Miller

As Chairman of the House Committee, that drafted the constitutional amendment which was submitted to the voters in 1986 establishing the Kansas Lottery, and, as Committee Chairman the following year of the House Committee that drafted enabling legislation; as well as, a member of all the appropriate conference committees on the Kansas Lottery, I feel I have a real historical perspective on what the people of Kansas thought they were approving. During the entire time this proposal was debated, the only lotteries contemplated were the pre-printed tickets or instant Lottery and the on-line computer games. The constitutional amendment was worded so as to allow both of these as was the enabling legislation.

House Concurrent Resolution 5039 is an attempt to give the voters the opportunity to re-state that public policy position. Since 1986, the combination of Supreme Court decisions, Attorney General opinions and the enactment of federal legislation, has combined to make a substantial change in the public policy of Kansas. This policy is contrary to what the people approved in 1986.

*House Federal & State Affairs
February 10, 1992
Attachment #4*

February 11, 1992

Page two

Sponsors of this resolution had hoped that the people would have the opportunity to vote on this during the 1992 presidential primary, but since the deadline for submitting it to the people at that time has passed, I would encourage the committee to amend this resolution appropriately and submit it to the people at a later election

HC 354
2-10-92
4-2

TESTIMONY TO SENATE JUDICIARY COMMITTEE-----Monday, 2/10/92

By: Rob Gaskell, Chairman

People Against Casinos (N. E. KS ad hoc group)---P.O. Box 294
R. 1 Box 14 Hiawatha, KS 66434
Horton, KS 66439 (my address)

Home # 913-872-3280

Work # 913-872-3212

Represented by: Senate- Don Sallee
House- Joan Adam

Mr. Chairman and distinguished members of the Judiciary Committee:

HB 5039

I come today in support of ~~S.B. 521~~. Under what I would consider normal circumstances, this would indeed be highly unusual for me. I voted in 1986 not to allow the lottery to become part of daily life here in Kansas. It did, however and now it is up to all of us to deal with it. An important first step would be the approval of this bill.

As never before, the family unit as we have known it has come under attack from all quarters. At home my wife and I try to impress upon our three children that acceptable, right behavior should not be based on that which they see in their peers only.

Likewise the legislature, our elected representatives, hold a responsibility to the people of Kansas. That responsibility includes, wherever possible, the prevention of difficulties experienced in other states, such as New Jersey and Arizona, as well as California in both legalized and reservation type gambling. It is evident through various studies, excerpts of which I have looked at, show that young people far exceed older age groups in susceptibility to the often slick advertising and excitement which goes with it. These studies, conducted by compulsive and pathological gambling

*House Federal & State Affairs
February 10, 1992
Attachment # 5*

councils in New York, Minnesota, and Maryland shed much needed light on this issue. Some key points are;

- 1) There are somewhere between One and Two Million teenage gambling addicts in this country. These will likely need professional help in quitting.
- 2) St. Johns University sociologist H. Lesieur found that students were eight times more likely, in college to become addicted than adults.
- 3) When alcohol or drugs are used in conjunction with compulsive gambling, and often this is the case, that person is Three Times more likely to physically abuse his or her children.

We have witnessed locally, quite an increase in the level of violence with much of it being domestic-related. Violence in our schools nationwide has many of our teachers and administrators running for cover, or altogether too afraid to teach. One lawmaker has equated this area as being a zoo, recently. Without these new compulsive habits to feed, some additional violence could be prevented.

If Kansas is truly great, and I believe that it is; and if Kansas holds within its borders a quality of life which surpasses that of most other places, which I believe that it does; and we are proud of what Kansas stands for, we should distance ourselves from those things which tear at its very seams.

Kansas is renowned for its places of treatment in response to various ailments and conditions. We have, though, an opportunity through this bill, which I have characterized as a positive first step, not only to respond but to lead.

HF35A
2-10-92
5-2

Here is the opportune time for us to say loud and clear that this is what we as a state meant by lottery.

It is my strongly held view that given the fact lottery and pari-mutual were all which were legalized in the 1986 amendment, and I.G.R.A. still two years hence, that no one could legally assume casinos to be a possibility at the time of the statewide vote.

Please take this "step in the right direction" by approval of this bill. I respectfully thank you for kind attention, Mr. Chairman, and senators on this committee.

Sincerely,



Robert L. Gaskell

Monday, February 10, 1992
Hearing on HCR 5039
House Federal & State Affairs Committee

Rev. Richard Taylor
Kansans For Life At Its Best!

HCR 5039 comes close to what lawmakers approved and voters ratified in 1986. The amendment speaks of "a" state-owned and operated "lottery." Both are singular. The issue was a numerical lottery only. If the amendment was to approve every form of gambling, it would have addressed the issue of state-owned and operated "lotteries."

Was state-owned and operated casino gambling approved in 1986? Please see my letter to lawmakers, December 20, 1991. SHOW ME ONE LAWMAKER WHO KNEW THE 1986 AMENDMENT PERMITTED CASINO GAMBLING AND I'LL SHOW YOU A DISHONEST LAWMAKER.

Attached are two pages of A REPORT TO OUR PEOPLE.

Immediately following our time together in her office, I wrote a report of what was said and took it to her staff a few hours later. She made notes in long hand that were incorporated. The next day I took this second draft to her staff and she again made notes in long hand that were incorporated. I was then told it was satisfactory.

She looked this report over twice and never questioned her response to question 2. Now the media reports she is saying voters in 1986 knew the constitutional amendment would permit state-owned and operated casinos.

If casinos had been mentioned just once when the amendment was debated in the legislature or if casinos had been mentioned just once in the news media, would the amendment have passed? Voters in Ohio and Alaska rejected casino gambling. The city of Detroit has rejected casino gambling three times! Kansans have never voted on casino gambling.

Kansas founding mothers and fathers came from other states. They knew first hand the personal, social, and economic damage caused by gambling. They wanted Kansans to enjoy freedom from this criminal activity so they included in our 1861 constitution LOTTERIES AND THE SALE OF LOTTERY TICKETS ARE FOREVER PROHIBITED.

Persons who refuse to learn from history are doomed to commit the same mistakes again.

We do not want more people losing more money to make rich those who promote this criminal activity. One year ago concerned citizens were thankful the Senate soundly rejected riverboat casino gambling, long before casinos were promoted by Native Americans.

If casino gambling in Kansas brings economic development, what is holding back the legislature? Pass legislation for casinos in the Topeka Industrial Park north of the river. Worker productivity at Goodyear will increase as workers hit the casinos going and coming from work. The state can take all the money.

Let our long time leaders in sound economic development, Boeing-Cessna-Lear Jet-Beech, invest in casinos at Wichita and give a big boost to economic development. Why all the fuss with Indian casinos? Let casinos be built at Goodland, Garden City, Salina, Hays, Pittsburg, Kansas City, and Lawrence. There are now 11 casinos all over Minnesota and more to be opened. Indians may buy land anywhere in Kansas and open casinos.

If casino gambling brings economic development, let the legislature get on with it. TO THE STARS THROUGH GAMBLING! We can easily update our state seal.

Those who believe more people losing more money is good for economic development do not understand the economics of gambling.

Respectfully yours,

Richard Taylor
Attachment # 6

House Federal & State Affairs Committee February 10, 1992

Is it right for casino gambling to come to Kansas without a vote of the people?

Is it right for the Attorney General and the Governor to go all out promoting casino gambling and never question if it should first be knowingly approved by the people? Because "state-owned and operated lottery" technically includes all forms of gambling, our Attorney General and Governor claim state-owned and operated casinos are legal.

Did the Revisor of Statutes office in 1986 know the constitutional amendment approved STATE-OWNED AND OPERATED CASINOS? If so, who did they tell?

Did one reporter in 1986 tell one newspaper that the constitutional amendment approved STATE-OWNED AND OPERATED CASINOS?

Did one lawmaker in 1986 know the constitutional amendment approved STATE-OWNED AND OPERATED CASINOS? If so, who was that lawmaker?

Did the Attorney General in 1986 know the constitutional amendment approved STATE-OWNED AND OPERATED CASINOS? If so, why was he silent?

Did the Governor in 1986 know the constitutional amendment approved STATE-OWNED AND OPERATED CASINOS? Was he ignorant of that fact?

686

Last Summer I found this in Black's Law Dictionary, Sixth Edition, 1990.

Genoese lottery /jənowiyz lóteri/. Also known as the "numerical" lottery. As distinguished from the "class" lottery (see the title Dutch lottery), it is a scheme by which, out of 90 consecutive numbers, five are to be selected or drawn by lot. The players have fixed on certain numbers, wagering that one, two, or more of them will be drawn among the five, or that they will appear in a certain order.

This sounds close to what Kansas lawmakers and voters understood when the word "lottery" was used in 1986. News stories promoted what was a "numerical" lottery.

For those who love Kansas more than they love casino gambling, do we have these options?

1. Let our state-owned and operated lottery die an unmourned death in 1992. The Indian Gaming Regulatory Act permits every form of gambling on Indian lands located in any state which "permits such gaming." If STATE-OWNED AND OPERATED CASINOS are no longer legal in Kansas, can they be permitted on Indian land?

2. Take the issue to the Kansas Supreme Court. The Court has ruled many times that constitutional provisions are restricted to permitting that which conforms with the common understanding of the masses when they adopted the amendment.

VOL. 225

JULY TERM, 1978

21

State ex rel. Schneider v. Kennedy

Courts do not strike down legislative enactments on the mere ground they fail to conform with a strictly legalistic definition on technically correct interpretation of constitutional provisions. The test is rather whether the legislation conforms with the common understanding of the masses at the time they adopted such provisions and the presumption is in favor of the natural and popular meaning in which the words were understood by the adopters. *Hunt v. Eddy*, 150 Kan. at 2, Syl. ¶ 6; *Leek v. Theis*, 217 Kan. at 793; *State, ex rel., v. Highwood Service, Inc.*, 205 Kan. 821, 825, 473 P.2d 97 (1970); *Wall v. Harrison*, 201 Kan. 600, 603, 443 P.2d 266 (1968); *Higgins v. Cardinal Manufacturing Co.*, 188 Kan. 11, 360 P.2d 456 (1961).

Do you think these are valid options? Can you support these options? Do you love Kansas more than gambling revenue?

Respectfully yours,
Richard Taylor

HF 35A
2-10-92
6-2

(Governor Finney read this and said it is accurate.)
A REPORT TO OUR PEOPLE

On December 27, 1991, at 10:45 A.M. Governor Finney honored me with some time in her office to talk about an issue that is of great concern to those who love Kansas more than they love gambling revenue. Each had the boxed in questions below. I would read a question and write down her remarks on a yellow pad. Both of us made many comments recorded on the second page of this report. Back at my office, a rough draft was immediately typed and a copy taken to her office. She made notes in long hand of suggested corrections that are incorporated in this final report. My wife and I voted for her and asked others to do the same. Now thousands of us want to know why she is a leading promoter of more gambling. We asked:

1. Why did our 1861 Constitution include LOTTERIES AND THE SALE OF LOTTERY TICKETS ARE FOREVER PROHIBITED?
2. Because lottery includes every form of gambling, our Attorney General has declared that casino gambling was approved in 1986. An Attorney General opinion is just that - an opinion. Only the Supreme Court can make that decision. Do you know of one person who believed casino gambling was being approved in 1986?
3. Is it right for casino gambling to come to Kansas without being knowingly approved by "the masses" when they voted?
4. Will you support laws that cause youth to become addicted gamblers?
5. According to the Wall Street Journal, "if the gambling enterprise is to survive and prosper," many people must lose a lot of money day after day. When more people lose more money, how does that help economic development? (KPERS losses help economic development?)
6. Many people equate the word RISK and GAMBLE. Do you see any difference in the meaning of these two words?
7. Should you as the Governor of Kansas, inform the Indians of the following?
 - A. The legislature may sunset our STATE-OWNED AND OPERATED LOTTERY. STATE-OWNED AND OPERATED CASINOS would no longer be legal in Kansas.
 - B. The Supreme Court may declare casino gambling was not included in the 1986 vote because that was not "the common understanding of the masses at the time they adopted" the constitutional amendment.
 - C. According to guidelines by the National Indian Gaming Commission, tribal gambling halls may include slot-type machines only if they are authorized in "compacts" negotiated with their states. Our legislature may not approve Indian slot machines.
8. The Indian Gaming Regulatory Act permits every form of gambling on Indian lands located in any state which "permits such gaming." Is it right for you to not question the legality of casino gambling in Kansas and permit Indian leaders to proceed day after day as if casino gambling is and will always be legal on Kansas Reservations?

Responses Governor Finney

1. "Times have changed." 2. "No." 3. "That is a legal question."
4. "That is a leading question." (It was here she said, "I will not allow you to trip me up." I said "I am not trying to trip you up." She said, "Oh yes you are.")
5. "You are so far out, Reverend. Gambling is recreation. This has nothing to do with KPER's - and you know it!" (I had said if lots of people losing lots of money is good for economic development, we should be thankful for the KPERS and S&L mess. Firmly with a smile, she gave the above response.)
6. "No." 7A. "Yes." 7B. "No." 7C. "Yes."
8. "That is a legal question for the Attorney General and the courts."

he then said her support for more gambling is purely from an economic point of view. We need the revenue. She said the people have approved legal gambling and she will promote it. Whatever the people approve, she will do.

I then told her a group of us at the White House attending a briefing on drinking and driving heard President Bush say we must teach youth that choices have consequences. I pointed out the last WHEREAS of the Resolution. She said, "Yes, and a decision not to support more gambling has consequences - children will be hurt, families will be hurt because we need the revenue." I said, "You mean more gambling will not hurt youth and families?" (See WHEREAS at end of this report.)

I asked "Where does gambling revenue come from? Does it not come from people who lose?" She would not acknowledge that gambling revenue comes from people who lose.

She said over and over she supports more gambling because we need the revenue. I said end the lottery, replace it with a one-tenth cent sales tax, and the state would have the same amount of revenue to distribute.

She said, "Increase the sales tax on baby food?" I said NO, take the sales tax off all food but increase it from 4.25¢ to 4.35¢ on the dollar, one penny on a ten dollar purchase, OR increase any tax by \$21 million to replace lottery revenue and you will reduce the tax burden on Kansans by \$63 million not spent for lottery tickets. \$84 million revenue must be collected from the sale of lottery tickets for the state to have 21 million ADDITIONAL dollars for state agencies. (30% less 5% sales tax not collected means only 25% of lottery ticket sales is additional money)

This conversation took place as she walked with me out of her office, by the desks of her staff, and into the lobby where Lew Ferguson of the Associated Press was waiting for the next interview. In Lew's front page AP story the next day, she said "In this office my duty, as I see it, is to propose legislation and then sign off or veto it in the interest of the state as a whole." We agree.

I hope she was not angry with me. She called them "leading questions." All I wanted was the truth. As an old mechanical engineer, we deal in logic and facts.

The choice of politicians to promote laws that encourage more people to lose more money have consequences. Lawmakers who claim their YES or NO vote on gambling laws has no effect on the number of compulsive gamblers have run from reality and are not honest.

The following is the last WHEREAS of a Resolution hundreds of concerned Kansans are mailing to their Representative and Senator, asking them to let the lottery die an unmourned death in 1992. With it is a full page from TIME, February 25, 1991, where researchers point out that more gambling such as state lotteries and video slot machines promoted by state governments is sending a message to youth that this is "a normal form of entertainment" and "unless we wake up soon to gambling's darker side, we're going to have a whole new generation lost to this addiciton."

"WHEREAS, Lawmakers must acknowledge that choices have consequences and their choice to vote YES and continue the lottery will send a message to youth that this is a normal form of entertainment, causing Kansas teenagers to become addicted gamblers. The economic strength of this nation depends on youth who believe education and hard work are needed to make money the old fashioned way - earn it."

She is our Governor. Many of us voted for her. We respect her. Her task is not easy. No matter what she does, some will praise her and some will condemn her.

We have never questioned her courage. She takes a stand and holds fast even if her own democrat legislative leaders oppose her.

We are saddened by her all out support for more gambling in Kansas, but we will continue to work with her and pray she will have the wisdom to do what is truly best for Kansas.

Dick Taylor

Rev. Richard E. Taylor, Jr. President
KANSANS FOR LIFE AT ITS BEST!
Box 888, Topeka, Kansas 66601

HFSSA
2-10-92
6-4

Senate considers riverboat betting

University Daily Kansan, Lawrence, 17 April 91

Bill would legalize riverboat gambling

By Joe Gose

Kansan staff writer

If riverboat gambling had been legal in Kansas in the early 1800s

opportunities to neighboring Missouri," he said. "This legislation provides yet another opportunity for Kansas to take the lead when it is

Kansas Senate defeats riverboat gambling

Kansas City Star May 3, 1991

Measure is dead for this year. Backers had hoped it would help the economy, tourism in KCK.

By SCOTT CANON

Mid-America Correspondent

TOPEKA — Efforts to revive the Kansas City, Kan., economy

At one point during the voting Thursday, the proposal had the support of 16 senators. Ten of those abandoned the bill, how-

The push for riverboat betting sparks an outcry from opponents of legalized gambling.

"When economic development depends on swindling people, we've got a mighty sick society," said the Rev. Richard Taylor Jr., who heads Kansans for Life at Its Best!

Added Taylor, who lobbies against legal betting and drinking in Kansas: "Revenue from gambling is about the stupidest thing anyone can come up with. It's a drain on society."

But the Rev. Richard Taylor, president of Kansans for Life at its Best!, said he strongly opposed the bill. "The issue is not economic development, revenue or travel and tourism," he said. "Gambling is payment for a chance to steal wealth from others. The issue is more people losing money to gambling operators."

riverboat gambling would not give up a fight began years ago.

"Another time will come," Sen. John Strick, a Kansas

Riverboat gambling is bonanza

TOPEKA (AP) — Department of Commerce officials warned senators today that Kansas will miss the boat if riverboat gambling is not allowed in the state.

Kansas City officials also praised riverboat gambling, saying it could bring more than \$4 million in revenue to the state.

Only one opponent of the bill joined the officials in testimony before the Senate Federal and State Affairs Committee, which is considering a riverboat gambling bill. (McPherson Sentinel, April 9, 1991)

The Rev. Richard Taylor, president of Kansans for Life at Its Best, the state's temperance and anti-gambling organization, said people who believe gambling will help the state are living in fool's paradise — a state of illusory happiness.

The bill under consideration by the committee would allow games such as baccarat, poker, craps, and 21 to be played on riverboats operated on Kansas rivers, especially the Missouri and Kansas rivers in the Kansas City area. The

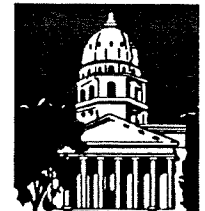
risk the loss of money to neighboring states.

Riverboat gambling bill sinks

Hays Daily News 5-3-91

TOPEKA (AP) — A bill that would have allowed riverboat gambling in Kansas sank like the Titanic, with Senators who initially supported the measure scrambling for life jackets.

The bill went down 6-33



Bill — Authorized the Kansas Lottery to run gambling operations on boats docking in Kansas City, Kan.

Supporters promised at least \$11 million a year to the state from riverboat gambling.

Only one person, the Rev. Richard Taylor of Kansans For Life At Its Best!, argued that gambling eventually would corrupt the Kansas City area.

"Legal prostitution would raise revenue and attract tourists," he said. "That does not make it right."

Sen. Ed Reilly, a Leavenworth Republican and an advocate of more legalized gambling, said that

HF 3 SA
2-10-92
6-5

KANSANS FOR LIFE AT ITS BEST!

Rev. Richard Taylor, Box 888, Topeka, Kansas 66601

Phone (913) 235-1866 Office 1273 Harrison
(3 Blocks South of Statehouse)

September 9, 1991



A Proud Land

Mr. Steve Cadue, Chrm.
Kickapoo of Kansas Tribal Council
PO Box 271
Horton, KS 66439

Dear Mr. Cadue,

It is with a heavy heart that this letter is written. An Indian Tribal leader in Oklahoma indicated strong opposition to commercial gambling, saying it sent the wrong message to youth. I had hoped you would share that concern.

Stealing is taking from others. Under law, gambling has three elements: (1) PAYMENT for a (2) CHANCE to (3) TAKE from others.

As explained in the Wall Street Journal, "gambling is technically a swindle: the payoffs on bets must be less than fair, and the overwhelming majority of the 'investors' must eventually lose their money, if the gambling enterprise is to survive and prosper."

The bottom line for a successful gambling enterprise is for more people to lose more money. If lots of people losing lots of money is good for Kansas, the KPERS and S&L mess is great for economic development.

The Kansas Supreme Court has held that "lottery" includes all forms of gambling. The 1986 constitutional amendment approved by lawmakers and by the people permits STATE OWNED AND OPERATED LOTTERY gambling in Kansas.

But in 1986, those working for more commercial gambling in Kansas promoted a ticket money lottery as in other states, when they encouraged lawmakers and the people to vote YES. When and where was it said that a YES vote would include Las Vegas casino gambling on a riverboat or in Wichita or on your Reservation?

Mr. Stephan should have told you the "Courts do not strike down legislative enactments on the mere ground they fail to conform with a strictly legalistic definition on technically correct interpretation of constitutional provisions. The test is rather whether the legislation conforms with the common understanding of the masses at the time they adopted such provisions and the presumption is in favor of the natural and popular meaning in which the words were understood by the adopters."

An Attorney General's opinion is just that - nothing more. Only the Kansas Supreme Court can determine "the natural and popular meaning in which the words were understood by the adopters."

Every informed person knows that Atlantic City is an economic and social disaster. The poor are poorer, crime has skyrocketed, and some casinos are bankrupt. Concerned citizens do not want an "Atlantic City" in Kansas.

"Of our political revolution of 1776 we are all justly proud," said Abraham Lincoln on Washington's birthday in 1842. He went on to say "how proud the title of that land" where persons declare their freedom from alcoholic beverages because they "shall find a stronger bondage broken, a viler slavery manumitted, a greater tyrant deposed - perfect liberty!" With per-person consumption at nearly half the national average, thousands of Kansans enjoy that perfect liberty. Concerned users and non-users are united in this R-E-A-L effort to prevent alcoholism, highway tragedy, and other suffering caused by our most abused recreational drug.

- Rehabilitation Help alcohol-dependent persons adjust to life without the drug
- Education Inform children, youth & adults of effect of alcohol on mind & body
- Amount Encourage persons to be non-users and encourage users to use less
- Law Pass and enforce laws that reduce consumption and suffering

HF3 SA
2-10-92
6-6

Las Vegas is successful because the city is full of economic blood suckers. The life blood of this nation is the Gross National Product. Casinos are rich in Las Vegas because they suck GNP wealth out of other states. If every city in every state had casino gambling, Las Vegas would be just another city.

The Mayor of Las Vegas told visitors to remember "all of these plush hotels and casinos around here were built by people like you - with your gambling losses. Very few of our permanent residents gamble. They couldn't afford to live here if they did."

How wonderful it would be if native Americans would promote an industry that would add to the GNP, that would teach youth that reward follows effort, that would produce something of value for others rather than trying to take from others what has been produced by brain and brawn.

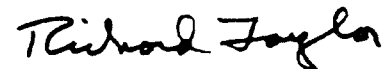
Southern slave owners practiced this gambling mentality. "You sweat and toil, and I'll live off the fruit of your labor." That is the philosophy of casino operators in Las Vegas and Atlantic City. Is that what you want for your people?

"Yet for the past decade, in state after state, citizens have eagerly welcomed not only legalization but government sponsorship of gambling, an activity that was once generally regarded as a vice and that many experts consider as addictive and socially destructive as narcotics." FINANCIAL WORLD, March 5, 1990

Indians and white people have great problems with addiction to alcohol and other drugs today. Do we need another addiction problem tomorrow?

Like the black man, the native American has plenty of reasons to hate the white man. But how wonderful it would be if native Americans were smarter than white men now promoting slavery to gambling. It would be good if you shared the concern of the tribal leader in Oklahoma and Indians in the east who hate casino gambling because of what it does to your people.

Respectfully yours,



Rev. Richard Taylor

RET:lb

HF35A
2-10-92
6-7

February 10, 1992

My name is Staci Charles. I live in Hiawatha with my husband and two children ages 5½ and 4. Before we had children I had the privilege of teaching third grade students for 5 years in the Sabetha School District. I have always loved children and teaching. In High School I taught dancing at home in the basement which my parents remodeled to make a studio. Through college I taught swimming lessons and spent one summer counseling at an athletic camp and one summer coaching The Sabetha Swim Team. I have been a Sunday School teacher and the director of the Vacation Bible School in our local church. I volunteer my time once a week at the Hiawatha Elementary School. I chose to postpone my teaching career and much needed paycheck in order to stay home and be the one with the greatest amount of influence in our young children's lives. We want to pass on the traditional values which our parents gave us that have helped us be happy and successful in life. We feel that Kansas is one of the best places in the United States to raise a family: We do not take our rich heritage for granted.

There are givers and there are takers in our society. I represent the many parents in Kansas who are giving their utmost to insure the next generation of Kansans are responsible citizens ready to lead this nation forward. The takers are those who wish to use people at any cost for

House Federal & State Affairs

February 10, 1992

Attachment #7

their own financial gain. As a parent I'm finding it increasingly difficult to raise a family without being bombarded by the takers at every turn. The liquor retailers wanted to make money, so we scrape the bodies of innocent children off our highways every year. The tobacco industry wishes to make money and now studies show that second hand smoke does increase a child's chances of contracting lung cancer. Publishers of pornographic magazines make a lot of money so child pornography, abuse, rape, incest and murder are at an all-time high. Our federal government needs more and more money to pay for the federal deficit which taxes a families income to the point where both parents need to work leaving some children neglected or dumped at over-burdened "day care" facilities. As a teacher I saw the increasing number of neglected children with low self-esteem. Schools are struggling to teach more children with behavioral disorders because many parents have too many problems of their own to attend to their children's needs. Because the takers put their own personal pleasures before the best interests of society, the AIDS virus and teenage pregnancy are so rampant that schools feel obligated to distribute condoms. I could go on but the list is too long. In short, the takers have created more than enough problems for society, and it's past time to say NO MORE.

Now the profiteers in Hiawatha, together with the Kickapoo Tribal Chairman, wish to use a loop-hole in the

HFSSA
2-10-92
7-2

Constitutional Amendment vote of 1986 which allows a state-owned and operated lottery to bring a casino to our area. The Federal Indian Gaming Act of 1988 does allow tribes to operate all forms of gambling approved by that state, but Kansans have not approved of casinos. If voters did approve of every form of class III gambling, why can't any citizen open up a casino? Why does Ralph Decker need to come seeking a bill to approve the slot machines which gambling promoters euphemistically labeled "Video Lottery"? It is not right that Kansas voters lose the intent of their vote because of a federal act which came along two years later.

What kind of Kansas will we leave our children if we add casino gambling to the list of social ills? According to the National Council on Problem Gambling, compulsive gamblers are twice as likely to be physically abusive to their children, three times as likely when drugs or alcohol are used. 17% of compulsive gamblers attempt suicide, and 67% of the total household debt is attributed to gambling.

The consequence of compulsive gambling is crime. Forgery, theft, fraud, embezzlement, drug dealing and prostitution are the most common types of crime committed by pathological gamblers. Studies show that up to 80% of compulsive gamblers resort to crime to fund their gambling habit. Society as a whole pays for compulsive gambling through

costs of arrest, prosecution, probation, parole, imprisonment, state-funded treatment programs such as Gam-Anon, and higher insurance rates, to name a few.

Some say Kansas ought to welcome the chance to become like the "progressive" states which have casino gambling. No thanks. I think of a much-read Oxford professor named C.S. Lewis who wrote about true progress. He explains that when one finds he has made a wrong turn down a road, progress cannot be made until he turns around and goes back to the place where the mistake was made. Indeed, if one continues down the wrong road, he becomes more and more lost and regresses with each advance. Progress will not be made in Kansas by turning down the gambling road. Why not be different from other states who promote gambling and keep Kansas a clean and safe place to live? Good economic development could come as industries from other states search for employees with strong work ethics and find those kind of people in Kansas.

Shortly after my husband and I made a public stand against the casino planned for our town, I received an anonymous hate letter. In it the writer ridiculed me for choosing to stay home with our children. "You don't even have a job...you are just a mother - what do you know?" and, "why don't you just fade into the woodwork?" were some of the comments. Those who hope to profit from a casino would like

all us dumb family people to just leave town, or else hand our children over to them so they can make another buck. I'm proud to be a mother at home. Raising two toddlers is the hardest job I've undertaken and I've learned more from raising our children than I learned in 4 years of studying Elementary Education at the University. Soon we will celebrate the birthdays of two of Americas greatest men. They were trained to be leaders by their mothers. When we remember George Washington, we should honor his mother as one of the most influential women in our history. If more profiteers continue to disrespect the proud profession of raising children into responsible citizens, there won't be anyone left to lead our country. Are we going to go down the road to fast money for a few no matter how many lives will be ruined, or are we going to turn back to the place where we made the first mistake and find our way to true progress for Kansas?

I beg you to think of the families raising children when you vote on ~~Senate Bill 521~~ ^{H.C.R. 5039}. Narrowly defining the lottery would be the first step towards insuring that the people of Kansas get that which they intended to adopt in the lottery vote of 1986.

February 10, 1992

I am Ruth Picton, Hiawatha, Kansas, Route 3.

My Grandfather came to Kansas in the 1860's - a civil engineer who helped to lay out the first railroad into Northeast Kansas and across Brown County. In order to make this a better place to live. He then went back home and married his sweetheart, bringing her back to Brown County to live.

They put their hands to the plow and turned under the sod. Grandfather passed a petition to lay out a school in our community. They then purchased a farm (The farm on which I now live) and raised a family. My father then married my mother. She taught school and gave music lessons at our local school. All to make this a better place to live.

I am chairman of the Brown County Services for the Elderly Board, I am on the Northeast Kansas Area on Aging Board, and I am the Silver Haired Legislator for Brown County. I have been a 4-H Club leader, a Sunday School teacher, and the Democratic Committee woman for Hamlin Township. My husband served on School Boards, my father was on School Boards, and my brother served on School Boards; all to make this a better place to live.

Now, at our back door, the Kickapoo leaders propose to build a casino which would be just over a mile from our High School. God Forbid! Has all our hard work been for naught? I do not believe the Kickapoo children's ancestors would have wished this for their people either.

*House Federal & State Affairs
February 10, 1992
Attachment # 8*

I now have Great Grandchildren. I would like for them to learn the work ethic which made this state great. I want them to get a good education, and to have high goals. We do not need or want gambling, drugs, and crime in our community or in the state of Kansas.

Please! Help us to have a good place to live and raise our families.

HF 35A
6-10-92
8-2

From Brown County we have produced. Spawning Ground

Dr Gene Heise Phd. Bacteriology Atlanta

Dr David Byer at Mayo's Rochester, Minnesota

Dr Elmer Hinton Heart Specialist Boston

Dr M^c Coy Topeka Orthopedics

Dr Maurice Cashman Topeka Internal Medicine

Dr Joe Meek K. U. Med. Center

Dr Schroff. Topeka

Dr Dirk Moyer Boston Urologist

Dr Bossee Florida

Dr Robert Hinton Phd. Chemical Engineering

Dr Agnes Hinton Phd. Bacteriology Cancer Research

Dr Arnold Dowell Omaha

Dr Thomas Duckitt Kansas City ~~Optimologist~~
~~Psychologist~~
~~Phd~~

Judge ^{Bob} Deenon Topeka.

Bernard Rogers Chief of Staff for the Armed Services

Clarence Dimmock attorney at Law associated with
John Foster Dulles. New York.

Lt General Keith Snyder, Airforce, Pentagon

Dr Robert Evans, Florida

and I could go on and on. with Nurses, Lawyers

etc.

Could our area become polluted so we can not produce greatness.

opinion would pollute our Children's Future
Pollute

~~Alonzo's Lambertson's son an Ambassador~~
~~Raymond Sunderland's son~~

Eric Dussing Teacher K.U.

Dr Barbara Lubert K.U. Med Center

Jack Weaver Chicago Board of Trade

Dr. David Lambertson Ambassador ~~Tailand~~ Thailand

Dr. Lane Sunderland Ph.D. Political Science
National Education Chairman of the
Bi-Centennial Constitution

HF:SA
2/10/92
8-4

Prairie Band of Potawatomi Indians

Route 2, Box 50A
MAYETTA, KANSAS 66509
913 966-2255

TESTIMONY OF GEORGE WAHQUAHBOSHKUK, CHAIRMAN

PRAIRIE BAND OF POTAWATOMI INDIANS

BEFORE THE

KANSAS STATE LEGISLATURE

FEBRUARY 10, 1992

Good afternoon. My name is George Wahquahboshkuk and I am the Chairman of the Prairie Band of Potawatomi. On behalf of our Tribal Council and Tribal Members I would like to thank you for this opportunity to present our concerns.

As Chairman of the Potawatomi Tribe one of my paramount duties is and has been to undertake efforts to improve the quality of life for all members of the Potawatomi Tribe. Currently, the Tribe has an unemployment rate in excess of 65%, and the majority of our people have incomes below the poverty line. As you can imagine,

Testimony of George Wahquahboshkuk, Chairman
Prairie Band of Potawatomi Indians
February 10, 1992
Page 1

*House Federal & State Affairs
February 10, 1992
attachment # 9*

these two facts alone create a multitude of serious social and economic problems. Since taking office, each of the members of our Tribal Council has worked diligently to find solutions to these problems. Toward this end, we have focused our attention on seeking out and implementing programs designed to better educate our children, create jobs for our people and improve our on-reservation economy. Unfortunately, because we have no real tax base, we have been forced to limit our efforts in each of these key areas.

In the early 1980's my tribe, as well as numerous other tribes throughout the United States, began to explore the possibility of creating gaming enterprises to fund many of the programs that neither the federal government nor the state could afford to provide. Recognizing that gaming was a clear avenue for promoting tribal economic development, tribal self-sufficiency and strong tribal government, Congress, in 1988, enacted the Federal Indian Gaming Regulatory Act (IGRA) which authorizes tribes to operate bingo and other similar forms of gaming without state interference, and authorizes states and tribes to enter into compacts to provide for the operation and regulation of more sophisticated forms of gaming.

Under the provisions of the IGRA, tribes are required to implement numerous regulatory protections. For example: all gaming must be operated pursuant to a tribal ordinance approved by the federal government, background checks are required on all key gaming employees, independent audits must be done on all gaming revenue and the

monies generated from the gaming enterprise must be used to enhance tribal programs and services.

Currently some 23 tribes operate gaming casinos under State/Tribal Compacts. In each case, the tribe involved has seen radical decreases in its unemployment, and substantial increases in the number and quality of the services that it is able to provide to its community. In no instance has Organized Crime or other negative outside influence been found to have infiltrated those games.

A study of those 23 other tribal gaming enterprises will also show that the non-Indian populations living near those reservations have also benefitted from the establishment of those tribal gaming businesses. Restaurants which used to close at 6 p.m. are now open later, hotel occupancy in those areas has increased substantially, and stores and gas stations in the areas are doing a bigger business than ever anticipated. Because unemployment is decreased, welfare dependency is down as more people are able to support their families without federal or state assistance.

The Prairie Band of Potawatomi Indians has spent over three years studying the possibility of seeking a gaming compact with the State of Kansas, and we have concluded that we clearly wish to do so. We have been operating a successful tribal bingo operation for a number of years, and while we have had some minor management

Testimony of George Wahquahboshkuk, Chairman
Prairie Band of Potawatomi Indians
February 10, 1992
Page 3

HF 35A
2-10-92
9-3

problems of the type which are typical to all new businesses, we have proven that we have the capability to operate a gaming enterprise in a responsible and prudent manner which protects the interests of the Tribe, the State and the general public.

We are now prepared to present to the State what we believe to be a very reasonable and sound compact proposal. If agreed to, this proposal will create hundreds of jobs both on and off the Reservation, and quadruple the number of dollars we can expend on services to our people.

Since we currently have few stores, lumber yards, automobile dealerships, office supply companies or the like on our Reservation, we will be going off the Reservation to procure these items, greatly increasing the profits of these neighboring businesses. We will also be able to offer more scholarships to our members at Kansas-based Universities, hire more Kansas-based companies to improve our roads, and contract with more Kansas-based businesses for other goods and services. Thus, everyone in our area will benefit, especially, those businesses in and around the Topeka Area.

Unfortunately, we are now the innocent victims of a legal disagreement between the Governor and the Attorney General. We are fully prepared to discuss our proposal at length and negotiate in good faith with whomever the State delegates this authority to. We believe that these negotiations and discussions will alleviate all of the unfounded

Testimony of George Wahquahboshkuk, Chairman
Prairie Band of Potawatomi Indians
February 10, 1992
Page 4

HF 3 SA
2-10-92
9-4

rumors and fears that have been generated about our proposal. Until the State properly designates that person or body, we are all at the mercy of the press, and rumors and half-truths will continue to abound.

The Kansas State Attorney General has interpreted the current provisions of the Kansas Constitution as allowing the State to negotiate a compact with us to operate a casino on our reservation. Unfortunately, false information and the fear of unwanted competition by other gaming interests have led to the introduction of two bills, S. 521 and H.R. 5039, both of which are designed to eliminate the possibility of tribally-owned casino games in the State of Kansas. We strongly oppose both of these bills, as we believe that neither is in the best interest of the Potawatomi Tribe, nor the State of Kansas.

Our country is in a recession and our State Treasury is tighter than it has been in years. Yet, while unemployment is increasing and businesses are closing, our class III gaming compact presents a proposal which will not only create jobs and stimulate the economy in one of the poorest areas of the State, it can also eventually lead to the creation of a number of new and viable non-gaming jobs in Topeka and the surrounding area. Let me ask you, should this opportunity be eliminated simply because some large gaming interests are afraid of competition? All we are asking for is an opportunity to help ourselves and our community. The gaming we are proposing is not against

Testimony of George Wahquahboshkuk, Chairman
Prairie Band of Potawatomi Indians
February 10, 1992
Page 5

AF3SA
2-10-92
9-5

community moral standards. If it were, the people of Kansas would never have agreed to a state lottery or to state-licensed horse or dog racing. Please do not be misled into believing that these bill are being presented to protect the public, because they aren't. They are instead being presented to eliminate competition. Let me elaborate just a bit.

EXISTING KANSAS LAW AND PUBLIC POLICY DO NOT PROHIBIT
BROADLY-DEFINED "LOTTERY"

Kansas criminal law and public policy do not prohibit Class III gaming. In fact, the Kansas Constitution expressly authorizes bingo and parimutuel wagering on horse racing. The Kansas Constitution also authorizes the Kansas legislature to provide for a state-owned and operated lottery. Although the constitution does not define the term "lottery," the Kansas Supreme Court has interpreted the term broadly. It has, for example, held that parimutuel wagering on HORSE AND DOG RACING WHICH INCLUDE elements of consideration, chance and price constitutes a lottery. State, ex rel., v. Bissing, 178 Kan. 111, 119(1955). Other decisions have also interpreted the term "lottery" broadly. See, e.g., State, ex rel., v. Mercantile Assn., 45 Kan. 351, 353 (1891) and State, ex rel., v. Fax Kansas Theater Co., 144 Kan. 687, 692 (1936). Although lotteries are specifically authorized by state constitution and statute, the form of playing them is not.

In a leading federal case defining a state's obligations under the Class III compact negotiations section of the IGRA, Mashantucket Pequot Tribe v. State of Connecticut, 737 F. Supp. 169 (D. Conn. 1990), the Federal Court held that Congress intended the IGRA provisions governing class III to be interpreted consistent with the United States Supreme Court's decision in California v. Cabazon Band of Mission Indians, 480 U.S. 202 (1987). In that case, the Federal Court developed a simple test for determining when a tribe could operate a game of chance on its reservation. That "shorthand test" is "whether the conduct at issue violates the State's public policy." Pequot at 174 (quoting Cabazon at 209).

In Cabazon, the U.S. Supreme Court discussed at length the question of whether California's public policy supports gaming. The Court pointed out that California permits a substantial amount of gaming activity and that it regulates rather than prohibits gaming in general, and bingo in particular. 480 U.S. at 211. Thus the Court held that California regulates rather than prohibits gaming in general and that therefore the Cabazon Tribe's operating of on-reservation gaming did not violate California's public policy. 480 U.S. at 209-12. The IGRA incorporated this same test in 25 U.S.C. 2710 (d)(1)(B) permitting a tribe to enter into a compact to operate Class III gaming activities when such activities are "located in a State that permits such gaming for any purpose by any person, organization or entity" (emphasis added).

Testimony of George Wahquahboshkuk, Chairman
Prairie Band of Potawatomi Indians
February 10, 1992
Page 7

HFSSA
2-10-92
9-7

In Pequot, the Federal District Court ruled against Connecticut's argument that the meaning of the term "such gaming" in § 2710 (d)(1)(B) should not be interpreted under the Cabazon test, that the test applies only to Class II gaming under §2710 (b)(1)(A). 737 F.Supp. at 174; affirmed 913 F. 2d. 1024 (2nd Cir. 1990); cert denied, 111 S.Ct.668 (1991).

The U.S. Court of Appeals, pointing out that the IGRA's language authorizing Class III gaming compacts is almost identical to the language used to authorize Class II games, held that "the compact process is therefore to be invoked unless, applying the Cabazon test it is determined that the state 'as a matter of criminal law and public policy, prohibit[s] [class III] gaming activity.'" 913 F.2d at 1030.

PROPOSED CHANGES IN KANSAS LAW

DO NOT MAKE BROADLY-DEFINED LOTTERY BY INDIAN TRIBES ILLEGAL

Class III gaming activity is not prohibited by existing Kansas public policy or criminal law. Now the Kansas Legislature proposes two measures, House Concurrent Resolution No. 5039 to amend Section 3c of Article 15 of the Kansas Constitution and Senate Bill No. 521, each of which, if it becomes law, would define lottery in a very limited form. The Senate bill would allow only instant lottery, keno or lotto. The House

Testimony of George Wahquahboshkuk, Chairman
Prairie Band of Potawatomi Indians
February 10, 1992
Page 8

HFSSA
2-10-92
9-8

resolution would allow 1) instant lottery games using preprinted tickets; and 2) keno and lottery games, and electronic or computerized versions of those games.

Although both legislative proposals purport to make a wider definition of lottery illegal, i.e., to criminally prohibit certain forms of class III activity, they do not under federal law, including Cabazon, Lac du Flambeau and the IGRA, do so. Because Kansas law specifically authorizes parimutuel wagering on horse and dog racing and specifically authorizes some forms of state-owned lottery, class III gaming is clearly not against Kansas public policy. The new definition of lottery proposed by the legislature is similar to saying that people may drink vodka but may not drink rum.

Even if the legislative proposal to amend the constitution becomes law, it will not change the fact that Kansas public policy is unopposed to sophisticated forms of gaming.

In Lac Du Flambeau Band of Lake Superior Chippewa Indians and the Sokaogon Chippewa Community v. State of Wisconsin, No. 90-C-408-C, (W.D. Wisc. June 18, 1991), the issue between the parties on defendants' motion for summary judgment centered on the provision in § 2710(d)(1)(B) that "Class III gaming activities shall be lawful on Indian lands only if such activities are . . . located in a State that permits such gaming for any purpose by any person, organization, or entity" The Lac du Flambeau Band proposed casino games, including videogaming machines, roulette, slot

Testimony of George Wahquahboshkuk, Chairman
Prairie Band of Potawatomi Indians
February 10, 1992
Page 9

HFSA
2-10-92
9-9

machines, poker and craps as Class III gaming activities for inclusion in the compact negotiations. *Id.* at 6. The State took the position that Class III games were prohibited in Wisconsin with the exception of lotteries and on-track parimutuel wagering, that casino games, video games and slot machines were not permitted as required by §2710(d)(1)(B), and refused to negotiate for any Class III games except lotteries and parimutuel wagering. *Id.* at 7, 11, 16.

The State argued that Congress meant "permit" to be interpreted as "formally or expressly granting leave," and that therefore, unless a state expressly grants leave for playing a particular gaming activity, it cannot be lawful on Indian lands, and the State must bargain only over gaming activities actually operating in the State. *Id.* at 11.

The federal court held that the State's reading of "permits" ignores other recognized meanings such as "[t]o suffer, allow, consent, let; to give leave or license; to acquiesce by failure to prevent, or to expressly assent or agree to the doing of an act.' Black's Law Dictionary (5th ed.)." *Id.* But the court also held that more important, the State's reading of "permits" ignored the Cabazon holding, on which Congress relied in drafting the IGRA, that a court must analyze the state's policy toward gambling:

If the policy is to prohibit all forms of gambling by anyone, then the policy is characterized as criminal-prohibitory and the state's criminal laws apply

to tribal gaming activity. On the other hand, if the state allows some forms of gambling, even subject to extensive regulation, its policy is deemed to be civil-regulatory and it is barred from enforcing its gambling laws on the reservation.

Lac du Flambeau at 12 (quoting Cabazon at 211).

As support for the view that Congress did not intend the term "permits such gaming" to limit the tribes to the specific games actually in operation in a state, the court relied upon the congressional findings set out at §2701(5) of IGRA:

Indian tribes have the exclusive right to regulate gaming activity on Indian lands if the gaming activity is not specifically prohibited by Federal law and is conducted within a State which does not, as a matter of criminal law and public policy, prohibit such gaming activity.

Lac du Flambeau at 14 (emphasis in original).

The federal court, therefore, concluded that the initial question in determining whether the State "permits" the particular games which the Tribe proposed is not whether the State has given "express approval to the playing of a particular game," but

Testimony of George Wahquahboshkuk, Chairman
Prairie Band of Potawatomi Indians
February 10, 1992
Page 11

HFS SA
2-10-92
9-11

whether the State's "public policy toward class III gaming is prohibitory or regulatory."

Id. at 14.

Although originally the Wisconsin constitution prohibited all gaming, in 1987 two constitutional amendments authorized a lottery and parimutuel on-track betting. Id. at 14. The court held that the amendments to the State Constitution "evidence a state policy toward gaming that is now regulatory rather than prohibitory in nature." Id. at 16 (citing Cabazon at 211).

The State argued that even if it has a regulatory policy toward Class III activities in general, it need not negotiate the activities proposed by the Tribe because it does not expressly permit the type of gaming the Tribe proposes. Id. at 17. The court held, "It is not necessary for plaintiffs to show that the state formally authorizes the same activities The inquiry is whether Wisconsin prohibits those particular gaming activities. It does not." Id. at 18 (emphasis added).

The federal court held that the State must negotiate the inclusion in a compact of any activity that includes the elements of prize, chance and consideration and is not prohibited expressly by state law. Id. at 20.

CONCLUSION

In conclusion, because tribally-operated casino gaming is not in violation of Kansas public policy, and will benefit both the Potawatomi Tribe and its surrounding area, I am encouraging you to enact as soon as possible, legislation delegating to one person or body the authority to negotiate Class III gaming compacts with all of the tribes in Kansas. In this way, you can insure that the interests of the State are protected, while still allowing us the opportunity to move forward in the way that the U.S. Congress clearly envisioned.

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**Testimony of George Wahquahboshkuk, Chairman
Prairie Band of Potawatomi Indians
February 10, 1992
Page 13**

HP 35A
2-10-92
9-13