

Approved 2-3-92  
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Representative John M. Solbach at  
Chairperson

3:30 a.m./p.m. on January 30, 1992 in room 313S of the Capitol.

All members were present except:

Representatives Allen, Everhart, Hamilton and O'Neal who were excused.

Committee staff present:

Jerry Donaldson, Legislative Research  
Jill Wolters, Revisor of Statutes  
Judy Goeden, Committee Secretary

Conferees appearing before the committee:

Randy Hearrel, Judicial Council  
Phil Mellor, Judicial Council  
Paul Shelby, Judicial Administration  
Jim Clark, Kansas County & District Attorneys Association  
Bill Roy, State Representative  
Rev. Richard Taylor, Kansans for Life At Its Best

Chairman Solbach called the committee meeting to order.

Rep. Carmody moved to introduce legislation concerning stalking. Rep. Snowbarger seconded the motion. Motion carried.

Hearings were opened on HB 2769, regarding telefacsimile communications.

Randy Hearrel, Judicial Council, introduced Phil Mellor, Judicial Council, who testified in favor of HB 2769. He explained the bill to the committee. He felt that the bill would help save time and expense. He answered committee members questions.

Paul Shelby, Judicial Administration, testified in favor of HB 2769. (Attachment #1) He suggested several amendments he would like to see made to the bill.

Jim Clark, Kansas County & District Attorneys Association, requested an amendment to HB 2769 concerning search warrants.

HB 2770 concerning gaming on Indian lands was taken up for hearing. Bill Roy, State Representative, testified in favor of HB 2770. (Attachment #2) He answered committee members questions.

Rev. Richard Taylor, Kansans for Life At Its Best, testified in favor of HB 2770. (Attachment #3). He answered committee members questions.

After committee discussion on HB 2770, Rep. Gomez requested the hearings be continued at a later date.

HB 2784, relating to annual audits of district court financial affairs, was brought up for hearing. Paul Shelby, Judicial Administration, testified in favor of HB 2784. (Attachment #4). The hearing was closed. Rep. Heinemann moved to report HB 2784 favorable for passage. Rep. Macy seconded the motion. Motion carried.

A request was received from Jim Clark, Kansas County & District Attorneys Association, for four bill requests concerning victims rights, search warrants, littering and drug offenses. (Attachment #5) Rep. Macy moved to introduce requested legislation. Rep. Hochhauser seconded the motion. Motion carried.

Rep. Macy moved to approve the minutes of the committee meetings of 1/27, 1/28 and 1/29 noting meeting room change on 1/27. Rep. Garner seconded the motion. Motion carried.



House Bill No. 2769  
House Judiciary Committee  
January 30, 1992

Testimony of Paul Shelby  
Assistant Judicial Administrator  
Office of Judicial Administration

Mr. Chairman and members of the committee:

I thank you for the opportunity to discuss with you House Bill No. 2769 which relates to filing court documents by telefacsimile transmission, or "FAX" as we usually identify the system.

Generally we have no problems with the proposed bill. However, as Chief Justice Holmes has stated in the annual Judiciary message, the Judicial Branch has suffered a 4% personnel cut because of the State's revenue situation. We therefore are extremely sensitive to bills which require extra effort on the part of our workforce. Our fiscal note filed with the Division of the Budget on this bill points out that terms of section 4 in the bill will require 3,780 additional clerk hours for our trial courts to comply. This is because we must devise and set up a system to make a timely report of cases to the State Treasurer. Although not stated in the bill, we believe the intent of section 4 is to collect only the \$1.50 other sections of the bill add to docket fees. Our biggest problem is that criminal and traffic cases do not collect a docket fee when a case is filed, but must wait until the person charged is convicted.

We now have no timely method for this sort of case data to be collected except for collection at each of 110 sites where cases are filed. An alternative method of drawing off this money would be for the State Treasurer to simply compute a percentage of clerks fees to be deposited in this special revenue fund. This would require twelve computations per year rather than extensive data collection at 110 sites.

I therefore recommend that you approve our amendment to this bill. It calculates its percentage from the 1991 FY annual statistical report and the amount of money which would be collected had this bill been in effect in that fiscal year.

This committee should also note that there are other bills being contemplated that would also require increases in docket fees. All of these bills should use a percentage method of distribution so as to reduce the amount of clerical work required in collection and distribution.

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Attach #1

# HOUSE BILL No. 2769

By Committee on Judiciary

1-24

AN ACT concerning telefacsimile communications; relating to court documents; concerning the use of a telephone for such communications; creating the crime of harassment by telefacsimile communications; creating the judiciary technology fund; amending K.S.A. 8-2107, 38-1511 and 38-1613 and K.S.A. 1991 Supp. 20-362, 28-172a, 32,1050, 59-104, 60-203, 60-205, 60-2001, 61-2501 and 61-2704 and repealing the existing sections.

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

New Section 1. (a) Pursuant to supreme court rule, the clerks of the district and the appellate courts in the state of Kansas shall accept by telefacsimile communication, petitions, pleadings and other papers as specified in K.S.A. 60-205, and amendments thereto.

(b) The signature on the telefacsimile communication shall be accepted as satisfying the requirements of K.S.A. 60-211, and amendments thereto.

(c) As used in this section, telefacsimile communication means the use of electronic equipment to send or transmit a copy of a document via telephone line.

New Sec. 2. (1) Harassment by telefacsimile communication is the use of telefacsimile communication to send or transmit such communication to a court in the state of Kansas for a use other than court business.

(2) Harassment by telefacsimile communication is a class A misdemeanor.

(3) As used in this section, telefacsimile communication means the use of electronic equipment to send or transmit a copy of a document via telephone line.

New Sec. 3. The judicial administrator of the courts shall contract with credit card companies to provide for collection of bank card drafts from valid and unexpired credit cards used to pay for any docket fee, filing fee, fax service charge, and any other fee or charge. Any discount from the face value of a bank card draft shall not exceed 3%. All contracts entered into under this section shall be exempt from the provisions of K.S.A. 75-3739 to 75-3744, inclusive, and amendments thereto. Any fax service charge shall include

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1 an amount to cover the cost of accepting a bank card draft.

2 New Sec. 4. (a) There is hereby established in the state treasury  
3 a judiciary technology fund.

4 (b) The state treasurer, at least monthly, shall credit to the ju-  
5 diciary technology fund, a sum equal to ~~\$1.50 per case from~~ the  
6 remittances of clerks' fees received from clerks of the district court.  
7 The remainder of the fees shall be deposited according to law.

6.56 percent of

8 (c) Moneys in the judiciary technology fund shall be used to  
9 implement technological improvements in the Kansas court system  
10 and to fund meetings of the judicial council technology advisory  
11 committee at the judicial council reimbursement rate pursuant to  
12 K.S.A. 21-2206, and amendments thereto. Expenditures from such  
13 fund shall be made in accordance with appropriation acts upon war-  
14 rants of the director of accounts and reports issued pursuant to  
15 vouchers approved by the chief justice of the Kansas Supreme Court  
16 or a person designated by the chief justice.

17 Sec. 5. K.S.A. 8-2107 is hereby amended to read as follows: 8-  
18 2107. (a) (1) Notwithstanding any other provisions of the uniform act  
19 regulating traffic on highways, when a person is stopped by a police  
20 officer for any of the offenses described in subsection (d) and such  
21 person is not immediately taken before a judge of the district court,  
22 the police officer may require the person stopped, subject to the  
23 provisions of subsection (c), to deposit with the officer a valid Kansas  
24 driver's license in exchange for a receipt therefor issued by such  
25 police officer, the form of which shall be approved by the division  
26 of vehicles. Such receipt shall be recognized as a valid temporary  
27 Kansas driver's license authorizing the operation of a motor vehicle  
28 by the person stopped until the date of the hearing stated on the  
29 receipt. The driver's license and a written copy of the notice to  
30 appear shall be delivered by the police officer to the court having  
31 jurisdiction of the offense charged as soon as reasonably possible. If  
32 the hearing on such charge is continued for any reason, the judge  
33 may note on the receipt the date to which such hearing has been  
34 continued and such receipt shall be recognized as a valid temporary  
35 Kansas driver's license until such date, but in no event shall such  
36 receipt be recognized as a valid Kansas driver's license for a period  
37 longer than 30 days from the date set for the original hearing. Any  
38 person who has deposited a driver's license with a police officer  
39 under this subsection (a) shall have such license returned upon final  
40 determination of the charge against such person.

41 (2) In the event the person stopped deposits a valid Kansas driv-  
42 er's license with the police officer and fails to appear in the district  
43 court on the date set for appearance, or any continuance thereof,



TOPEKA

HOUSE OF  
REPRESENTATIVES

January 30, 1992

## TESTIMONY BEFORE THE HOUSE JUDICIARY COMMITTEE

## HB 2770 -- Concerning Indian gaming

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today in support of HB 2770, an act concerning Indian gaming, and restricting any Indian gaming operations that may be developed in Kansas to existing tribal lands.

As you are all well aware, the efforts to bring casino gambling to Kansas under the Federal Indian Gaming Act are on a fast track, with the first Tribal-State compact having been recently signed on January 16, 1992. Without legislative intervention, the only requirement that must still be satisfied is the approval of the U.S. Secretary of the Interior, who must act within 45 days of the date of the agreement.

We are about to dive in -- or lacking legislative resolve, be sucked in -- to the deep end of a shark-filled pool. Whether it is apathy or indifference, this legislature and state are about to surrender a major portion of its economic vitality to a non-productive endeavor. This legislature appears willing to abdicate its power and let the executive branch alone, having no clear authority, make any community in this state a potential site for a casino.

My main concern stems from the fact that most of the adverse effects of any off-reservation casino flow to the residents of the area where it may locate and not to the operators. Without action on a proposal such as this, casinos could be developed in larger communities which will provide the lion's share of customers, will suffer more than their share of resulting social problems, will have little ability to protect their citizens by exercising regulatory authority, and will not share in any of the profits it could direct to social programs to deal with the adverse effects of gambling and all its associated negative activities.

COMMITTEE ASSIGNMENTS  
CHAIRMAN: RULES AND JOURNAL  
VICE CHAIRMAN: JOINT COMMITTEE ON LEGISLATIVE POST AUDIT  
VICE CHAIRMAN: COMMERCIAL AND FINANCIAL INSTITUTIONS  
MEMBER: FEDERAL AND STATE AFFAIRS TAXATION

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1-30-92  
Attach #2  
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Operators of any casino will feel no particular responsibility to the community disadvantaged by the casino. And the problems for that community will be considerable, ranging from increased crime to the costs of treating gambling addiction.

This proposal only limits the location of these casinos. This approach may be too limited. I am not sure that Indian reservations should be treated differently than any other lands in the state when it comes to gambling and crime. The normal law-making processes of the state should apply -- and that includes the legislature as well as the Governor -- and casinos should not be allowed to proliferate unless and until laws are passed to allow them.

casino.doc

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Attach #2  
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Uninformed people equate RISK with GAMBLE when they say farming is a gamble, the stock market is gambling, the quarterback gambles on the choice of plays, or a new business venture is a gamble. All these activities involve RISK but they are not GAMBLING.

The stock market is PAYMENT for SOMETHING OF VALUE that may increase or decrease in value. Selling stock helps a new company obtain capital and launch a business that may add greatly to the gross national product. There are stock market speculators, land speculators, old car speculators, antique speculators, and art speculators. They want to make money buying and selling. What they do is a business risk, not gambling.

Gambling defenders want the public to believe that GAMBLE and RISK have exactly the same meaning. It is a half-truth. Gambling involves risk because it is PAYMENT for a CHANCE to TAKE from others who receive nothing of value in return. When the gambling game is over, the loser has nothing.

Many say gambling is trying to get something for nothing. If nothing (NO PAYMENT) is required, it would not be gambling. There would be no losers. For most people, gambling is getting nothing for something. Gambling is an enemy of economic development.

Risk is the friend of economic development. Every new business that may employ many people is a risk. Every new product that may help the company make money is a risk. The farmer takes a risk when he plows the ground, buys the seed, spends time and effort to care for the crop, hoping the rains will come without hail, and he will harvest enough to make a living and feed the nation. He works hard producing for others. Gamblers want only to take from others.

GAMBLING PROMOTERS are economic blood suckers, getting rich taking the gross national product produced by others.

RISK TAKERS are the life blood of this nation, producing the gross national product that is our economic wealth.

If a gambling enterprise is to survive and prosper, more people must lose more money.

If an economic development enterprise survives and prospers, more people make more money.

Because more gambling is an enemy of economic development in Kansas, please support HB 2770.

Respectfully yours,

*Richard Taylor*

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1-30-92  
Attach #3  
1B 3



# Gambling a loser for Indians

WASHINGTON — The Washington Redskins are winning; the American Indians are losing.

While bleeding hearts fret that the word "redskins" may be taken as an ethnic slur, a far more serious assault on the character and traditions of our aboriginal Americans is being ignored.

With the active cooperation of many greedy tribal leaders and their fast-buck white lawyers, tribes from the Chippewa in Wisconsin to the Barona in California are being victimized and corrupted by promoters of organized gambling.

It began in seeming innocence a decade ago with bingo games on the reservations. Then half the states in the U.S., under the delusion that good ends could be achieved by bad means, legalized gambling. (It's called "gaming" or "off-track betting" or "casino promoting of tourism"; never use a dirty word like "gambling".)

Because Indian reservations retain a form of sovereignty that limits control by state governments, shrewd gambling operators saw a way to get around local restrictions and steal a march on the local casinos. The Supreme Court held in 1987 that states that permitted gambling could not deny its triumphs, glories and spoils to Indian reservations.

THAT OPENED the floodgates to those who wanted to exploit the special status of Indians. Today, gambling dens fronted by Indians already are a billion-dollar-a-year business and mushrooming; the wilderness is illuminated by neon; tribes reaching out for more suckers are litigating with state officials about whether one-

William Safire



armed bandits are illegal slot machines or merely "technological aids" to bingo players.

The corruption of the original American ethnic group is taking place under the cover of a public relations campaign to show how gambling is good for impoverished Indians. Profits go to the tribes, goes the story, which then build schools and hospitals and lift the unemployed families off welfare.

Baloney; malarkey; oompah. The few facilities gambling built are Potemkin villages. Casino gambling will help the average Indian as much as the New York State Lottery has provided great new facilities for the average schoolchild. The great benefit of gambling profits to the public has always been a sham; it has proven itself to be the most regressive and shameful tax on any state's books. New Jersey and Nevada, those paragons of state virtue, have led the way.

WITH THE notable exception of ABC News, investigative media have shied away from this national scandal. Many have been intimidated by immediate charges of racism by Indian "leaders" who benefit most from the deals like those being set up across the country by Grand Casinos Inc., a company whose over-the-counter stock is being promoted by non-Indians.

What a perversion of affirmative action; is this the proper answer to the massacre of in-

nocent Indians at Wounded Knee?

In fact, the corruption of gambling is ripping many tribes apart. The Mohawk fighting along the U.S.-Canadian border last year was based largely on control of gambling money. The introduction of slot machines all but insures further penetration and moral degradation.

Bigtime gambling is an organized vice deserving of no government promotion or identification with a single ethnic group. All lotteries are con games, manipulating our something-for-nothing lust. (I throw away any junk mail with a picture of Ed McMahon on it.)

Is there no Indian tribal leader courageous enough to come forward to tell Indian children they come from the stock of Sitting Bull and Crazy Horse and that their role models need not be George Raft and Meyer Lansky?

ARE THERE no genuine friends of a poverty-stricken group willing to put aside tut-tutting about misperceived slurs long enough to call attention to the real crisis facing the Indian nations today? Better a proud and upright "Redskin" than a corrupted and exploited "native American."

The answer is not to deny any group its right to take advantage of a loophole to attract suckers of all races. The answer is to get state governments out of the gambling business. Public promotion of betting is wrong; it corrupts people and politicians; it should never be the goal of public policy.

If we do not, we will surely change the name of the football team to honor the next generation of aboriginal Americans. We'll call them the Washington Croupiers

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Attach #3  
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# Senate considers riverboat betting

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-

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."

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."

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

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House Bill No. 2784  
House Judiciary Committee  
January 30, 1992

Testimony of Paul Shelby  
Assistant Judicial Administrator  
Office of Judicial Administration

Mr. Chairman and members of the committee:

I thank you for the opportunity to discuss with you House Bill No. 2784 which relates to annual audits of district court financial affairs.

This bill makes several technical corrections to delete obsolete material and make its provisions current. The principal changes are to clarify the scope of the audit required under present law and to require that reports of discrepancies and noncompliance with law be made to the judicial administrator of the courts as well as to the board of county commissioners.

We have had instances in the past where auditors hired by a board of county commissioners have overlooked one or another aspect of the financial affairs of a district court. By clarifying the statutory directive we hope to keep these instances to a minimum. The requirement to notify the judicial administrator of the courts is so that our office can take prompt action to insure that the corrective action taken by our trial court is sufficient.

Boards of county commissioners have no responsibility for correcting managerial or legal discrepancies discovered in a district court, so that the notification requirement will materially speed up any corrective action found necessary by an audit.

Thank you again for the opportunity to appear before this committee. We recommend that HB 2784 be passed.

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1-30-92  
Attach #4

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EXECUTIVE DIRECTOR, JAMES W. CLARK, CAE • CLE ADMINISTRATOR, DIANA C. STAFFORD

### REQUEST FOR LEGISLATION

Made to the House Judiciary Committee  
by the  
Kansas County and District Attorneys Association

**1. Victims Rights:**

a. Allow victims or their families to be present at all stages of a juvenile offender case and to be notified of such proceedings. Requires amending K.S.A. 38-1632, 33, 36, 37, 52, 61, 73, 75, 76; 75-7333; and 75-7335.

b. Require notification of crime victims upon applications for pardon or clemency. Requires amending K.S.A. 74-7335, and 22-3701(3).

**2. Search Warrants:** Allow for application for search warrant, and issuance of warrant, by telefacsimile communication. Requires amending K.S.A. 22-2502 and 2504.

**3. Littering:** Reconsider HB 2383, which raises the penalty for littering from an unclassified misdemeanor, with a fine of \$10 to \$500, to a class A misdemeanor. KCDAA is amenable amending the bill to a class C misdemeanor, or to adding jail time where the offense was part of a commercial activity.

**4. Drug Offenses:**

a. Amend K.S.A. 65-4127b(a) to provide that diversions, convictions from other states, and municipal court convictions count as a prior offense under this section.

b. Amend K.S.A. 65-4127b by requiring that defendant serve the same mandatory jail term as if he/she were convicted of DUI, in addition to the fine, probation or suspended sentence presently required.

**5. Obscenity:** Amend K.S.A. 21-4301(C) to exclude devices disseminated or promoted for purposes of medical or psychological therapy.

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1-30-92  
Attach #5