

## MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Arlen Siegfroid at 1:30 P.M. on March 13, 2007 in Room 313-S of the Capitol.

All members were present.

## Committee staff present:

Kathie Sparks, Kansas Legislative Research Department  
Dennis Hodgins, Kansas Legislative Research Department  
Mike Heim, Revisor of Statutes Office  
Carol Doel, Committee Assistant

## Conferees:

Whitney Damron - Kikapoo Tribe of Indians - Sac and Fox Nation  
Ron Hein - Potawatomi Nation  
Glen Thompson - Stand Up For Kansas  
Huey York - City of Baxter Springs, Kansas

## Others attending:

See attached list

Chairman Siegfroid opened the floor for introduction of bills.

Representative Terrie Huntington requested a bill for a commission to study gaming. The Chair moved the bill seconded by Representative Peterson. With no objection, this bill will be accepted.

Representative Huebert requested a bill regarding the Real I.D. Act. Chairman Siegfroid moved the bill with a second by Representative Peterson. With no objection, this bill will be accepted.

Chairman Siegfroid opened the floor for public hearing on **HB 2569** - Kansas destination casino act; destination casino commission.

Whitney Damron presented testimony as neutral to **HB 2569** on behalf of the Kickapoo Tribe of Indians of the Kickapoo reservation in Kansas and the Sac and Fox Nation of Missouri in Kansas and Nebraska. Mr. Damron advised that during the past four years, the Tribes have engaged the services of leading companies and professionals to provide services and counsel related to advancing the Tribes casino project. The Tribes have successfully negotiated a memorandum of agreement with the Unified Government of Wyandotte County and Kansas City, Kansas and a service agreement with the Board of Public Utilities in conjunction with consideration of the tribal gaming compact. The Tribes have also met periodically with the leading union representatives to keep them apprised of the project's status. In his testimony, Mr. Damron also referred to the Christiansen report which stated that the preferred form of expanded gaming in Kansas is destination resort casinos. (Attachment 1) Mr. Damron also submitted a letter from the Greater Kansas City Building and Construction Trades Council (Attachment 2), International Union of Operating Engineers (Attachment 3), and Pipe Fitters Association Local Union No. 533 (Attachment 4)

Next to address the Committee was Huey York of Baxter Springs, Kansas who is a proponent of **HB 2569**. Mr. York presented the opinion that a Southeast Kansas casino would generate between 1,000 to 1500 new jobs, provide millions of dollars in state revenue, spin off other business and help level the playing field between our neighbors in Missouri and Oklahoma when it comes to economic development. (Attachment 5)

Chairman Siegfroid opened the floor to the opponents of **HB 2569** and recognized Glenn Thompson from Stand Up For Kansas. Mr. Thompson requested that the Committee oppose the bill for three reasons:

- Corruption
- Slippery slope
- Referendum requirements

The above issues were discussed by Mr. Thompson in his testimony. (Attachment 6) Mr. Thompson also submitted a copy of *The History Of Legalized Gambling In Kansas* for Committee review (Attachment 7)

CONTINUATION SHEET

MINUTES OF THE House Federal and State Affairs Committee at 1:30 P.M. on March 13, 2007 in Room 313-S of the Capitol.

as well as a copy of an article *NC Speaker Pleads Guilty To Corruption*. (Attachment 8)

Ron Hein, legislative counsel for Prairie Band Potawatomi Nation came before the Committee to oppose **HB 2569**. Mr. Hein presented the opinion that the Prairie Band Potawatomi Nation (PBPN) has consistently opposed legislation providing for the expansion of Class 3 gaming by the State of Kansas. Mr. Hein further explained that state and local government, school districts, and other taxing subdivisions benefit from Tribal gaming by virtue of numerous taxes paid as a result of Tribal gaming and the economic development that they currently generate for Northeast Kansas. Mr. Hein also discussed the “slippery slope” and gambling expansions effect upon economic development in the state. Also in his testimony, Mr. Hein explained the Governor’s gaming committee findings. (Attachment 9)

The Committee time allotment was up and the Chair announced that he would continue Mr. Hein’s testimony in opposition to **HB 2569** on Wednesday, March 14, 2007.

Chairman Siegfried entertained a motion to approve the minutes from March 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup>.

Representative Ruiz moved the minutes with a second by Representative Swenson. Motion passed.

Chairman Siegfried adjourned the meeting.



**Testimony  
&  
Related Documents**

**House Federal and State Affairs Committee  
March 13, 2006**

**HB 2569 – Kansas Destination Casino Act**

**Testimony and Information Presented By:**

**Whitney Damron  
Whitney B. Damron, P.A.  
919 South Kansas Avenue  
Topeka, Kansas 66612-1213  
(785) 354-1354**

**On Behalf Of The:**

**Kickapoo Tribe of Indians of the Kickapoo Reservation of Kansas**

**Sac and Fox Nation of Missouri in Kansas and Nebraska**

FEDERAL AND STATE AFFAIRS

Date 3-13-07

Attachment 1

March 13, 2007

### Table of Contents

1. Testimony presented to the House Federal and State Affairs Committee by Whitney Damron on behalf of the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas and the Sac and Fox Nation of Missouri in Kansas and Nebraska.
2. Expanded Gaming Considerations memorandum prepared by Dan Watkins, attorney to the Tribes (KS&F Development Company).
3. Letters of Support for a limited expansion of gaming:
  - Greater Kansas City Building and Construction Trades Council, AFL-CIO
  - International Union of Operating Engineers
  - Pipe Fitters Association Local Union No. 533

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Whitney Damron  
Whitney B. Damron, P.A.  
919 South Kansas Avenue  
Topeka, Kansas 66612-1210  
(785) 354-1354  
(785) 354-8092 (FAX)  
[wbdamron@aol.com](mailto:wbdamron@aol.com)  
[www.wbdpa.com](http://www.wbdpa.com)

Dan Watkins  
Law Offices of Daniel L. Watkins  
4311 West 6<sup>th</sup> Street, Suite C  
Lawrence, Kansas 66049  
(785) 843-0181  
(785) 749-5652  
[danwatkins@sunflower.com](mailto:danwatkins@sunflower.com)

**TESTIMONY**

**TO: The Honorable Arlen Siegfried, Chair  
And Members of the  
House Federal and State Affairs Committee**

**FROM: Whitney Damron  
On behalf of the**

- **Kickapoo Tribe in Kansas**
- **Sac and Fox Nation of Missouri in Kansas and Nebraska**

**RE: HB 2569 – Kansas Destination Casino Act**

**DATE: March 14, 2007**

Good afternoon Chairman Siegfried and Members of the House Federal and State Affairs Committee. My name is Whitney Damron and I appear before you today to offer comments on HB 2569 and other gaming legislation before this committee on behalf of the Kickapoo Tribe in Kansas and the Sac and Fox Nation of Missouri in Kansas and Nebraska.

Members of Legislature may recall that the four resident tribes of Kansas were approached by Governor Bill Graves in 2002 to see whether they would be interested in combining efforts to seek an off-reservation tribal gaming compact under the Federal Indian Gaming Regulatory Act for a major destination casino in Wyandotte County. At that time, gaming bills had been debated in the Legislature for nearly a decade and Governor Graves was looking for some kind of resolution to the issue, as were many legislators. The Kickapoo Tribe and the Sac and Fox Nation ultimately agreed to pursue a Wyandotte County casino project, while the other two resident tribes in Kansas chose not to be involved (Prairie Band Potawatomi Nation and the Iowa Nation).

When Governor Graves left office in 2002, the Kickapoo Tribe and the Sac and Fox Nation initiated discussions with Governor Sebelius for the Wyandotte County project and in 2004, an off reservation tribal gaming compact was successfully negotiated between the Tribes and the Governor. The compact, though considered by the Joint Committee on State-Tribal Relations, was never voted on by the Kansas Legislature.

919 South Kansas Avenue ■ Topeka, Kansas 66612-1210

(785) 354-1354 (O) ■ (785) 354-8092 (F) ■ (785) 224-6666 (M)

www.wbdpa.com ■ wbdamron@aol.com

Since the negotiation of the Kickapoo and Sac and Fox tribal gaming compact in 2004, there have been significant changes at the Federal level which has made the consideration of off reservation tribal casinos more difficult.

Beginning in 2002 and continuing through today, the Tribes have made a significant investment in time and resources designed to bring a first-class destination casino resort to Wyandotte County. The Tribes commitment to this project is evidenced by the fact that in 2004, they exercised their option to purchase an 80 acre tract of land located adjacent to Kansas Speedway in western Wyandotte County located on the northeast corner of 118<sup>th</sup> and State Avenue.

During the past four years, the Tribes have engaged the services of leading companies and professionals to provide services and counsel related to advancing the Tribes casino project, including J. E. Dunn Construction, HNTB, G.V.A. Marquette Advisors (a leading casino, hotel and food service marketing company), Marnell-Corrao (one of the world's leading casino architectural and design firms, headquartered in Las Vegas), Dr. William Thompson (one of the nation's leading gaming consultants and a professor at UNLV), Blackwell Sanders Peper Martin (retained for constitutional law consulting), Glaze Real Estate Services, Reece & Nichols Roberts, and numerous others.

The Tribes successfully negotiated a memorandum of agreement with the Unified Government of Wyandotte County and Kansas City, Kansas and a service agreement with the Board of Public Utilities in conjunction with consideration of the tribal gaming compact.

In addition, the Tribes have met periodically with the leading union trade representatives to keep them apprised of the project's status, as we anticipate the tribal project to be constructed with Union labor. Included with our testimony are copies of three recent letters forwarded to the Kansas Legislature in support of a limited approach to expanded gaming as we are outlining for you here today.

The letters are from the Greater Kansas City Building and Construction Trades Council, AFL-CIO, The International Union of Operating Engineers and the Pipe Fitters Association Local Union No. 533.

To date, the Tribes have invested \$13 million into the Wyandotte County project, including the land purchase. With this investment in the Wyandotte County project and with more than ten years of gaming experience in Kansas, the Tribes decided in the summer of 2006 to pursue a state-owned and operated gaming bill this year.

As part of this initiative, during the past two weeks, the Tribes formally engaged the services of Merrill Lynch, the Wall Street investment bank, to provide investment banking and consulting services and to help secure a leading gaming development partner for their this project. Merrill Lynch is the world's leading investment banker in the gaming industry. At the company, the Tribes are working with Mr. Aviv Laurence, a Director for the Gaming, Leisure and Transportation division of Merrill Lynch Global Markets and Investment Banking.

During the past four years, the Tribes have been closely involved with legislative consideration of gaming legislation. Tribal representatives have appeared before numerous legislative committees to provide opinions on various bills (mostly in opposition) and also provided information to the Governor's Committee on Gaming in 2004. In addition, the Tribes have provided a variety of reports and documents to legislative committees and legislators relating to economic development and feasibility of gaming, constitutional issues and comprehensive polling data.

The sum and substance of this work product is the belief that there is a gaming bill that the Kansas Legislature can approve, but to date it has not been proposed during the nearly 15 years of legislative consideration of the issue.

Many people have opinions as to why a gaming bill has not passed over the years, dating back to 1993. I will leave that to each of your respective opinions, but I would like to take the opportunity to outline what we believe would be a responsible way to implement state-owned and operated gaming in Kansas and the reasons in support of our approach.

The Tribes have retained the services of leading gaming research, marketing and polling professionals during the past four years and their opinions are consistent with the recommendations made by other, independent entities created or contracted by the state.

The State of Kansas commissioned a comprehensive study of the Kansas gaming market in 2004 when the Kansas Lottery contracted with Christiansen Capital Advisors, internationally recognized as a top gaming market analyst. Their report was updated in 2006 and we cite a number of their recommendations in our proposal.



**1. Allow for a limited number of destination casinos awarded through an RFP process in 3-4 market areas, subject to local vote or referendum, with a minimum investment of \$250 million in the three larger markets and a proportionally-smaller investment in western Kansas (\$60-75 million):**

- **Wyandotte County**
- **Southeast Kansas (Cherokee/Crawford Counties)**
- **South-central Kansas (Sedgwick County area)**
- **Western Kansas**

Christiansen noted the preferred form of expanded gaming in Kansas is destination resort casinos. Destination resort facilities maximize jobs and the capital investment that creates jobs. Destination resorts are more attractive than other forms of gaming, draw customers from greater distances and take a greater share in competed markets.

Christiansen also found that slots at tracks have the least support among Kansas residents for expanded gaming. Slots at tracks minimize expanded gaming's contributions (jobs and capital investment), while maximizing gaming's social costs.

Christiansen noted there is a limit to expanded gambling demand in Kansas City and other Kansas markets. Adding slots at tracks does little to increase market demand; primarily this option redistributes the available market among more facilities.

And, Christiansen found that adding slot machines at the tracks erodes the market economics for large new casinos in the same area making it more difficult to finance quality destination casinos.

**2. Allow for the placement of a sufficient number of state-owned and operated video lottery machines at the three largest pari-mutuel tracks in order to resurrect and sustain the horse and greyhound racing industry in Kansas (500 machines per track).**

In 2003, the Governor's Gaming Commission made findings and recommendations following a comprehensive study of issues related to gaming.

Among their findings were that the state should:

- Expand gaming in the form of a large destination casino in Kansas City to maximize the benefits and minimize the costs of gaming.
- Avoid "convenience gaming" in which the gaming facilities merely redistribute dollars within the region.
- Distribute revenue from slots at tracks primarily to the state and to boost purses for dog and horse races.
- Not create a windfall for track owners or give them a monopoly on gaming activity.
- Place a limited number of video lottery terminals at the pari-mutuel tracks – 300 to 600 video lottery terminals, to generate substantial immediate revenue for the state and pari-mutuel industry without significantly harming the market for destination casinos.

The Kansas Racing and Gaming Commission would authorize create and implement a breed incentive program and also allocate certain revenues generated from the three largest pari-mutuel tracks to be utilized for purse supplements at other pari-mutuel tracks in Kansas (i.e., Eureka and Anthony Downs).

Limited video lottery gaming at pari-mutuel tracks has proven to be successful in Oklahoma, New Mexico and other racing jurisdictions.

In Oklahoma, three racetracks are authorized to have video lottery machines:

Remington Park – 650 machines  
Blue Ribbon Downs – 250 machines  
Will Rogers Downs – 250 machines

In New Mexico, the state has authorized 3,212 machines allocated between five racetracks and 65 non-profit operators (veterans and fraternal organizations).

3. **Create a Kansas Gaming Authority under the constitutional authority of the Kansas Lottery to oversee the RFP process, licensure of facilities and employees and to provide on-going regulatory oversight, including regulatory appeals, of casino gaming operations and video lottery terminals at pari-mutuel tracks.**

We would recommend no more than five members, with one appointed by the President of the Senate, one by the Speaker of the House and three appointed by the Governor with all subject to Senate confirmation. Other iterations of the appointment process may be considered. The Kansas Gaming Authority should have its own executive director and a fully-staffed gaming regulatory agency.

4. **Insure the integrity of the games by earmarking a percentage of the gaming revenues to regulatory services. Also, consider other controls such as requiring the names of all investors and key employees to be disclosed to the Kansas Gaming Authority and subject to KBI background check.**

Previous gaming proposals have sought to exempt certain individuals or companies with smaller levels of participation from disclosure. In the case of publicly-traded companies, background disclosures similar to those utilized in Nevada and New Jersey would be appropriate. Also, the Legislature may wish to consider prohibiting certain licensees from making political contributions.

Funds for regulatory services should be sufficient to pay for all costs of implementing expanded gaming in Kansas. In the first few years of operation, the need for funding will be higher due to background checks, licensure of employees and start-up costs. In later years, perhaps some kind of an annual cap with excess revenues reverting to the State General Fund would be appropriate.

5. **Provide suitable revenues for problem gaming funding.**

Suitable funds should be set aside for addressing problem gaming issues in Kansas. A minimum threshold should be set with excess revenues remitted to the State General Fund.

**6. Tax rates in Kansas should be competitive to our surrounding states and also reflect good public policy and tax policy.**

In the report entitled, "*The Impacts of Gaming Taxation in the United States*," Eugene Christiansen, CEO of Christiansen Capital Advisors found that *capital investment and tax rates are inversely related.*

Meaning, the lower the tax rate, the higher the capital investment and the higher the revenues to the casino (and ultimately to the state).

In his report, Christiansen found that "*More than \$53 billion has been invested in U.S. commercial casinos and racetrack casinos since 1989. Of this amount, \$26.7 billion is invested in Nevada, where the effective tax rate is 8.4 percent. That represents 50 percent of all capital projects in the commercial gaming sector during this period. New Jersey, with the second-lowest tax rate, attracted \$8.7 billion in capital spending, or 16.4 percent of the U.S. total. Added together, this represents 67 percent of the total gaming investment during that timeframe.*"

Other points of the study:

- *Invested capital creates jobs.*
- *When they set tax rates, lawmakers effectively decide the kind of gaming facility that is built. High tax rates mean straight gaming without entertainment of other kinds. High tax rates discourage capital investment and job creation. High tax rates trade jobs for short-term government revenues.*

### **Summary Comments:**

Included with my testimony is a document that we have created that expands on my comments, including findings from the Christiansen Study, the Governor's Commission on Gaming and detailed financial projections that would be anticipated to be produced through implementation of reasonable and responsible gaming legislation as outlined in my testimony.

Brief highlights of those projections are:

- Generate approximately \$175 million in annual gaming revenue to the state (\$120 million from three destination casinos and \$55 million from 500 video lottery terminals at each of the three major pari-mutuel tracks)
- Generate \$45 million in revenue to the pari-mutuel track owners.
- Generate \$21 million to the horse and greyhound industry.

Early in my testimony I raised the question as to why over the course of fourteen years of debating gaming in the Kansas Legislature has a bill never made it to the governor's desk. In our opinion, it is because all of those bills and the debate over those bills have been reflective of the gaming lobby and not reflective of good public policy. The findings of independent researchers such as Christiansen and the Governor's Gaming Commission strongly suggest an alternative way to implement gaming in Kansas than what we have seen promoted by the traditional gaming lobby. We believe a responsible bill looks like what we have outlined to you today and would urge the Kansas Legislature to consider making changes to a gaming bill to reflect good public policy in this regard.

Finally, we do not provide for any earmarking of gaming funds in our proposal. We believe that is a proper function of the legislative budget process.

On behalf of the Kickapoo Tribe and the Sac and Fox Nation, I thank you for your time and your indulgence today and would be pleased to stand for questions.

WBD

## EXPANDED GAMING CONSIDERATIONS

- The Governor's Committee on Gaming held numerous public hearing and recommended a strategy of high quality tourist destination resort casinos with a limited number of video lottery terminals at pari-mutuel tracks (300-600 machines per track).
- Christiansen Capital Advisors, internationally recognized as a top gaming market analyst, was engaged by the Kansas Lottery and made findings about the Kansas market, the kind of expanded gaming the public prefers and the type of gaming facilities which maximize the economic contributions of expanded gaming.

### Christiansen Capital Advisors found:

- The preferred form of expanded gaming in Kansas is destination resort casinos.
- Destination resort facilities maximize jobs and the capital investment that creates jobs.
- Destination resorts are more attractive than other forms of gaming, draw customers from greater distances and take a greater share in competed markets.
- A large capital investment is required to create a destination resort casino. Smaller capital investment translates into a less attractive facility with a smaller geographic reach.
- A quality full-service destination resort that offers attractions other than gaming would be well positioned to capture a significant proportion of the revenue in the Kansas City market.
- The creation of a quality full-service destination resort in competed markets is consequently important. The performance of a casino in Kansas City will be directly related to the attractiveness of what is built there.
- Taxes will be an important consideration in creating successful destination resorts. High rates of tax inhibit financing and limit return on investment. Higher tax rates discourage development and job creation.
- Slots at tracks have the least support among Kansas residents for expanded gaming.
- Slots at tracks minimize expanded gaming's economic contributions (jobs and capital investment) while maximizing gaming's social costs.
- There is a limit to gambling demand in Kansas City and other Kansas markets. Adding slots tracks does little to increase market demand; primarily this option redistributes the available market among more facilities.

- Adding slot machines at the tracks erodes the market economics for large new casinos in the same area making it more difficult to finance quality destination casinos.
- If slots are added at the Woodlands, the appropriate capital investment in a resort casino located two miles away adjacent to the Speedway drops from over \$300 Million to around \$250 Million which in turn would limit its attractiveness and ability to attract visitors.
- If gaming is expanded and slot machines are not allowed at pari-mutuel facilities, they are likely to suffer severe competitive impacts. Some tracks may close, layoffs will be inevitable and breeders and associated agrarian business in Kansas will be hurt.

**The Governor's Committee recommended that the state:**

- Expand gaming in the form of a large destination casino in Kansas City to maximize the benefits and minimize the costs of gaming.
- Avoid "convenience gaming" in which the gaming facilities merely redistribute dollars within the region.
- Provide a superior destination casino to Missouri riverboat competitors.
- Distribute revenue from slots at tracks primarily to the state and to boost purses for dog and horse races.
- Not create a windfall for track owners or give them a monopoly on gaming activity.
- Place a limited number of video lottery terminals at the pari-mutuel tracks—300 to 600 video lottery terminals to generate substantial immediate revenue for the state and pari-mutuel industry without significantly harming the market for destination casinos.

**CONCLUSIONS**

- Find an expanded gaming balance which enhances the purses at pari-mutuel tracks and benefits the breeders and associated agrarian businesses in Kansas without substantially eroding the market economics for destination casinos.
- The Governor's Committee on Gaming and the State Lottery's market consultant have clearly stated that quality destination casinos are the best approach to maximize the economic benefits of expanded gaming. They both also make a strong case for allowing only a limited number of video lottery terminals at the pari-mutuel tracks.

## ELEMENTS FOR EXPANDED GAMING LEGISLATION

- Destination Casinos @ limited locations – minimum \$250 M capital investment, 5% license fee (Dodge City capital investment, \$60 Million)
  - Kansas City, Kansas
  - Southeast Kansas (Cherokee/Crawford District)
  - Wichita (upon affirmative vote by public)
  - Dodge City (upon affirmative vote by public and economic impact analysis)
- Limited slots at Tracks (i.e., 500@ 3 tracks)
  - Woodlands (KC)
  - Wichita
  - Camptown (Frontenac)
  - Racing Commission
    - Administer 14% of revenues from slots at tracks for distribution to track purses/breed associations
  - Revenue sharing for Casinos (% of Adjusted Gross Revenues)
    - 18 percent to the State
    - 1 percent to the City
    - 1 percent to the County
    - 1 percent for State Regulation
    - .5 percent for Problem Gaming
  - Revenue Sharing for Pari-Mutuel Tracks (% of Adjusted Gross Revenues)
    - 40 percent to the State
    - 30 percent to the Track Owners for lease of facility & expenses
    - 10 percent for VLT's/Central System
    - 14 percent to the Racing Commission for Breeds/Track Purses
    - 1.5 percent to the City
    - 1.5 percent to the County
    - 1.0 percent to Regulatory
    - 1.0 percent to Problem Gaming Fund
    - 1.0 percent to Fair Racing



**ESTIMATED DESTINATION CASINO REVENUES (M)**

	GROSS REVENUE	STATE 18%	Local 2%
Kansas City	260	47	5.0
SE Kansas	185	33	3.7
Wichita	165	30	3.3
Dodge City	60	11	1.2
<b>TOTAL</b>	<b>670</b>	<b>121</b>	<b>13.2</b>

**ESTIMATED REVENUES/SLOTS AT TRACKS (\$150M GROSS REVENUE)**

	GROSS	STATE	TRACK OWNERS	PURSES/BREEDS	LOCAL
Kansas City	55	22	16	7.5	1.5
Wichita	45	18	14	6.5	1.5
Pittsburg	50	20	15	7.0	1.5
<b>TOTAL</b>	<b>150</b>	<b>60</b>	<b>45</b>	<b>21</b>	<b>4.5</b>

**PROJECTED STATE REVENUE FROM EXPANDED GAMING (M)**

FY	SLOTS AT TRACKS	CASINOS	TOTAL
2008	30		30
09	60	25*	85
10	55	70**	125
11	50	120	170
12	50	120	170
13	50	120	170
<b>Total</b>	<b>295</b>	<b>455</b>	<b>750</b>

\*manager license fees for two destination casinos

\*\*includes license fee for two destination casinos

## PROJECTED SLOT REVENUES/ALLOCATIONS

Wichita			
# Machines			500
Revenue			\$ 45,625,000
State	40.0%	\$ 18,250,000	
Local	3.0%	\$ 1,368,750	
Terminal Providers/ Central System	10.0%	\$ 4,562,500	
Purse/Breeds	14.0%	\$ 6,387,500	
Problem Gambler			
Programs	1.0%	\$ 456,250	
Regulatory	1.0%	\$ 456,250	
Facility Operator	30.0%	\$ 13,687,500	
Fair Racing	1.0%	\$ 456,250	

Pittsburg			
# Machines			500
Revenue			\$ 49,275,000
State	40.0%	\$ 19,710,000	
Local	3.0%	\$ 1,478,250	
Terminal Providers/ Central System	10.0%	\$ 4,927,500	
Purse/Breeds	14.0%	\$ 6,898,500	
Problem Gambler			
Programs	1.0%	\$ 492,750	
Regulatory	1.0%	\$ 492,750	
Facility Operator	30.0%	\$ 14,782,500	
Fair Racing	1.0%	\$ 492,750	

Kansas City			
# Machines			500
Revenue			\$ 54,750,000
State	40.0%	\$ 21,900,000	
Local	3.0%	\$ 1,642,500	
Terminal Providers/ Central System	10.0%	\$ 5,475,000	
Purse/Breeds	14.0%	\$ 7,665,000	
Problem Gambler			
Programs	1.0%	\$ 547,500	
Regulatory	1.0%	\$ 547,500	
Facility Operator	30.0%	\$ 16,425,000	
Fair Racing	1.0%	\$ 547,500	

Total			
# Machines			1500
Revenue			\$ 149,650,000
State	40.0%	\$ 59,860,000	
Local	3.0%	\$ 4,489,500	
Terminal Providers/ Central System	10.0%	\$ 14,965,000	
Purse/Breeds	14.0%	\$ 20,951,000	
Problem Gambler			
Programs	1.0%	\$ 1,496,500	
Regulatory	1.0%	\$ 1,496,500	
Facility Operator	30.0%	\$ 44,895,000	
Fair Racing	1.0%	\$ 1,496,500	

Data for projection of slot revenues from:

GTECH/Legislative Post Audit Study 2002;  
Christiansen Capital Advisors 2004 and 2006 Reports for Kansas Lottery.

### Wichita

Averaged GTECH's \$245 W/M/Day projection from the 2002 Post Audit Report based on 1675 machines and CCA's 2006 \$255 W/M/D projection based on 1500 machines.

### Pittsburg

Averaged Christiansen's 2004 \$341 WPU/Day projection for 600 slots at the track without a nearby casino and GTECH's 2002 \$200 WPU/Day projection for 1350 machines at the Track.

### Kansas City

\$300 W/M/Day projection from Christiansen's 2006 WMD projection for 800 slots at the Woodlands.

# Greater Kansas City Building and Construction Trades Council, AFL-CIO

Affiliated With The Building and Construction Trades Department

400 SOUTH MAIN  
INDEPENDENCE, MISSOURI 64050

Ken Alexander  
President  
Galen Beem  
Vice President  
Kevin Sexton  
Treasurer

Garry Kemp  
Secretary-Business Manager  
Executive Officer  
Alise Martiny  
Business Representative



March 13, 2007

Boilermakers No. 83

Bricklayers No. 15

Carpet & Linoleum  
Layers No. 1179

Cement Masons &  
Plasterers No. 518

Electricians No. 124

Elevator Constructors No. 12

Glaziers No. 558

Heat and Frost Insulators No. 27

Insulation Production  
Workers No. 1

Operating Engineers No. 101

Painters D/C No. 3

Pipe Fitters No. 533

Plumbers No. 8

Roofers No. 20

Sheet Metal Workers No. 2

Sign Painters No. 820

Sprinklerfitters No. 314

Sprinklerfitters No. 669

Teamsters No. 41

Teamsters No. 541

Senate President Steve Morris  
Speaker of the House Melvin Neufeld  
Senate Majority Leader Derek Schmidt  
House Majority Floor Leader Ray Merrick  
Senate Minority Leader Anthony Hensley  
House Minority Leader Dennis McKinney  
Members of the Kansas Legislature

Re: 2007 Gaming Legislation

Dear Members of Senate and House Leadership and Members of the Kansas Legislature:

On behalf of the Greater Kansas City Building and Construction Trades Council, its affiliated craft locals and thousands of organized craft persons in eastern Kansas, this letter is written to you as the Kansas Legislature begins consideration of gaming legislation in 2007.

As you are aware, organized labor has been a proponent of expanded gaming in Kansas dating back to 1993 when the subject was first proposed to the legislature. Since that time, many of our colleagues have lent their support to legislation authorizing slot machines at pari-mutuel tracks and in recent years, combined slots-at-tracks and casino gaming proposals.

We have supported these proposals because of the jobs they represent for Kansans, both during the construction phase and after the facilities are open. We have also supported these proposals because of the revenues they would provide to state and local governments through revenue sharing, increased taxes and tourism dollars. And, because of the positive impact gaming could have on the pari-mutuel industry in our state.

In 2003 we wrote a letter to Governor Sebelius and encouraged her to give serious consideration to a proposal made by the Kickapoo Tribe and the Sac and Fox Nation for a destination resort casino they proposed to develop on land they own near the Kansas Speedway in Wyandotte County. That proposal, contained in a tribal gaming compact negotiated between the Tribes and the Governor, would have allowed for two destination casinos in Kansas and the placement of up to 1,800 state-owned and operated slot machines at pari-mutuel tracks. For a variety of reasons, that proposal failed to advance.

FEDERAL AND STATE AFFAIRS

Office (816) 836-8485 • Fax (816) 836-8486 • E-mail: kcbtrades@aol.com

Date 3-13-07

Attachment 2

# International Union of Operating Engineers



AFFILIATED WITH THE AFL-CIO

LOCAL NO. 101

6601 WINCHESTER, SUITE 280

KANSAS CITY, MO. 64133

OFFICE (816) 737-8500

FAX (816) 737-2700



RODGER KAMINSKA, Business Manager  
SCOTT RETTIG, President  
KURT CHAFFEE, Vice President  
TIM GOOCH, Financial Secretary  
GARY BENNETT, Recording Secretary  
MIKE CHARLTON, Treasurer

March 13, 2007

## An Open Letter to the Members of the Kansas Legislature:

On March 12, the House Federal and State Affairs Committee began holding hearings on several gaming measures introduced into the Kansas Legislature. The Legislature has considered and rejected gaming legislation in one form or another every session for each of the past fourteen years. We are concerned that the 2007 session will be no different than before unless the debate is refocused on a reasonable and responsible approach to the implementation of gaming in Kansas that is significantly different than what is currently being proposed by the gaming lobby.

Recently, we had the opportunity to review a proposal for expanded gaming that has been developed by the Kickapoo Tribe and the Sac and Fox Nation. Their recommendations suggest the state consider allowing for the development of destination casinos in three or four areas of the state (Wyandotte County, southeast Kansas, south central Kansas and possibly western Kansas) through a competitive bidding process with a minimum investment of \$250 million in each of the three major markets and a proportionally smaller investment in western Kansas. In addition, their proposal would authorize a sufficient number of state-owned and operated slot machines to be placed at three pari-mutuel tracks that would allow Kansas to again become a nationally-recognized leader in the horse and greyhound industry (500-600 machines)>

The Tribes proposal for gaming is a responsible approach, which has never been considered by the Legislature. Previous gaming proposals have been heavily influenced by the gaming lobby and promoted huge expansions of gaming in our state, particularly slot-at-tracks, and thus were rejected as bad public policy by the Kansas Legislature.

It is time for the members of the Kansas Legislature to retake control of this issue and craft a gaming bill that reflects sound public policy. We believe that if the Legislature is willing to consider a reasonable and responsible gaming bill containing the provisions suggested by the Tribes that emphasize economic development, jobs and infrastructure investment, while at the same time allow the pari-mutuel racing industry to again be successful, that a majority of legislators in both the House and Senate can accept such a proposal.

On behalf of the 5200 members of the International Union of Operating Engineers Local 101, we thank you for your consideration of our thoughts on this important issue.

Sincerely,

Rodger Kaminska  
Business Manager  
and International Trustee

RK:cm

FEDERAL AND STATE AFFAIRS

Date 3-13-07

Attachment 3

# Pipe Fitters Association Local Union No. 533

KANSAS CITY AND METROPOLITAN AREA

UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING  
AND PIPE FITTING INDUSTRY OF THE UNITED STATES AND CANADA

PHONE (816) 523-1533  
FAX (816) 523-1536  
E-MAIL: pf533@kc.rr.com

8600 HILLCREST ROAD  
1ST FLOOR NORTH  
KANSAS CITY, MO 64138



March 12, 2007

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On behalf of the Officers and Members of Pipefitters' Local Union 533, we thank you for your consideration of our thoughts on this important issue.

Sincerely,

  
Neil F. Willis  
Business Manager

FEDERAL AND STATE AFFAIRS

Date 3-13-07

Attachment 4

# The City of Baxter Springs, Kansas

On Historic Route 66

P.O. Box 577 1445 Military Avenue Baxter Springs, KS 66713

## Office of the Mayor

March 13, 2007

House Federal and State Affairs Committee  
Topeka, KS

Dear Chairman Siegfried and Distinguished Members of the Committee,

Thank you for the service you provide to our State and I am grateful for the opportunity to testify today about an issue those of us from Southeast Kansas have become very familiar with over the past few years.

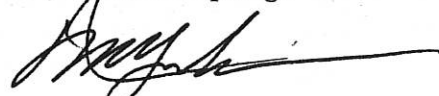
Presently, we have twelve Tribal Casinos within 30 minutes from our city limits, actually six less than 10 minutes from the state line. Many Kansans from my hometown of Baxter Springs and surrounding communities frequent these daily. We have dinner in their restaurants, Christmas parties in their meeting rooms, enjoy live entertainment at their complexes and buy gas at their convenience stores. I'm sure the same story can be told about the Kansas City area and, coming soon, if not already in existence are similar situations in Wichita although it's a few more miles from the border.

We have a rare chance, although fleeting, to help ourselves. Our study shows that 85% of the revenue from a Southeast Kansas casino would come from out of state. A Southeast Kansas casino would generate between 1,000 to 1,500 new jobs, provide millions of dollars in state revenue, spin off other businesses and help level the playing field between our neighbors in Missouri and Oklahoma when it comes to economic development. We don't need special treatment. We don't need a grant or a new government program. We just need our legislators to allow Southeast Kansas, with citizen approval, to keep my and your constituents from leaving the state for entertainment and the opportunity capture sizeable out of state entertainment dollars.

Many say gaming only "takes away" from the economy. I have heard that legislators say the money all goes to out of state gaming companies. I say it is no different that shopping at Macy's or any other national enterprise. If we can get 1,000 to 1,500 new jobs and a business that purchases goods and services locally while writing a check to the state to do so, then we should take advantage of it. Our citizens freely and voluntary take their entertainment dollars where they wish. Let's keep it in Kansas.

On behalf of the citizens of Southeast Kansas, thank you for your time and consideration regarding this very important matter.

Kind regards,  
City of Baxter Springs



Huey M. York

FEDERAL AND STATE AFFAIRS

Date 3-13-07

Attachment 5

# STAND UP FOR KANSAS

P.O. Box 780127 • Wichita, KS 67278 • (316) 634-2674

## Testimony To House Federal and State Affairs Committee On House Bill 2569

Glenn O. Thompson  
Executive Director, Stand Up For Kansas  
March 13, 2007

### Introduction

Good afternoon Chairman Siegfried and members of this committee. Thank you for this opportunity to speak at this public hearing.

I am Glenn Thompson, executive director of Stand Up For Kansas, a state-wide coalition of grassroots citizens who oppose the expansion of gambling in Kansas.

Before discussing the details of House Bill 2569, I would like to first try to answer two very important questions related to all the bills being discussed this week:

1. **“Why do the proposed bills require the state ‘own and operate’ the casinos?” and**
2. **“Why are privately owned and operated casinos not permitted in Kansas?”**

To answer these questions, let’s review the key legal milestones on gambling in Kansas, listed in Exhibit 1.

But, what is a ‘state-owned and operated casino’? This question has not been answered by the courts. But, we do have several Attorney General opinions that address this question, as shown in Exhibit 2.

### HB 2569

Now with that background, let’s discuss HB 2569. We urge you to oppose this bill for three reasons.

#### 1. Corruption

The state would not only own and operate the casinos, it must also regulate and police them, encouraging corruption of government officials. How can the state regulate and police the casinos it owns? That would be an invitation for disaster.

Gambling and corruption are inseparable. For example, just last month, the North Carolina Speaker of the House and several others on his staff pleaded guilty to various crimes associated with gambling. (See exhibit 2) And, as you may know, former Louisiana Governor Edwin Edwards and many other high-level Louisiana officials are in jail for crimes associated with casinos.

Kansas should not extend this invitation for corruption by getting into the casino business.

#### 2. Slippery slope

This bill permits a casino only in a county adjacent to an out-of-state county with a destination casino. But, the bill provides no financial penalties on the state if subsequent legislative action allows gambling into other counties. If this bill passes, other counties will be screaming simply the “camel’s nose under the tent” and will invite the spread of casinos

FEDERAL AND STATE AFFAIRS

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### **3. Referendum requirements**

New Sec. 7. (a) states, "Destination casino gaming shall be operated pursuant to this act only in counties where the qualified electors have voted to permit the operation of such gaming and such gaming has been approved by the qualified electors in any county located in Kansas which is adjacent to the county in which the proposed destination casino will be located." (underline added) So, the referendum must pass in only one adjacent county, even if it fails in all the other adjacent counties. Since most of the casino revenue will come from the home county and the surrounding adjacent counties, the position of each adjacent county on this issue needs to be considered. The word "any" should be changed to "each".

### **Conclusion**

We believe these are serious deficiencies. Therefore, we urge you to oppose House Bill 2569



**Exhibit 1**  
**HISTORY OF LEGALIZED GAMBLING IN KANSAS**  
**Key milestones**

*Lottery: "A chance for a prize for a price... Essential elements of a lottery are consideration, prize and chance ... " [Black's Law Dictionary]*

- January 29, 1861** Kansas admitted to the Union. The Ks. constitution stated, "**Lotteries and the sale of lottery tickets are forever prohibited.**" [Art. 15, Sec. 3]
- Nov. 5, 1974** In a state-wide referendum, a majority of voters approved an amendment to the constitution authorizing the legislature to regulate, license and tax operation of games of "**bingo**" by nonprofit religious, charitable, fraternal, educational and veterans organizations. [Art. 15, Sec. 3a]
- Nov. 4, 1986** In a state-wide referendum, a majority of voters approved an amendment to the constitution authorizing the legislature to permit, regulate, license and tax the operation or conduct of **horse and dog racing** by nonprofit organizations and **parimutuel wagering** thereon, subject to approval in a county referendum in the county where the racetrack is located. [Art. 15, Sec. 3b]
- Nov. 4, 1986** In a state-wide referendum, a majority of voters approved an amendment to the constitution authorizing the legislature to provide for a "**state-owned and operated lottery.**" [Art. 15, Sec. 3c]
- January 27, 1994** Kansas Supreme court ruled that (1) "the term **lottery** as approved by voters in the 1986 constitutional amendment is **synonymous with gambling,**" (2) a "state-owned lottery, as that term is used in Art. 15, Sec. 3c of the Kansas Constitution means any state-owned and operated game, scheme, gift, enterprise, or similar contrivance wherein a person agrees to give valuable **consideration** for the **chance** to win a **prize** or prizes," and (3) Art. 15, Sec. 3c of the Kansas Constitution is not self-executing. Implementation of additional forms of state-owned and operated gambling **must be enacted by the legislature.**" [Ks. Supreme Court press release, Jan. 27, 1994]
- April 4, 1995** In a state-wide referendum, a majority of voters approved an amendment to the constitution authorizing the legislature to regulate, license and tax operation of games of "**instant bingo**" by nonprofit religious, charitable, fraternal, educational and veterans organizations. [Art. 15, Sec. 3a]
- 1995** Legislature authorized and Gov. Graves signed compacts with **Iowa tribe, Prairie Band Potawatomi nation, Kickapoo tribe and Sac and Fox nation** for Indian casinos on their lands.

FEDERAL AND STATE AFFAIRS

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Attachment 7

**Exhibit 2**  
**Constitution and Kansas Attorney General Opinions**  
**on**  
**"state owned and operated lottery"**

**CONSTITUTION**

**Original constitution:** Art. 15, Para. 3: Lotteries and the sale of lottery tickets are forever prohibited.

**1986 amendment:** 3c: State-owned and operated lottery. Notwithstanding the provisions of section 3 of article 15 of the constitution of the state of Kansas, the legislature may provide for a state-owned and operated lottery.... (Amendment adopted Nov. 4, 1986)

**1994 Ks. Supreme Court ruling:** The term "lottery" is synonymous with "gambling," so state can own and operate casinos, subject to legislation being enacted.

**AG Opinion 92-1**

"As long as the state owns the business and has ultimate and complete control of the operation, article 15, section 3c of the constitution **does not require that the state actually own the building or equipment used in a lottery operation.**"

"... this provision does not necessarily require that the state own the actual structure in which the lottery is conducted, or the equipment which is used in the operation. As long as the state owns the business and has ultimate and complete control of the operation, **it is not necessary that the state actually own the building or the equipment used in the operation.**"

"It is our understanding that under the scenario you present, the state will, through legislation, rule and regulation and contract terms, determine and actively control the types of games to be allowed, the odds of winning, the stakes to be won, the amount of consideration required to play and the percentage of take for the state and others. The state will also determine where the machines will be placed as well as certifying such locations. **These factors evidence state control.**"

**AG Opinion 94-26**

"From this it appears that the intent of the adopters, as well as the framers, was for the state to own the lottery as well as to control or manage it directly."

"3. The state of Kansas **may contract with private entities to construct a casino**, as can be done with any state-owned and operated facility. The state may also contract with private entities to operate specific games of chance within the casino **if ownership and sufficient control and responsibility over the business as a whole remains with the state.**"

"5. Not all personnel employed at a casino must be state employees. The state may contract with private entities to provide services. Private entities providing contracted services may use their own employees. We caution, however, that as a matter of public policy **sensitive positions should be held by state employees** subject to termination by the state and ethics provisions and/or background checks."

"6. The state of Kansas may license private entities to place and maintain privately-owned casino gaming equipment **as long as the state retains ownership and control of, and responsibility for, the gaming operation**. For example, the state would determine the types of games and gaming equipment to be made available for public use, the betting limits, the stakes, the odds, and essentially how the equipment will be used and patrolled."

"7. An arrangement whereby the state agrees to permit a private entity to operate a casino in exchange for a set percentage of the take comes very close to regulation with a tax. However, **if the arrangement is contractual and involves the state's retention of ownership and control, the issue of compensation would appear to be best left to sound business discretion exercised in the best interests of the state.**"

"8. The state of Kansas may not hand over the operation of a casino to a 'quasi-public' corporation, and **must play a more intimate and active role than that of a regulator.**"

# STAND UP FOR KANSAS



P.O. Box 780127 • Wichita, KS 67278 • (316) 634-2674

## Casino Alert

A Newsletter for Kansas Legislators

February 26, 2007

### *NC Speaker pleads guilty to corruption*

“When (North Carolina Speaker of the House) Jim Black's guilty plea finally came, it was anti-climactic. After so many years of allegations, grand jury appearances and convictions of close associates, it was apparent that Black could not escape the noose that was slowly and painfully tightening around him. His guilty plea Thursday (Feb. 15, 2007) ends an embarrassing saga in North Carolina politics.

Black's guilty plea comes after his legislative aide, Meredith Norris, was convicted of lobbying law violations; his political action committee treasurer, Scott Edwards, pleaded guilty to obstruction of justice; and former Rep. Michael Decker, whose party switch in 2002 kept Black in the speaker's chair, pleaded guilty to conspiracy and named Black as his co-conspirator.

**Also, lobbyist Kevin Geddings, whom Black appointed to the Lottery Commission, and Alan Middleton of gaming company Scientific Games were charged for actions involving passage of the state lottery. Geddings was convicted of mail fraud, and Middleton was convicted of lobbying law violations.**

Black's vulnerability in this Greek tragedy was his lust for power and his willingness to bend the rules to get it and hang onto it. His guilty plea Thursday was the first indication that Black had obtained personal gain through his powerful position.

**The fact that he also accepted cash for his influence makes his legacy even more sordid.** Black took an oath to uphold the Constitution and laws, but he violated that oath by rationalizing that the ends justified the means. And in addition to that he put his personal integrity up for auction to the highest bidder.

As speaker of the House and as chief fund-raiser for Democratic candidates, Black amassed great power, and he used that power to pass legislation he thought was in the state's best interests, or at least in the best interests of the campaign donors who helped keep him in power. **He rammed through a state lottery and attempted to swing the lottery contract to his cronies. He protected the video poker industry, despite complaints from law enforcement and churches.** He also looked after his professional colleagues by inserting into law a provision requiring eye tests by optometrists (like himself) for all children entering public schools.

In the end, Black was undone by his own hubris. He thought his accumulation of power and his disbursal of campaign cash to House members would protect him from legal consequences.

Let all N.C. (and Kansas) politicians learn a lesson from Black's downfall.”<sup>1</sup>

**Kansas-owned and operated casinos would  
be an invitation to corruption**

<sup>1</sup> “Black's guilty plea is anti-climactic,” Editorial, The Wilson Daily Times, Wilson,  
For additional information, contact Glenn Thompson, (316) 634-2674, or Da

# HEIN LAW FIRM, CHARTERED

5845 SW 29<sup>th</sup> Street, Topeka, KS 66614-2462

Phone: (785) 273-1441

Fax: (785) 273-9243

Ronald R. Hein  
Attorney-at-Law  
Email: rhein@heinlaw.com

**Testimony re: HB 2569  
House Federal and State Affairs Committee  
Presented by Ronald R. Hein  
on behalf of  
Prairie Band Potawatomi Nation  
March 13, 2007**

My name is Ron Hein, and I am legislative counsel for Prairie Band Potawatomi Nation (PBPN). The Prairie Band Potawatomi Nation is one of the four Kansas Native American Indian Tribes, and is located in Mayetta, Kansas, north of Topeka.

PBPN opposes HB 2569.

## **PBPN Position and IGRA**

The Prairie Band Potawatomi Nation (PBPN) has consistently opposed legislation providing for the expansion of Class 3 gaming by the state of Kansas. The PBPN opposition stems primarily from the recognition that such gaming would negate the benefits that Tribal gaming provides to Native American Indian Tribes through the federal Indian Gaming Regulatory Act (IGRA.) IGRA was approved by Congress to promote economic development of Indian Tribes, and to provide for the regulation of gaming on Indian reservations. IGRA is administered at the federal level, but there are provisions for compacts to be entered into with the state, and the state is involved in the oversight of daily gaming operations. There are restrictions on the ability of the states to require payments to the state as a part of the consideration for gaming compacts.

## **Tribal Gaming Generates Tax Revenue and Economic Development**

Expanded gaming proponents contend that the state receives no revenue from Tribal gaming. It is correct that the Tribes do not pay a specified percentage of gaming revenues to the state. State and local government, school districts, and other taxing subdivisions benefit from Tribal gaming by virtue of numerous taxes paid as a result of Tribal gaming and the economic development that they currently generate for Northeast Kansas.

The myth that no taxes are generated from Tribal gaming exists because some people believe that Native Americans do not pay taxes. So there is no misunderstanding, all Tribal members pay federal income taxes. Regarding state income tax, only those Tribal members who both work and live on the reservation are exempt from state income taxes. Any Tribal member who lives off the reservation but works on the reservation and any Tribal member who lives on the reservation but works off the reservation pays state income taxes. A very small percentage of Tribal members both live and work on the reservation. Lastly, Tribal members pay sales taxes on purchases made off the reservation, which are virtually all purchases by tribal members.

Gaming is one of the few tools provided by federal and state law for Indian reservations to generate economic development and revenue necessary to run gov

Other communities have expressed a need for gaming in order to help development. The areas being served by Tribal gaming and the reser

FEDERAL AND STATE AFFAIRS

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Attachment 4

severely economically disadvantaged before Tribal Gaming. Prior to IGRA gambling, unemployment ran as high as 78% on the PBPB reservation. Today it is 6%, with most of the vast majority of the jobs being non-casino jobs.

Other communities have available economic and tax advantages that do not exist for the four Kansas resident Tribes. Gaming has been the one economic development program which the federal and state governments have allowed the Tribes to utilize. Now, expanded gaming threatens that source of revenue for the Tribes and the areas surrounding the reservations.

With Tribal Gaming, dollars generated for the Tribes are used for community improvements and services such as fire protection, education, elderly programs, low-income housing, and other social programs and remain within the state as additional economic development for Kansas and local communities.

### **Gambling History and the Slippery Slope**

We have much to learn from the history of gambling from what has occurred with parimutuel gambling in Kansas, and with gambling in Missouri. Once the state starts down the slippery slope of state owned and operated casino gambling, the state will not be able to stop itself from falling further into expanded gambling as more groups and areas of the state demand to be included.

A review of the history of parimutuel gambling in Kansas will demonstrate that this gambling bill is not the end of efforts to expand gambling in Kansas. Gambling is likely to be a legislative issue every year for the next ten years as proponents seek greater and greater benefits, fewer and fewer restrictions, and more and more money.

### **Gambling Expansions Effect upon Economic Development and the State**

In estimating revenue benefits to the state of Kansas from gambling, this committee should take into consideration the impact on Lottery revenues, the impact on bingo revenues, the impact on charities running bingo operations, and the impact on tax revenue and economic benefits of other businesses in the state who will lose business to the expansion of gambling. Also, our own studies show that the economy of our Tribes will be seriously impacted by expanded gambling.

Our studies also indicate that of the total market for gambling in Kansas, the majority of such market will consist of revenues now committed to existing Kansas businesses, not new "economic development" generated from out of state sources.

The legislature should not make any recommendation for expanded gambling without determining how much of the revenue generated by expanded gambling will come from dollars already being spent at other businesses within the state, and how much state and local tax revenues will be lost from those businesses.

## Governor's Gaming Committee Findings

The Governor's Gaming Committee spent a great deal of time researching gambling in the summer of 2004. Among other things, they made some findings as set out below:

**"The state should expand gambling in the form of a large destination casino. ...The state should avoid "convenience gambling," in which the gambling facilities would merely redistribute dollars within the region. ...The best location in Kansas for a destination casino is Wyandotte County...A destination casino should not be established outside of Wyandotte County without convincing and significant evidence of such a venture's viability."**

The Governor's Gaming Committee went on to recommend: "A large destination casino—either state-owned and operated or Indian—in Wyandotte County, supplemented by slots at the tracks. In addition to this destination casino, the committee feels that the state should maximize its potential for immediate revenue by placing a **limited number of video lottery terminals** at the parimutuel tracks." [Emphasis supplied.]

The Governor's Gaming Committee also noted the following:

**"Because the Kansas Constitution generally prohibits gambling, the only two legal models currently available (absent a constitutional amendment) for a casino are a state-owned and operated casino (under Article 15, Section 3c of the Kansas Constitution) and an Indian casino (under IGRA). ... To pass muster under Article 15, Sections 3 and 3c of the Kansas Constitution, the gambling operation of a state-owned and operated casino must be controlled and directly managed by a state agency. ...This approach, however, would place the State of Kansas in the uncomfortable position of being the first state in the Union to own and operate a full casino. Taking the plunge into full-blown gambling presents the state with significant ethical and economic risks. The state should thus enter this territory with extreme caution."** [Emphasis applied.]

## HB 2569 Is Not the Way To Expand Gambling

1. **Governor's Gaming Committee** HB 2569 does not meet the findings or the recommendations of the Governor's Gaming Committee. The Governor's Gaming Report clearly supported a single destination casino in Wyandotte County.
2. **Economic and Ethical Risks** HB 2569 is dangerous because of the economic and ethical risks that are created by gambling, as noted by the Governor's Gaming Committee, [which found such risks with only **one** state-owned casino, let alone with the plethora of casinos and slots provided for in this bill]. This bill will allow for an unknown number of casinos.
3. **Lost State Revenue** You have all heard the proponents boast about how much revenue will result from expanded gambling. What you do **not** hear from the gambling proponents is an analysis of **how much revenue will be lost** to the state of Kansas by such widespread expansion of gambling. Previous calculations on bills similar to HB 2055, which you heard yesterday, have indicated that \$727 million, or **three quarters of a billion dollars** would be taken out of the existing economy. Many of these dollars are

already being spent with other businesses in the state, whether they be restaurants, community theaters, bowling alleys, movie theaters, car dealerships or any other recreational or non-recreational activities which will lose business. What is the cost to the state in lost tax revenue, lost property taxes, lost employment taxes, lost lottery revenue, lost income taxes of three quarters of a billion dollars being removed from the economy. Only when that question is answered would this legislature be in a position to determine how many casinos and where they should be located in the state of Kansas.

I am unclear of the numbers for HB 2569, but the message of economic development is still the same. Some protection needs to be incorporated to insure that gambling casinos bring in new revenue from out of state. I would recommend that casinos be required to provide at least 60% of their revenue from out of state money, or return of existing Kansas money which is currently going out of state. With a requirement lower than that, you are simply replacing existing economy dollars into gambling dollars. And, by its nature, as pointed out by professor Bill Thompson, the gambling business already exports a lot of money. Money will be exported by the purchase of slots machines, all of which are built only in Nevada, and much of the revenue diverted to private operators, many of whom are from out of state, will also be diverted away from the Kansas economy.

For Kansas to have any net gain from gambling will necessitate requirements in the legislation, or in the constitution, that the gambling casino be big enough to attract out of state revenue, and that the location of the casino be such that out of state revenue will result.

**4. Experience** In previous bills, the Senate unanimously adopted an amendment that any company seeking to operate any of the gambling facilities needs to have at least three years experience in operating Class III gambling. That policy makes good sense because, generally the State of Kansas, when it is entering into contracts, especially multi-million dollar contracts, is able to expect the best and the most talented vendors to respond to requests for proposals on such contracts.

Any gambling bill should require that class III gambling operators, whether the state or not, have at least three, or even preferably five or ten years experience, in operating a Class III casino. Any bills which provide for slots at the tracks, or for a new parimutuel track, should require either experience in operating Class III gambling or experience in operating parimutuel tracks, as the case may be.

### **HB 2569 Provision Necessary If Kansas Is Ever to Approve Legal Gambling**

**1. No Slots at Tracks** HB 2569 properly recognizes that slots at the tracks detract from the success of destination casinos, and create the risk that a large enough and attractive enough casino will not be built in order to attract economic development from out of state.

**2. Market survey** HB 2569 provides for a market study. It is ludicrous for the legislature to entertain any legislation drafted by lobbyists for gambling operators who are representing the selfish interests of their clients. I testified before the legislature 10 years ago, that if the legislature and the state is going to be serious about expanding gambling, the legislature should hire some experts on gambling, and seek their private advice and



already being spent with other businesses in the state, whether they be restaurants, community theaters, bowling alleys, movie theaters, car dealerships or any other recreational or non-recreational activities which will lose business. What is the cost to the state in lost tax revenue, lost property taxes, lost employment taxes, lost lottery revenue, lost income taxes of three quarters of a billion dollars being removed from the economy. Only when that question is answered would this legislature be in a position to determine how many casinos and where they should be located in the state of Kansas.

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**1. No Slots at Tracks** HB 2569 properly recognizes that slots at the tracks detract from the success of destination casinos, and create the risk that a large enough and attractive enough casino will not be built in order to attract economic development from out of state.

**2. Market survey** HB 2569 provides for a market study. It is ludicrous for the legislature to entertain any legislation drafted by lobbyists for gambling operators who are representing the selfish interests of their clients. I testified before the legislature 10 years ago, that if the legislature and the state is going to be serious about expanding gambling, the legislature should hire some experts on gambling, and seek their private advice and

counsel on how the state should go about conducting gambling in the state, both from an economic standpoint as well as from a social policy standpoint. Thus far, the legislature has hired no experts of their own, and has entertained legislation drafted by gambling promoters who have written the most self serving legislation this or any legislature has ever seen on this or any other subject. This legislature needs to know what the approach should be, how many casinos should be built, how many slots at each location, and what the amount of take to the state should be before making political decisions on where you want casinos. You also need to be apprised of all of the economic impact of expanded gambling, and all of the social costs of expanded gambling, so that you, as legislators, can look at all of the governmental costs that will be involved. For those of you not on the Judiciary Committee, that committee now gets a prison bed count for every criminal sentencing or criminal punishment bill which is considered. You do that much for simple criminal bills. You should do that much or more for the social and economic costs that will be generated by expanded gambling.

### **Constitutionality—State-Owned and Operated**

The Kansas Constitution is very clear that any casino must be “state owned and [state] operated”. The Governor’s gaming committee was also very clear that the state must “own and operate” the casino as required by the Kansas Constitution. The Kansas Constitution clearly states that casino gambling, as a lottery, must be owned and operated by the state of Kansas. This is to be distinguished from parimutuel racing which can be conducted constitutionally by private operators because the language authorizing parimutuel wagering in the Constitution clearly refers to parimutuel being “licensed and regulated by the state”, not “owned and operated” by the state.

HB 2569 does not utilize as much smoke or as many mirrors as HB 2055 to attempt to obfuscate the simple fact that private operators are being contracted to operate these gambling facilities, but HB 2569 clearly uses a licensing mechanism to establish the destination casinos, which, again, is clearly unconstitutional.

The oath of office sworn by every legislator on this committee and in the legislature reads as follows:

We, and each of us, do solemnly swear or affirm, that we will support the constitution of the United States and the constitution of the State of Kansas, and faithfully discharge the duties of the office of Representative of the State of Kansas, so help us God.

It would be a violation of your oath of office to vote for an unconstitutional bill such as HB 2569, which clearly establishes privately operated casinos in the state, contrary to the Kansas Constitution.

All of the references to management contracts and to the privilege of winning these contracts makes clear that all the state is doing is licensing and regulating these privately operated casinos. The state is not owning and operating these casinos. If the state owns and operates the casino, the state would be realizing all of the revenue which is being deferred to private operators under this bill.

This committee and this legislature have three options available to you if you want to expand gambling in this state: 1) you can establish a truly state owned and operated casino, which would meet constitutional muster, but which the public does not really

support; or 2) the Governor can approve off reservation casinos for native American Indian Tribes pursuant to the federal Indian Gaming Regulatory Act [which, would require legislative approval by concurrent resolution and approval of the Bureau of Indian Affairs, at the Department of Interior] or 3) the legislature can approve a constitutional amendment to allow the development of privately operated casinos [which, of course, would have to be voted on and approved by the voters of the state].

Passing a simple bill which provides for privately operated casinos is not an option, and the fact that the legislature has even entertained such an option for 13 years is, in my opinion, simply a matter of the public not being adequately informed by the Governor, the news media, or others, of the requirement that casinos be state owned and operated. Numerous media and numerous public officials have surveyed the public if they support gambling or not, but the media and those pushing gambling for their own selfish monetary interests have not done anything to educate the public about the Kansas Constitution, or the fact that these types of bills are clearly unconstitutional.

From a policy perspective, if the state is going to initiate state-owned and operated gambling, why doesn't it simply establish state-owned and operated gambling, rather than using the machinations of entering into the elaborate, so-called management contracts which result in significant revenues being paid to private enterprises that is not consistent with the level of services which they are providing to the state of Kansas.

### **Problem Gambling**

It is well accepted that approximately 2-3 % of the public are either problem gamblers or compulsive gamblers. But, what is not realized, is that problem and compulsive gamblers can account for as much as 63 % of gaming revenue. So although many policy makers think that problem gambling addiction disorders are simply a problem with a limited number of people, policy makers have yet to come to the realization of the scope of the problems associated with gambling addiction. I will not review all of the studies here today, but I urge this committee and the full legislature to further explore the issues with problem gambling, and if that is done, I am confident that the legislature will be less excited about increased gambling in Kansas.

### **If Gambling Must Be Expanded, How Should the State Expand Gambling**

If gambling is to be expanded in Kansas, it should involve a constitutional process, either legislation must be purely state owned and operated casinos, or the legislature must approve a constitutional amendment allowing privately operated casinos. And if a constitutional amendment is to be passed, the legislature should look at the policy issues. Last year, Bill Thompson, an internationally recognized expert of gambling, and a professor at the University of Las Vegas, testified to the Senate Commerce Committee and stated that if the state is going to expand gambling, the state should focus on destination casinos only, because slots at the tracks draw away from the quality of destination casinos. Destination casinos are the appropriate way to attract economic development. Otherwise, all you have is a bunch of slot machines sucking money out of the existing economy of the area and the state. So, the legislature should establish a minimum amount to be spent on the destination casino, and it should be at least \$250 million.

Professor Thompson also noted that putting gambling facilities everywhere does not work, and that economic development results from placing the destination casinos in areas which will draw new revenue to the state. So the legislature should ensure that a certain percentage of revenue for any casino to be built, should come from out of state. Otherwise, the casino is simply hurting existing businesses, and not providing any economic development. Gambling should not be omnipresent, nor should it be substituted for or operated to the detriment of other businesses which have made Kansas great.

Lastly, the policy goal of the legislature should be to maximize revenue to the state, both from the taxes paid by the gambling operation, but also by the attraction of new revenue and/or businesses to Kansas. The goal should definitely not be to maximize revenue to a few individuals who privately operate the casinos. And, any legislation should be drafted by the state, AFTER retaining qualified experts, to benefit the state, not to benefit the clients of any gambling lobbyists who have drafted past proposed legislation.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.