Approved: March 22, 2007
Date

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Arlen Siegfreid at 1:30 P.M. on March 19, 2006 in Room 313-S of the Capitol.

All members were present except:
Representative Judy Loganbill- excused

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:
Lana Oleen
Doug Lawrence

Others attending:
See attached list

The Chairman opened the meeting and directed the Committees' attention to information which had been requested by Representative Brown and was provided by Kathie Sparks of Legislative Research regarding *Neighboring States' Racing and Gaming Executive Director Qualifications.* (Attachment 1)

The Chairman asked Lana Oleen to stand for questions on **HB 2569** - Kansas destination casino act; destination casino commission. Ms. Oleen had previously given testimony on behalf of the Prairie Band Potawatomi Nation as an opponent to the bill on Thursday, March 14th. Ms. Oleen submitted a copy of the casino lobbyists directory sorted by lobbyist. (Attachment 2)

The Chair closed the hearing on **HB 2569** and opened the hearing on **HB 2568** - Kansas destination casino act; destination casino commission; state owned and operated.

Doug Lawrence representing the Kansas Greyhound Association presented testimony as an opponent to **HB 2568**. The primary reason for their opposition to the bill is that it leaves the live greyhound and horse industry out of any reasonable consideration for allowing some additional gaming to adequately compete in the Kansas marketplace. Mr. Lawrence stated that he had asked to be neutral to the bill because he wished to speak on the issue of "State Owned and Operated Casino" requirements under the Kansas Constitution. He further voiced the opinion that **HB 2568** would create a new commission, which has the power to essentially take any of the three approaches considered in drafting of the original bill. (Attachment 3)

Mr. Lawrence also submitted for the Committee review a copy of *Gaming Industry FAQ* (Attachment 4), information from The Jockey Club regarding gross purses (Attachment 5), information regarding *Concerns about the Social and Psychological Impacts of Gambling* (Attachment 6), as well as *State Owned and Operated Lotteries* (Attachment 7).

Written testimony as an opponent to **HB 2568** was submitted by Denny burgess, a member of The Kansas Thoroughbred Association (Attachment 8), and Ronald Hein, on behalf of the Prairie Band Potawatomi Nation. (Attachment 9)

With no other person wishing to speak to the bill, the Chair closed the hearing on **HB 2568**.

There being no further business before the Committee, the Chairman adjourned the meeting.

FEDERAL AND STATE AFFAIRS
GUEST LIST
Date 3-19-07

Whitney Damron	Kickapoo Tribe / Sac & Fox Nation
Matt McCarthy	KSGA
Ed Van Petten	Lottery
Julie Hein	PBPN
W R Cato	AntiLottery
Rick Greeno	LABORERS 1290 AFL-CIO
[illegible]	LGR
Dan Murray	Federico
Ron Hein	PBPN
Dennis Phillips	KSCFF
Ed Redmon	KSCFF
HARVEY L. LUDWICK	KARSP
DICK CARTER	TIAK
Ron [illegible]	PBPN

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

545N-Statehouse, 300 SW 10th Ave.
Topeka, Kansas 66612-1504
(785) 296-3181 ◆ FAX (785) 296-3824

kslegres@klrd.state.ks.us http://www.kslegislature.org/klrd

March 16, 2007

To: House Federal and State Affairs Committee

From: Kathie Sparks, Principal Analyst

Re: Neighboring States' Racing and Gaming Executive Director Qualifications

Per the request of Representative Brown on Friday, March 9, 2007, the following states have been contacted and asked for the qualifications for their executive director position in each state. In addition, the request was made to see if the qualifications were in statute or rules and regulations.

Missouri

Missouri Gaming Commission

The five-member Commission appointed by the Governor appoints the Executive Director. The Executive Director position is the responsibility of the Commission and no statutes or rules or regulations address the qualifications.

Colorado

Colorado Division of Racing Events

The Director position qualifications can be found in Colorado statute 12-60-202 and a copy of this statute is attached.

Oklahoma

Oklahoma Horse Racing Commission

The Executive Director qualifications can be found in Oklahoma statute 203.3 and a copy of this statute is attached.

Nebraska

Nebraska Charitable Gaming
Nebraska Lottery

Both Divisions are part of the Department of Revenue and the State Tax Commissioner appoints. The director positions have no statute or rules or regulations

Federal and State Affairs
Attachment 1
Date 3-19-07

H:\02clerical\ANALYSTS\KLS\45655.wpd

Colorado

(26) "Track" or "racetrack" means a track which is located within the state of Colorado and at which a race meet of either horses or greyhounds is conducted under a license granted pursuant to section 12-60-505.

12-60-103. Division and commission subject to termination. The provisions of section 24-34-104, C.R.S., concerning the termination schedule for regulatory bodies of the state unless extended as provided in that section, are applicable to the division of racing events created by section 12-60-201 and the Colorado racing commission created by section 12-60-301.

PART 2
DIVISION OF RACING EVENTS

12-60-201. Division of racing events - creation - representation. (1) There is hereby created, within the department of revenue, the division of racing events, the head of which shall be the director of the division of racing events. The director shall be appointed by, and shall be subject to removal by, the executive director of the department of revenue. The division of racing events, the Colorado racing commission created in section 12-60-301, and the director of the division of racing events shall exercise their respective powers and perform their respective duties and functions as specified in this article under the department of revenue as if the same were transferred to the department by a type 2 transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.; except that the commission shall have full and exclusive authority to promulgate rules related to racing without any approval by, or delegation of authority from, the department of revenue.

(2) The division shall make investigations and shall request the commission or the district attorney of any district, as appropriate, to prosecute, on behalf of and in the name of the division, suits and proceedings for any of the purposes necessary and proper for carrying out the functions of the division.

12-60-202. Director - qualifications - powers and duties. (1) The director shall be qualified by training and experience to direct the work of the division; and, notwithstanding the provisions of section 24-5-101, C.R.S., shall be of good character and shall not have been convicted of any felony or gambling-related offense.

(2) The director shall not engage in any other profession or occupation that could present a conflict of interest with the director's duties as director of the division.

(3) The director, as administrative head of the division, shall direct and supervise all administrative and technical activities of the division. In addition to the duties imposed upon the director elsewhere in this article, it shall be the director's duty:

(a) To investigate, supervise, and administer the conduct of racing in accordance with the provisions of this article and the rules of the commission;

(b) To attend meetings of the commission or to appoint a designee to attend in the director's place;

1-2

(c) To employ and direct such personnel as may be necessary to carry out the purposes of this article, but no person shall be employed who has been convicted of a felony or gambling-related offense, notwithstanding the provisions of section 24-5-101, C.R.S. The director by agreement may secure and provide payment for such services as the director may deem necessary from any department, agency, or unit of the state government and may employ and compensate such consultants and technical assistants as may be required and as otherwise permitted by law. Personnel employed by the director shall include but shall not be limited to a sufficient number of veterinarians, as defined in the "Colorado Veterinary Practice Act", article 64 of this title so that at least one veterinarian employed by the director, or by the operator, as provided in section 12-60-705 (1), shall be present at every racetrack during weighing in of animals and at all times that racing is being conducted; and the director shall by rule authorize any such veterinarian to conduct physical examinations of animals, including without limitation blood and urine tests and other tests for the presence of prohibited drugs or medications, to ensure that the animals are in proper physical condition to race, to prohibit any animal from racing if it is not in proper physical condition to race, and to take other necessary and proper action to ensure the health and safety of racing animals and the fairness of races.

(d) To confer, as necessary or desirable and not less than once each month, with the commission on the conduct of racing;

(e) To make available for inspection by the commission or any member of the commission, upon request, all books, records, files, and other information and documents of the director's office;

(f) To advise the commission and recommend such rules and such other matters as the director deems necessary and advisable to improve the conduct of racing;

(g) To make a continuous study and investigation of the operation and the administration of similar laws which may be in effect in other states or countries, any literature on the subject which from time to time may be published or available, any federal laws which may affect the conduct of racing, and the reaction of Colorado citizens to existing and potential features of racing events in Colorado with a view to recommending or effecting changes that will tend to serve the purposes of this article;

(h) To annually prepare and submit to the commission, for its approval, a proposed budget for the ensuing fiscal year, which budget shall present a complete financial plan setting forth all proposed expenditures and anticipated revenues of the division. The fiscal year of the division shall commence on July 1 and end on June 30 of each year.

(i) To perform any other lawful acts which the director and the commission may consider necessary or desirable to carry out the purposes and provisions of this article.

12-60-203. Investigators - peace officers. (1) All investigators of the division of racing events and their supervisors, including the director and the executive director, shall for purposes of enforcement of this article be considered a peace officer, level II, as defined in section 18-1-901 (3) (l) (III), C.R.S.

(2) Nothing in this section shall be construed to prohibit local sheriffs, police departments, and other local law enforcement agencies or the Colorado bureau of

1-3

OKLAHOMA HORSE RACING COMMISSION

STATUTORY LANGUAGE
FOR EXECUTIVE DIRECTOR'S POSITION

Title 3A, Oklahoma Horse Racing Act

Section 203.3 - Executive Director-Duties, Qualification and Compensation-Equal Opportunity Plan-Law Enforcement-Surety Bond

A. The Commission shall appoint an executive director who shall have the same qualifications as a member of the Commission. The qualification regarding the residency requirement for Commission members shall not apply to the executive director. The executive director shall have experience in the horse racing industry of a character and for a length of time sufficient, in the opinion of the Commission, to fulfill the duties required of the executive director. The Commission shall determine the duties and compensation of the executive director.

B. The executive director shall recommend to the Commission the administrative organization and the number and qualifications of employees necessary without regard to race, color, gender, creed or national origin, to implement the provisions of the Oklahoma Horse Racing Act. A written equal opportunity plan will be developed for the Commission, by the executive director as part of the organizational plan. Upon approval of the organizational plan by the Commission, the executive director may employ such persons as are deemed necessary to implement the provisions of the Oklahoma Horse Racing Act.

C. 1. The organizational plan adopted by the Commission shall provide for a law enforcement division which shall have the responsibility for conducting investigations relating to the proper conduct of horse racing and the pari-mutuel system of wagering including but not limited to barring undesirables from horse racing, undercover investigations, fingerprinting persons licensed by the Commission, and reviewing license applications. The person in charge of the law enforcement division shall be a professional law enforcement officer with a minimum of five (5) years of experience in the field of law enforcement and a graduate of a four-year college with a degree in law enforcement administration, law, criminology or a related science, or in lieu thereof a minimum of ten (10) years of experience in the field of law enforcement.

2. The officers and agents of the law enforcement division of the Commission, and such other employees as the person in charge of said division shall designate to perform duties in the investigation and prevention of crime and the enforcement of the criminal laws of the state, shall have and exercise all the powers and authority of peace officers, including the right and power of search and seizure.

3. The Oklahoma State Bureau of Investigation shall provide such information within its possession as is requested by the law enforcement division of the Commission for the purpose of reviewing license applications.

4. If upon investigation by the Commission there is substantial evidence indicating that the security at any track is not satisfactory, the Commission may order the organization licensee to remedy the deficiency. If after ten (10) days following the order the organization licensee has not remedied the deficiency, the Commission may institute its own security personnel program until the deficiency in security is remedied, and may charge the organization licensee the actual costs incurred for said security. The organization licensee may petition the Commission for a hearing at

any time to review the necessity of the Commission further maintaining its own security personnel.

5. The provisions of this subsection shall not be construed to restrict or prohibit any federal, state, or local law enforcement officer from performing any duties imposed upon the law enforcement officer by law.

D. The executive director shall obtain a surety bond in the amount of One Hundred Thousand Dollars ($100,000.00) before entering into the duties of the office. The surety bond shall be conditioned upon the faithful performance of the duties of the executive director and the proper accounting of all moneys and property received by the executive director by virtue of the office. The cost of the surety bond shall be paid by the Commission.

Section 201 - Oklahoma Horse Racing Commission - Creation - Eligibility and Removal

A. There is hereby created the Oklahoma Horse Racing Commission, which shall consist of nine (9) members appointed by the Governor with the advice and consent of the Senate. At least one member shall be appointed from each congressional district, and at least three of the remaining members shall be experienced in the horse industry and shall be appointed from the state at large. However, when congressional districts are redrawn each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. Appointments made after July 1 of the year in which such modification becomes effective shall be from any redrawn districts which are not represented by a board member until such time as each of the modified congressional districts are represented by a board member. No appointments may be made after July 1 of the year in which such modification becomes effective if such appointment would result in more than two members serving from the same modified district.

B. To be eligible for appointment to the Commission, a person shall:

1. Be a citizen of the United States; and

2. Have been a resident of this state for five (5) years immediately preceding the appointment; and

3. Not have been convicted of a felony pursuant to the laws of this state, the laws of any other state, or the laws of the United States as established by a national criminal history record check as defined by Section 150.9 of Title 74 of the Oklahoma Statutes.

C. The term of office of a member of the Commission shall be for six (6) years and until a successor is appointed and qualified.

D. The Governor may remove any member of the Commission for incompetence, neglect of duty, or malfeasance in office upon first giving the member a copy of the charges and an opportunity to be heard. A vacancy on the Commission shall be filled for the unexpired term by appointment made by the Governor.

Casino lobbyists directory sorted by lobbyist

3/14/200

Position	Name	Company
Neu	Jeanne Goodvin	City of Wichita
Neu	Dale Goter	City of Wichita
Neu	Stuart Little	Kansas Assoc. of Addiction Professionals
Neu	Michael Pepoon	Sedgwick County Government
Neu	Andy Schlapp	Sedgwick County Government
Opp	Sister Therese Bangert	Kansas Catholic Conference
Opp	Mike Farmer	Kansas Catholic Conference
Opp	John Federico	Ameristar Casinos
Opp	Derek Hein	Prairie Band Potawatomi Nation
Opp	Julie Hein	Prairie Band Potawatomi Nation
Opp	Ron Hein	Prairie Band Potawatomi Nation
Opp	Dave Heinemann	Stand Up For Kansas
Opp	Paul Johnson	Kansas Catholic Conference
Opp	Steve Kearney	Isle of Capri Casinos
Opp	Lana Oleen	Prairie Band Potawatomi Nation
Opp	Rebecca Rice	Kansas Clubs & Associates
Opp	Richard Samaniego	Isle of Capri Casinos
Opp	Ron Seeber	Prairie Band Potawatomi Nation
Opp	Judy Smith	Concerned Women of America (CWA)
Opp	Beatrice Swoopes	Kansas Catholic Conference
Opp	Glenn Thompson	Stand Up For Kansas
Opp	Garry Winget	Kansans For Addictin Prevention
Pro	Kevin Barone	Chisolm Creek Ventures, LLC
Pro	Kevin Barone	The Law Company, Inc.
Pro	Kevin Barone	City of Park City
Pro	Kevin Barone	Sumner Co. Economic Development
Pro	Kevin Barone	Law Kingdom
Pro	Cathy Bennett	Greater KC Chamber of Commerce
Pro	Blake Benson	Pittsburg Area Chamber of Commerce
Pro	Jeff Bottenberg	Kansans for Economic Growth, LLC
Pro	John Bottenberg	Kansas Racing, LLC (The Woodlands)
Pro	Denny Burgess	IGT (International Games Technology)
Pro	Denny Burgess	Kansas Thoroughbred Assoc.
Pro	Tom Burgess	IGT (International Games Technology)
Pro	Tom Burgess	Ruffin Companies
Pro	Whitney Damron	Sac & Fox Nation of Missouri
Pro	Whitney Damron	Kickapoo Tribe in Kansas
Pro	Pat Hubbell	Kansas Racing, LLC (The Woodlands)
Pro	Patrick Hurley	G-Tech Corp.
Pro	Robin Jennison	Boot Hill Gaming
Pro	David Kensinger	Penn National Gaming., Inc. (Argosy)
Pro	Richard Klemp	Penn National Gaming., Inc. (Argosy)
Pro	Doug Lawrence	Kansas Greyhound Assoc.
Pro	Doug Lawrence	Crawford Co. Commission
Pro	Doug Lawrence	Ruffin Companies
Pro	Stuart Little	Penn National Gaming., Inc. (Argosy)
Pro	Doug Mays	Kansans for Economic Growth, LLC
Pro	Cathy Nugent	Kansans for Economic Growth, LLC
Pro	Cathy Nugent	Penn National Gaming., Inc. (Argosy)

Federal and State Affairs
Attachment 2
Date 3-19-07

Casino lobbyists directory sorted by lobbyist

Pro	Jeff Pederson	City of Dodge City
Pro	John Pinegar	Butler National Corp.
Pro	Michael Reecht	Greater KC Chamber of Commerce
Pro	Richard Samaniego	KPERS Retiree's Assoc.
Pro	Jonathan Small	Kansas Quarter Horse Racing Assn.
Pro	Douglas Smith	Butler National Corp.
Pro	Mike Taylor	Wyandotte Co. Unified Government
Pro	Robert Vancrum	Greater KC Chamber of Commerce
Pro	George Wingert	Ruffin Companies

Capitol Consulting Group
902 Miami St.
Burlington, KS 66839
785 806-6639

Doug Lawrence

March 14, 2007

Testimony on Behalf of the Kansas Greyhound Association
Re: HB 2568

For the record, the Kansas Greyhound Association opposes HB 2568. The primary reason for that opposition is that it leaves the live greyhound and horse industry out of any reasonable consideration for allowing some additional gaming to adequately compete in the Kansas marketplace.

Tracks are an important part of the agricultural business associated with the Greyhound and Horse industry and that industry would be irreparably harmed with the loss of these track operations.

I have asked to be listed as neutral on the agenda because I would like to speak to the issue of "State Owned and Operated Casino" requirements under the Kansas Constitution.

HB 2568 seems like an old friend to me. Important sections of this bill are extremely familiar to me. Several years ago, I helped put together the first "Destination Casino" bill. Much of the language and approach we used then regarding the constitutionality question is in place in this bill.

In putting together that first effort, we looked at three "state owned and operated" models.

West Virginia
The Kansas Lottery operations
Tribal Casino compacts

West Virginia is one of five states, including Kansas which have a constitutional provision requiring a state owned and operated lottery. The other states are Rhode Island, Oregon and South Dakota. We looked at West Virginia because that state's Supreme Court had dealt with the "owned and operated questions" and ultimately the operation of more than 11-thousand slot machines at four tracks are handled by the West Virginia Lottery.

Federal and State Affairs
Attachment 3
Date 3-19-07

That state, based on court guidance, takes a pretty broad approach to "owned and operated." Essentially the state owns or controls the circuit boards that determine the outcome of the games, and the associated computer equipment. The machines are owned by the tracks (without the circuit boards) and the state plays no role in the operation of the track facility. Through the computer system, the state exercises control over payouts, wins, monitoring and ultimately the ability to shut down the machines. The state does not play a role in the operation of the other portions of the facility like restaurants, hotels and bars.

The Kansas model is best outlined in two Attorney General's opinions (94-26 and 92-1)

The Tribal model is useful because it is yet another "state owned and operated model that has been deployed all across the nation to significant success.

The tribal model is truly a state owned and operated model, though the tribes probably disagree.

1. Tribes are sovereign nations without our borders
2. Federal Law gives the tribes as governmental units the ability to own and operate casinos under IGRA
3. Tribes have their own laws, attorney generals, gaming commissions and court system
4. Federal law requires that the tribes own these facilities but authorizes them to hire managers to operate them.

HB 2568 would create a new commission, which has the power to essentially take any of the three approaches we considered in drafting our original bill. This operation would be distinct from the Kansas lottery, but could probably contract with the lottery for service in terms of marketing, monitoring and other important functions.

Notably, HB 2055 provides much of the same flexibility in terms of operational models. Management Contracts are the tools for implementation leaving much of the actual structure of the operation like compensation of the manager, key employees, etc.

The advantage of this approach, in either HB 2568 or HB 2055 is that no matter a legal challenge would bring, the lottery or destination casino commission could simply rework any proposal to meet the requirements of the court should it be held unconstitutional.

HB 2055 gives you much more public policy direction regarding the size of facilities, responsibilities of regulatory efforts and management efforts, and specificity regarding local control over zoning and location issues.

HB 2568 provides a mechanism for the state to finance these facilities with KDFA bonds.

HB 2055 requires that the financing be provided by the developer, and prohibits property tax abatements or other special bonding programs.

There are significant differences between HB 2055 and HB 2568 in many places, but when it comes to constitutionality there is little if any difference between the two.

GAMING INDUSTRY FAQ

AMERICAN

Federal and State Affairs
Attachment 4
Date 3-19-07

Introduction

While casino gaming has been legal in Nevada for more than seven decades and in Atlantic City, N.J., for more than a quarter century, it was not until the late 1980s and early 1990s that other jurisdictions across the country began to introduce commercial casino gaming. Today, commercial casinos are located in 11 states, bringing myriad benefits to states and local communities where they operate.

Despite a large body of research that has documented the benefits of casinos, gambling opponents continue to make baseless claims about the industry. The following are responses to some of the most common misconceptions about gaming based on the findings of a congressionally mandated, federally funded gambling impact study commission, as well as numerous other studies on the social and economic impact of casino gaming.

QUESTION

What are the economic impacts of the casino gaming industry?

ANSWER

The introduction of casino gaming creates employment opportunities and generates tax revenue for state and local governments, while also serving as an economic stimulus for local communities.

In 2002, the commercial casino industry provided more than 350,000 jobs in the United States, with wages and benefits totaling $11 billion. An estimated 400,000 additional jobs are supported by casino industry spending.[1] State and local governments nationwide received more than $4 billion in casino tax revenue, which helped fund local infrastructure improvements, education, public safety, housing and health care, among other programs, and provided tax relief to local citizens.[2]

A two-year study of legalized gambling in the United States conducted by the congressionally mandated National Gambling Impact Study Commission (NGISC) found much evidence confirming the positive economic impact of casino gaming. The 1999 NGISC final report concluded the following: "As it has grown, [gambling] has become more than simply an entertainment past-time: the gambling industry has emerged as an economic mainstay in many communities and plays an increasingly prominent role in state and even regional economies."[3]

Research conducted on behalf of the commission confirmed that casino gaming creates jobs and reduces the level of unemployment and government assistance in communities that have legalized it. The University of Chicago's National Opinion Research Center (NORC) found that communities closest to casinos experienced a 12 percent to 17 percent drop in welfare payments, unemployment rates and unemployment insurance after the introduction of casino gaming. NORC also found that communities with casinos have 43 percent higher earnings in their hotel and lodging sectors than those communities farther from casinos.[4]

In other commission-funded research, Adam Rose, an economist at Penn State University, concluded: "...[A] new casino of even limited attractiveness, placed in a market that is not already saturated, will yield positive economic benefits on net to its host economy."[5]

In its final report, the NGISC summarized the testimony heard from more than 20 elected officials from jurisdictions with casino gaming: "... Without exception [they] expressed support for gambling and recited instances of increased revenues for their cities. They also discussed community improvements made possible since the advent of gambling in their communities and reviewed the general betterment of life for the citizenry in their cities and towns."[6]

QUESTION

Do communities with casinos experience unique or elevated levels of social problems?

ANSWER

The preponderance of evidence demonstrates that the social problems in communities with casinos are no different than those in communities without casinos.

A study issued by the General Accounting Office (GAO), the investigative arm of the U.S. Congress, found "no conclusive evidence on whether or not gambling caused increased social problems in Atlantic City."[7] And a leading business group in Baltimore looking at data from other existing gaming jurisdictions concluded that "... casinos are not likely to have a substantial impact on crime and other social problems."[8]

An important—but frequently ignored—factor in assessing potential social impact is the rate of problems in a community before the legalization of casino gambling. Casinos typically are approved as an economic stimulus to a community and therefore are located in areas that have higher existing rates of problems that often are influenced by poverty.[9]

In many cases, studies have shown that because casinos are labor-intensive businesses, they can actually *alleviate* some common social problems.

According to research conducted for the National Gambling Impact Study Commission (NGISC), some of the most common indicators of social welfare improved with the advent of casino gaming. A report by the University of Chicago's National Opinion Research Center (NORC) found those communities closest to casinos experienced a 12 percent to 17 percent drop in welfare payments, unemployment rates and unemployment insurance after the introduction of casino gaming.

Charles Wellford, a University of Maryland criminologist who directed a National Academy of Sciences panel commissioned by the NGISC to study pathological gambling, stated in testimony before the Maryland House of Delegates that the few scientifically acceptable cost-benefit analyses have found a net financial benefit from gambling.[10]

A comprehensive survey of casino employees supports the conclusions reached in the commission's research. According to the 1997 PricewaterhouseCoopers survey of 178,000 employees—more than half of the commercial casino industry work force in the United States—16 percent had used their casino jobs to replace unemployment benefits, 63 percent had improved their access to health care benefits, 43 percent had better access to day care for their children, 65 percent had been able to develop new job skills as a result of their employment and 78 percent indicated that their employer provided them with training to perform their job.[11]

For more detailed information on social impact, refer to the questions relating specifically to bankruptcy, crime and pathological gambling.

QUESTION

If casinos open in a community, will there be an increase in the number of pathological gamblers?

ANSWER

While some people assume that gambling disorders will increase if there is an expansion of gambling, the research is not at all conclusive on this topic. In fact, a significant body of research has reached the opposite conclusion.

A comparison of findings of two federal study commissions shows that, despite the dramatic expansion of gaming across the country in recent years, the prevalence rate of pathological gambling has remained relatively unchanged. According to the Commission on the Review of the National Policy Toward Gambling, the U.S. pathological gambling prevalence rate was 0.77 percent in 1976, when casino gambling was legal only in the state of Nevada.[12] More than two decades later, with commercial and Native American casinos operating in approximately 30 states, gambling participation rates doubling and consumer spending exceeding $40 billion annually, the National Gambling Impact Study Commission (NGISC) determined a similar prevalence rate of 0.6 percent.[13]

Further NGISC research conducted by the National Opinion Research Center at the University of Chicago (NORC) supports this finding. According to a random national survey, prevalence rates are not affected by distance to a casino. The NORC final report stated: "[W]e found little difference in the prevalence of at-risk gambling in the combined survey [patron and phone surveys], and differences in prevalence were not statistically significant in the RDD [phone] survey [alone]."[14]

Charles Wellford, a University of Maryland criminologist who directed a National Academy of Sciences panel commissioned by the NGISC to study pathological gambling, stated in testimony before the Maryland House of Delegates that expanded legal gambling opportunities in that state would not lead to significantly higher levels of pathological gambling and would generate revenues in excess of costs.[15]

Other independent commissions reached similar conclusions. A 2000 report by the Public Sector Gaming Study Commission, a non-partisan panel composed primarily of state and local public officials, also concluded that the level of pathological gambling cannot be linked to gambling expansion. It stated: "In short, there is no solid basis for concluding that the wider legalization of gambling, which has cut into illegal gambling and friendly betting, has caused a concomitant increase in pathological gambling. In fact, it appears that pathological gambling is quite rare within the general population, (and) it does not appear to be increasing in frequency."[16]

Research conducted in many areas, both within the United States and internationally, has shown that the prevalence of pathological gambling has either remained stable or even decreased, despite the introduction of new gambling facilities. In a comprehensive 1999 survey of gambling in New Zealand, researchers concluded that the number of problem gamblers has dropped since 1991.[17] Similar results were found in a state government study that compared prevalence rates in Connecticut in 1991 versus 1996, noting, "... [P]robable pathological gambling rates may actually have fallen in Connecticut, and have certainly not risen, during a period in which one of the largest casinos in the world was opened in the state."[18] Follow-up studies in Louisiana, South Dakota, Michigan, Minnesota, Oregon, Texas, Washington, British Columbia and South Africa uncovered similar results.[19]

Further evidence to counter a link between gambling expansion and an increase in the prevalence of pathological gambling can be found in a 1997 meta-analysis by researchers at Harvard Medical School's Division on Addictions. While the report did find that studies released from 1993 to 1997 showed a slightly higher prevalence rate than studies from 1974 to 1993, it does not say that expansion increased problems. If exposure were directly linked to the rate of pathological gambling, it should jump significantly during a period of such rapid expansion.

What the meta-analysis did find were no regional differences in the prevalence of gambling disorders.[20] This finding suggests that areas with a higher concentration of gambling opportunities do not experience higher levels of gambling disorders than other regions because of proximity.

The perfect test cases to determine whether or not increased exposure leads to increased problems are casino employees. In a comprehensive study conducted by Harvard Medical School's Division on Addictions, researchers initially found higher levels of pathological gambling among casino employees than the general adult population. However, in one-year and two-year follow-up studies with the same group of casino employees, overall prevalence rates decreased over time, allowing the authors to suggest that gambling problems are not always progressive.[21]

An important—but frequently ignored—factor in assessing potential social impact is the rate of social problems in a community before the legalization of casino gambling. Casinos typically are approved as an economic stimulus to a community and therefore are located in areas that have higher rates of problems that often are influenced by poverty. Other new research shows that casinos decrease mental health problems by reducing the burdens of poverty. These are similarly related to distance from casinos.[22]

QUESTION

How many pathological gamblers are there?

ANSWER

Unfortunately, a small percentage of the population does not gamble responsibly, just as a small percentage of the population does not use credit cards responsibly or drink responsibly. In its 1999 report, the federally funded National Gambling Impact Study Commission (NGISC) stated: "[T]he vast majority of Americans either gamble recreationally and experience no measurable side effects related to their gambling, or they choose not to gamble at all. Regrettably, some of them gamble in ways that harm themselves, their families, and their communities."[23]

Studies suggest pathological gambling is confined to about 1 percent or less of the U.S. adult population. According to research commissioned by the NGISC, the rate could be anywhere from 0.1 percent or 0.6 percent[24] to 0.9 percent.[25] According to a 1997 meta-analysis conducted by Harvard Medical School's Division on Addictions, 1.1 percent of the adult population of the United States and Canada can be classified as having the clinical disorder known as pathological gambling.[26] The results of the Harvard study, later published in the *American Journal of Public Health,* have been praised by the National Research Council of the National Academy of Sciences as "the best current estimates of pathological and problem gambling among the general U.S. population and selected subpopulations..."[27]

Regardless of the number of people affected, the industry has been pro-active in promoting responsible gaming. Through a combination of public education efforts and funding of peer-reviewed, independent research, the industry has worked to improve diagnosis, prevention and treatment of this disorder.

QUESTION

Does casino gambling prey on the poor and the elderly?

ANSWER

Assumptions about the relationship between this industry and its older customers fail to take into account some of the latest research examining the impact of casino gambling on senior citizens as well as actual customer demographics.

A 2003 study funded by the National Institute of Justice compared the casino gambling practices of the elderly to those of younger gamblers in eight new casino jurisdictions, concluding that the data "do not support the view that casino gambling is a major threat to the elderly, preying on the aged and leading them to destructive gambling practices." Furthermore, the study found that the elderly "generally exercise better money management and experience proportionately fewer gambling problems than the general population."[28]

Other research reached similar conclusions. According to a published study of elderly women gamblers conducted by researchers at Michigan State University, "The primary motivation for gambling with elderly women is excitement and entertainment. ... Money, reliance on source of income and addiction do not appear to be motivators for this group. As such, problem gambling is not expected to be a problem with elderly women gamblers."[29]

A study of older Minnesotans had comparable results. Co-directed by researchers at The College of Saint Benedict/St. John's University and St. Cloud University, the study found "no evidence that casino gambling activities threaten [older Minnesotans'] well being. For most respondents the social benefits were the most salient parts of this activity and they were well aware of the danger signs of problem behaviors. ... Public concerns and media images may be based on socially constructed assumptions and fears."[30]

Survey research supports the findings of these studies. According to NFO WorldGroup, casino customers are better educated with higher incomes than the average U.S. household. The median household income of U.S. casino customers is $50,716, compared to $42,228 for the overall U.S. population. And casino customers are more likely to have attended college and hold a white-collar job than the average American.[31]

Additionally, the survey research found that the casino customer base is a reflection of the overall U.S. population. NFO WorldGroup data determined that the median age of the U.S. casino customer is only slightly higher than that of all adult Americans (47 years versus 45 years). According to research conducted in 1999 for the National Gambling Impact Study Commission, a smaller proportion of senior citizens gamble than any other adult age group.[32]

For those senior citizens who do choose to gamble, the data shows that the vast majority of them come to casinos for the social interaction. Fun and entertainment, not gambling, is their primary motivation, according to a 2000 poll conducted by Peter D. Hart Research Associates and The Luntz Research Companies. Sixty-two percent see casinos as an "inexpensive day out" for someone on a fixed income.

Not only do seniors like to gamble for fun, but they also don't want someone else telling them how to spend their time and disposable income. According to the Hart/Luntz poll, 90 percent of senior citizens believe gambling is a question of personal freedom, and they should be able to go into a casino, have their own budget, and spend their disposable income the way they want. More than 80 percent of seniors always or usually set a budget.[33]

QUESTION
Are pathological gamblers the main source of revenue for casinos?

ANSWER

The percentage of industry revenue generated by individuals with a gambling disorder has been the subject of much speculation but not a significant amount of sound scholarly research. The small amount of objective research that has been done on this topic shows that the small percentage of the population that does not gamble responsibly—estimated at about 1 percent—is not the main source of revenue for gaming establishments.

In research conducted for the National Gambling Impact Study Commission, the National Opinion Research Center at the University of Chicago (NORC) estimated that between 5 percent and 15 percent of gross gaming revenue (including casino, lottery and pari-mutuel receipts) came from problem *and* pathological gamblers in the past year. These figures were based on a combination of data from NORC's 1998 telephone and patron surveys. According to the phone survey alone, those *not* categorized as pathological gamblers generated the vast majority of daily revenue for casinos—more than 96 percent. The survey attributed less than 4 percent of gross daily casino revenue to pathological gamblers.[34]

Overall, casino patrons spend their money wisely. According to a 2002 poll conducted for the AGA by Peter D. Hart Research Associates and The Luntz Research Companies, 80 percent of customers always or usually set a budget before they gamble.[35]

Casinos make money by entertaining people and making sure they have an enjoyable experience. They have no desire to take advantage of individuals with psychological disorders or problems.

QUESTION
Do bankruptcy rates increase when casinos are introduced into a community?

ANSWER
A series of independent government studies conducted during the late 1990s failed to establish a link between casinos and bankruptcy, and statistics support that finding.

At the request of the U.S. Congress, the Department of the Treasury conducted a study on this topic in 1999 and found "no connection between state bankruptcy rates and either the extent of or introduction of gambling." Furthermore, the report stated: "This result is supported by a county-level analysis that shows no statistically significant casino effect (proximity to a casino) with regard to county bankruptcy rates."[36]

The study pointed to several key factors that are connected to rising bankruptcy filings in the United States, including amendments to past bankruptcy law, higher levels of debt relative to income, increasing availability of consumer credit through general purpose credit cards and the reduced social stigma of declaring bankruptcy, none of which is related to casino gaming. Some existing studies that found a correlation between bankruptcy rates and the presence of casinos failed to compare bankruptcy rates prior to the introduction of gambling or to investigate the impact of other socioeconomic factors.[37]

The National Opinion Research Center at the University of Chicago (NORC), in research conducted for the National Gambling Impact Study Commission (NGISC), echoed the Treasury Department findings. The study reported that instances of bankruptcy were no greater in communities with casinos than in communities that do not have casinos.[38]

In another federally funded study, the General Accounting Office (GAO), in a seven-month investigation of the social and economic impact of gaming in Atlantic City, N.J., found similar results. The report stated that it "could not find data to show a cause-effect relationship between gambling and bankruptcies."[39]

To study the impact of legalized gambling, Indiana created a state commission in 1998 similar to the federal commission—and reached similar conclusions on bankruptcy. After an examination of questionnaires completed by petitioners for bankruptcy in Evansville, Gary and Indianapolis, the commission found that "... there is not evidence from this survey that people filing bankruptcy were more likely to have problems with gambling."[40]

Academic studies have reached conclusions consistent with this government research. According to a 2002 University of Louisville study, "Access by individuals to pari-mutuel or casino gaming facilities was found to have no statistically significant impact on personal bankruptcy filings."[41] A 1999 Louisiana State University study reached a similar conclusion, stating: "When interviewed concerning the primary cause of the high number of bankruptcy filings in the state, bankruptcy trustees and bankruptcy attorneys were unanimous in identifying the ease in qualifying for credit and the availability of locations of obtaining credit at all times of the day. The trustees did not list the presence of gaming opportunities as a cause of bankruptcy."[42]

Statistics confirm that there is no link between the rate of bankruptcy filings and the presence of casinos. According to data maintained by the Administrative Office of the U.S. Courts and population statistics from the most recent census (2001), Utah and Tennessee were ranked first and second respectively in 2002 in terms of the number of bankruptcy filings per household. Utah is one of only two states with absolutely no form of legalized gambling whatsoever, and Tennessee had no legalized gambling at that time (but has since added a state lottery).

Total annual bankruptcy filings nationwide grew by 84 percent between 1989 and 2000. During this time, a total of nine states decided to legalize commercial casino gaming. If critics' assertions were correct, all of these states would have seen increases in bankruptcy filings that were disproportionately high following the introduction of casinos to these communities. Yet, in seven out of the nine states that legalized commercial gaming during the 1990s, the bankruptcy filing growth rate remained below the national average. Michigan and Missouri are the only exceptions, while Colorado, Illinois, Indiana, Iowa, Louisiana, Mississippi and South Dakota all had smaller growth in bankruptcy filings than the United States as a whole over the decade.[43]

If one looks at the growth rate in bankruptcy filings in each of the 50 states during the 1990s, the lack of a causal relationship between casino gaming and bankruptcy becomes even more apparent. Consider the following facts:

- Colorado, where commercial casinos opened in 1991, is the only state in the country during the 1990s that actually recorded a negative growth rate in bankruptcy filings.
- Of the top 15 states with the highest rate of increase in bankruptcy filings, only one (New Jersey) is a commercial casino state.
- Seven of the 11 commercial casino states fell below the national average in terms of bankruptcy filing growth rates during the 1990s.[44]

QUESTION

Does the introduction of legalized gaming increase the level of street crime in a community?

ANSWER

Communities with casinos are just as safe as communities without casinos. While anecdotal evidence and popular myth have perpetuated claims by gambling opponents that the introduction of casinos causes a rise in street crime, recent studies—both publicly and privately funded—as well as testimony from law enforcement agents working in casino jurisdictions, refute this claim.

In their reports to the National Gambling Impact Study Commission (NGISC), neither the National Research Council (NRC) of the National Academy of Sciences nor the University of Chicago's National Opinion Research Center (NORC) was able to confirm a relationship between crime and legalized gaming. The casino effect was "not statistically significant" for any of the crime outcome measures, according to the NORC report.[45]

In 2000, the Public Sector Gaming Study Commission reached similar conclusions, finding "no link between gambling, particularly casino-style gambling, and crime." In fact, the 2000 report recognized that casinos are more of a crime deterrent than an instigator. According to the report, "[T]he security on the premises of gambling facilities, the multiple layers of regulatory control, and the economic and social benefits that gambling seems to offer to communities are effective deterrents to criminal activity."[46]

A 1997 study by Peter Reuter of the University of Maryland provided additional evidence refuting a causal linkage between crime and gaming. In his Report for the Greater Baltimore Committee, Reuter concluded the following: "[I]n no case is there any evidence that casinos have had a major impact on the crime rates of towns or metropolitan areas in which they are located."[47]

Statements by law enforcement agents in gaming jurisdictions across the country also refute critics' claims that gaming causes crime. Twenty-four sheriffs and chiefs of police submitted their findings to the NGISC, stating there was no connection between gaming and crime in their jurisdictions.[48] Other law enforcement officials from gaming jurisdictions who testified before the commission agreed with those submissions, and some pointed to a decrease in street crime in their areas.[49]

In fact, in Atlantic City, N.J., where gambling opponents continue to allege that casinos have caused an increase in crime, the crime rate has declined every year for the past five years, according to the FBI's Uniform Crime Report. Since 1988, there has been an increase only once, in 1995, and it was a slight increase. If that figure is adjusted to also reflect the 33 million visitors and the nonresident worker population, who also are at risk of being crime victims, the crime rate in Atlantic City is nearly 50 percent lower today than it was before casinos opened there in 1978.[50]

When calculating crime rates, it's critical to account for the overall population at risk—both residents and visitors—particularly in tourist destinations. Any community with more visitors, hotels or other commercial activity is likely to experience an increase in reported levels of crime due to an influx of people and activity. The actual crime rate (the number of crimes based on the population at risk), however, may actually have decreased. Other factors that need to be taken into account are increases in the law enforcement presence often made possible through casino tax revenue, which can improve the effectiveness of crime detection efforts, as well as relative trends in crime rates statewide or nationwide.[51]

QUESTION
Is the casino industry controlled by mobsters and organized crime?

ANSWER
The fact is that U.S. casinos are reputable businesses predominantly owned and operated by public companies, and all of them, public and private, are heavily scrutinized by state and federal regulators. Movies such as "Bugsy" and "Casino" may portray the industry otherwise, but they are simply fictional accounts.

The National Gambling Impact Study Commission (NGISC) put to rest decades-old assumptions about organized crime and its involvement in the gaming industry. As it stated in its 1999 report: "All of the evidence presented to the commission indicates that effective state regulation, coupled with the corporate takeover of much of the industry, has eliminated organized crime from the ownership and operation of casinos."[52]

As state-regulated businesses, casinos are subject to some of the most comprehensive regulations of any industry in the country. The activities of gaming companies are tightly monitored by state gaming regulators, who license and oversee their operations, conducting hearings, background checks on all personnel employed by the facility, among other research methods that aim to detect ties to organized crime and any other illegal activity. These various government measures make it almost impossible for organized crime or other illegal cartels to infiltrate the heavily scrutinized commercial casino industry.

Funded by tax dollars from gaming, a large work force of regulators in each state monitors industry activities. Nevada alone employs 432 regulators at a cost of nearly $30.8 million, while New Jersey employs 714 regulators at a cost of $62.7 million. The annual budgets for gaming industry regulation in Louisiana and Missouri both top $20 million. The total cost of regulation in fiscal year 2002 in the 11 commercial states was more than $202 million, with 2,455 regulators and support staff helping to ensure that only legitimate interests are involved in this business.

Since most U.S. casino operators are publicly held corporations, they also are subject to scrutiny by the Securities and Exchange Commission (SEC). Like other businesses, casino companies must comply with strict federal standards to prevent money laundering and other illegal activity.

In addition to these safeguards, a series of federal laws have been put in place since the 1950s to keep organized crime out of gaming. From the Gaming Devices Act of 1951, the Special Rackets Squad of the FBI and the 1961 Wire Communications Act, which set the benchmark for scrutiny of the gaming industry, to the recent creation of the Treasury Department's Financial Crimes Enforcement Network (FinCEN) to prevent money laundering activities, gaming is one of the most highly regulated business sectors in the United States.

QUESTION
Do other businesses suffer when casinos are introduced into a community?

ANSWER

To the contrary, the introduction of a casino expands the overall economy of its host community, in many cases benefiting existing businesses. Gaming, like any industry, can have its own niche in the competitive market without jeopardizing its neighbors' potential for growth and survival.

This view is supported by the findings of numerous studies. An economic analysis prepared for the National Gambling Impact Study Commission (NGISC) by Penn State University economist Adam Rose found little evidence of economic substitution after the introduction of new casinos. As his meta-analysis reveals: "The preponderance of empirical studies indicate claims of the complete 'cannibalization' of pre-existing local restaurants and entertainment facilities by a mere shift in resident spending is grossly exaggerated."[53]

Additional research shows casinos actually stimulate local economies, resulting in communitywide growth in population, jobs, incomes and industry. After studying numerous U.S. casino jurisdictions, researchers at the University of New Orleans concluded the following in their 1997 report, *The Effects of Casinos on Local Restaurant Businesses*: "When casinos are developed, all aspects of the local food and beverage business increase: the number of establishments increases, the number of people employed increases and payroll increases at an even greater rate than the first two."[54]

Similar conclusions were reached in other studies:

- Even after accounting for the so-called "substitution effect," economists at the University of Missouri and Washington University concluded that casino gambling in Missouri had a net positive annual impact on Missouri output of $759 million, corresponding to a continuing higher level of employment of 17,932 jobs generating $508 million more in personal income.[55]
- A multijurisdictional analysis of retail spending found that in Biloxi/Gulfport, Miss., annual retail sales growth rates increased an average of 3 percent per year from 1990 to 1992, the year when casinos were introduced. Between 1993 and 1995, retail sales jumped 13 percent. In Will County, Ill., retail sales growth trailed statewide trends until 1992, when riverboat casinos were introduced in the local economy. But each year between 1992 and 1995, retail sales growth in Will County exceeded the state rate. In Shreveport/ Bossier City, La., retail sales increased by more than 10 percent during 1994, the year that riverboat casinos opened, as the region enjoyed the highest retail sales increase in more than a decade.[56]
- Representatives of the food industry on Mississippi's Gulf Coast indicate that casinos have brought in more business. With increased tourism numbers and growth in residents, new franchise restaurants have been opening and local favorites are still bustling. According to Bob Taylor, president of the Coast Chapter of the Mississippi

Restaurant Association, "I think the chain restaurant industry on the Coast is going to continue to expand. Whether we have more casinos or not, we're going to continue to have growth" in noncasino restaurants.[57]

The view that gaming permanently substitutes for other expenditures distorts historical experience. In free market economies, providing new outlets for consumer spending brings in new income. It doesn't make any difference what the "product" is or whether there's even a tangible "product" at all. Satisfying consumer demand generates new spending, creates new jobs and increases overall incomes.

Endnotes

[1] Arthur Andersen, *Economic Impacts of Casino Gaming in the United States, Volume 1: Macro Study* (Washington, D.C.: American Gaming Association, December 1996), 7.

[2] *State of the States: The AGA Survey of Casino Entertainment* (Washington, D.C.: American Gaming Association, 2003).

[3] National Gambling Impact Study Commission, Final Report (Washington, D.C.: GPO, June 1999), 3-1.

[4] National Opinion Research Center, et al., *Gambling Impact and Behavior Study*, report prepared for the National Gambling Impact Study Commission (Chicago: University of Chicago, April 1, 1999), 70-71.

[5] Adam Rose and Associates, *The Regional Economic Impacts of Casino Gambling: Assessment of the Literature and Establishment of a Research Agenda*, report prepared for the National Gambling Impact Study Commission (State College, Pa.: Adam Rose and Associates, Nov. 5, 1998), 22.

[6] National Gambling Impact Study Commission, 7-5.

[7] General Accounting Office, *Impact of Gambling: Economic Effects More Measurable Than Social Effects* (Washington, D.C.: GPO, April 27, 2000), 3.

[8] Peter Reuter, *The Impact of Casinos on Crime and other Social Problems: An Analysis of Recent Experiences*, Report for the Greater Baltimore Committee (College Park, Md.: University of Maryland, January 1997).

[9] Personal correspondence with Howard Shaffer, Ph.D., director, Division on Addictions, Harvard Medical School, Sept. 4, 2002.

[10] Testimony of Charles Wellford before the Maryland House of Delegates, Annapolis, Md., Nov. 25, 2003, 1.

[11] PricewaterhouseCoopers, *Gaming Industry Employee Impact Survey* (Washington, D.C.: American Gaming Association, October 1997), 2.

[12] Commission on the Review of the National Policy Toward Gambling, *Gambling in America* (Washington, D.C.: GPO, 1976), 73.

[13] National Opinion Research Center, 25.

[14] National Opinion Research Center, 28-29.

[15] Testimony of Charles Wellford, 3.

[16] Public Sector Gaming Study Commission, *Gambling Policy and the Role of the State* (Tallahassee, Fla.: Florida Institute of Government, Florida State University, March 2000), 50.

[17] Max Abbott and Rachel Volberg in association with Statistics New Zealand, *Taking the Pulse on Gambling and Problem Gambling in New Zealand: A Report on Phase I of the 1999 National Prevalence Survey* (Wellington, New Zealand: Department of Internal Affairs, June 2000).

[18] WEFA Group, *A Study Concerning the Effects of Legalized Gambling on the Citizens of the State of Connecticut*, report prepared for the State of Connecticut (Hartford, Conn.: Department of Revenue Services, Division of Special Revenue, June 1997), 9.

[19] See Michael O. Emerson and J. Clark Laundergan, "Gambling and Problem Gambling Among Adult Minnesotans: Changes 1990 to 1994," *Journal of Gambling Studies* 12 (Fall 1996): 291-304; Texas Commission on Alcohol and Drug Abuse, *Gambling in Texas: 1995 Surveys of Adult and Adolescent Gambling Behavior* (Austin, Texas: Texas Commission on Alcohol and Drug Abuse, 1996); Gemini Research, Ltd., *Gambling and Problem Gambling in Washington State: A Replication Study, 1992 to 1998*, report to the Washington State Lottery, May 11, 1999; Gemini Research, Ltd., *Gambling and Problem Gambling in Louisiana: A Replication Study, 1995 to 1998*, report to the College of Business Administration, University of New Orleans, March 31, 1999; and Rachel A. Volberg and Randall M. Stuefen, *Gambling and Problem Gambling in South Dakota: A Follow-Up Survey* (Vermillion, S.D.: Business Research Bureau, University of South Dakota, March 1994).

[20] Howard J. Shaffer, Matthew N. Hall and Joni Vander Bilt, *Estimating the Prevalence of Disordered Gambling Behavior in the United States and Canada: A Meta-analysis* (Boston: Harvard Medical School Division on Addictions, December 15, 1997), 47.

[21] Howard J. Shaffer, Joni Vander Bilt and Matthew N. Hall, "Gambling, Drinking, Smoking and Other Health Risk Activities Among Casino Employees," *American Journal of Industrial Medicine* 36 (1999): 365-378, and Howard J. Shaffer and Matthew N. Hall, *The Journal of Social Psychology* 142, no. 4: 405-424.

[22] Personal correspondence with Howard Shaffer, Ph.D., director, Division on Addictions, Harvard Medical School, Sept. 4, 2002.

[23] National Gambling Impact Study Commission, 1-1.

[24] National Opinion Research Center, 25.

[25] National Research Council, *Pathological Gambling: A Critical Review* (Washington, D.C.: National Academy Press, 1999), 3.

[26] Meta-analysis, 38. See also the *American Journal of Public Health* 89, no. 9 (1999): 1371.

[27] National Research Council, 67.

[28] B. Grant Stitt et al., "Gambling Among Older Adults," *Experimental Aging Research* 29 (2003): 189-203.

[29] John Tarras et al., "The Profiles and Motivations of Elderly Women Gamblers," *Gaming Research & Review Journal* 5, no. 1: 33-46.

[30] Janet Hope and Linda Havir, "You Bet They're Having Fun! Older Americans and Casino Gambling," *Journal of Aging Studies* 16, no. 2 (May 2002): 177-97.

[31] *Harrah's Survey 2003: Profile of the American Casino Gambler* (Las Vegas: Harrah's Entertainment, Inc.), 18.

[32] National Opinion Research Center, 9.

[33] *State of the States: The AGA Survey of Casino Entertainment* (Washington, D.C.: American Gaming Association, 2000).

[34] National Opinion Research Center, 32.

[35] *State of the States: The AGA Survey of Casino Entertainment* (Washington, D.C.: American Gaming Association, 2002).

[36] U.S. Department of the Treasury, *A Study of the Interaction of Gambling and Bankruptcy* (Washington, D.C.: GPO, July 1999). See also Lynda de la Vina and David Bernstein, "The Impact of Gambling on Personal Bankruptcy Rates," *Journal of Socio-Economics* 31, no. 5 (2002): 503-09.

[37] U.S. Department of the Treasury, 42-43, 85-92.

[38] National Opinion Research Center, 70.

[39] General Accounting Office, 2-3.

[40] Indiana Gambling Impact Study Commission, *Key Findings and Policy Choices to Address the Social, Fiscal, and Economic Impacts of Legalized Gambling in Indiana* (Indianapolis: State of Indiana, December 1999), 7-8.

[41] Richard Thalheimer and Mukhtar M. Ali, "Personal Bankruptcy and its Relationship to Pari-mutuel Wagering and Casino Gaming," *Contemporary Economic Policy* (forthcoming 2004).

[42] Center for Business Research at Louisiana State University, *The Impact of Gambling on Personal Bankruptcy*, March 1999, ii.

[43] The Federal Judiciary U.S. Bankruptcy Courts, "1987-2003 Fiscal Year Bankruptcy Filings by Chapter and District," Feb. 3, 2004, http://www.uscourts.gov/bnkrpctystats/FY1987-2003.pdf.

[44] Ibid.

[45] National Opinion Research Center, 70.

[46] Public Sector Gaming Study Commission, 37.

[47] Reuter, iv.

[48] Crime and Gaming: A Statement of Findings, submission to the National Gambling Impact Study Commission, Sept. 11, 1998.

[49] See National Gambling Impact Study Commission testimony of Peter Verniero, New Jersey attorney general, Jan. 21, 1998; Mayor Donald Sandridge, Alton, Ill., May 20, 1998; Bob Waterbury, Mississippi Coast Crime Commission, Sept. 10, 1998; and Mayor Ann Hutchinson, Bettendorf, Iowa, May 20, 1998. See also New Jersey Casino Control Commission report to the National Gambling Impact Study Commission, 29.

[50] Anthony Marino, South Jersey Transportation Authority, Chart of Atlantic City Crime Index Data: 1977 to 2001.

[51] Jay Albanese, "The Effect of Casino Gambling on Crime," *Federal Probation* (1985): 42-43. See also Daniel Curran and Frank Scarpitti, "Crime in Atlantic City: Do Casinos Make A Difference?" *Deviant Behavior* 12 (1991): 431-449.

[52] National Gambling Impact Study Commission, 3-1, 3-2.

[53] Adam Rose and Associates, 19.

[54] George Fenich and Kathryn Hashimoto, "The Effects of Casinos on Local Restaurant Business," paper presented at the International Conference on Gambling and Risk-Taking, Montreal, 1997.

[55] Charles Leven et al., "Casino Gambling and State Economic Development," paper presented at the Regional Science Association, 37th European Congress, Rome, Aug. 26-29, 1997.

[56] Arthur Andersen, *Economic Impacts of Casino Gaming in the United States, Volume 2: Micro Study* (Washington, D.C.: American Gaming Association, May 1997).

[57] Joey Bunch, "Eateries doing well with help of casinos," *The Biloxi (Miss.) Sun Herald*, May 25, 2001.

THE JOCKEY CLUB

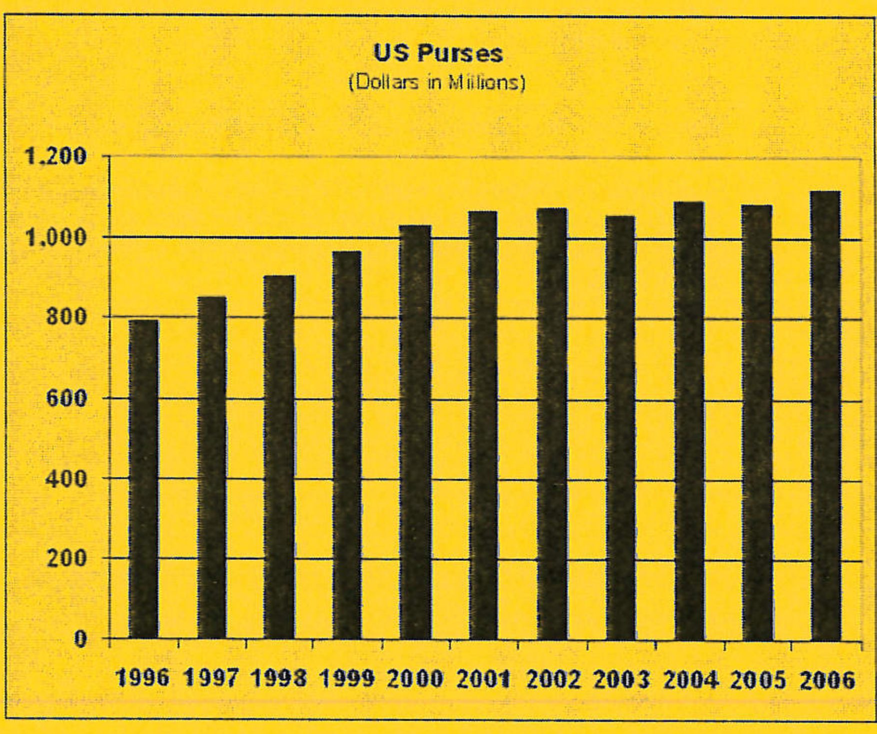
Home
About The Jockey Club
About the Registry
Family of Companies
Publications & Resources
Media Center
Silks / Stable Registry
Industry Organizations
FAQ
Contact Us
Site Map

Online Fact Book

Return to Fact Book Index

GROSS PURSES

Gross purses in the United States in 2006 surpassed $1.1 billion for the first time, attributable in large part to the contribution to purses from alternative gaming at racetracks, otherwise known as racinos. Of the 10 states that offered at least $1 million more in purse money in 2006 than in 2005, half were racino states, paced by Oklahoma, where purses more than doubled to over $18 million during the first full year of racino operations. Meanwhile, increased purses in Kentucky and California hint at the beneficial impact of all-weather surfaces on average field size and handle at Turfway Park, and at the Keeneland and Hollywood Park fall meets.



Gross Purses

Gross Purses by State or Province 2006 | 2005 | 2004 | 2003 | 2002 | 2001
Comparison of Gross Purses 2006/2007

YEAR	UNITED STATES*	PERCENT CHANGE	CANADA*	PUERTO RICO*	TOTAL*
1988	676.8	+3.4%	65.3	11.1	753.2
1989	706.9	+4.4%	68.8	12.3	788.0
1990	714.5	+1.1%	69.6	12.4	796.5
1991	698.7	-2.2%	65.2	12.6	776.5
1992	709.6	+1.6%	68.4	13.6	791.6
1993	692.1	-2.5%	63.2	14.4	769.7
1994	718.4	+3.8%	64.0	14.8	797.2
1995	761.6	+6.0%	74.7	15.9	852.2
1996	792.7	+4.1%	86.3#	18.0	897.0
1997	851.5	+7.4%	68.7	18.2	938.4

Federal and State Affairs
Attachment 5
Date 3-19-07

1998	904.0	+6.2%	74.3	15.2	993.5
1999	962.9	+6.5%	87.7	16.1	1,066.7
2000	1,030.9	+7.1%	114.9	18.8	1,164.6
2001	1,067.5	+3.6%	131.9	19.5	1,218.9
2002	1,074.2	+0.6%	149.1	19.1	1,242.4
2003	1,055.5	-1.7%	150.4	18.7	1,224.6
2004	1,092.1	+3.5%	136.0	18.9	1,246.9
2005	1,085.0	-0.7%	113.4	20.4	1,218.8
2006	**1,120.4**	**+3.3%**	**121.6**	**20.4**	**1,262.3**

* Dollars in Millions
# Includes Breeders' Cup Day at Woodbine

Beginning in 2005, Canadian purses have been converted to their equivalent amount in U.S. funds.

In some instances, total purses may not equal the sum of individual countries due to rounding.

Sources: Equibase Company LLC and Hipodromo Camarero

Purses include monies not won and returned to state breeder or other funds, but do not include retroactive payments. In Puerto Rico, retroactive payments represent a significant part of total prize money distributed, totaling $5.4 million in 2006.

Home About The Jockey Club About the Registry Family of Companies

Information and Statistics Media Center Contact Us Site Map Industry Organizations

5-2

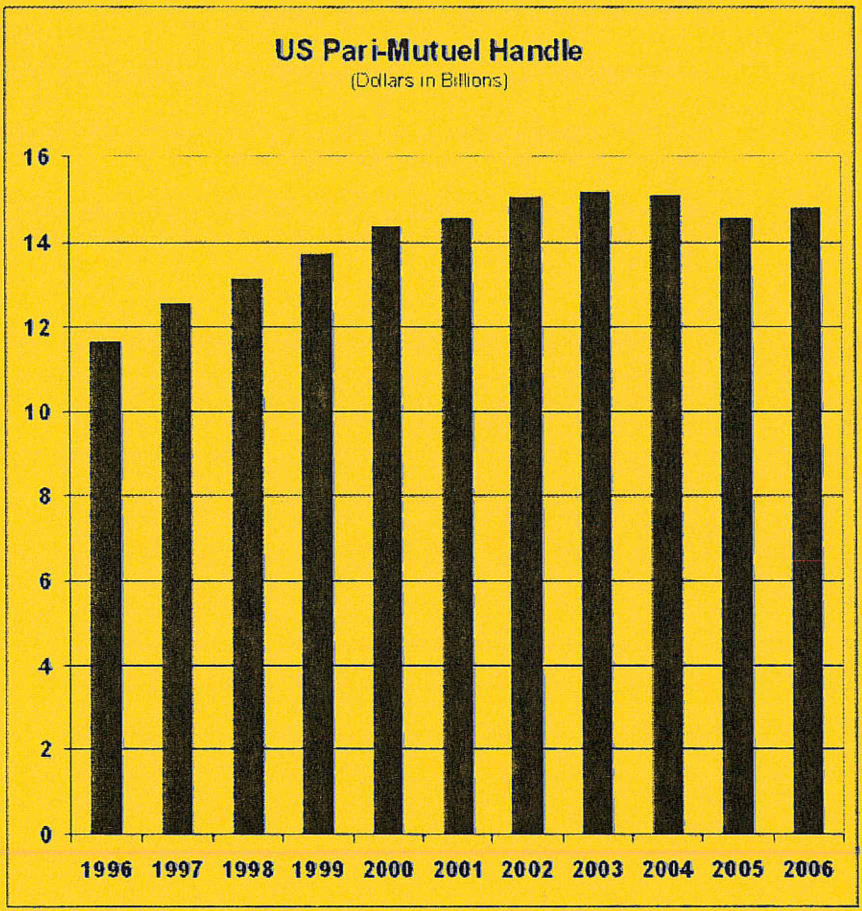
THE JOCKEY CLUB

- Home
- About The Jockey Club
- About the Registry
- Family of Companies
- Publications & Resources
- Media Center
- Silks / Stable Registry
- Industry Organizations
- FAQ
- Contact Us
- Site Map

Online Fact Book Return to Fact Book Index

PARI-MUTUEL HANDLE

Following two consecutive years of decline, total pari-mutuel handle, or the amount of money wagered, on Thoroughbred racing in the United States in 2006 rebounded 1.5%, while combined North American handle increased 1.1%. The off-track sector accounted for 88.6% of US handle, up slightly from the year before.



Pari-Mutuel Handle

	UNITED STATES*				CANADA*			PUERTO RICO*			
YR	ON TRACK	OFF TRACK	TOTAL	% CHANGE	ON TRACK	OFF TRACK	TOTAL	ON TRACK	OFF TRACK	TOTAL	TOTAL*
1990	—	—	9,385	1.1	—	—	823	—	—	—	10,208
1991	—	—	9,393	0.1	—	—	804	—	—	—	10,198
1992	—	—	9,639	2.6	—	—	770	—	—	—	10,409
1993	—	—	9,600	-0.4	—	—	731	—	—	—	10,331
1994	—	—	9,897	3.1	—	—	681	—	—	—	10,578
1995	—	—	10,429	5.4	—	—	795	—	—	—	11,224
1996	2,944	8,683	11,627	11.5	259	383	642#	10	257	267	12,536
1997	2,703	9,839	12,542	7.9	217	310	527	9	249	258	13,327

5-3

1998	2,498	10,617	13,115	4.6	188	310	498	7	185	192	13,805
1999	2,359	11,365	13,724	4.7	161	278	439	7	238	245	14,408
2000	2,270	12,051	14,321	4.4	150	325	475	10	236	246	15,042
2001	2,112	12,487	14,599	1.9	153	387	540	8	208	216	15,355
2002	2,029	13,033	15,062	3.2	153	414	567	8	221	229	15,858
2003	1,902	13,278	15,180	0.8	139	394	534	8	218	226	15,940
2004	1,860	13,239	15,099	-0.5	137	364	502	8	228	236	15,837
2005	1,741	12,820	14,561	-3.6	144	424	568	8	239	247	15,376
2006	**1,688**	**13,097**	**14,785**	**+1.5**	**109**	**419**	**528**	**8**	**229**	**237**	**15,550**

* Dollars in Millions
# Includes Breeders' Cup Day at Woodbine

In some instances, totals may not equal the sum of on-track and off-track figures due to rounding.

Includes worldwide commingled wagering on races in the US, Canada and Puerto Rico, as well as separate-pool wagering in Canada on US races.

Sources: Equibase Company LLC, CHRIMS (Comprehensive Horse Racing Information Management Systems), Association of Racing Commissioners International and Hipodromo Camarero.

5-4

THE JOCKEY CLUB

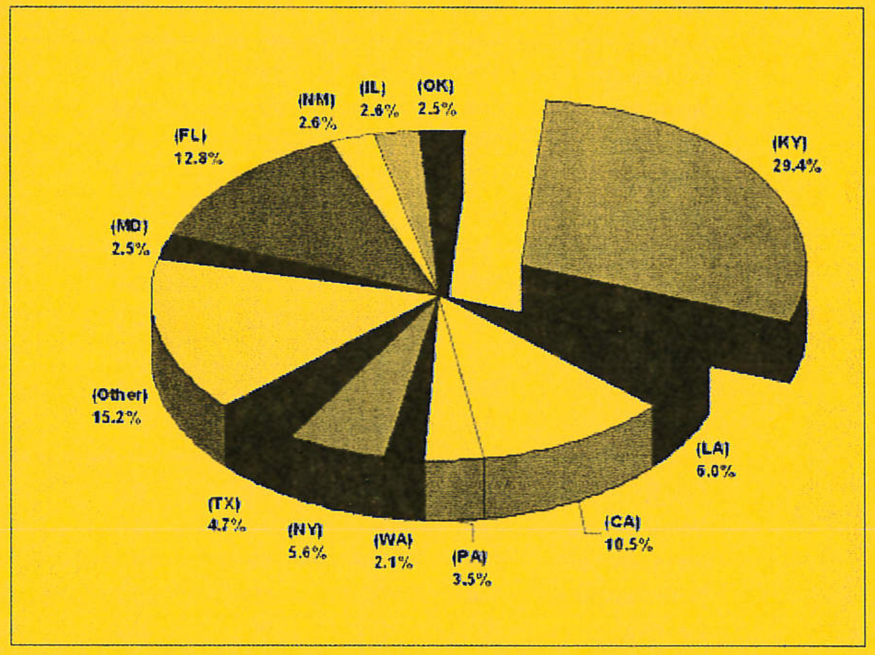
- Home
- About The Jockey Club
- About the Registry
- Family of Companies
- Publications & Resources
- Media Center
- Silks / Stable Registry
- Industry Organizations
- FAQ
- Contact Us
- Site Map

Online Fact Book

Return to Fact Book Index

DISTRIBUTION OF REGISTERED US FOAL CROP BY STATE

Since the registered Thoroughbred foal crop bottomed out in 1995 after nine consecutive years of decline, seven of the top 12 foal-producing states have increased their production of registered foals, with New Mexico, Pennsylvania, Louisiana and New York each increasing their production by more than 50%. Kentucky, which annually produces more registered foals than any other state, continues to approach the 10,000 foal mark last achieved in the year 2000, just prior to the Mare Reproductive Loss Syndrome that afflicted the state's mare population during the spring of 2001.



Distribution of Registered US Foal Crop by State

Current through 01/15/2007

Click for ranking in: 2004 | 2003 | 2002 | 2001 | 2000 | 1999 | 1998 | 1997 | 1996 | 1995 | 1994 | 1993 | 1992 | 1991 | 1990 | 1989 | 1988 | 1987 | 1986 | 1985 | 1984 | 1983 | 1982 | 1981 | 1980 | 1979 | 1978 | 1977 | 1976 | 1975 | 1974 | 1973 | 1972 | 1971 | 1970 | 1969 | 1968

	1995		2004		2005		
State by 2005 Ranking	**Reg. Foals**	**Percent US Crop**	**Reg. Foals**	**Percent US Crop**	**Reg. Foals**	**Percent US Crop**	**% Change 1995-05**
Kentucky	7,683	24.1	9,801	28.5	9,870	29.4	+28.5
Florida	3,651	11.5	4,455	12.9	4,319	12.8	+18.3
California	3,336	10.5	3,752	10.9	3,530	10.5	+5.8
Louisiana	1,323	4.1	1,892	5.5	2,011	6.0	+52.0
New York	1,248	3.9	2,008	5.8	1,893	5.6	+51.7
Texas	2,441	7.7	1,726	5.0	1,566	4.7	-35.8
Pennsylvania	763	2.4	959	2.8	1,180	3.5	+54.7
Illinois	1,142	3.6	960	2.8	860	2.6	-24.7
New Mexico	531	1.7	785	2.3	857	2.6	+61.4

5-5

Maryland	1,147	3.6	892	2.6	826	2.5	-28.0
Oklahoma	1,304	4.1	834	2.4	824	2.5	-36.8
Washington	1,110	3.5	669	1.9	700	2.1	-36.9
West Virginia	192	0.6	625	1.8	586	1.7	+205.2
Virginia	589	1.8	422	1.2	400	1.2	-32.1
Ohio	756	2.4	474	1.4	393	1.2	-48.0
Iowa	208	0.6	362	1.1	371	1.1	+78.4
Arizona	346	1.1	350	1.0	350	1.0	+1.2
Michigan	339	1.1	353	1.0	321	1.0	-5.3
New Jersey	436	1.4	323	0.9	320	1.0	-26.6
Indiana	108	0.3	447	1.3	315	0.9	+191.7
Minnesota	177	0.6	310	0.9	293	0.9	+65.5
Arkansas	447	1.4	291	0.8	275	0.8	-38.5
Colorado	293	0.9	291	0.8	239	0.7	+18.4
Oregon	310	1.0	274	0.8	221	0.7	-28.7
Nebraska	320	1.0	166	0.5	182	0.5	-43.1
Idaho	281	0.9	170	0.5	159	0.5	-43.4
Utah	132	0.4	109	0.3	121	0.4	-8.3
Kansas	194	0.6	111	0.3	89	0.3	-54.1
Montana	219	0.7	104	0.3	87	0.3	-60.3
Alabama	91	0.3	69	0.2	72	0.2	-20.9
South Carolina	91	0.3	52	0.2	49	0.2	-46.2
South Dakota	70	0.2	46	0.1	49	0.2	-30.0
Massachusetts	125	0.4	52	0.2	46	0.1	-63.2
North Dakota	38	0.1	60	0.2	46	0.1	+21.1
Georgia	101	0.3	50	0.2	42	0.1	-58.4
Mississippi	28	0.1	19	0.1	32	0.1	+14.3
North Carolina	72	0.2	42	0.1	26	0.1	-63.9
Missouri	110	0.3	50	0.2	25	0.1	-77.3
Tennessee	50	0.2	40	0.1	18	0.1	-64.0
Wyoming	21	0.1	16	0.1	11	0.0	-47.6
Nevada	18	0.1	6	0.0	10	0.0	-44.4
Wisconsin	11	0.0	21	0.1	9	0.0	-18.2
Connecticut	10	0.0	3	0.0	7	0.0	-30.0
Delaware	0	0.0	1	0.0	6	0.0	+600.0
Maine	2	0.0	1	0.0	4	0.0	+200.0
Virgin Islands	4	0.0	0	0.0	3	0.0	-75.0
New Hampshire	7	0.0	3	0.0	2	0.0	-71.4
Alaska	0	0.0	1	0.0	1	0.0	+100.0
Hawaii	5	0.0	0	0.0	1	0.0	-80.0
Vermont	3	0.0	0	0.0	1	0.0	-66.7.0
Total US	**31,883**		**34,447**		**33,618**		**+5.4**

5-6

Canada	2,446	2,592	2,708	+10.7
Puerto Rico	653	533	509	-22.1
Total Crop	**34,982**	**37,572**	**36,835**	**+5.3**

Source: The Jockey Club

5-7

<<Back

Oklahoma City
KFOR.com

Remington attendance up 340 percent

June 9, 2006 12:13 PM

ASSOCIATED PRESS

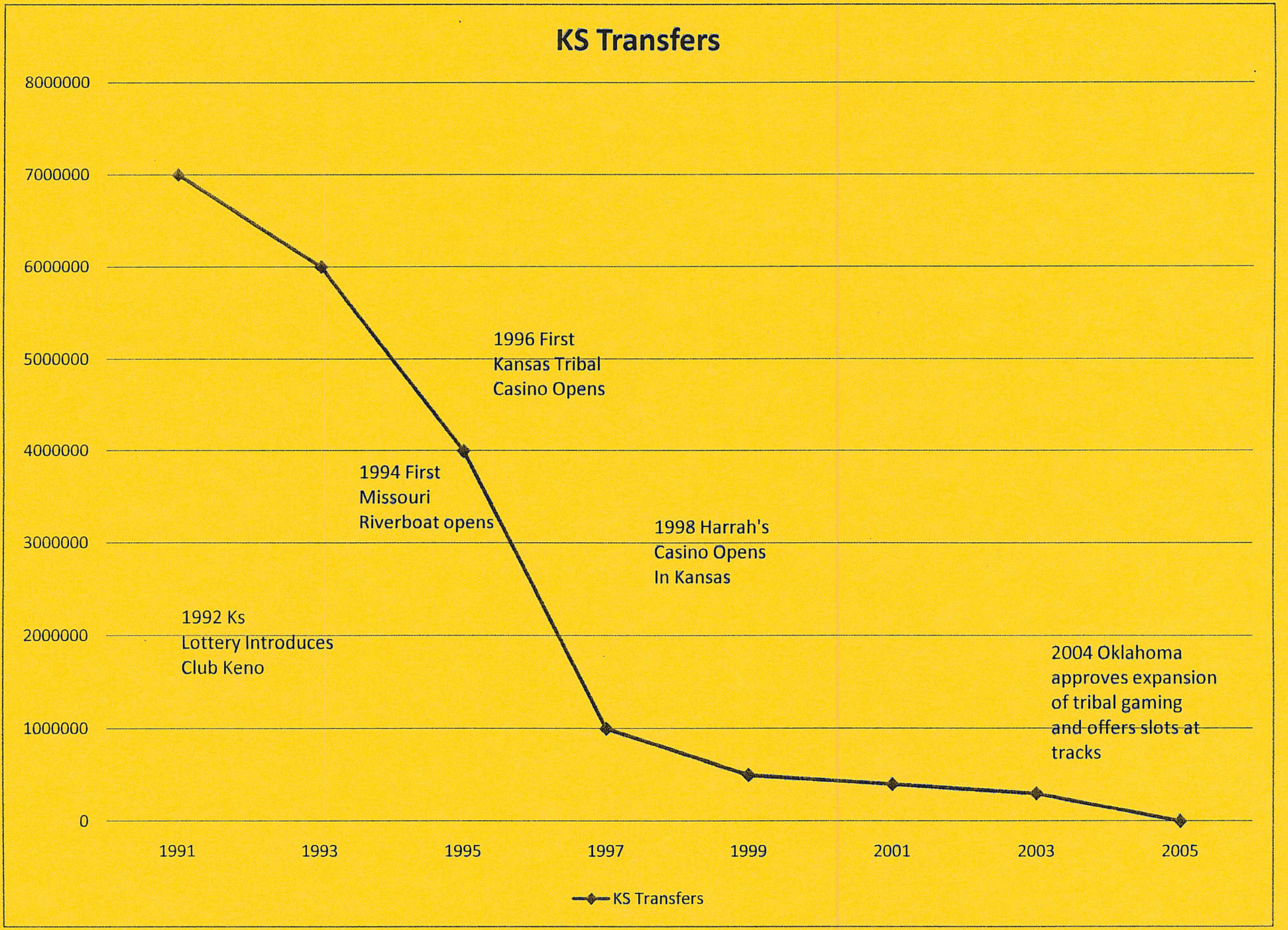
OKLAHOMA CITY -- Remington Park reports its attendance more than tripled this year after a casino opened at the horse racetrack.

Remington says its total attendance for the quarter horse season was just over 270,000 people. That's an increase of 340 percent. During the season, Remington awarded more than $8.7 million dollars in purse money.

That's more than double the $4 million awarded last year. Remington's quarter horse season ran from March tenth to June fourth. The park's thoroughbred meet begins August fourth and runs through November 28th.

5-8

5-9


KS Transfers
8000000
7000000
6000000
5000000
4000000
3000000
2000000
1000000
0
1991
1993
1995
1997
1999
2001
2003
2005
1992 Ks Lottery Introduces Club Keno
1994 First Missouri Riverboat opens
1996 First Kansas Tribal Casino Opens
1998 Harrah's Casino Opens In Kansas
2004 Oklahoma approves expansion of tribal gaming and offers slots at tracks
KS Transfers

legal questions as to the zoning and public health and safety regulations that can be applied.[122]

Concerns about the Social and Psychological Impacts of Gambling

While legalized gambling is recognized to produce economic benefits in certain circumstances, it is also thought by some to cause, or be linked to, increases in illegal gambling, pathological gambling, crime, divorce, bankruptcy, and suicide. This section of the report reviews the evidence on these connections. Illegal gambling and pathological gambling are discussed first because they are the problems on which there has been the most research. They also relate in important ways to the premises of National Gambling Impact Study Commission, which suggested that the propensity to gamble is increasing, and the prevalence of pathological gambling is growing, because of the availability of so-called "convenience gambling."[123]

Illegal Gambling. The NGISC did not make its assumptions about gambling behavior very explicit, but its concerns about "convenience gambling," as well as some of the questions asked in its research, reveal an underlying theory. The NGISC Final Report tends to view gambling as a *temptation* that, by offering a chance at easy money, pulls people away from the responsibilities of work, family, and citizenship. In part, this image of gambling as a temptation is why the NGISC was so concerned about the availability of gambling opportunities in convenience stores, restaurants, and the like. If gambling is tempting, and if some people have trouble dealing with the temptation, then it is best to keep the opportunity to gamble away from everyday life and confine it to casinos, racetracks, riverboats and cruise ships. By the same token, the view that gambling is a temptation also suggests that a casual and limited exposure to gambling may inculcate a growing desire to gamble, and in this way attract large numbers of otherwise normal people into a debilitating chase for quick riches. To the extent that the temptation theory of gambling is true, then a policy of legalization could actually backfire; rather than replacing legal gambling with illegal gambling, legal forms of gambling could become gateways to illegal gambling activities that are more intense.

Scientific Findings Challenging Concerns about Convenience Gambling. However, one of the NGISC's own research products suggests that its temptation theory of gambling has at least two major flaws. The NGISC contracted with the National Research Council (NRC) for a review of the scientific literature and research on gambling behavior. The NRC report casts doubt on the NGISC's premise that the allure of gambling is financial. The prevailing scientific theory is that gambling is motivated, not simply or even primarily by a quest for money, but by a natural human desire to take risks.[124]

The other flaw in the temptation theory is its assumption that for some people gambling grows progressively and inexorably habitual and out of control. Actually, the NRC concluded that pathological gambling does not develop inexorably through a series of stages, beginning with casual gambling and becoming increasingly

Federal and State Affairs
Attachment 6
Date 3-15-07

disordered.[125] Rather, it appears to be a very special condition, separate and distinct from gambling behavior that is more mildly problematic.

Research Findings on Changes in Gambling Behavior, 1975-1998. A theory of how legalization may have affected gambling behavior has been proposed by Dr. Howard Shaffer, Executive Director of the Harvard University Medical School Division on Addictions and an eminent scholar and leading researcher in the field. He argues that, as illicit behavior such as gambling becomes more acceptable, it causes fewer problems for both the individual and the society, because norms for controlling the activity are developed and socially enforced.[126] From this perspective, gambling's legalization over the past three decades should be evaluated along a variety of dimensions. One issue, of course, is whether legalization has sparked a rise in pathological gambling, but also important are the effects of legalization on how gambling is personally perceived and socially regulated.

The second major research product of the NGISC, a survey of gambling behavior by the National Opinion Research Center (NORC) at the University of Chicago, suggests that legalization may have had several positive impacts along the lines pointed to by Shaffer. The NORC survey was designed to be comparable to the survey, discussed earlier, that was conducted in 1975 by the University of Michigan (UM) for the Commission on the Review of the National Policy Toward Gambling (CRNPTG), which issued its Final Report (*Gambling in America*) in 1976.

The Prevalence of Gambling. One of the most important findings from the NORC survey has to do with changes in the prevalence of gambling in America since 1975. Both NORC and the University of Michigan considered respondents' gambling patterns in the previous year and over the course of their lifetimes. The former is referred to as "past year gambling" and the latter as "lifetime gambling." NORC discovered that the proportion of adults in the U.S. population who report having gambled in the previous year has increased very little since 1975, despite the legalization of many forms of gambling in many states during this period. In the 1975 UM study, 61 percent of respondents reported having gambled in the previous year, while in NORC's study the comparable figure was 63 percent. On the other hand, the percentage of people who have tried gambling at some point in their lives has increased substantially, from 68 percent in 1975 to 86 percent in 1998. Given the sample sizes of the two studies on past year gambling, the difference between these percentages is not statistically significant. In other words, from a statistical perspective, the rate of past year gambling is within the margin of error of each of the studies and is virtually unchanged since 1975. Together, these findings mean that Americans have become much more likely to have experimented with gambling, but this experimentation has not turned them into people who gamble regularly or routinely.

This conclusion shocked the NORC researchers and should have caused the NGISC to rethink its premises, both about gambling being a dangerous temptation and about convenience gambling posing special risks. If lotteries and commercial casinos, which are the main forms of gambling that have been legalized during the period in question, are as attractive to people as the NGISC seems to think, then the greater exposure to gambling that has clearly occurred in the past 25 years should have been associated with a corresponding increase in past-year gambling. Because the stability of past-year gambling is so remarkable, the NORC report presents, as its very first finding, the point that past-year gambling has increased so little. The NORC report also depicts the finding visually in its first graph, remarks that the observation is surprising, and discusses it at some length. Incredibly, however, the Final Report of the NGISC does not even mention the finding at all, much less ponder its implications for gambling policy. Worse still, on the first page of the body of the NGISC report, NORC's number for the frequency of past-year gambling is misquoted to make it appear as if gambling is more common than it actually is. To quote the report:

> This Commission's research suggests that 86 percent of Americans report having gambled at least once during their lives. Sixty-eight percent of Americans report having gambled at least once in the past year.[127]

Again, the correct figure for past-year gambling is 6<u>3</u> percent, not 6<u>8</u>. Surely this slip of the digit was an unintentional error, but the fact that it was made in an upward direction and on such a significant data-point, a data-point contrary to the Commission's premises and yet emphasized by the Commission's researchers, shows just how badly the NGISC failed to maintain objectivity and a spirit of inquiry.

<u>*Effects of Legalization on Illegal Gambling and "Friendly Betting"*</u>. As we have seen, Shaffer's ideas about gambling lead us to be curious about how legalization has affected not simply the frequency of gambling, but also <u>how</u> people gamble, particularly with respect to forms of gambling that remain illegal. The figure below (Figure 1) shows how the distribution of gambling across the basic types identified by the 1975 UM study has changed over the past 25 years. The percentages for lifetime non-bettors and past-year bettors shown in the first two bar couplets of Figure 1 correspond to the findings reported by NORC that the prevalence of lifetime gambling has dramatically increased (and hence lifetime <u>non</u>-gambling is much lower), while the prevalence of past-year gambling has increased slightly. What NORC did not report is that past-year <u>illegal</u> gambling is down slightly (from 11 percent to 9 percent), and past-year betting with friends (which is also illegal) is down <u>greatly</u>, from 50 percent of adults in 1975 to just 12 percent in 1998.

The drop in wagering between friends or acquaintances is another remarkable finding that was overlooked by the NGISC. The drastic decline in this form of gambling suggests that the legalization of lotteries and casinos has had the effect of removing "friendly betting" from the mainstream culture. For those who, like the NGISC, have been concerned about convenience gambling because it brings gambling into everyday life, this cultural shift should be comforting, because it means that the most casual and pervasive form of gambling in America may have been greatly reduced.

<u>*Effects of Legalization on Who Gambles and in What Ways*</u>. It is also possible to track the changes that have occurred since 1975 in the frequency with which a number of different demographic groupings gamble. The figures graphing these frequencies are contained in Appendix E. As shown in the graphs for lifetime non-bettors, the tendency to have tried gambling in some form or another is spread more evenly across the population now than it was 25 years ago. The groups that evidence the greatest

increase in contact with gambling are whites, women, retirees, and Southerners. The latter three groups had in the past been much less likely than other groups to have tried gambling.

Gambling with friends is down across the entire spectrum of demographic categories. This is further evidence that the observed decline in friendly betting is a general cultural phenomenon rather than a change in behavior among isolated groups.

In 1975, the UM study reached mixed conclusions about how legalizing certain forms of gambling might affect illegal gambling. On the one hand, the study authors thought that lotteries and legal casinos would probably increase the prevalence of gambling in general, which might wash over into illegal gambling and cause an increase there too. But on the other hand, some of the data indicated that illegal gambling would decline even if gambling in general rose.

As previously stated, the NORC data show that illegal gambling is down slightly. More important, though, is that the decrease has been greatest in geographical areas and along social dimensions where illegal gambling had been most common, notably in the Northeast and among nonwhites, highschool dropouts, and the unemployed.

Legal gambling via casinos, lotteries, and the like, has also shifted in some interesting ways. The biggest increase has been among highschool dropouts, seniors, widows, and Southerners. The patterns on the other variables mean that the increases among the latter three groups represent an influx of new gamblers into the activity. In contrast, the increase among high school dropouts reflects a shift from the illegal sector to the legal sector. Of particular interest, given the concerns of the NGISC about the potential impacts of convenience gambling on children, is the gambling behavior of the youngest age group. Among adults 18 to 24 years old, gambling is <u>down</u>, not up. The scientific theory that gambling is motivated primarily by an impulse for risk-taking suggests an explanation for this shift; young people are not gambling as much now, probably because gambling is legal and hence they do not find it as risky or exciting.

It is difficult to examine these findings and not conclude that America's decision to legalize gambling more widely has had some important social benefits. Legalization has caused a decrease in illegal gambling, especially among the groups who have engaged in it most often in the past; it has reduced the extent to which gambling is isolated among subgroups of the population, where it is likely to be part of subcultures without appropriate social constraints on gambling activity; it has shifted gambling away from the youngest age groups to the oldest, who are most mature and least susceptible to pathological gambling; and it has almost eliminated friendly betting from daily life.[128]

However, the PSGSC approaches these potential positive effects with caution, for questions remain that can only be answered after considerable long-term research has been conducted. Some seniors, for example, may be participating more in gambling activities because they are lonely or depressed.[129] The PSGSC views with concern the increase in gambling by seniors because some seniors do not have the level of support that younger people often do—family, friends, parents—and some seniors can not regenerate lost earnings as can their younger, working counterparts. The PSGSC recommends that additional study of the effects of gambling on this age group is needed and encourages researchers to work with gerontologists and other experts.

Effects of Legalization on Pathological Gambling. Certainly it is possible that these benefits from gambling's wider legalization could have been gained at the expense of an increase in gambling that is pathological. In 1975, the UM researchers had cautioned that this might happen. "The data tend to support the contention," the UM report warned, "that widespread legalization of gambling in the nation may result in a significant increase in the incidence of compulsive gambling."[130] This remains a reasonable fear.

The recommendations of the NGISC and its tone of alarm suggest that the problem of pathological gambling is growing, but the data on pathological gambling trends are actually inconclusive. Several observations are relevant. First, the strongest support for thinking that there has been an increase in the prevalence of pathological gambling comes from the meta-analysis conducted by Shaffer and others in 1997 of 120 studies of disordered gambling in a number of different states. A meta-analysis uses empirical analytic techniques to draw conclusions from previous studies that have been conducted independently and usually with different methodologies and target groups. Shaffer concluded that "during the past two decades, gambling disorders have evidenced an increasing rate among adults sampled from the general population."[131] However, this conclusion covered disordered gambling and was not limited to the more extreme form of disordered gambling that meets the American Psychiatric Association's criteria for pathological gambling.

Further, Shaffer et al. noted that a majority of the studies he examined had been released since 1992 and that much of the newer research had focused on groups that tend to experience gambling problems. In his words, "This pattern of recent investigations of 'higher risk' populations may have created misleading perceptions of increasing rates of disordered gambling."[132] Shaffer and his coauthors implied that the more important finding from his analysis is that "an individual's risk of disordered gambling is primarily dependent upon their age, clinical situation, and gender."[133] Women, adolescents, and people with other emotional problems are most vulnerable to losing control of their gambling activities.[134]

A second observation that the NGISC should have considered more carefully is the conclusion reached for the Commission by the National Research Council. After its review of research on the question, the NRC decided that it is unclear whether pathological gambling had increased subsequent to the expansion of legalized gambling. The NRC could say only that pathological gambling had not declined during this period. Given that, as Shaffer et al. point out, disordered gambling is a "robust phenomenon" in the sense that it can be seen with a variety of investigative procedures, and in light of the large extent to which gambling has been legalized in America over the past few decades, the failure to find an obvious pattern of increasing prevalence of pathological gambling should raise serious doubts about just how likely the disorder is to be triggered by increasing opportunities to gamble.[135]

A third challenge to the sense of alarm voiced by the NGISC is that pathological gambling is quite rare in the general population. This had already been found by the UM survey, which supported an estimate of a .77 percent incidence of "compulsive gamblers." But the UM study, while validated through clinical observation, was conducted before the American Psychiatric Association had developed and later revised its diagnostic criteria for the disorder, and it has been speculated since then that pathological gambling is more common than UM concluded. However, both Shaffer and NORC arrived at similarly low numbers. On the basis of his meta-analysis, Shaffer reached an estimate of 1.6 percent for experiencing pathological gambling at some point in one's lifetime, and 1.1 percent for past-year incidence. The 1998 survey by NORC, which is the most reliable source of data currently available on this matter, included a battery of questions to identify various levels of disordered gambling as well as pathological—based on a somewhat more exacting standard than those used in prior studies—gambling, and it reached an estimate of .8 percent for lifetime incidence and .1 percent for past-year.[136] In its review of a subset of the studies included in the meta-analysis by Shaffer et al., the NRC supported an estimate of .9 percent prevalence for past-year and 1.5 percent for lifetime.[137]

Regardless of which of these figures one accepts, they are all quite low relative to the incidence of other adult psychiatric disorders in the United States. The lifetime incidence rate for drug dependence is 6.2 percent, for major depressive episodes is 6.4 percent, and for alcohol dependence is 13.8 percent.[138] The past year prevalence rates for these disorders are 2.5 percent for drug dependence, 3.7 percent for depression, and 6.3 percent for alcohol abuse/dependence.[139]

Fourth, NORC did not find that the new forms of gambling legalized in the past twenty years, such as the so-called convenience gambling, are more likely than other forms of gambling to be associated with pathological gambling. Quite the opposite. In NORC's survey of a randomly selected national sample, the prevalence of pathological gamblers was lowest among lottery participants.[140] The NORC data also support this conclusion in the aggregate; the prevalence of gambling problems is lower in lottery states than in states without lotteries.[141] The NGISC may or may not have been correct that pathological gambling is linked to some forms of convenience gambling–such as video poker–but the NGISC went too far in applying this conclusion to state-run lotteries. Further study is needed on video poker and similar games to determine if, as the NGISC concluded, they are likely to pull people into a gambling compulsion.

Yet a fifth consideration ignored by the NGISC is the likelihood that much pathological gambling stems from other psychological disorders. The American Psychiatric Association's diagnostic criteria for pathological gambling alerts analysts to the possibility that pathological gambling may be a symptom of a bipolar mood disorder. If mania is evident, the criteria call for pathological gambling to be rejected as a diagnosis. Shaffer has pointed out that much research on the prevalence of pathological gambling has ignored this issue and has taken for granted that pathological gambling is a primary disorder. The NORC research shows that Shaffer's concerns are well founded. The National Opinion Research Center applied the APA diagnostic criteria to its national random sample and also tested for various psychological problems, including evidence of mania and depression. The survey revealed that as many as 40 percent of pathological gamblers reported symptoms associated with manic disorder.[142] This finding suggests that much of the behavior thought of as compulsive gambling, which is of such concern to policy makers and researchers, actually may not be caused by gambling at all, but may be only a reflection of an underlying mood disorder.

In short, there is no solid basis for concluding that the wider legalization of gambling, which has cut into illegal gambling and friendly betting, has caused a concomitant increase in pathological gambling. In fact, it appears that pathological gambling is quite rare within the general population, it does not appear to be increasing in frequency, it is not associated with lotteries, and much of what has been thought to be pathological gambling may stem from other emotional problems. As Shaffer has recommended, we should move away from questions about pathological gambling in general and should focus instead on how legalization has affected different subgroups of the population and on what kinds of gambling problems are occurring that do not rise to the level required to meet the diagnostic criteria for the pathology. This is the kind of information needed to shape gambling policy productively, a position that both the industry and the states support. While pathological gambling does not appear to be as widespread or insidious a condition as previously thought, the PSGSC does acknowledge that there are some individuals who do suffer, some severely, from compulsive gambling behavior. Sound public policy cannot be made if the needs of those people are not taken into consideration. The PSGSC recommends, therefore, that more objective, longitudinal studies be conducted in the area of pathological and problem gambling behavior.

The problem of compulsive gambling is not one taken lightly by either states or the gambling industry. Though there are many more efforts that can be made, industry sponsored programs are, at least, a step in the right direction. Many lotteries sponsor "play responsibly" campaigns, which encourage ticket buyers to spend wisely, even in light of an extraordinarily large jackpot. Campaign messages are printed on posters, brochures, and sometimes even on the tickets themselves and are distributed through television and radio broadcasts.[143] The casino gaming industry, through the American Gaming Association (AGA), its trade industry, sponsors a Responsible Gaming Task Force, whose accomplishments include a gaming resource guide, a responsible gaming workshop and training implementation program, and a curriculum to address underage gambling. The AGA also operates the Gaming Entertainment Research and Education Foundation, which provides support for the National Center for Responsible Gaming (NCRG). The role of the NCRG is to fund independent, scientific research on problem gambling that can be used to develop prevention, treatment, and intervention programs.[144] Tribal governments also take an active position and contribute to state problem gambling councils and other compulsive gambling organizations.[145] The National Thoroughbred Racing Association, the Thoroughbred Racetracks of America, Harness Tracks of America, and the American Quarter Horse Association have all endorsed Responsible Wagering Initiatives and have encouraged their members to implement such programs.[146] One additional step that can be taken by all gambling-specific venues is to remove automatic teller and other cash machines from gambling floors. By having patrons leave the gambling area to get additional cash, gambling operators are providing their patrons with a short "cooling-off" period during which the patrons can decide whether or not they should continue to gamble. This does not imply that the PSGSC supports removing cash machines from the premises, only that states consider legislation on a state-by-state basis. The PSGSC also encourages states to examine the policy of some gambling facilities to provide free alcoholic drinks on the gambling floor to their patrons and consider requiring gambling-specific venues to either sell alcoholic drinks on the gambling floor or provide free alcoholic drinks in areas other than the gambling floor.

In addition to industry-supported compulsive gambling measures, there is currently a network of compulsive gambling councils, a national organization and several state-based councils, that provide assistance to problem gamblers. Services typically provided by these groups include training programs for gambling counselors, educational materials for gamblers, their families, and the general public, "hotline" numbers for emergency calls, and referrals to qualified treatment professionals.[147] One area of concern that was brought to the attention of the PSGSC is what happens to individuals when they call the emergency numbers supported by the gambling councils. The gambler is usually not offered treatment by the council, but is instead referred to a treatment facility. Though a few states contribute to such treatment facilities, most of them are privately operated. Health insurance companies typically do not pay for such treatment, so often the cost is borne by the individual. Unfortunately, this means that there are most likely people who need assistance but who can not afford it. In addition, members of the treatment community say that there are too few counselors available who can treat gambling problems, or even recognize them in individuals who may be seeking treatment for some other difficulty. Therefore, the PSGSC recommends that states and the counseling industry work together to expand educational and training opportunities to ensure that there are a sufficient number of competent individuals who can offer counseling services to those who cannot break free of compulsive gambling behavior.[148] The PSGSC also recommends that states at least consider making gambling treatment a mandated insurance benefit, although the PSGSC is not making a recommendation that each state necessarily include it, as Commission members believe that these decisions should be left to each individual state. In addition, the PSGSC suggests that states that currently have legalized gambling operations set aside monies in their general funds for gambling treatment and prevention programs.

Crime. There is a long-held assumption that where gambling appears, particularly casino gambling, crime will inevitably follow, either organized crime or money laundering (as is shown on television and in movies), crimes committed against residents and visitors (such as muggings or auto theft), or the so-called white collar crimes committed by gambling addicts (such as embezzlement or fraud). However, this conception appears to be based on fictional portrayals of the industry and unsubstantiated anecdotal evidence. Based on its recent victimization survey, the Bureau of Justice reports that property crime, which includes burglary, larceny-theft, motor vehicle theft, among other infractions, is enjoying a 20-year decline, this during a 20-year expansion of legalized gambling.[149] In addition, national crime statistics of bankruptcy by 6 percentage points from that of the base group, occasional gamblers. Since only 2.7 percent of the population fall into the category of frequent, high-risk gamblers, the impact of these activities on overall bankruptcy rates is relatively small.[159]

The PSGSC recommends that additional research on bankruptcy rates and factors be conducted before public policy recommendations are made.

Conclusion on Social Concerns. The gambling industry has experienced an amazing expansion rate during the past decade, but how long this trend will continue and the impact it will have on communities that rely on casinos or other gambling facilities as their primary source of jobs and tax revenues is uncertain. It is the individual case studies, examined in aggregate, that will provide the true picture of the impacts of widespread legalized gambling. The PSGSC recognizes the possibility that some of the community growth that has occurred is due to the overall positive expansion of the national economy and not necessarily due to the introduction of gambling venues. Therefore, the PSGSC recommends that the economies of these communities should be evaluated periodically to determine the long-term effects of gambling, especially in light of the booming national economy of the past several years, and it should be determined whether any other industry besides gaming can possibly offer the same economic and social benefits, especially to impoverished communities. Additional research should also consider longitudinal national, regional, and community data on such social issues as crime (prostitution, fraud, embezzlement, theft, loan sharking, and drug sales) and should control for such exogenous factors as the overall declines in criminal activity experienced during the past few years. In addition, gambling research should also examine illegal gambling trends. Failure to look at illegal gambling will distort conclusions that are reached about gaming in general and effective countermeasures will be difficult to implement.

The States' Role in Gaming and Gambling Policy

Historically, regulation of gaming and gambling in the United States has been the purview of the state governments. The states are fully competent to continue handling this responsibility. The federal government should exert authority over gaming and gambling only when interests beyond the state level are directly involved. Such potential areas of concern include (1) tribally-run gambling operations, due to the longstanding relationship between Indian tribes and the federal government, (2) Internet and telephone gambling, because of the ability of gambling via telecommunication devices to circumvent traditional state boundaries and policies, and (3) parimutuel wagering to the extent that it involves interstate wagering.

Tribal Gaming. The Indian Gaming Regulatory Act (IGRA) established a process for states and tribes to negotiate Class III gaming compacts. While the IGRA process has worked in most states and has served as a stepping stone toward improved government-to-government relationships, there have been some problems in the process.

published by the Federal Bureau of Investigation indicate that property crime, burglary, robbery, larceny-theft, and auto theft have declined during the past several years.[150]

Most states that have legalized gaming have state gaming regulatory or control commissions. Though the exact operations of these commissions vary among states, for the most part these commissions monitor the daily operations of the gaming facilities, conduct financial audits, conduct background checks on potential employees, license operators and vendors, and so forth. In addition, most casinos are owned by publicly-held entertainment corporations, which are subject to scrutiny by the Securities and Exchange Commission and susceptible to the perceptions of their investors. There are more than 1,000 regulators in Nevada and New Jersey alone, at an estimated cost of $70 million.[151] A recent University of Maryland study concludes that there is no evidence that casinos have had a major impact on crime; and, further, that in some cases the lack of recorded crimes was "no doubt influenced by the sharp growth in the size of the city police force."[152]

Tribally-owned casinos also have stringent regulatory constraints, as they are not only monitored by the National Indian Gaming Commission and by state gaming commissions, but also, in accordance with IGRA, by tribal gaming commissions. As a recent Indian gaming study states, "the regulatory and policing structures seem to have kept organized criminal involvement away from casino gaming for nearly a decade."[153]

When casinos are brought into low-income areas, crime, rather than increasing, may actually decline. This is because the increased economic activity provides revenues for the public sector, which can then expand the police presence. Also, most of the activity in areas with casinos occurs inside the casinos themselves, and they are highly regulated and policed.

Even in communities that do report an increase in crime and other social problems, it is not clear that the rise is directly attributable to gambling. Gambling establishments vary in size and range among geographic regions. Venues are located in large cities, such as Las Vegas, and in small or suburban towns, such as Tunica, Mississippi, and Joliet, Illinois, and they run the gamut from expansive casinos to small gaming halls. Some facilities are designed to attract visitors to the host area, some to serve local patrons; some facilities offer amenities in addition to gaming, such as restaurants and bars, theaters, or theme attractions. These differences play an important role in determining the effect that gambling has on crime rates.[154] More specifically, tourists traveling into an area may be both potential targets for crimes and potential offenders. The implication of this factor is that it is not so much the activity that generates crime as it is the volume of people that are attracted to the host area.

Though much of the evidence that is available is anecdotal, the majority of the information collected during the past decade indicates that there is no link between gambling, particularly casino-style gambling, and crime. The security on the premises of gambling facilities, the multiple layers of regulatory control, and the economic and social benefits that gambling seems to offer to communities are effective deterrents of criminal activity.

Suicide. One of the more severe consequences thought to be associated with gambling when it gets out of control, leads to large debts, or causes family problems, is suicide. Again, though, the available research does not provide clear support for this hypothesis. One study that examined mortality rates prior to and following the introduction of gambling in six counties located within New Jersey, South Dakota, Colorado, Mississippi, and Illinois found that deaths by suicide decreased after legalized gambling was introduced in five of the six counties. The slight increase in the sixth county was so insignificant that it could not be attributed to gambling. This study also found that the reported high frequency of visitor suicide in Atlantic City, Reno, and Las Vegas were not significant when corrected for the volume of visitors each city receives annually. The high number of visitor suicides for these cities does not imply that gambling is the cause of the suicides, merely that these cities receive a higher proportion of visitors than most other cities.[155]

> For gaming-area residents, the risk of suicide is no higher than that faced by residents of non-gaming areas . . . For gaming-area visitors, the risk of suicide is no higher than that faced by visitors to non-gaming areas. When 91 U.S. metropolitan areas are ranked by visitor suicides in proportion to their visitor volume, Las Vegas, Reno and Atlantic City rank an unremarkable 26th, 37th, and 87th, respectively. [156]

While this evidence on suicide rates appears compelling, the PSGSC acknowledges that there are too few studies and too many conflicting opinions regarding suicide to justify any gambling policy recommendations at this time, and the Commission recommends additional research in this area be conducted.

Bankruptcy. Another purported serious consequence of compulsive gambling is bankruptcy; however, like the connections between gambling and both crime and suicide, the reported link between gambling and bankruptcy relies on anecdotal reports that are not substantiated by quantitative data. For example, A study of Indian gaming in Arizona found that in six out of nine Arizona counties in which Indian gaming was introduced, the bankruptcy rates were lower than the state's average rate.[157]

A recent analysis by the United States Department of the Treasury shows that while there should be concern about the rising rate of bankruptcies in a time of economic prosperity and low-unemployment, the exact cause of this rise is not precisely known. The report lists changes in bankruptcy laws, changes in social mores about declaring bankruptcy, increases in credit card debt and unsecured consumer credit, lack of_health insurance, failed businesses, and poor financial planning as potential causes.[158] In addition, the PSGSC heard testimony that supported that, at least in isolated incidences, the rise in consumer credit may be a factor in the rise in declared bankruptcies.

After eliminating state-specific factors, the Department of the Treasury report concedes that:

> it is, therefore, very likely that numerous factors have contributed to the observed increases in the national bankruptcy rate . . . Our estimates reveal that on average, frequent high-risk gambling raises the probability

State Owned and Operated

Kansas Constitution makes provisions to authorize the state to have a state owned and operated lottery. An Attorney General's Opinion issued in 1994 laid out the foundation for what level of involvement the state must have to meet the criteria of a state owned and operated lottery.

Today's lottery is state owned and operated. The Supreme Court has held that the constitutional authorizes the lottery to offer any game, which involves three elements: Prize, chance and consideration.

That opinion does not require ownership of buildings, or state employees involved in the retail operation. It does require that the state exercise complete control over the lottery games involved. This is how the lottery currently operates its online games like powerball and club keno. Sales agents in private businesses actually accept the wagers and pay prizes. The lottery contracts with G-Tech to provide technology services and computer control of the games.

HB 2055 uses the same structure in providing electronic gaming machines (slots) and other games. Buildings are owned and financed by private entities, most employees at these facilities will be employees of the business rather than the state, but the gaming itself, and the money generated by the gaming will be in the state's control. Through management contracts, and statutory control the state maintains absolute control of the gaming business itself, though it occurs in facilities that are privately owned and subject to property taxation.

Four states currently have a constitutional provision requiring a state owned and operated lottery. South Dakota, West Virginia, Rhode Island, and Oregon. Rhode Island and West Virginia operate slots at racetrack facilities through their lottery in a manner nearly identical to that which is proposed in HB 2055.

It is said that Kansas is breaking new ground; doing something no one else has ever done, by considering state owned and operated games. There is already nearly 14 years of experience with state operated slot machines at pari-mutuel tracks.

State owned and operated means that the state has more control over public policy initiatives like problem gambling and other social issues.

West Virginia

6-36. Lotteries; bingo; raffles; county option.

The Legislature shall have no power to authorize lotteries or gift enterprises for any purpose, and shall pass laws to prohibit the sale of lottery or gift enterprise tickets in this State; except that the Legislature may authorize lotteries which are regulated, controlled, owned and operated by the State of West Virginia in the manner provided by general law, either separately by this state or jointly or in cooperation with one or more other states and may authorize state-regulated bingo games and raffles for the purpose of raising money by charitable or public service organizations or by the State Fair of West Virginia for charitable or public service purposes: **Provided,** That each county may disapprove the holding of bingo games and raffles within that county at a regular, primary or special election but once having disapproved such activity, may thereafter authorize the holding of bingo games and raffles, by majority vote at a regular, primary or special election held not sooner than five years after the election resulting in disapproval; that all proceeds from the bingo games and raffles be used for the purpose of supporting charitable or public service purposes; and that the Legislature shall provide a means of regulating the bingo games and raffles so as to ensure that only charitable or public service purposes are served by the conducting of the bingo games and raffles.

Kansas Constitution:

§ 3: Lotteries. Lotteries and the sale of lottery tickets are forever prohibited.

§ 3a: Regulation, licensing and taxation of "bingo" games authorized. Notwithstanding the provisions of section 3 of article 15 of the constitution of the state of Kansas the legislature may regulate, license and tax the operation or conduct of games of bingo and instant bingo, as defined by law, by bona fide nonprofit religious, charitable, fraternal, educational and veterans organizations.

§ 3b: Regulation, licensing and taxation of horse and dog racing and parimutuel wagering thereon. Notwithstanding the provisions of section 3 of article 15 of the constitution of the state of Kansas, the legislature may permit, regulate, license and tax, at a rate not less than 3% nor more than 6% of all money wagered, the operation or conduct, by bona fide nonprofit organizations, of horse and dog racing and parimutuel wagering thereon in any county in which: (a) A majority of the qualified electors of the county voting thereon approve this proposed amendment; or (b) the qualified electors of the county approve a proposition, by a majority vote of those voting thereon at an election held within the county, to permit such racing and wagering within the boundaries of the county. No off-track betting shall be permitted in connection with horse and dog racing permitted pursuant to this section.

§ 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, except that such state-owned lottery shall not be operated after June 30, 1990, unless authorized to be operated after such date by a concurrent resolution approved by a majority of all of the members elected (or appointed) and qualified of each house and adopted in the 1990 regular session of the legislature. The state shall whenever possible provide the public information on the odds of winning a prize or prizes in a lottery game.

February 23, 1994

ATTORNEY GENERAL OPINION NO. **94-26**

The Honorable Clyde D. Graeber
State Representative, Forty-First District
State Capitol, Room 115-S
Topeka, Kansas 66612

Re: Constitution of the State of Kansas-- Miscellaneous--State-Owned and Operated Lottery

Synopsis: The phrase "state-owned and operated," as used in article 15, section 3c of the Kansas constitution, is not synonymous with the phrase "state-regulated, licensed and taxed," the latter describing the state's involvement in bingo and parimutuel wagering on horse and dog races. A state-owned and operated lottery is one that is owned as well as directly controlled or managed by the state. Cited herein: Kan. Const., art. 15, secs. 3a, 3b, 3c.

* * *

Dear Representative Graeber:

You request our opinion regarding the lottery amendment, article 15, section 3c of the Kansas constitution. You state that as a result of the Kansas Supreme Court's recent decision in *State, ex rel. Stephan v. Finney*, Docket No. 69,616 (Jan. 27 1994), the legislative committee you chair will begin considering a number of casino gaming proposals. Essentially you seek guidance in defining the phrase "state-owned and operated," as it is used in the constitutional provision. Specifically your questions are:

"1. Must the state of Kansas own the real estate upon which a casino operates?

"2. Must the state of Kansas own the casino building or the gaming equipment?

"3. May the state of Kansas contract with private entities to construct a casino and operate games of chance within the casino?

"4. May the state of Kansas lease the casino premises to a private entity to operate games of chance therein?

"5. Must the personnel employed at a casino be state employees?

"6. May the state of Kansas issue licenses authorizing private entities to place and maintain privately-owned casino gaming equipment?

7-4

> "7. May the state of Kansas receive a set percentage of the income derived from casino gaming operations conducted by a private entity which has entered into a contract with the state to operate a casino, with the remainder of the income going to the private entity?
>
> "8. May the state of Kansas create by legislation a quasi-public corporation, rather than a commission or agency, which would regulate casino gaming in the state?"

In reviewing whether various arrangements for operation of video lottery machines would satisfy the constitutional requirement that the lottery be state-owned and operated, this office concluded that "[a]s 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." Attorney General Opinion No. 92-1. We continue to hold this opinion and see no reason to distinguish between video lottery and other types of casino games in terms of the ownership issue. Therefore, we answer your first two questions negatively; the constitution does not require that the state own the real estate upon which a casino operates or the casino building or gaming equipment. It is the ownership of the lottery business itself which is important.

The remainder of your questions deal with degree of state control over the operation of a casino. As stated in Attorney General Opinion No. 92-1:

> "Clearly, the more control the state retains, the easier it will be to determine that the operation is state-owned and operated. On the other hand, the fewer hands-on roles the state takes, the closer it comes to being state-regulated rather than state-owned and operated."

You ask that we help draw the line between regulation and operation by answering your series of questions.

The Kansas constitution does not define the phrase "state-owned and operated." Neither has it been defined by the judiciary. We must therefor apply rules of constitutional construction to arrive at what we believe will be the court's interpretation of that phrase. The paramount rule of constitutional construction is that effect must be given to the intent of the framers and adopters of the provision in question. *State, ex rel. v. Finney, supra* at 45. There are several tools available to determine the intent of the *framers* of the constitution, including comparison of the language in question to language used in related provisions, and legislative history of the concurrent resolution that became the adopted provision.

> "The importance of understanding the intentions of the legislature in proposing the amendment cannot be understated. . . . Where the purpose of the framers of constitutional provisions is clearly expressed, it will be followed by the courts." *Id.* at 46.

We begin with a comparison of section 3c of article 15 to section 3b of that same article. Section 3b, authorizing parimutuel wagering on horse and dog racing, was considered and passed by the legislature at the same time as the lottery amendment. While the lottery amendment, section 3c, authorizes the legislature to "provide for a

7-5

state-owned and operated lottery," the parimutuel provision states:

> "[T]he legislature may permit, regulate, license and tax . . . the operation or conduct, by bona fide non-profit organizations, of horse and dog racing and parimutuel wagering thereon. . . ." Kan. Const., art. 15, sec. 3b.

Clearly two different concepts were envisioned: The state would own and operate the lottery but would regulate, license and tax the private operation of parimutuel wagering. *See* also Kan. Const., art. 15, sec. 3a. Thus, it would appear that "state-owned and operated" means something different than "state-regulated, licensed and taxed."

1985 senate concurrent resolution no. 1609 (SCR 1609) is the proposal that became article 15, section 3c of the constitution. While there is no recorded discussion of the phrase "state-owned and operated" in the minutes of the committees that worked SCR 1609, the house committee was provided extensive information regarding the mechanics of a state lottery organization, including the functions a state agency would perform. Minutes, House Committee on Federal and State Affairs, January 16, 1986. Included in that information were statements such as:

> "Unlike a state lottery, bingo and raffle games are *privately* conducted by charitable and fraternal organizations under state license. Any profits inure to the benefit of the sponsoring organization. It was never intended that the games produce significant revenue for the state." Minutes, *supra*, attachment A (emphasis in original);
>
> "The states have adopted a variety of administrative arrangements for running their lotteries. In Delaware, Michigan, and New York, lotteries are managed by single heads; in the other lottery states, boards or commissions are used. The usual arguments apply. Use of a single accountable person is argued to promote responsiveness and accountability and to make it possible for the relevant department head and governor to be held unambiguously accountable. Use of a board or commission is said to insulate the activity from politics and promote public confidence in lottery operation.
>
> "The question of whether to use a board or commission is partly isolated from the question of where to place the lottery agency administratively. Lottery agencies are in the tax-collecting agency in [some states], but independent agencies elsewhere." *Id.*;
>
> "Most state lotteries are operated in generally the same way with day-to-day administration resting with a Lottery Director. Major units within the organization include Security, Administration, and Marketing. . . . Lottery staffs can range in size from Iowa at 125 to California's with over 500." Minutes, *supra*, attachment B.

In discussing the need for enabling legislation should SCR 1609 be adopted, the department of revenue presented the following:

> "A lottery is a unique entity in state government, in that it is the only *state agency* with a mission identical to a private business-selling a product in a

7-6

> fashion which maximizes revenue.
>
> . . . .
>
> "Specific issues and potential problem areas that will need to be examined are:
>
> "1. Location of the lottery operation. Although most states have a lottery commission to advise and govern lottery activities, they differ as to the lottery being a part of a state Department of Revenue or a separate state agency. Regardless of where it is located, it must have its own identity and be clearly responsible for its decisions, both from an efficiency and public relations standpoint.
>
> "2. The lottery must be provided with the authority to enter into contracts . . . with vendors. . . ." *Id.* (Emphasis added).

Overall, the information presented to the committee illustrates an understanding that a "state-owned and operated lottery" would be one run by a state agency, board or commission with authority to contract for specific services including the ability to contract with private businesses to promote and retail state established lottery games a commission on basis.

As originally adopted by the senate, SCR 1609 contained these provisions:

> "(b) The legislature shall provide for a state lottery commission and for its control and supervision of any state-owned and operated lottery established hereunder. The state lottery commission shall have three members, appointed by the governor subject to confirmation by the senate, for overlapping terms as the legislature may prescribe. Not more than two members shall be members of the same political party. The state lottery commission shall report to the governor and the legislature at such times and upon such matters as may be prescribed by the legislature.
>
> "(c) All moneys received by the state from the operation of the state-owned and operated lottery which are not required for the financing of the operation of such lottery shall be allocated among the taxing subdivisions of the state in the manner prescribed by the legislature and shall be used only for the reduction of general ad valorem property tax levies upon tangible property." Journal of the Senate, 664-665, April 12, 1985.

After receiving testimony and information regarding the importance of flexibility in locating the lottery operation (Minutes, House Committee on Federal and State Affairs, January 16, 1986, attachment B), and in dedicating the proceeds of the lottery operation (Minutes, House Committee on Federal and State Affairs, January 21, 1986), the house committee voted to amend the resolution by deleting the above-quoted provisions, and adopted the resolution as amended. Minutes, House Committee on Federal and State Affairs, January 23, 1986; Journal of the House, Report of Standing Committee 1356, January 24, 1986. SCR 1609 was eventually adopted by both houses and the electorate without subsections (b) and (c), thus alleviating a constitutional requirement that the state lottery be under the "control and supervision" of a specific

7-7

state commission. There was never any recorded discussion, however, that the amendment was intended to allow a non-state entity to operate the lottery. Having retained the "state-owned and operated" language, in contrast to the "regulate, license and tax" language in the parimutuel provision, it is our opinion that the framers of the constitutional amendment intended that operation of the lottery be the responsibility of a state entity.

In determining the intent of the *adopters* of a constitutional provision, "its language should be held to mean what the words imply to the common understanding of men" at the time of adoption. *State, ex rel. v. Highwood Services, Inc.*, 205 Kan. 821, 825 (1970). "When interpreting the constitution, each word must be given due force and appropriate meaning." *Finney*, *supra*, at 46. First, the use of the conjunctive "and" is significant; the lottery must be both state-owned and state-operated. Thus, just owning the lottery would not appear to satisfy the constitutional requirement. The word "operate," when used as a transitive verb, was generally defined in 1986 as follows:

> "1. To run or control the functioning of: *operate a machine*. 2. To conduct the affairs of; manage: *operate a business*. 3. To perform surgery upon. 4. To bring about or effect." The American Heritage Dictionary 871 (2d College Ed. 1985) (emphasis in original).

This definition is consistent with our conclusion in 1987 that "[t]he intent and understanding of both the legislature and the people seems to have been to have a government controlled lottery as a revenue raising measure." Attorney General Opinion No. 87-16. 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.

Applying the foregoing discussion to your specific questions, our responses are as follows:

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.

4. The state may not lease the casino premises to a private entity to operate games of chance therein. Mere ownership of the premises is not enough; the state must own and operate the business.

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.

7-8

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.

Very truly yours,

ROBERT T. STEPHAN
Attorney General of Kansas

Julene L. Miller
Deputy Attorney General

RTS:JLM:jm

7-9

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

January 2, 1992

ATTORNEY GENERAL OPINION NO. 92- 1

The Honorable Edward F. Reilly, Jr.
State Senator, Third District
430 Delaware
Leavenworth, Kansas 66048-2733

Re: Constitution of the State of Kansas--Miscellaneous--Lotteries; Indian Gaming Regulatory Act

Synopsis: If the legislature and the electorate choose to remove the constitutional authority for a state-owned and operated lottery, the types of class III games Indian tribes could conduct in this state pursuant to a compact would be limited to on-track parimutuel wagering on horse and dog races, as this would be the only permissible class III gaming anywhere in the state. A tribe may not conduct simulcasting/wagering operations pursuant to a compact or otherwise since such conduct is currently prohibited by state law. Statutorily prohibiting certain specific class III games, if across the board (i.e. no one, including the state, may conduct or participate in it), would foreclose the ability to include those specific games in a compact. 25 U.S.C. § 2719(d) specifically makes provisions of the Internal Revenue Code concerning the reporting and withholding of taxes on winnings applicable to Indian gaming operations.

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. Cited

7-10

herein: Kan. Const., Art. 15, §§ 3b, 3c; 25 U.S.C. § 2719(d).

* * *

Dear Senator Reilly:

You request our opinion regarding gambling in the state of Kansas. We address your questions about Indian gaming first.

> "Does the constitutional provision allowing parimutuel wagering, like that allowing for a state lottery, result in the possibility that type III gambling (which includes a wide variety of gaming activities) can be conducted on reservations in Kansas? Would the Legislature be forced to propose amending the Constitution to remove or alter existing permissive language regarding both kinds of gambling in order to prohibit casino gambling in the state?"

The Kansas Supreme Court has held that parimutuel wagering on horse and dog races, if it includes the three elements of consideration, chance and prize, constitutes a lottery. State, ex rel., v. Bissing, 178 Kan. 111, 119 (1955). This is due to the broad definition attributed to the term "lottery" by our courts, see State, ex rel., v. Merchantile Assn., 45 Kan. 351, 353 (1891); State, ex rel, v. Fox Kansas Theater Co., 144 Kan. 687, 692 (1936), and the fact that the term has not been otherwise defined by the constitution. While parimutuel wagering has been held to be a form of lottery, we do not believe the courts would find in the reverse. Article 15, section 3b of the constitution is specific in terms of what it allows: "the operation or conduct . . . of horse and dog racing and parimutuel wagering thereon . . . [excluding off track betting]." Further, we do not interpret the Indian gaming regulatory act (IGRA) to open the door to all class III games solely because one particular class III game is permitted. See Mashantucket Pequot Tribe v. State of Conn., 737 F.Supp. 169, 176 (D.Conn. 1990) ("The type of gaming permitted is identified by the type of play permitted, not by bet, frequency, and prize limits."); U.S. v. Sisseton-Wahpeton Sioux Tribe, 897 F.2d 358, 365 (8th

Cir. 1990) ("we believe that the legislative history reveals that Congress intended to permit a particular gaming activity, even if conducted in a manner inconsistent with state law, if the state law merely regulated, as opposed to completely barred, that particular gaming activity."); Lac Du Flambeau Band of Lake Superior Chippewa Indians v. State of Wisconsin, ____ F.Supp. ____, Op. No. 90-C-408-C, 18 (W.D. Wisc. 1991). Thus, if the legislature and the electorate choose to remove the constitutional authority for a state-owned and operated lottery, we believe the types of class III games Indian tribes could conduct in this state pursuant to a compact would be limited to on-track parimutuel wagering on horse and dog races, as this would be the only permissible class III gaming anywhere in the state.

> "Since simulcasting of horse or dog races has not been authorized by statute, can parimutuel wagering on dog or horse races simulcast to American Indian gambling establishments be included among the array of gambling permitted by compacts with American Indian tribes? If so, would that constitute off-track betting which is banned by the Kansas constitution?"

The fact that simulcasting is not specifically authorized by statute or currently conducted in Kansas (see Attorney General Opinion No. 88-116) is of no consequence; what is important is whether the conduct is permitted, as opposed to prohibited. See Attorney General Opinion No. 91-119. Article 15, sections 3b and 3c together permit the state to conduct or provide for simulcasting. However, we have previously opined that Kansas statutes prohibit simulcasting. Attorney General Opinion No. 88-116. Thus, a tribe may not conduct simulcasting/wagering operations pursuant to a compact. Even if simulcasting was permissible, since off-track betting is constitutionally prohibited, Indian tribes could not simulcast horse and dog races for the purpose of betting thereon unless the wagers were placed at a racing facility (track).

> "In the absence of a law permitting simulcasting in Kansas, could American Indian gambling establishments receive simulcast race signals from tracks

> outside the state, whether or not betting is allowed on those simulcast races?"

See answer given above.

> "Could specific kinds of gambling, e.g., casino gambling, sports book, betting on simulcast races, etc., be prohibited for all persons by statute as a means of limiting types of gambling allowed by a compact between the state and a tribe, notwithstanding existing constitutional provisions? That is, would such a prohibition need to be constitutional, or is a statutory prohibition sufficient?"

The IGRA does not specify how the state may prohibit or permit certain class III games. In other words, the federal law does not require the prohibition or permission of games be by constitutional provisions. Thus, in our opinion, statutorily prohibiting certain specific class III games, if across the board (i.e. no one, including the state, may conduct or participate in it), would foreclose the ability to include those specific games in a compact. Lac Du Flambeau Band of Lake Superior Chippewa Indians, supra at 20. ("[T]he state is required to negotiate with [tribes] over the inclusion in a tribal-state compact of any activity that includes the elements of prize, chance and consideration and that is not prohibited expressly by the Wisconsin constitution or state law). (Emphasis added).

> "Finally, in regard to enforcement of existing, nongambling related laws on American Indian reservations: Would such gambling establishments have a responsibility to the state or to the federal Internal Revenue Service to report individuals' winnings in order to ensure those winnings are taxed? If not, how could the state ensure that winners pay applicable income tax on their winnings?"

25 U.S.C. § 2719(d) specifically makes provisions of the Internal Revenue Code concerning the reporting and withholding of taxes on winnings applicable to Indian gaming operations.

> "What types of arrangements with regard to video lottery machines satisfy the constitutional requirement that the Kansas lottery be state-owned and operated?
>
> "Presumably the requirement would be met if the Kansas Lottery owned or leased the machines and either placed and maintained the machines, or contracted with a private entity to place and maintain them. However, can the Kansas Lottery:
>
> "-- contract with private entities to place and maintain privately-owned video lottery machines;
>
> "-- issue licenses or certificates authorizing private entities to place and maintain privately-owned video lottery machines; and
>
> "-- receive a set percentage of the income from privately owned, placed, and maintained video lottery machines, with the remainder of the income going to the private entity or entities owning, placing, and maintaining those machines?"

Article 15, § 3c of the Kansas constitution authorizes the legislature to "provide for a state-owned and operated lottery. . . ." This office has previously stated that 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. [A]s 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." Letter to Senator Edward Reilly, dated February 15, 1991. 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.

Clearly, the more control the state retains, the easier it will be to determine that the operation is state-owned and operated. On the other hand, the fewer hands-on roles the state takes, the closer it comes to being state-regulated rather than state-owned and operated. In the example you present, if our understanding is correct, the state retains sufficient control and ownership to be constitutionally sound.

Very truly yours,

Robert T. Stephan

ROBERT T. STEPHAN
Attorney General of Kansas

Julene L. Miller

Julene L. Miller
Deputy Attorney General

RTS:JLM:jm

Testimony to House Federal and State Affairs Committee

HB 2568

by Denny Burgess

Mr. Chairman and Members:

I am Denny Burgess, a member of The Kansas Thoroughbred Assn. I am here to oppose this bill in its present form. This bill would allow even more unfair competition for the racing industry which competes with other states that have slots at their tracks. The Woodlands Racetrack was one of the best tracks in the country before the Kansas Lottery started Club Keno, Missouri approved Riverboat Casinos, and Kansas approved Indian Casinos. This severely tilted the track and has caused our horses and greyhounds to run at a disadvantage every since.

This bill should be ammended by striking the entire bill and substituting HB 2055 into it.

HEIN LAW FIRM, CHARTERED
5845 SW 29th 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 2568
House Federal and State Affairs Committee
Presented by Ronald R. Hein
on behalf of
Prairie Band Potawatomi Nation
March 14, 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 2568.

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:

Federal and State Affairs
Attachment 9
Date 3-19-07

"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 2568 Is Not the Way to Expand Gambling in Kansas

1. First, I must raise the issue as to whether this bill is written as it was intended. I understood that this bill was to be truly state-owned and operated, but I hadn't reviewed it in detail until last night, and it appears now not to meet that standard. In fact, this bill allows privately owned and operated casinos. The definitions provide for a definition of "key gaming employee" which would be a great start at attempting to provide which casino employees would have to be state-owned so that the gambling operation might attempt to meet constitutional muster, but the term "key gaming employee" is not referred to again in the bill. Thereafter, the bill provides for a commission to grant "certificates of authority" to privately operated casinos, which renders this bill as unconstitutional as previous bills, including HB 2055 and HB 2569 heard earlier this week. If this bill had provided for simple ownership and operation of the casino gambling operations, with or without contracting out of ancillary services such as hotel accommodations, food service, entertainment, parking services, etc., this bill would have been, indeed, a constitutionally valid piece of legislation providing for state-owned and operated gambling.

But, since it does not, I will have to make my comments not only to the bill, but to what I thought the bill was going to provide.

Had this been a truly constitutionally written bill for state-owned and operated gambling, I would have still objected to its passage, but primarily because the state would be entering dangerous territory by attempting to be the first state in the nation to own and operate a state-run casino.

This would be problematic for several reasons:

1) How does the state truly provide the oversight responsibility that they owe the gambling patrons and the state taxpayers, if they are regulating themselves. Tribal Gaming, which has been very successful while remaining free of significant problems, has done so partly because it is subject to significant regulation. Tribal Gaming is subject to three regulatory bodies: the Tribal Indian Gaming Commission, the state Gaming Agency, and the Federal government.

2) The state would be in the direct business of promoting an activity which would subject thousands of Kansans to problems associated with problem gambling or gambling addiction.

3) Political issues might, and probably would, force the state-operated casino into a situation where the casino might not be able to run its operations in the manner which would maximize the casinos' revenue producing capability because of policies which might be politically unpopular, although beneficial to the casino and therefore, indirectly, the state revenues derived from the casino.

Governor's Gaming Committee If HB 2568 truly provided a state-owned and operated casino, the bill would meet the constitutional issues addressed by the Governor's Gaming Committee, but this bill does not limit the number of casinos, and thus violates a lot of the findings and recommendations of the Governor's Gaming Committee.

2. **Economic and Ethical Risks** HB 2568 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. **Experience** In previous years, 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.

Provision Necessary If Kansas Is Ever to Approve Legal Gambling

1. **No Slots at Tracks** HB 2568 properly recognizes that slots at the tracks detract from the success of destination casinos, and creates 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 2568 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.

3. **State Needs Expert Advice** 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 how it should be structured to maximize the states revenue before making political decisions on where you want casinos.

The legislature also needs 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 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.

I thought HB 2568 provided for state ownership and state operation of the casinos, but since it does not, and HB 2568 clearly uses a licensing mechanism to establish the destination casinos, which, again, can be privately owned and privately operated, HB 2568 is clearly unconstitutional.

Legal and Constitutional Options for Expansion of Gambling 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 on whether 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 not going to initiate state-owned and operated gambling, and cannot simply use a bunch of 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, the legislature may have to explore a constitutional amendment to expand gaming if it is not willing to consider Tribal Gaming as an option.

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.