

**COMMISSION MEETING
THURSDAY, FEBRUARY 8, 2007
MINUTES**

Chair Ellis called the meeting to order on February 8, 2007 at 1:30 p.m. at the Red Lion Hotel located in Olympia Washington. He introduced the following:

MEMBERS PRESENT: **COMMISSIONER JOHN ELLIS, Chair**, Seattle
 COMMISSIONER JANICE NIEMI, Vice Chair, Seattle
 COMMISSIONER ALAN PARKER, Olympia
 COMMISSIONER KEVEN ROJECKI, Tacoma

STAFF PRESENT: **RICK DAY**, Director
 SHARON REESE, Deputy Director
 MARK HARRIS, Assistant Director–Field Operations
 DAVE TRUJILLO, Assistant Director – Licensing Operations
 AMY HUNTER, Administrator – Communications & Legal
 JERRY ACKERMAN, Assistant Attorney General
 GAIL GRATE, Administrative Assistant

Director Day thanked Chair Ellis, members of the Commission and welcomed all to Olympia on behalf of the staff. Director Day continued with a quick presentation that was not included on the agenda. He stated that the Commission usually honors service time and awards as the meetings begin. He went on to present a five-year Commission Service pin to Vice Chair Janice Niemi.

Director Day acknowledged how much the agency appreciates the service of our Commissioners and thanked Janice for her five years of service.

Director Day also introduced Maureen Pretell who was present as a Partnership Program participant. Director Day then went on to explain what the Partnership Program entails.

1. Review of Agenda and Director’s Report:

Director Day reviewed the agenda and advised the meeting members that because of illness issues in the office, Gail Grate came forward at the last minute to help with the planning and implementation of this meeting with Carol Kell making sure that the

materials you got were in shape and at least ready to move forward in support of the Commission.

He drew attention to item 3, under defaults, a petition for reconsideration, item C for Dave Swyter. Director Day pointed out that the agency received a petition for reconsideration at the last minute but according to time guidelines it had to be brought before the Commission today.

Director Day explained the general course for how the meeting agenda would proceed. He explained that rules would be presented on both days because of the hearing for the proposed Spokane compact being held on Friday. **Director Day** continued with Friday's agenda by pointing out a proposed change. He stated the Chair had requested that the meeting actually start at 8:30 with an Executive Session and an early start time possibly of 9:00 for Friday.

Chair Ellis explained the Executive Session had to be scheduled because our ex-officio members are involved in the Legislature this afternoon and not available for today's Executive Session.

Director Day stated the first item he wanted to discuss was a memorandum from Susan Arland, our Rules Coordinator and Public Information Officer, dealing with proposed rule changes being on the agenda twice, rather than three times. The Commission had instructed Ms. Arland to do some research to identify any potential time lines or public notice requirements that the agency needed to be aware of. The Administrative Procedures Act, as Susan has described, does not require the Commission to hold three meetings on a proposed rule change. It does of course require public notice and specific public notice. Most of those requirements are met well within the two month period. After the rules are filed they will be included in the study session the following month for informal discussion and it would appear on the Commission agenda for final action the next month. In addition the Commission would recommend that if a petition is up for filing and a member of the public, staff, Commissioners could request to depart from the normal procedure of two meetings. This assures that the agency does not reduce discussion unintentionally. Chair Ellis also reminded the meeting attendees that on every agenda anyone is allowed to come up under General Public Comment and comment about a rule that is on or off the agenda or any other topic that they are concerned with. Chair Ellis recommended the Commission implement this process for all rule packages up for final action by the April 2007 Commission Meeting.

Chair Ellis stated the matter does not require a Commission Rule and it does not affect the statutory provisions. Chair Ellis called for public comment.

Dolores Chiechi, Recreational Gaming Association, testified that this was something the RGA would support.

Commissioner Niemi made a motion seconded by **Commissioner Rojecki** to accept the proposed changes as recommended by staff. *Vote taken; the motion passed unanimously.*

Correspondence:

Director Day addressed a letter notifying the Commission that Representative Richard Curtis, of the 18th District, has been appointed by Speaker Chopp to fill the House Republican vacancy on the Commission.

Legislative Update

Agency Request Legislation:

House Bill 1218/SB 5376 – Commission Powers and Duties

Amy Hunter, Legislative Liaison, reported that the first cut off for bills to make it out of Committee is February 28th and she proceeded to give an update of the bills and discuss some possible Commission positions. There have been Committee Hearings on all three agency request bills in the House and in the Senate. The House passed all three out with “Do Pass” Recommendations and House Bill 1345, which is our bill dealing with penalties for underage gamblers, has already passed out of the House with a vote of 94 to 1 with three excused. It has been referred back to the Senate Committee. The Senate Labor Commerce and Development Committee again had hearings on all three bills. They passed two of those bills, the powers and duties bill, dealing with the Director’s ability to issue temporary licenses and summary suspensions, was passed out as well as the barring list bill out with “Do Pass” Recommendations.

House Bill 1345/SB 5375 – Penalties for Underage Gamblers

Ms. Hunter stated that in the Senate Committee, the one bill that had not passed out yet, is the bill dealing with penalties for underage gamblers and there has been some discussion about a possible amendment on how the fine and penalty process should work for a first offense when you are the minor who is gambling. Ms. Hunter commented that one thing we have learned as we have gone to the hearings and had additional questions, is that the \$125 fine is actually a \$257 fine by the time the statutory assessments are factored in. A large portion of that goes to what is called the Public Safety and Education Assessment.

House Bill 1346/SB 5374 – Barring List

Ms. Hunter explained there were also some amendments made in the Senate and the House Committees on the barring list, House bill 1346, and Senate bill 5374. The amendments are not identical but they are very similar.

Other Bills:

Senate Bill 5055/House Bill 1706 – Removing Sunset Clause for Limited Waiver of Sovereign Immunity

Ms. Hunter reported that Senate Bill 5055 currently has a House bill companion, 1706. This bill deals with the sunset clause and removing that, or the limited waiver of sovereign immunity. Ms. Hunter further stated the Commission had voted at the January Meeting for extending the clause rather than removing it.

House Bill 1243 – Internet Gambling Exemption

Ms. Hunter reported that House Bill 1243 deals with an Internet Gambling exemption. Staff is recommending a position against this particular bill. Ms. Hunter went on to describe the context of the bill and the fact that she and Director Day had met with the prime sponsor and second signer on the bill to explain the focus of our investigations has been on internet service providers, not on individual bettors. Ms. Hunter stated there has been some interest in introducing a new bill that may decrease the penalty for the players and if that were to happen, staff would plan on applying the past philosophy of the Commission, which is supporting a more tiered structure. Ms. Hunter stated that for 1243, staff would still recommend that the Commission take a position against the bill. She reiterated that the focus of our investigations has not been on the players but it seems a bit odd when the player is not in any type of trouble for engaging in the illegal activity and the internet service provider is.

Commissioner Rojecki made a motion seconded by **Commissioner Parker** to authorize staff to advise the legislature that the Commission opposes House Bill 1243 as drafted. *Vote taken; the motion passed unanimously.*

House Bill 1257 – Legislative Approval of Compacts

Ms. Hunter continued with House Bill 1257 which deals with legislative approval of compacts. Staff recommends a neutral position on this bill and the staff would plan on testifying that we do feel the current process does seem to work well. This bill would require a legislative approval of all compacts by a 60% vote. It also states that if there is no action by the Legislature, it means that the compact is rejected and sent back to the Commission for renegotiations and it also requires the Director's submittal of the compact to include comments and analysis of the compact's provision.

Chair Ellis explained that he and Director Day had discussed the procedure the Commission might take in addressing these bills and that they were of the opinion that unless the Commission adopts a position to support the bill or to oppose the bill that it would be viewed by Director Day and Amy and other staff as a direction that the Commission remain neutral.

House Bill 1449 – Public Disclosure Exemption for Financial Statements

Ms. Hunter moved on to House Bill 1449 and it also has a companion bill, Senate bill 5927. Ms. Hunter stated that the staff recommends taking a neutral position on this bill.

Dolores Chiechi stated that RGA is in support of the bills relating to the exemption for public disclosure request, and asked the Commission to consider supporting the

legislation based on the fact that the Commission would still be allowed to collect the information. She explained they still want it to be posted - summarized information - on the web. They also requested that the Commission consider a support on this legislation verses a neutral. She thanked The Commission for their consideration.

Chris Kealy, Iron Horse Casino in Auburn and Everett, reported that he does not have the concerns with the summaries but does object to the balance sheet information that is in those documents. The public numbers, social security numbers, personal identification numbers that is the problem. This is concerning and that is why they are hoping that the Commission can switch their position to a support of this legislation so they can privatize that part of the report. The Commission's mission is being upheld by having the information. He said he was a big supporter of audits coming forward and becoming part of this process and the way they have gotten out in the public arena has undermined the support for having audits.

Commissioner Parker made a motion seconded by Commissioner Niemi to support House Bill 1449. Vote taken; the motion passed unanimously.

House Bill 1477/Senate Bill 5558 – Regulating House-Banked Social Card Games/Zoning

Ms. Hunter explained that House Bill 1477 and its companion Senate Bill 5558 deal with restricting the number of house-banked card rooms. Staff is recommending a neutral position with concerns. It is again a combination of two concepts. It freezes the total number of house-banked card rooms, which right now is 88 card rooms plus 4 applications, so it would be a total of 92 and then it allows cities and counties to zone for gambling specifically as long as they follow certain requirements. Probably the biggest requirement is doing it through their comprehensive plan and then having up to 1/3 of the area that are food and drink that they would allow zoning within 1/3 of that area.

The bill has been strengthened over the years. Ms. Hunter explained that we did meet with AAG Jerry Ackerman and gave staff a list of technical amendments. Mainly it is to make the bill clearer. She explained what the staff submitted is different from what is in the Commission's packet. There was a Senate Committee hearing on the bill on Tuesday and it has also been scheduled in the House for next Friday. Ms. Hunter explained her testimony and the policy implications. One concern was that the bill, as currently drafted, would expose the Commission to liability that is based on the immunity clause not being strong enough. The immunity clause is in section 4; it is on page 5 line 16 and we feel that clause needs to be broader. This clause seems to cover mainly monetary damages but the Commission also doesn't want to be joined into other disputes. Some language change has been suggested. It has been given to the staff and also given to the different RGA and different people who have been involved in the discussions.

Staff recommends taking a position of neutral with concerns because of these three policy implications. The first is that limiting the number of house-banked card rooms may

increase the value of the licenses. The second reason for 'with concerns' is just simply that zoning for gambling does change the foundation of the Gambling Act where local governments were not allowed to zone for gambling specifically and this bill is designed to do that and it is not how the foundation of the Gambling Act was set up. The third policy consideration is that the current law is clear and it has been tested and this new law may lead to new interpretations and possible litigation. It is exactly because the law has been tested and the courts have come down typically against cities and what they have done with ordinances and not making them absolute prohibitions that is part of why the cities and licensees are very interested in having the Legislature change the law.

A fiscal note was completed for the bill. We are estimating a decrease of about \$294,000 per year as a result of the bill with a partial corresponding decrease in expenditures. Currently card rooms open and close throughout the year. When a card room opens it has to pay its license fee. The average license fee is about \$25,000 plus about another \$20,000 for the fees that we get for card room employees. Card rooms that close do not receive a refund of those fees. Under this bill, if we are no longer getting new applications, which will be a loss of about \$45,000 a year. She explained some of that will be offset because we won't be doing the work, but not all. Under current rules the fee to relocate is a \$55 fee. Fifty five dollars doesn't cover very much work. These relocations as the bill is currently worded would be subject to the Commission's review and approval. The Commission already increased the fees to the 601 limit and \$55 times the 601 limit brings it to \$59 which isn't terribly helpful. One thing that has been discussed is possibly looking at some type of a 601 exemption.

Commissioner Parker asked what was meant by "zones for gambling in at least 1/3 the area where eating or drinking allowed.

Ms. Hunter answered that right now under current zoning, certain areas are zoned for restaurants or taverns and you have to have a restaurant or tavern to be a food and drink business and then have a place for people to sit to have gambling. This would require that a city have at least 1/3 of that area that they currently have for restaurants when they have that zoned for gambling. Part of how 1/3 was arrived at is at least it has to be a certain area vs. one location to try and get away from cities spot zoning. The idea behind it is if they are going to open up they have to allow at least 1/3 of their restaurant area to be used for gambling.

Director Day added that the idea was that it doesn't allow non-conforming uses as well and it would require the cities and counties to do this in their master plan. It creates limitations about how they can change it. It was to limit that foundational concern that impacted the preemption of local authority and the historical corruption that was associated in the past. It is a broader area, more public discussion and requires a long term plan.

Commissioner Parker asked if the transfers take place a lot in the past. **Director Day** responded I think one of the key things in this bill is that a local jurisdiction would actually have to pass this third ordinance. In other words they would have to physically confront the issue and authorize the card room. He explained we don't see in the existing scenario much overall movement. That is quite a significant process and decision. **Ms. Hunter** added that one way that might happen was if a city that currently allows card rooms decides to prohibit them. That is where you might see them hoping that another jurisdiction would open up and pass that 1/3 zone to move in to. If no one would open up then those numbers would drop off, but it would be interesting to see if this bill does pass and card rooms do close to see if jurisdictions decide they are willing to open up. **Director Day** thought part of what this does, by imposing the freeze, is if you allowed an option for local zoning that what you might actually do is unintentionally incur additional licenses and expand gambling activities indirectly. Of course with the combination that you have here, you have the freeze plus the ability of the cities to zone so there is really no threat of more businesses.

Dolores Chiechi testified that the RGA are very much in support of this bill and that they have worked over the last year on the provisions dealing with zoning or capping to try to resolve the issue that the cities found themselves in with an all or nothing option.

Commissioner Niemi made a motion seconded by **Commissioner Rojecki** to recommend a neutral position with concerns on House Bill 1477 and Senate Bill 5558. *Vote taken; the motion passed unanimously.*

House Bill 1599/Senate Bill 5693 – Allowing Raffles by State Employees

Ms. Hunter reported that staff recommends a neutral position on House Bill 1599 and its companion Senate Bill 5693. What this bill does is allows state agencies or divisions, or units of State Agencies to conduct raffles if approved by the agency's Chief Executive Official i.e., Director or his or her designee. It requires that funds that are raised by the raffles be used for either the State combined fund drive or for a charitable or benevolent entity or a person in need and as determined by a majority of the group of employees conducting the raffle. It requires compliance with RCW 9.46.0321 it says RCW allows unlicensed members only raffles and they have a cap of \$5,000 per year. Credit unions received authority to conduct members only raffles in 2000; the bill is very similar though not identical to that bill. The difference is that this bill allows divisions or units of state agencies to conduct raffles. The rationale behind that is so the large agencies are not limited to the \$5,000 a year cap. We have heard testimony now for the last two years that large agencies like Department of Labor and Industries do a lot of fund raising for a lot of causes and if they were capped at the lower amount that wouldn't take in what they would like to be able to raise.

Staff would again recommend a neutral position.

Commissioner Parker asked what would you think if we were to recommend that it be changed to refer to public agencies instead of just state agencies. **Ms. Hunter** responded that would work. She further stated she believed with this Director this agency will not be doing raffles. **Commissioner Parker** recommended that the bill be amended to refer to public agencies. Commissioner Parker asserts why restrict it just to state agencies.

Chair Ellis commented that the other approach is to let those other agencies push that amendment to the bill on their own if they are interested in it rather than getting the Commission involved in it. He asked Ms. Hunter what her reaction would be to being in the posture of advising the Legislature that the Commission is neutral on the bill but if they are going to do it they should amend "State" to read "public". She responded that the sponsor of the bill would likely be fine with that. She further stated that since this bill has been evaluated and discussed the last couple of years its part of why she said that she is sure with Director Day there will be no raffles. The reason is because raffles are an area that we end up having problems with, they are an area that people complain about and on occasion a group of people get together and they have no raffle whatsoever and it ends up being basically a scam.

Commissioner Parker withdrew his recommendation stating he thought it more appropriate to do that as a private citizen, recommending that to the Committee.

Chair Ellis asked if there any member of the Commission would like to move that we be in support or oppose the bill as it is now written. Hearing none, he advised Ms. Hunter to interpret that as authorization to advise legislators that the Commission is neutral on the legislation.

Monthly Updates:

Director Day pointed out there was no activity in the Congressional Update.

Chair Ellis asked if any members of the audience would care to address the Commission on any of the topics that were discussed.

Dolores Chiechi asked, as a point of clarification, whether the motion by Vice-Chair Niemi relating to the card room cap bill included two concerns that were not necessarily raised by staff in that evaluation and the foundation of the gambling act. Was it to be that those other concerns were not to be relayed and just the two concerns dealing with the immunity and the 601 limit issue. **Chair Ellis** responded that Commissioner Niemi's motion incorporated all four of those concerns. **Ms. Hunter** added that her count would be five concerns. **Commissioner Niemi** clarified that her motion would include all five.

2. New Licenses and Tribal Certifications:

Commissioner Parker made a motion seconded by Commissioner Rojecki to approve the list of new licenses, changes, and tribal certifications as listed on pages 1-19 *Vote taken; the motion passed unanimously.*

3. **Defaults:**

Robert Barclay, Yelm, Class III and Card Room Employee Revocation

Ms. Froud reported there were two defaults to present today, both are against individuals. The first is Robert Barclay, who has a Class III certification allowing him to work in a tribal casino and also a card room employee license. Staff is requesting both the certification and the license be revoked based on Mr. Barclay's capping a bet. Mr. Barclay placed an additional \$100 wager on a winning hand after the game had been played. His activities were recorded on surveillance video. The Tribe issues licenses for individuals to work at tribal casinos and the State certifies those individuals. In this case the Nisqually Tribe, Mr. Barclay's employer at the time, revoked Mr. Barclay's tribal license. He is not currently working as a card room employee. Mr. Barclay was personally served with administrative charges on December 4, 2006, and staff made a subsequent courtesy call leaving a message to remind him of the charges. By not responding to the charges, Mr. Barclay waived his right to a hearing. Staff is requesting a default order be entered revoking his class III certification and his card room employee license.

Chair Ellis wanted to clarify the fact that Mr. Barclay was already convicted of cheating in the second degree in Pierce County Superior Court as a result of this, which was probably mentioned. **Ms. Froud** responded that Chair Ellis was correct and she had not mentioned it.

Chair Ellis asked if Robert Barclay was present or anyone on Robert Barclay's behalf concerning this matter. Let the record show that no one is stepping forward. Is there a motion concerning this proposed default?

Commissioner Niemi made a motion seconded by Commissioner Rojecki that the Commission enter the default order revoking Robert Barclay's Card Room Employee License and Class III Certification to conduct authorized gambling activities. *Vote taken; the motion passed unanimously.*

James McMurrey, Shoreline, Card Room Employee Revocation

Ms. Froud stated the second default is for James McMurrey. Staff is requesting that James McMurrey's card room employee's license be revoked as he took \$350 in chips while working at the card room in Shoreline. Mr. McMurrey took the chips by concealing them on his person. He admitted to this activity, which was also recorded on surveillance video. The order was personally served on Mr. McMurrey on December 15, 2006 and the licensee did not respond to the charges. Therefore, Mr. McMurrey waived his right to a hearing and staff is requesting that a default order be entered to revoke his card room employee license.

Commissioner Niemi made a motion seconded by Commissioner Rojecki that the Commission enter the default order revoking James McMurrey's Card Room Employee License to conduct authorized gambling activities. *Vote taken; the motion passed unanimously.*

Chair Ellis explained that the next item on the agenda is the petition for reconsideration for Mr. Dave Swyter, which we will come back to. There are no summary suspensions. Mr. Harris would you like to proceed with item number 5 on the agenda, Petition for Rule Change Increasing Poker Wagering Limits from \$25 to \$40?

Taken out of order

Chair Ellis explained we are now going to go back to item 3 on the agenda – the Petition for Reconsideration of Dave Swyter.

**3. Petition for Reconsideration:
Dave Swyter, Card Room Employee, Revocation**

Chair Ellis called for Mr. Swyter. Let the record show that he is not present. And the Gambling Commission is represented by Bruce Marvin in this matter.

Assistant Attorney General Bruce Marvin stated, he would try to address this in a relatively brief summary fashion. The Commission entered a final order affirming or adopting an initial order revoking Mr. Swyter's card room employee's license in January of this year. Mr. Swyter filed a motion for reconsideration and we are before the Commission today on that motion. The motion consists of 3 or 4 handwritten pages stating that Mr. Swyter once again takes issue with facts that were found by the ALJ in the initial order and also feels that he does not pose a threat to effective gambling because subsequent to the theft that was at issue here he worked at another casino and apparently didn't get into trouble there. In any event, these are arguments that were raised in his petition for review and have been reconsidered by the Commission when it made its determination to adopt the final order and revoke the license. Consequently, they do not constitute legitimate grounds for a granting a motion for consideration, therefore I would ask that you deny that motion. **Mr. Marvin** added there does appear to be a second document that Mr. Swyter forwarded to the Commission, a document from a member of the public with comments, and the Commission is free to consider that as part of the ongoing mission to hear from the public regarding the activities of Commission employees. If there are any questions I'd be glad to answer them at this time.

Chair Ellis asked, when you tell us that the appropriate action is to deny the petition for reconsideration would you recommend that we deny it on the merits based on Mr. Swyter's filed documents or are you recommending that we deny it solely on a default for his failure to attend the hearing today. **Mr. Marvin** asked that the court deny based on the substance of the documents. Mr. Swyter has been served with notice of this meeting,

it was provided to him at the address that he has on file with the Commission. He is in Nevada now pursuing a career in the gaming industry down there. Under these circumstances, I think it would be appropriate for the Commission to reach the substance of these arguments. **Chair Ellis** asked if Mr. Swyter had made any effort to contact anyone associated with this matter and request a continuance from these proceedings. **Mr. Marvin** answers in the negative. **Chair Ellis** inquired of Director Day, whether to his knowledge had the Commission staff received a request from Mr. Swyter to delay these proceedings. **Director Day** responded that it was his understanding staff has not received any contact. **Mr. Marvin** noted that there are representations by Mr. Swyter in the record, in his motion for reconsideration, indicating Mr. Swyter wanted to appear in person to make his presentation but Mr. Marvin said he was not sure that would constitute a request for continuance.

Commissioner Niemi made a motion seconded by **Commissioner Parker** to deny the request for reconsideration based on the merits of the motion. *Vote taken; the motion passed unanimously.*

Rules Up for Discussion

5. Petition for Rule Change – Increasing Poker Wagering Limits from \$25 to \$40 WAC 230-40-120

Mark Harris, Assistant Director: Item number 5 Petition Rule change presented by Andrew Kimmerle a poker player. This item is up for discussion. The petitioner is requesting the poker wagering limits increase from \$25 to \$40. The wagering limits for poker are currently \$25 and this was increased from \$10 to \$25 in the year 2005. Currently the poker rules allow for five betting rounds with three or bet and three raises around. Under that the current bet total would be \$500. Under the petitioners request that would increase it up to \$800. Typically the most common poker game is Texas Hold-Em which incorporates a four betting round structure, where the first two rounds would say be an \$8 betting limit, the next two rounds would be two times that or \$16. Some common variations are a \$4/\$8 \$8/\$16 or a \$12/\$24. And under the current betting limits, the highest betting limits would be under the \$12/\$24 limit and that would cause a \$288 total cost to the player if they bet the full amount all the way through. Under the current petition it would increase it to a \$20/\$40 game which would also cause the total cost to a player if they bet all the way through all four rounds up to \$480.

The current limit under the tribal casinos is \$500 for a wager. In October 2005 the Commission filed a petition submitted by the Recreational Gaming Association requesting the poker limits be raised to \$100. That change would have significantly raised poker limits and the total cost to a player if they bet all the way through each hand would be \$2,000. The Commission denied the petition request at the January 2006 Commission Meeting. As far as additional work for staff, the wagering increase would not cause additional work for staff time. We would just enforce the current rules of the increased betting limits. Under policies to be considered it may be perceived as an

expansion of gambling. Statements supporting this, there is a petition signed in your packet by 82 poker players supporting it. And at the January 2007 Commission Meeting, John Lowman a licensed distributor testified that he thought it would be beneficial to businesses to support the increase and George Teeny also testified that it would be beneficial.

Those that would be impacted would be house-banked card rooms that offer poker, Class B, D, and F card rooms, and staff feels that this is a policy decision for the Commission to consider whether or not the proposal is consistent with the Legislative intent of RCW 946.010. The petitioner is requesting that the change would become effective 31 days from filing and he is actually present today. **Chair Ellis** called for Mr. Kimmerle.

Andrew Kimmerle testified that he sent an email to Susan Arland. **Mr. Kimmerle** states he is a player, not a professional gambler; Looking at the gaming laws professional does not include a player.

Max Faulkner commented on the discussion that went on at the last Commission Meeting regarding the higher limits and the fact that Commissioner Rojecki and Commissioner Bierbaum expressed an interest in hearing more arguments for the higher limits. He stated when he left the last meeting in January it seemed like people thought that if you raised this limit, if you passed this petition that you'd be creating professional gamblers or felons. Mr. Faulkner went on to say that he checked the RCWs and professional gambling is kind of a misnomer, RCW 946-225 and 220 mostly refer to things like bookmaking or illegal games where the house is taking a cut. It expressly says that activities authorized under these statutes are not professional gambling

Chair Ellis remembered raising a specific concern, one part of that at least, and asking Jerry Ackerman about it was not a question of whether or not an increase in the amount of the pots like this would create professional gamblers and committing felonies but rather to address the specific language in the general Legislative language provision in the Gambling Act in 9.46010 which indicates that the authorization of the Commission to authorize card games is limited to social card games and that is referred to as ones that are more for amusement and not for profit. So I'm sure that professional gambling is more really at the issue.

Mr. Faulkner explained that his second point was if you use the expansion of gambling argument to turn this down. The Gambling Commission would inform us to go to our Legislators. We have done this and the response we received was, you should be talking to the Gambling Commission. I'd say, no they said it was an expansion of gambling and I understand that the Legislature has to act on that and pass it with a 60% majority and they would say ok. Then a day or two later one of the aids would call me and say no you know is it 9.46.070 says that the wagering limits are assigned to the Gambling Commission. It is a catch 22. I remembered you looked at the minutes and I saw that Legislative intent that you referred to and the phrase stuck out at me too as more for

amusement than profit. It doesn't say amusement only so to me it is kind of a balancing act and that is probably what the Legislative intent is, is for the Commission to balance it

Gary Murrey testified there were two points he would like to make. One is the expansion of gambling and the legal side of the expansion of gambling. I know it has been brought before the Legislature on numerous occasions of whether or not they wanted to take on the definition of whether or not this is an expansion of gambling and whether they wanted to take that back from you and make it their realm. And if I understand the RCWs correctly once they abdicate that authority to you it cannot be considered expansion of gambling in the legal sense. I want to make sure we don't have a fuzzy line of what is legally expansion of gambling and what is in your purview to do so and what is payment for one, profit for another is really what we are talking about. The last time poker limits were raised, I believe was the year 2000. Twenty dollars today and \$20 in 2000 are not the same amount of money. I think minimum wage back then was under \$5; now it is \$8.50. If we use the same economics and apply it to this, this same increase is not substantial. It's just going on with inflation. It's going on with the economics of the world we live in. I don't think it's a wide expansion. It's just keeping up with the times for entertainment to keep people interested in the game.

George Teeney offered his view on the subject, as an owner, stating the owners make no extra money for this. In the case of revenue it is a moot point for the owners. It is a courtesy to the players.

Chris Keeley stated he does not enjoy playing a game that is not set up to obtain a victory and he believes the higher limit games usually attract a better player because you are not willing to invest a lot of money into a losing hand. So it is a different structural game and it allows you to practice differently.

6. Rules Simplification Project

WAC 230-15

Beth Heston pointed out that a new Executive Summary Memo has been placed on the front and in that memo two of the rules have disappeared and they have been replaced by two others. That was a clerical error that was corrected. Ms. Heston starts with what would be item 6(b) through (f) which is the blue packet.

Chair Ellis suggested Ms. Heston put this in perspective for members of the Commission. I understand what Director Day said in his agenda overview with matter number 1, the proposals you are making to us today really should be listed as ones up for filing. **Ms. Heston** responded that they are up for discussion and possible filing.

Chair Ellis stated the second thing is that what is before us are eight rules that are listed in the blue memo plus the 9th memo on tips and those rules are before us because it was determined they need to be revised from the versions we previously approved for filing and previously have adopted. **Ms. Heston** explained that these have not been up for final

action to which Chair Ellis agreed. **Ms. Heston** reported that at Assistant Attorney General Ackerman's recommendation staff made changes to these that Mr. Ackerman felt would mark them as needing to be on a separate track.

WAC 230-15-065, Amendatory Section

Ms. Heston explained that they should be very familiar except for ones that are in the house-banked section that will be covered today. The first of these on page 3 of the blue handout and is Enforcement of the Card Game Rules of Play. We have switched the priorities.

WAC 230-15-126, Amendatory Section

Ms. Heston further stated that the second rule came up in discussion as a matter of oversight and that is 230-15-126. The rules had not dealt with center dealt cards and felt we needed to introduce a new rule that covered the center dealt cards.

WAC 230-15-150, Amendatory Section

Ms. Heston went on to explain that the next rule, 15-150, dealing with time periods for card room owners and accounting departments have to get money into the bank. The way it was phrased had narrowed their time frame so our changes allowed them longer to get to the bank to deposit money. Those changes were made in 2(a).

WAC 230-15-275, Amendatory Section

Beth Heston explains that on page four it was noticed that when the surveillance requirements were created for Class F card rooms table numbers had been added and had not been required to be under surveillance before. That was an addition that needed to be pointed out.

WAC 230-15-285, Amendatory Section

Ms Heston explained that in 285, a portion of standard policy had been left out, "an additional fixed camera must focus over the dealer area in non-house banked card games". It was added back in the policy.

WAC 230-15-320, Amendatory Section

Ms Heston states the next item, 15-320, card room owners wanting to take people into their surveillance rooms for various reasons, i.e., education, maintenance, gain intelligence. The phrase was added that they brought to us as we felt it was fair.

WAC 230-15-400, Amendatory Section

Ms Heston asks states that in 15-400, where there was an issue with the timeline to get transactions to the bank. In subsection number 4 the PSJ, the money has to be deposited within two banking days of the date of collection and then in Chapter 6 we had put that the money had to be transferred to the cage account to the PSJ account by the end of the month. The problem was that most people don't do the reconciliation until the end of the

month and you can't put the money in until you've done the reconciliation. "within 5 calendar days of the first of the month" was added.

Ms. Heston explained Internal controls are rules where the changes were made after the packet was filed. 430 is Internal Control Requirements and if you will turn over to page 8 you'll see that the changes deal with what happens to damaged chips. Originally it was security's job to destroy damaged chips and some of the stakeholders expressed alarm at this. It was rewritten, the accounting person will destroy the chips under the supervision of a security person.

Ms. Heston came to the last change, 15-475. This entails changes that were made to the tip rule to reflect the tip rule passed last month. Changes that were approved and up for final action were plain talked into 15-475. **Deputy Director Reese** commented on one correction, on 230-15-320, Ms. Heston mentioned intelligence, but we are talking about investigative offices and intelligence. **Ms. Heston** agreed, we are talking investigative. We are doing intelligence they are doing investigation. **Ms. Heston** thought these would have to be handled in a motion by itself because they will be filed today, next month they will be up for discussion, and then in April they will be up for final action.

Chair Ellis commented that the issue today is simply whether they get filed for further discussion by the Commission and if it would be appropriate for the Commission to address them as a group. As far as you know it is appropriate for the Commission to act on the proposal by treating all nine rules as a group. **Ms. Heston** affirmed. **Chair Ellis** stated they could be broken down individually when the Commission gets to the point of taking final action.

Gary Murrey, Recreational Gaming Association, testified that his belief was most of these rules, up through the first seven, are items that were discovered at the last minute. He thanked the Commission for re-looking at these.

Commissioner Rojecki made a motion seconded by **Commissioner Niemi** to file WACs 230-15-065, 15-126, 15-150, 15-275, 15-285, 15-320, 15-400, 15-430, and 15-475 as expressed by staff. *Vote taken; the motion is adopted unanimously.*

WAC 230-15-425 Internal Controls.

Ms. Heston indicated the House Banked Card Room Section and additional Rules for House Banked Card Games with the first being a change to the Internal Controls Rule, 15-425.

A requirement was added that licensees have a copy of their internal controls on site at their business premises at all times. Also added, was that licensees must follow all restrictions of the Gambling Act. The reason for these changes was to make explicit rules and to make certain that licensees are following the RCWs and the WACs.

Chair Ellis states that this rule WAC 230-15-425 is not listed on the agenda and asks if it is another rule up for potential filing and future discussion?

Ms. Heston explains they are working on the last third of the chapter. **Chair Ellis** asks if this one third of the chapter is before us for potential filing to which Ms. Heston replies in the negative.

Ms. Hunter explains the process they are following through this portion of the rules and also explains that they will be up for final action next month

WAC 230-15-430 Internal Control Requirements

Ms. Heston moves on with her presentation stating that the discussion phase is still in process and asking for everyone to turn to page 139, this rule summary deals with changes that were made to 230-15-430. An existing rule interpretation was added intending to clarify and strengthen the rule by requiring that surveillance personnel report any suspicious or illegal activity that they see while operating cameras or monitors.

WAC230-15-440 Modifying Internal Controls and Changing Card Games Offered

Ms. Heston moves along with a proposed change to 15-440 Modifying Internal Controls and Changing Card Games Offered. She goes on to explain that we are proposing to write this again to add a rule interpretation. This one has allowed licensees to get a verbal approval of change made to their layout and then the agent will conduct the inspection on their next visit to the card room.

WAC 230-40-554 Chief Executive Officer or Chief Operations Officer Defined

Ms. Heston states this is a repealer to repeal 230-40-554, which was a definition of Chief Executive Officer or Chief Operations Officer. The term has fallen out of use and so it has become unnecessary to include in the rules any longer.

WAC 230-40-800 Operating Rules for House Banked Card Games

Ms. Heston offers another repealer on page 153. This is a section out of 4800 that is covered in other rules therefore, it is being repealed to eliminate redundancy.

WAC 230-15-510 Transferring Chips and Coin to the Gambling Tables

Chair Ellis asked about page 161. **Ms. Heston** responded that on page 161 staff added the word "coin" to sections 2 and 3 of the rule. It was inadvertently left out because they will be moving both chip and coin or coins.

WAC 230-15-520 Requirements for Fill/Credit Slips

Ms. Heston continued with page 165, WAC 230-15-520 Requirements for Fill and Credit Slips. The words "each day" were removed from section 1(e) to make the rule consistent with the change in 15-625 which has to do with the Whiz machine, with accounting coming in each day to remove the triplicates from the Whiz machine. That is a rule that was passed last month at the Commission to take effect immediately. This is

the RSP version of it which makes it possible for accounting to wait until the next business day.

WAC 230-40-860(2) Table Inventories and Procedures for Opening Tables for House-Banked Card Games

Ms. Heston moves on to page 177 and states this is a repealer with the requirements for table game procedures and storing the containers and inventory slips being contained in other rules and so it is redundant.

WAC 230-15-545 Interruption of Card Games For More Than Seven Days

Ms. Heston refers to page 181, 15-545 Interruption of Card Games For More Than Seven Days. This was proposed changing this rule to remove the imperative for staff to perform a preoperational review and evaluation, which is the acronym for any time licensees are closed for seven days or more. Normally, if they are closed, they take a week off for Christmas. It is not necessary go back out to do a complete inspection in this instance. If they are closed for 3 months then that would be an occasion when of course we would conduct a PORE, but if they are closed to have vacation we don't want to have to go back in.

WAC 230-15-570 Cashier Cage Bank Requirements

Ms. Heston going forward to page 189, these are requirements for cashier cage banks. This has been altered to explain what an imprest basis means, as opposed to a float basis. An imprest bank is a bank where you have to keep an even amount of money or credits to what you loaned out. A float bank just means that you can wait and catch it all up at the end.

WAC 230-15-600 Storing Drop Boxes On Closed Gambling Tables

Ms. Heston moving to Page 195, storing drop boxes on closed gambling tables. The word 'tape' should be changed to recorded, as many licensees now use digital recording devices. Tape implies that there is an analog tape involved and recorded means any sort of recording.

WAC 230-15-610 Preparing to Conduct a Count

Ms. Heston moves on to page 200, where this rule has been written to include a rule interpretation, attempting to clarify and strengthen the rule by adding requirements about who serves on the count team.

WAC 230-15-620 Concluding the Count

Ms. Heston referring to page 206, this is 15-620. The original rule stated that the count team had to have the count verified by a cashier. Proposed change to the rule is to match current practice because many times it is not a cashier that verifies. The word has been changed to "verifier."

WAC 230-15-625 Accounting Department Review of the Count

Ms. Heston refers to page, 208, where an exception to section 2 was added which allows the accounting department to postpone reviewing counts that occur when the accounting department is not at work (Whiz machine rule). If they are not there on the weekends then they can allow the Whiz machine to sit there until they come back on the next business day.

WAC 230-15-640 Keeping Individual Key Control Boxes For Departments

Ms. Heston referred to page 212 and points out the original rule has become outdated because of changes in technology. It has been written to include combinations to combination lock boxes. The rule is attempting to address several different types of lock boxes that licensees have available to them in changing the rules.

WAC 230-15-655 Keys For The Security Department

Ms. Heston moved on to page 216, 230-15-655. At the licensees suggestion this rule has been rewritten to include the word “cancelled” in describing decks of cards stored by the security department as opposed to what it used to say. Cancelled is the word that licensees use when they discuss decks of cards that are taken out of play for various reasons. They will be marked or drilled or defaced in some manner so they can not be reintroduced into play.

WAC 230-15-665 Keys For The Surveillance Department

Ms. Heston pointed out that in 15-665 the surveillance department keeps a key control box that includes keys to storage cabinets used to keep surveillance recordings, cards, and other items of evidentiary value. This gives a clear chain of evidence when there are things that have been taken, it makes one department responsible for them. **Chair Ellis** thought there was a disconnect in the documents that Ms. Heston just covered. Chair Ellis said it referred to keys for the security department and if you look at the white page beside it, it deals with keys for the security department and key control, but if you look at the substance of the green sheet as you described it, it deals with decks of cards being cancelled, it's not the same topic. **Ms. Heston** responded that in subsection 4, the storage cabinets are used to store the card inventory including the cards not yet placed in play and decks removed from play. It is in sub 4 that is dealing with it. In this one it is in sub 2 that there are cards or other items of evidentiary value.

WAC 230-15-670 Keeping A Master Key Control Box

Ms. Heston moved on to page 222, 15-670, explaining this rule had been rewritten to add the phrase “general manager and other authorized persons” to the requirements regarding access to master key control box. This change allows persons other than the direct owner to get the keys to those boxes so that it is not as restrictive in everyday operation of the card room. Section 2 was also changed to say that keys in this key control box must include; this changes “may” to “must” resolves a conflict that was present in the old rule. In the old rule in one section it said you may do this and in another section it said must

and we felt that must was more important in this case. **Ms. Heston** explained the rule summary should say we changed ‘must’ to ‘may’ because of that.

WAC 230-15-710 Permanently Removing A Progressive Jackpot Or A Portion Of A Progressive Jackpot From Play

Ms. Heston moved on to page 232, the section about progressive jackpots and handling the money in progressive jackpots. Three changes were three changes in this rule. Concept of removal and discontinuance of a progressive jackpot were combined the word removal was used throughout the rule. An interpretation was added, which stated that the disbursement of progressive jackpot is not intended to be a money-making proposition for the licensee, therefore the tournament has to be free of charge. If they discontinue a progressive jackpot they have three options; offer the prize in a different game; offer a free tournament or they can turn it over to the Washington State Council on Problem Gambling. The rule interpretation also stated that the prize could be offered on a different house-banked game with a progressive jackpot but licensees have requested that the game not be restricted to one that already has a progressive jackpot. There did not seem to be any regulatory concerns with making this change and so the new rule says they can disburse the money that way.

WAC 230-15-715 Tax Authorities Seizing All, Or A Portion, Of A Progressive Jackpot

Ms. Heston moved along to page 236; 230-15-715, again about progressive jackpots. This one mirrors a rule earlier in the chapter there is talk about taxing authorities coming in and seizing monies. There was nothing in place to tell licensees what to do if that occurred and this gives them instructions in this case, of how to handle that if taxing authorities come in and take monies from a progressive jackpot.

WAC 230-15-720 Deposit And Reconciliation Requirements For Progressive Jackpot Prizes

Ms. Heston explained that on page 238, deposit and reconciliation of Progressive and jackpot prizes, staff added a definition of reconciled because we were having some difficulty with licensees who were not aware or not clear on what reconcile meant.

WAC 230-15-740 Preparing Required Financial Statements

Ms. Heston reported that WAC 230-15-740 was actually passed last fall, regarding how to prepare financial statements. Some terminology was changed to clean it up, adding generally accepted accounting standards instead of generally accepted accounting principals in one section and standards for accounting and review services in another

Chair Ellis closed the public hearing on the proposed rule changes.

7. Rules Simplification Project WAC 230-15-319, New Section

Ms. Heston explained that number 7 was accidentally left off the agenda and is a rule that is up for discussion. It's 15-319. She further explains it has not changed but she would bring copies in the following day if anyone chooses to see the rule. **Chair Ellis** asked if anyone was interested in seeing the version once again and with no response, he closed the public hearing on that proposed rule and it will be treated as having had its discussion today.

8. Other Business/General Discussion/Comments from the Public

Chair Ellis called for public comment. There was none. Chair Ellis announced that the meeting would begin tomorrow morning at 8:30 with an Executive Session and the public meeting would be called to order at about 9:00 and start with the Spokane Compact.

At 4:10 p.m., **Chair Ellis** called for an executive session to discuss pending investigations, tribal negotiations, and litigation. **Chair Ellis** called the meeting back to order at 5:15 p.m., and immediately adjourned the meeting.

**COMMISSION MEETING
FRIDAY, FEBRUARY 9, 2007
DRAFT MINUTES**

Chair Ellis opened the meeting at 8:30 and called for an Executive Session. The Executive Session was adjourned at 9:20 a.m. and the meeting was again called to order with introductions.

MEMBERS PRESENT: **COMMISSIONER JOHN ELLIS, Chair**, Seattle
 COMMISSIONER JANICE NIEMI, Vice Chair, Seattle
 COMMISSIONER ALAN PARKER, Olympia
 COMMISSIONER PEGGY ANN BIERBAUM, Quilcene
 COMMISSIONER KEVEN ROJECKI, Tacoma
 SENATOR MARGARITA PRENTICE, Renton
 SENATOR JEROME DELVIN, Richland
 REPRESENTATIVE ALEX WOOD, Spokane
 REPRESENTATIVE RICHARD CURTIS, LaCenter

STAFF PRESENT: **RICK DAY**, Director
 SHARON REESE, Deputy Director
 MARK HARRIS, Assistant Director – Field Operations
 DAVE TRUJILLO, Assistant Director – Licensing Operations
 AMY HUNTER, Administrator – Communications & Legal
 JERRY ACKERMAN, Assistant Attorney General
 GAIL GRATE, Administrative Assistant

Chair Ellis explained Director Day would be making a presentation of the provisions of the Spokane Compact and the context for this proposed Spokane compact, then the Spokane Tribe will make a presentation, Tribal representatives would make a presentation concerning the compact, and at the end of that time the Commission will then allow members of the audience to address the Commission concerning the proposed compact.

9. Consideration of a Class III Gaming Compact (Spokane Tribe of Indians)

Director Day: What I would like to do is join you Mr. Chairman and the Commissioners, Ex Officios in welcoming all the representatives of the Spokane Tribe. It is a privilege and an honor for us. We know it took a great deal of travel time and effort to get here today and we look forward to going through this process with you. I'd also like to

welcome the members of the public and the media that are here with us to review the Spokane Compact and discuss the process and ultimately look to the Commission for a decision whether to forward it on to the Governor for review and execution.

I would like to introduce Richard Sherwood. Richard Sherwood is the Chairman of the Spokane Tribe and we appreciate Mr. Sherwood traveling to be here today. After I get done with the introductory, this presentation, Chairman Sherwood will introduce the speakers for the Spokane Tribe as well and that will allow us to keep moving forward.

Director Day: One thing about this process is that the information goes out in packets and what is in the packet is always very thick so I think what ends up is we have different people between Ex Officios and the Commissioners present with us with different amounts of information. I apologize if I refer to a document and you don't have it in front of you but what I will try to do is minimize that as much as I can and just summarize information. If there are any questions you have, I know all of you well enough that you will feel free to interrupt me as I move through this process and ask me to go back or to re-explain what I have attempted to describe.

I think, as we move forward, probably one of the biggest points for us to keep in mind is we are essentially at the end of a long journey and the beginning of a start of a new history between the State and the Spokane Tribe. We have been at this process some 20 years and I think where we are today is a result of a lot of people that came before us and as well a lot of hard work over the last two years to get to proposed agreement that will prove to be a positive foundation for the Tribe and the State as we move forward into the future.

With that I would like to start into the presentation. We are here today to discuss the Spokane compact and hopefully share views and positive outcomes as we move forward. The foundations of this entire process, rests on the Indian Gaming Regulatory Act and on the compact process in the State of Washington.

It is important for us to know that the law passed in 1988 known as IGRA was a compromise to provide the States with jurisdiction over gambling regulatory issues within the Indian Country. Without this law, there would be no foundation for State regulation of gambling on Indian Reservations. That is important for us to keep in mind as we move forward.

The State is required to negotiate in good faith and that means we don't sit down and direct, we sit down and negotiate the limits and regulatory practice that the State would like to see involved in Class III gambling.

One of the primary purposes of IGRA was to promote tribal economic development, self-sufficiency and strong tribal governments. As you can see from this slide those revenues have produced substantial benefits at this time. We can see the Tribal Casinos in

Washington have generated about \$1.2 million dollars. That started from nothing in the State of Washington. The Tribes are now in a position to use those proceeds and have demonstrated their willingness to use those proceeds towards government programs across the State of Washington.

The Indian Gaming Regulatory Act is also designed for other primary purposes. It is to ensure that gaming is conducted honestly and fairly. One of the concerns that came forward during the process was that the States had the ability to have some say in what kind of gaming and how it was conducted. The Washington State Law, 9.46, as described is to help strengthen and ensure that gambling in the State of Washington is not influenced by criminals and is conducted honestly.

One of the major roles is to foster cooperation between the tribes and the State. This has been positively demonstrated in the State of Washington. We have compact agreements with 27 out of the 29 tribes in the State of Washington dating back to 1991. The Indian Gaming Regulatory Act has been very successful in the State of Washington.

It's important for us to know what jurisdiction we are dealing with and so actually the Indian Gaming Regulatory Act talks about three classes of gambling. Class I is traditional forms of gambling. This is a picture that the Spokane Tribe provided. It depicts what is often classified as hand games. These were traditional forms of gambling based on a methodology of hiding an object in hand and wagering or betting on where that object is and tracking it with the things that we see in front. This kind of traditional gambling is not at all under State or Federal jurisdiction. This is completely within the tribes' regulation and control.

You can see the image of the National Indian Gaming Commission in the upper left hand corner. Class II gambling, which is essentially bingo, pull-tabs, is under the jurisdiction of the tribe and of the Federal Government. The State has no jurisdiction in Class II gaming.

Class III gaming falls under State jurisdiction. In order to conduct class III gaming in the State, the tribe must do so according to a compact negotiated between the State and the tribe. Class III gaming is essentially casino games. In addition the law also describes Class III gaming as whatever is not class I or class II.

That gives you a quick summary of IGRA. There is a lot more to that law than what I touched on but I am trying to make sure you have a foundation of how the decisions are made, what are the requirements, what are we trying to accomplish as we move forward with the negotiations with the tribes regarding a compact in Washington.

There are specific requirements on the compact process in the State of Washington. I want to touch on those briefly. This is a cooperation, a negotiation, it is a system that

requires a lot of patience and a lot of willingness to listen to the other parties on both sides of the table.

The approval process in Washington is set forth in statute so this is not something the Commission has a choice on, this is how the process works by State law. The compact is negotiated by the Commission Director, or designee. Legal council Jerry Ackerman is with me through this entire process and there are a lot of decision makers.

I think it's important to keep in mind the decision makers are at the tribe, the tribal government, the members of the tribe itself, the Commission members, the Commission Ex Officios, the Governor and the Governor's Office, who ultimately have to execute the document. What we are trying to do is reach a negotiated document that is acceptable to all parties in the transaction or at least as close thereto as we can get. That is I think a lot of contracts, a lot of agreements. Everyone knows it's not always perfect as there are multiple decision makers. At times there are places where we compromise, places where we come to agreement, try to gain the progress of the larger overall task that stands before us.

Once we have a proposed compact, I am required to submit that compact back to the Legislature and the Commission members. The Legislature, according to the statute has up to 30 days to review, if they are not in session, and if it is 10 days prior to session. After that the time lines are longer. The Commission has 45 days to hold this hearing to make a decision whether or not to forward this compact to the Governor for review and execution or return it to me for further negotiations.

Some people refer to this meeting as an approval process. It is not. It's really a decision to move the compact forward or return it for further negotiation. The Governor reviews and has final execution authority and it is still not effective until the tribe forwards the document to the Secretary of the Interior for approval and to be published.

We have used this process since 1991, when the first compact was signed in the State of Washington. As mentioned we have 27 out of 29. There are 20 tribes operating 25 casinos and one of the most significant events was the development of the tribal lottery system, which is the electronic scratch ticket game that is in operation in the State of Washington.

That is not from the gambling regulatory aspect a system or electronic system that is in effect a slot machine. It is completely different in it's design based on a set number of tickets that are electronically selected, and the players in effect, play against these others to get the winning ticket first. This was approved and went into effect in February 1999.

This just gives you an idea of the geographical distribution of tribal casinos across the State of Washington. Spokane is not reflected on here because this is all compacted

casinos at this point. I won't go into those with detail but I will be glad to answer any questions you have.

The other section that is very important is jurisdiction and regulation. We will discuss regulation briefly. You have documents that are 136 pages. I think there are four appendixes. Many of the questions I have received over the last two years have been regarding 10 pages that is called The Appendix Spokane. If you want to end up referring to that, it is behind page 36, which is the signature page.

Most of this process is designed to support clear regulations. Essentially public safety matters, to make sure the games are conducted in both tribal and State regulators are supported through that compact in order to carry out their duties.

A lot of people wonder what SGA is. If you see that in the compacts, it is the abbreviation for State Gaming Agency, which is the Commission; the Washington State Gambling Commission. We monitor compliance, we enforce criminal laws and we investigate player complaints and we do not do that for free. The costs of the Commission are billed back to the tribe for any regulation we have. The State is reimbursed for the cost.

This gives you a vision of when we were talking about the Tribal lottery system, the electronic scratch ticket machines that are placed in tribal casinos across the State. It gives you a little picture of the direction of the growth of that particular enterprise. Essentially the \$18,000 is to depict the approximate maximum that is under the current compacts. In effect, all the machines are either in play or all the authority for the machines are in play or in operation committed in the State of Washington at this point.

The compacts all carry provisions that require community impact contributions. It is a cooperative process with distribution and emergency service as one of the key areas but other services are being allowed. The tribes distribute these dollars in this State. The most common method is by a committee, a joint committee of Tribal Members, the State Gambling Commission, and community members. However, it's not that way with every compact.

Once a year we do verify the amounts of the distributions under this 2% contribution list. It is designed to offset impacts of gaming locations across the State. These are 2004 numbers, \$4.8 million and in charitable contributions is another section as well that requires up to .5% be granted by the tribes to various charitable activities across the State in 2004 was about \$5.4. During this process we verify these again, make sure the distributions are made and reported back to the Commission. The 2005 figures should be done next month.

Washington compacts also have a very unique system of intertribal revenue distribution. It was set up to ensure that the smaller tribes, those that actually wouldn't have an

opportunity to have casinos or would have very small ones, would be the potential beneficiaries for larger urban tribes that put more machines in to play.

Each tribe is assigned around an allocation, which is the ability to operate or lease 675 machines. In order for a tribe to go above those numbers, which is called authorization, they must lease from another tribe. That method being used allows revenue to be redistributed across the State of Washington to the smaller tribes.

I have talked about 136 pages and the history of the compacting process, There are a lot more details in each compact and each one is individual in its own right. It has been negotiated government to government and in that process each one has an individual element.

I'd like to mention this slide and these quotes as I introduce this process as I believe they describe very aptly where we are today. "With mutual respect and consideration for the issues important to both our tribe and Washington State and with the positive leadership of the Governor, our Governor Gregoire and the Gambling Commission's negotiating team, we have reached a proposed compact which will serve the tribe and the State well." Richard Sherwood, Spokane Tribal Chairman.

"In contrast, I'd like to thank the Spokane Tribe and the State negotiators for their hard work to reach this tentative agreement and their willingness to address my concerns. The ability to reach this agreement after the long negotiation process demonstrates the positive relationship between the tribe and the State." Christine Gregoire Governor of the State of Washington.

I thought it was particularly important to reflect this as we move forward because this gives everybody a glimpse of where we are today as opposed to where we have been in the past.

I am going to quickly now identify portions of the Spokane compact and I will spend most of my time addressing what is in appendix Spokane, which is the ten pages that begins after the signature page of the primary compact; after page 36.

First of all, one of the sections we talked about is the number of authorized facilities. I want to identify to you that this compact allows the Spokane Tribe up to five facilities, on Indian lands, which is the Federal definition that is provided for in IGRA and is also very similar to the language that is in the Colville compact.

What we will see in this compact is most all of the language in the Spokane compact today is a product of parts or pieces of some other compact in the State of Washington. I want to introduce this because what we have in this compact, as opposed to the previous compacts, that were initially considered, is a compact that is developed around the structure and agreements that the rest of the tribes have in the State of Washington.

This is also a picture of the Two Rivers Casino, which you might have noted on the corner of the map. This is the location the tribe hopes to someday develop a resort. They have two locations active at this point, one being Two Rivers and one in Chewelah. Chewelah is trust land, which means it is not within the boundaries of the reservation. That is very similar to the Colville Tribe that is a larger rural reservation. The Colville Tribe actually has a location in Chelan, which is not within the boundaries of the Colville reservation and it is trust land they held prior to 1988.

Another unique portion of this compact is the commitment the tribe has devoted itself to continue community investment through community investments. This is a unique section of the compact that has not been in a compact before and so it reflects the tribe has continued to express its commitment to that in the future and of course the tribe itself will probably talk today about utilization and the hopes they have for the funds they will be able to gain through implementation of this compact. The tribe has committed to education, community services, emergency services, as well as a program services for tribal elders. It all gives you a depiction of this particular section. The tribe has committed in writing to this. In addition they have committed to writing a report on those contributions which sets up a written methodology for the tribe to enter into an MOU with the local jurisdiction. This is the first compact in the State that comes specifically and clearly in support of problem gambling funding. The tribe will contribute for 0.13% of its net win to problem gambling support services. This amount you may recognize is the statutory amount our legislature required of non-tribal contributions.

Another unique portion of this compact is the smoking cessation contribution, and again this is in the Appendix Spokane. This is a unique portion, in this case the tribe again pledged .13 percent to fund anti-smoking efforts and as well, if the tribe does go to a smoke free facility, it would be exempt from this provision.

I want to touch briefly on the numbers of player terminals or scratch ticket machines. Each tribe in this State has what is called an allocation and an authorization. An allocation is initially like a quota, it is that number of right to play or ability to play machines they can either operate or lease out. The tribes' agreement is 900. The comparable figure at this point in the State of Washington of other tribal agreements is 675.

This is a negotiated number. The Spokane Tribe, just as we did with the Colville Tribe, have facilities in authorization we have already described. They have an estimated 700 machines in operation. Before we started this process they had about 1100 so this 900 does have some relationship of where they are today. The effort in this negotiation is not to initially damage them economically by entering into a compact with the State.

Their authorization is for 4700 player terminals at the five facilities. This is their total authorization but they can only get there through the leasing of machines from other

tribes. This is at all their facilities, comparatively the Colville tribe has potential six locations and 4800 machines. This language and these numbers are comparable within most of the other tribes' authorizations.

There is a section in the compact, 5, 6, and 7 that carries a great deal of detail about exactly what numbers are allowed in this authorization. Tribe has committed the first three years of this agreement to limit their total authorization to 1500 and I am going to come back to that. I want to save that point because I have another slide that follows that might help with the explanation.

They are also limited to no more than 2,000 at any one facility and all of the facilities but two must be 25 miles apart. They can have two of their facilities within 25 miles. These are numbers that are very familiar to us as they come from other compacts.

This is an issue that is important to all tribes in this State and has been under discussion since 2005. What are we going to do now that we are at this point in the Washington compact history? As the Spokane comes into this there are no machines available to lease. The one thing we have to work out is some way for the Spokanes to be able to feel like they can come into this system and still preserve the system and the leasing process themselves, so the compacts are designed to provide a relief valve for the Spokanes.

Once the compact becomes effective, they must first go to lease through another tribe. If they are unsuccessful and they certify that to the Gambling Commission and it carries the reasonable terms then they are allowed to place machines in play of their 900 allocation, up to that 1500 in the first 3 years based on payments into a fund, which is automatically redistributed to all tribes.

The incentive here is for Spokane to first participate in the lease system that is there for all the tribes and also to preserve those payments to the smaller tribes and in exchange for this ability to have the access so they can conduct business and establish the ability to generate revenue for their business purposes, they limited their allocation of 1500 terminals in the first 3 years and in effect in the 4th year can place no more than 3500 machines. They have actually limited that total possible allocation in order to obtain this emergency relief valve to ensure that they can place machines and conduct business.

There has also been a lot of discussion about this, and part of the discussion has been about how the Washington compacts would allow the tribes to have these approved regulated machines, scratch ticket machines, accept tickets or cash. Previously it has been restricted to just tickets. This is the same game that is in play in the State of Washington today and all a player would see is the change from insert ticket to insert ticket or cash.

We need to point out that most other gambling equipment in this State accepts cash already and there are machines that are in play legally under Federal Law that are called

Class II machines that also accept cash as well. If it is authorized or legal in any manner or any form outside of Indian Country then it is subject to negotiation and what we are doing is just negotiating the limits. We have allowed in this compact the ability to use either cash or the ticket. No cash out, it's purely ticket out.

Chair Ellis asked regarding the other machines currently being used in the State of Washington that accept cash for gambling include machines operated by the State Lottery. **Director Day** affirmed. Look at this and you will see the player push the button and then you will see a shade come up and then you will see him push again. There is also discussion of the concept of one touch, two touch and does that change the game. What that does in this compact is allows the tribe to go to a single touch. Instead of pushing the button twice, they will only push it once. We are still talking about the same game. We are removing that shade provision as we move forward. Credits are played, tickets or cash inserted, credits are played, and buttons are pushed to activate the game.

In addition, under this compact the tribe would be allowed to place up to 15% of the player terminals in the facility that could accept a wager up to \$20 and this has been in various negotiations and the amount is based on the highest lottery ticket available today. The basic tribal game in play electronically is based on the State's lottery which is the foundation. What happens is as that changes then of course the tribes can return to the State and ask that their games be allowed to incorporate those changes from the lottery. And the limits aren't necessarily mandatory. That is something that we ended up negotiating.

There is a section in the Spokane compact regarding the higher wager limit. There is some concern about that section allowing widespread or broad open high limit gambling and credit payment. I wanted to clarify that section in two ways; one is this is limited to 5 tables, 120 days a year and not anybody would be allowed to walk in and say I want to go over to these high limit tables and I want to use credit. The process requires in the compact during that 5 days or only those five tables have at one facility 120 days a year.

In addition, the player must be pre-qualified and as part of that qualification the tribe has to document that they are not subject or show evidence of problem gambling. They are also subject to an investigative background check and verification must come back that they have the funds in the bank in order to support the gambling activities that they are going to undergo that day. A person has to be qualified to even get into the area. The other key is that the State and the tribe must sit down and work out an MOU that specifically lays out any other circumstances the State would require, in order to conduct that activity.

Director Day reported that the Tribe had sent a letter to the Chair saying that they are committed to giving up that ability under at least the first three years of their Compact. I am sure that the tribe will discuss that more as we move forward. The tribe may determine hours of operation. The compacts really allow statewide up to 160 hours at

this point and this compact, by allowing the tribe to make their determination, there is a difference of about 8 hours. Gaming activities are authorized at a designated resort complex. We mentioned Two Rivers so that allows a concept of a development of a resort. The tribe would have the ability to place their gambling in various buildings within that resort complex but still within the limits provided.

Once approved by the Secretary of Interior, there is a process by which the tribe brings their operations into compliance with the law and the compact and at that point is fully engaged under the compact with a certification through the Commission and inspection by State Gaming Agents. There is a transition date, an effective date and a transition date. The Governor sent Chair Ellis a letter that said please consider these things and as a result these things were considered in negotiations and addressed.

One thing is the site being on off reservation facilities. There is an entire section regarding the off reservation location the tribe had proposed. What has happened at this point is that has been entirely removed and it is dependent on the tribe's success as to whether they move forward with an off reservation site or not, it is through access through Federal Law under the Indian Land definition and the process described in Federal Law.

I know there is going to be a debate so I wanted to make sure I mention the other point relative to that because there is one sentence that is connected to the section of the law that deals with post-1988 land.

Leasing the machines to benefit the other tribes. The Governor expressed interest that the consideration should be there. It has been included in this compact as we discussed, it is fully included with the option that insures those distributions are there and there is incentive in this compact for the tribe to actually continue to access additional machines through a leasing process because if they were to do that after the first three years then they could actually place machines up to their authorization. Once they go outside and access the inter-tribal funds concept they are limited over those years. In addition, I think it's important to mention the inter-tribal funds, what would end up happening if you were a tribe that leases out all it's machines and has none to play and the Spokane Tribe were placing machines and payments according to the intertribal funds, you would actually get paid from both directions so this provides a little bit of a new incentive for tribes that are not gambling, not to because they can actually gain payments from both directions. The inter-tribal fund is not a Spokane Tribe decision as far as distribution. It basically describes to the tribes which tribes are eligible, they make the direct distribution payments so it's not a pool concept or anything like that. The number of authorized machines is 4,700. This number is less than what the Colville number is at this point, and it is further limited by inter-tribal fund access. The concept of revenue sharing is removed, investments and contributions is there.

This is really a philosophical issue about two points; the commitment of the tribe to continue their investment in the community regarding services to benefit tribal and non-tribal emergency services, programs to the elderly, education and so forth; as well as a long standing State practice that is in Washington law, the State itself does not share directly in gambling revenues in those that we have jurisdiction over. Locals can tax but the State itself does not share directly in any of those revenues. That concept is continued as well in this compact.

Some of the other considerations the Governor described as specific circumstances of the tribe are geographics and operation. This compact is designed to bring Spokane into the allocation of the same machine system the other tribes are, but to maintain that balance overall with the other tribes. In addition, economic development and commitment to prevention of problem gambling are other considerations and to invest in the programs that benefit both the Tribe and non-Tribal Members.

This compact, as it is, does not automatically grant additional gambling activities with other tribes. There have been negotiations going on with discussions since 2005 as to how to resolve this problem with no machines available and I am confident this is going to result in a positive conclusion as we move forward. I don't believe it limits the Governor's discretion regarding post 1988 land. The reason I say that is there is one sentence in the compact that talks about the Governor making a decision, if it comes to her, and that is important. If the tribe is successful they could access the federal process, get land converted and approved by the federal government provided the Department of the Interior concludes that it is in the interest of the tribe and not detrimental to the surrounding community. Once they make a decision, it goes to the Governor. Then it is an absolute veto one way or the other. It uses the term, "good faith" but essentially what that refers to is facts. She could decide what the facts are in a rational basis to support her decision. There is no definition, consequently it does not limit the Governor's discretion to make her decision.

It does not create a video slot machine. There was some initial information that, that was it. I reflected the machines that are up there be the same machines. There is going to be no hoppers, there is no cash out. The game is not changing. It's still the scratch ticket, electronic scratch ticket game that has always been there. This compact does not create an unlimited credit and wagering opportunity.

It does commit support to problem gambling and smoking cessation. It definitely strengthens the regulation of gambling in the State of Washington. It maintains the structure of tribal/State gaming compacts in Washington. It continues the approach of unlimited gambling operations. It acknowledges the tribes continued contribution of investments to the community. It continues to provide a mechanism for sharing gaming revenue with other tribes and it resolves years of negotiation and litigation between the tribe, State and Federal Government.

Chair Ellis thought Director Day may have misspoken when talking about continuing the approach of limiting gambling operation – Chair Ellis thought Director Day may have inadvertently said unlimited gambling operations. **Director Day** appreciated that clarification and said he would defer to the writing: continue the approach of limiting gambling operations. The approval process, we will move on to the next slide. The Commission had 45 days to hold a hearing. That is why we are all gathered here today, for your decision as to whether to forward this to the Governor. Once that takes place the tribe the Tribal Chair will have to execute the document, then the Governor reviews and has authority of execution and at that point it is returned to the tribe. The tribe is responsible to forward the documents to the Secretary of the Interior.

Director Day reported that staff's recommendation was that this compact fulfills the intent and purpose of federal law. It provides the foundation as contemplated in IGRA for economic benefit of the tribe. It strengthens the protections to ensure that gambling is conducted legally and honestly and free of criminal influence in the State of Washington, and it meets the Governor's considerations, who is the final person to execute. As a result the staff recommends that the Commission forward the proposed compact to the Governor for review and final execution. Director Day stated there were about 10 letters or e-mails received that are included in your packet. I would be happy to address how they are either addressed or not addressed in the compact. **Chair Ellis** asked whether any of the Commissioners had additional questions. There were none. Chair Ellis introduced Chairman Sherwood.

Richard Sherwood, Chairman Spokane Tribal Business Council, thanked the Commission for the honor to appear before you and the Tribal Elders that are here today. Also with me are Vice-Chairman Seyler, Secretary Gerald Nicodemus, Council Members Matt Wynne, and Richard Garry. Chair Sherwood thanked all the Tribal Elders and all the Tribal Members and other people that traveled all this way to support this Compact. Without you we wouldn't be here today. This has been a long process. We've been going at this for almost 20 years and you know it has been a long time coming so it is an honor to appear here today trying to push this forward. Chair Sherwood recognized two former chairmen with us today: former Chairman Greg Abrahamsen and former Chairman Joe Flick. Also present are two other Council Members: Jim Sijohn and Glenn Ford, whom without their leadership today and their leadership of the past, we also wouldn't be here. I would just like to recognize these men for all of the effort that they have put in to the process to get us here today. Chair Sherwood thanked Jerry Ackerman, Rick Day, and Melinda Froud for their efforts and coming together in our negotiations. It has been a couple years of hard fought negotiating to get us where we are today and it's an honor.

Chair Ellis said we know that it was and we appreciate very much the contributions that all of the members of the Tribal Council; present and past and all of those other Tribal Members have made to the process.

Chairman Sherwood introduced Secretary Nicodemus to help with the presentation on behalf of the tribe. **Chair Ellis** welcomed Secretary Nicodemus.

Gerald Nicodemus, Secretary for the Spokane Tribal Council, thanked Chairman Sherwood, Chairman Ellis, Commission Members, Ex Officios, Attorney General, and Gambling Commission for the time and attention they have invested in getting this tentative Spokane/Washington State compact to where we are today. Let me assure you that it has always been the hope of the tribe to reach a compact with the State of Washington as well as with our neighbors in Northeastern Washington. It has been disappointing and frustrating to have gone through so much negotiation to get here but we believe we have heard the concerns of this State in developing this compact. The compact truly represents a new day for this Spokane Tribe of Indians. It sets the limits for the size and scope of gaming for the Spokane Tribe in a manner consistent with other compact of tribes with large land bases. It also integrates its gaming and operations with a comprehensive cooperative regulatory structure with State and Federal agencies. This compact will result in new investments by the tribe to create high quality entertainment venues, helping the economy of our reservation and region.

As we pursue our rights in cooperation with the State, recognize our obligations to local communities as well, the Spokane Tribe has and will continue to work with local government making commitments they can count on. We are committed to dealing with the impacts of our entertainment operation by working closely with those affected. We have also agreed to fund services such as law enforcement, fire safety, judicial services, and to make contributions to local charities in a timely manner. Our gaming operation will truly benefit the entire region of Northeastern Washington. This tentative agreement follows a request by Governor Gregoire to renegotiate a compact agreement reached with the Gambling Commission's negotiator in the latter part of 2005. We have met the Governor's concerns. The Governor asked us to revisit the total number of machines allowed, it is a tentative agreement that contains a significant reduction in the size of gaming permitted as allowed in the original agreement.

Although the State initially agreed to 7500 machines we however agreed to 4700 which is actually less than the Colville tribes entitlement. Further, we have agreed not to exceed 1500 machines in the first 3 years. This is a restriction that goes beyond any of the existing compacts. The Governor asked us to revisit the issue of Airway Heights; the agreement announced last year committed the Governor to approve the project that the tribe was successful in a lengthy transparent process with the U.S. Department of Interior. Several compacts at other States include such provisions. We have removed that provision at the request of the Governor's Office. This compact does not authorize gaming in Airway Heights. The Tribe has initiated the Federal process regarding Airway Heights and this process allows for any and all to voice and document their concerns to the Department of Interior. As part of that process we look forward to a rigorous Federal and public scrutiny over any details of any plans we will have for our property we will have at Airway Heights.

We are also aware that we must provide a compelling case to succeed and we please ask you to not confuse the two-part determination with the State compacting process. This compact merely commits the Governor to consider the Tribes project in good faith and if it ever reaches the Governor's desk, opposition to this provision in the compact will only be based on the notion that the Governor shouldn't be allowed to act in bad faith with impunity when and if a positive determination is issued by Interior and the project reaches her desk or his desk.

We have heard this provision is somehow unfair to Cowlitz Tribe because their lands are not yet in trust and this is simply not true. Cowlitz land qualifies as restored land eligible for gaming once it comes into trust status. The restored lands provision of IGRA at issue with Cowlitz has nothing to do whatsoever with the two-part determination process in IGRA that governs the Spokane Tribe's application regarding Airway Heights. The Spokane Tribe wants to be clear that it strongly supports the Cowlitz Tribe in their efforts but the issue of restored lands has nothing to do with our two-part determination application at Airway Heights.

The Governor asked us to revisit the impact on leasing tribes. The new compact requires the Spokane Tribe to seek leases from these tribes if and only if we are unable to secure such leases in a reasonable quantity and at a reasonable price we can utilize the option of making payments to an inner-tribal fund rather than securing leases. This new provision protects the interest of leasing tribes while meeting one of our primary needs and assurance that we can obtain an adequate number of machines. The Compact announced last year included revenue sharing by the tribes in exchange for the commitment of tribal exclusivity for casino gaming. Although we believe those provisions represent sound policy, the State asked us to remove it. In its place the Tribe's commitment to document and verify the contributions it makes to surrounding communities and it dedicates funds to problem gambling and smoking cessation.

The Spokane Tribe believes it is sound policy for Tribal Governmental gaming to be the only gaming in the State. The dedication of revenue to fund desperately needed governmental programs, the tight regulatory structure, the proven benefits to surrounding community and economy allows Indian gaming in Washington State to achieve the intended purpose of Congress in passing IGRA. We applaud those on the Commission who want to insure tribal exclusivity with revenue sharing in tribal gaming compacts. For a number of years the Spokane Tribe has been very vocal about the mutual benefits of both tribes and the State. Approval of this compact ensures that we'll continue our efforts to insure tribal exclusivity when the States Indian Gaming Policy is revisited in three years.

With these changes we have addressed and reached an agreement on all the Governor's concerns. Positive leadership from Governor Gregoire and the Gambling Commission clearly helped. We need to be clear that this compact does not reflect what the Spokane

Tribe wanted in the form of a compact but instead reflects what we agreed to after three years of extensive government-to-government negotiations.

We feel we made significant concessions in reaching this agreement in 2005 and all of the changes in that agreement to the current proposed compact amplify our desire to get this deal done. As I stated earlier the effort to obtain a fair compact has been a long co-effort but it has always been our hope to work for a positive result. Our two governments now have reached a tentative agreement on all the issues and reflect a new and positive relationship with the State of Washington. The Spokane Tribe clearly needs the opportunities promised by this new compact. The Spokane Tribal Government has a responsibility of stewardship over large reservations with a large membership of very real and critical needs. The Spokane Tribe must find a means to secure a stable stream of government revenue funds desperately needed for programs. While many Washington Tribes direct efforts to replenish existing salmon runs, the Spokane Tribe deals with the reality that no salmon are able to return to the upper Columbia and Spokane Rivers. Timber harvesting is a finite resource that does not generate anything near the revenue needed to fund our government. Federal appropriations, which are already grossly inadequate, are reduced year after year. Like many tribes in this State and around the country, Spokane Tribe must look again to provide needed governmental revenues. With additional funds from entertainment and gaming the Spokane Tribal Council hopes to extend healthcare to our members, provide better education for our children, and build a reservation infrastructure, which will improve our reservation economy for decades to come.

The compact will allow our tribe to diversify into business opportunities that were beyond our reach. Our problems, which have gone unmet for many years will now be addressed. We have struggled long and hard to solve our challenges of our tribe. We are not there yet but this compact will be our best chance to impact our tribe's future in a historic way.

More employment opportunities from our facilities will be a major benefit for tribal members and non-members alike. This is a reality that we would like to achieve. Our fellow Tribal Council Members and I are well aware that there could be concerns with any new entertainment development that results from this compact. We will move forward immediately with major improvements to our existing facilities north of Spokane near Chewelah and to our Two Rivers Resort sight at the confluence of the Spokane and Columbia Rivers. We will do so while continuing to work with local communities, which will be affected by them.

Some have criticized the provision in the proposed compact that would allow for updated gaming machines. It should be understood that the games our machines will play remains the same as others used by tribes in Washington State today. The only difference is with the updated machines the players only have to push the play button once instead of twice and players will be able to put money into the machine rather than paper tickets.

The logic of the game and the integrity of the machine itself is the same as the machines currently in play in other Indian Casinos across the State. This isn't an expansion of gaming only an improvement and a convenience in quality of the machines players use.

Others criticize the compact on the limited number of high stakes tables. Please take note the tentative compact provides only for 5 high stakes tables at one facility open no more than five events per year and allows only prescreened players to participate. This will not change the nature of gaming in Washington State, however, we have now committed to an MOU, which is called for by the compact regarding high stakes and will provide the Spokane Tribe will refrain from offering high stakes gaming for 3 years and that the issue will be revisited in the context of new negotiations at that time.

We have submitted a letter signed by our Tribal Council, which commits the tribe to entering in to such an MOU. As Secretary for the Tribal Council for the Spokane Tribe of Indians; I and my fellow members of the council take our responsibility seriously. We guide the affairs of our tribe, fight for its future, remember the past and maintain a positive working relationship around us. We fulfill our task and understand that we have a responsibility to our members today and for generations to come. Our actions reflect the wishes of general direction of our membership. This is evidenced by the fact that we have former Tribal Chairmen and former Tribal Council Members on hand to witness our testimony today.

The Spokane Tribe's long term vision seeks true sovereignty and self reliance while working within our traditional values of respect, honor and integrity. We are competent that this fair agreement with the State will provide for new opportunities with Tribal Members and non-members alike. Funds from our operations will allow us to deal with our challenges while contributing to communities near our gaming sites.

By allowing us to compete fairly the Indian Gaming market in Eastern Washington we will create a tribal economy, which will endure and create opportunities for our region. We hope you can support this compact that we have worked so long and hard to obtain. I am proud of the foresight, courage and endurance demonstrated by the tribe in reaching this agreement. I am also proud of the good judgment in responding to the concerns of the State raised over the last two years.

It is time to support a contract that would free opportunities for my fellow tribe members and non-members who will also benefit from our hard work; realizing an intent and the contributions of those before us. I want to thank you and with that we will be able to take any questions along with the tribal attorneys. Thank you Chairman.

Chair Ellis thanked Secretary Nicodemus for those very insightful comments. **Chair Ellis** called for a break at 10:20 a.m. and reconvened the meeting at 10:40 a.m. Chair Ellis opened the meeting for additional public comment.

Mr. Sijohn, former Vice-Chair of the Spokane Tribe, thanked the Commission for allowing me as a Tribal Elder to speak before you today, which is not my custom but will be used out of respect for the Chair. I will try to make it short. Mr. Sijohn testified that he came here today again speaking straight to you, heart-to-heart to you, eye-to-eye to you. I do not walk in here holding my head down when I walk in and I will walk with my head standing high when I leave here, no matter what your decision is. As a tribal elder, I know throughout the years you have had to make hard decisions. And the decision you will make today, I hope that you'll keep in mind that we are the Spokane Tribe a proud Sovereign Nation, but we are also proud members of the State of Washington. We are all your constituents. Any one of you can come to our land, contact our Chairman, our Voicetrum, or Secretary. Let them know you are there and you would be welcome guests on my land. I started on the Tribal Council in 1992. The first gaming meeting that I went to was at SeaTac. A man by the name of John Kieffer, who was Vice-Chair at the time, asked me to travel with him and that was my first experience. Here we are today, I have a few more gray hairs, I can't say that I've learned more because I find that as I get older, I begin to slip a little. So I hope you will bear with me.

It is said over 16 years ago this process was begun. It began with the Spokane Tribe in the State of Washington and throughout these years there have been things that have been said, maybe harsh words, maybe bad words between the State and the Tribes. We have walked out of some of these meetings feeling very badly. And I am sure that maybe some of the things that may have been said to you, may have been offensive. But I hope you will do as we are doing today, we walked in here with heads high as you walked in here with your heads high.

We have taken, we hope you have taken, the things that have been said in the past and put them to the side. We're here to do what is right for the State of Washington and the Spokane Tribe. We are here to do what is right for all the people in the State of Washington. Over 16 years ago ladies and gentlemen at the first tribal meeting I attended concerning gaming, we had a lot of Tribal Elders that were there and I am saddened to say that a lot of those Tribal Elders aren't with us any more. They never saw the ending of this. I'm sure many of you who sat on this committee for many years have lost some loved ones, some friends that were never able to see the ending of this story.

Many years ago a great man, Martin Luther King, had a dream. Over 16 years ago the Spokane Tribe had a vision, a vision of employing many, many people, whether they be tribal members or non-tribal members. We had that vision. We have come here today with that same vision.

It is said that the Spokane Tribe will make millions and millions and millions of dollars, but ladies and gentlemen, I've been around a long time, I can't recall the Spokane Tribe digging a giant hole in the middle of the reservation and throwing their millions and millions of dollars in that hole and hiding it. What we are doing today, the Spokane Tribe will benefit communities, businesses, schools, such as Wilber, Davenport, Reardon,

Spokane, Dear Park, Tria, and Colville Washington. For if we are able to get over 1200 jobs, there is no way the Spokane Tribe could even fill 600 of those jobs, which means we would be employing other people to work.

I recall back in the 90's the vision of the tribe was to have healthcare for all it's employees. Ladies and gentlemen, the United States Government can't give healthcare for all its employees, all its people in these United States. We have a chance here to work with the State of Washington and provide health care for all the employees of the Spokane Tribe. We have a chance here ladies and gentlemen today to provide funding for schools for these towns that I have mentioned that can't even run an activities list after school, including Ropeman.

We have a chance here to provide lots and lots of things for surrounding communities, sure including the Spokane Tribe. I saw a casino on the screen; Two Rivers, what must be said ladies and gentlemen is when an outside casino, an outside tribe was allowed to come into the Spokane Tribes aboriginal seated area. Two Rivers employment started to go down hill. The revenue started going down hill. Treeless started going down hill, but we didn't stop, we continued with our vision; the vision that we all believe in, including those that we lost. To my understanding we got word this morning that we lost another tribal member who will never be able to see in his life the ending of what we are trying to do today. Yet she attended those meetings back in the late 80's. The Spokane Tribe coming like this, taken its own worst 20 years to get to here today. It would be a sadness in our elders' hearts and our children's hearts and I am sure in some of your hearts that have been on this committee for so long to see us come this close turn and go back this way. I would hope that today after you make your decision that today we will be like this; the State of Washington and the Spokane Tribe of Indians. Lemlich, thank you very much.

Chair Ellis thanked Mr. Sijohn for sharing those comments and thoughts and emotions with us. We will now take public comments on the proposed compact. We had originally anticipated that the length of the hearing on the proposed compact would be approximately 2 hours and obviously we are rapidly approaching that time so we once again ask speakers to be brief and to the point. We are not going to impose a time limit but normally about 3 minutes is the amount of time that is allowed and as speakers come to the podium would you please not only state your name but also spell your last name for the benefit of our recording secretary.

Glenn Ford, past Vice-Chairman of the Spokane Tribe, testified he was in the process when it first started and it has been many, many years ago. I am surprised that it has taken this long to get to where we are today, although I am glad that it looks like it is going to move forward. I am here to express my hopes that you do recommend that it move forward to the Governor. We spent a lot of time, I can remember, back at the time we first started, we were 180° from each other. I knew it was going to take a long time, I had no idea it was going to take this long. I would just like to express that everything that

has gone into it, I understand both sides that everybody worked real hard and diligently to do what was best for their people on both sides. So I would just like to thank you for this time.

Chair Ellis thanked Mr. Ford, adding he believed staff also had a written comment from Mr. Ford.

Joe Flett, Tribal Councilman/Chairman for the Spokane Tribe, testified that he also went back a long way, along with Jim and Glenn. I was here at the beginning of gaming facility for Spokane Tribe and have gone through many seasons hoping that some day we can accomplish what the tribe had dreamt about way back even before our time. I would just like to say, you know to the distinguished panel that taking this opportunity to meet with the tribe and the members of the tribe that are here today that have traveled this distance across the mountains to be here in support of the tribe, reading the compact in the recitals, the recognition of the tribes sovereign powers, and also the State's powers.

We are meeting the commitment that many of us, many of you and your forefathers have devoted, have brought to this day fruition of that thought. That to me makes something rather significant because finally I can see something that is coming together and it has taken a long time but something as important as this to the tribe and to the State. You know we have many, many great athletes in the tribe. We have jumped through many hoops, we have jumped over many hurdles and we will continue to do that no matter how long it takes to get where we want to be as a Spokane Tribe, regardless of what other Tribes within the State should want for our tribe. We should speak as individual tribes and not lump us all into one pool. We are not that way. We are Indian people although each represented tribe represents their people in their own way.

We have come in good faith, we have met the concerns as I understand of the State of the Governor and I think it shows that the commitment is truly in our hearts to do what is right. We look for the means of providing for our families, our children, our children's children. And you know this not only benefits the tribe, as someone mentioned before, but surrounding communities. We live in the area of our logging and woods work is important to our communities, but we all know, looking at the papers and being a part of that is not very good right now and there are people that are being hurt by layoffs of the timber industry. Some mills are shutting down, you know they are going to be looking for employment, they are going to be looking for something and hopefully through this, it will give an opportunity for some of them, whoever wants to, will be a part of that.

I believe that and knowing what the tribe has done with our people and as Mr. Nicodemus and other people alluded to the health insurance is important and it's a benefit and it is a truth that the tribe has a good health program. So with that, I thank you for your time and I look forward and I hope that the compact and everything is approved and one last thing, I was looking at this Commission Meeting schedule and I see nothing on the Eastside so August mark your calendars for Spokane area. Thank you.

Chair Ellis thanked Mr. Flett.

Greg Abrahamson, Tribal Gaming Commission Chairman, thanked the Tribal Commissioners, Chairman Ellis, Commissioners, Ex Officios, Tribal Members, Elders and the public for giving the Tribe the opportunity. The Tribal Gaming Commission has a body of three individuals, a full time Commission staff, and agents at all of our facilities. So we have stated before that tribal gaming is highly regulated. It is one of the most highly regulated gaming operations throughout the nation. We have tribal gaming agencies that oversee it, we have the Federal agencies that over see it, we have the compacts, we have the State agencies that oversee it.

With the license that we have right now, we have well over 300 employees. Over those 300 employees 80% of them are non-tribal people and as the speakers ahead of me said about the insurance. We do provide insurance for all these folks and it's not only a tribal issue it is non-tribal. As you know, good people without health benefits, it's very tough. In rural areas and smaller communities, we have the single mothers out there that are trying to make ends meet with children. We have tribal and non-tribal. We have them that are working right now to make ends meet and it's really tough for them. I do agree and echo what was eloquently said of my elders and previous Tribal Chairman and Tribal Councilmen and the way Rick put his presentation on, it was very self-explanatory and very good. It has been a long process. As previous Tribal Chairman and working with Rick, Jerry, Melinda it was a privilege to work with them and experience. It wasn't an easy fight, we had a lot of issues but we did come out we believe with good effort.

We worked with previous leaders, before Rick and we did come close a lot of times but there were still these parts that we couldn't come to mutual agreement with. It is nice to see now that we have come this far and it is a shame that it has taken us this long, but we have come so close and we do hope it does go forward so that the destiny of Spokane Tribe can continue to where we believe it should be. We look forward to working with you, your staff, and your agents. We work right now with the NIGC, we have a relationship with them in all the regulatory aspects so thank you and we look forward to working with you.

Chair Ellis Thanked Chairman Abrahamson.

William Matt testified he works for the Spokane tribe and has been a part of it as an employee for 19 years. I am the environmental officer/conservation officer. We come here today with our elders showing our good faith. We depend a lot on them for guidance when we do things. Bringing our elders here, as the tribe did in the past, to sign agreements with governments. We come here to show that same honesty we would have back when the time of memorial started.

In looking and hearing the other speakers, understanding what this impact would do for our tribe, we have 355 children that go to school from K1 to K12 in Wellpinit. We have another 40 students that go to Hunters, right next to the reservation. We have another 40 that go to Spring Dale which is adjacent to the reservation. All of these children come into play when we talk about this compact. We had a new birth this year of 25 new tribal members, our newborns when we are talking about education. This would allow us to move forward in our education and every single one of those kids would have a chance to move out into the public to be a part of the great American dream with being educated with enough funds for the tribe to educate these children. We all want our children and our grandchildren to prosper and for prospering we need those funds. The tribe is diligent in all their actions. We have approximately 480 elders when we talk about healthcare.

We in turn share a cross reputation with National Park service. We have \$1.5 million people that visit Lake Roosevelt. The Tribe has taken on the responsibility of assisting National Park Service, Stevens County, Lincoln County, in cross deputation as far as National Park Service and assisting those law enforcement agencies. We have our own ambulance, our own fire stations. We then go beyond the reservation to assist these people and the only way we can add more to that is to add on to this compact.

I know this is a long time coming but to us as a tribe it is a short time because we have been here since the time of memorial and there is no change there. You must take the feelings of our elders and think of our young when it comes to this. We are a very strong tribe. I would like to thank you for allowing us to come and speak and be a part. Thank you.

Chair Ellis thanked Mr. Matt.

Kristine Carter, an employee at the Chewelah Casino, testified she was here to represent many non-tribal members who are here in support of the Spokane Tribe and also of the many people that I work with here at the casino. It's basically a lot of people who I know and their families as well as my family. It would be very hard for us to work and live in the Chewelah area if we didn't have the casino. Six of my family members work at the casino with me as well as many of my friends who I went to school with. I am only 19 years old and have been able to have health care through the casino and go to school as well as many of my friends and make a decent living, be able to just live in the area. With the cost of living and the way things are and with this compact the advancements that could go on is not only going to benefit us with employment around the area but also the customers, you know tribal as well as non-tribal customers who just enjoy going there; some kind of entertainment for the small area. We don't have many things to do and this is something many people would look forward to doing everyday. I would really hope that you would push forward with this because I don't see any way it can't benefit both the State and the Tribe. Thank you.

Chair Ellis thanked Ms. Carter and asked if there were any other members of the public that would like to address the proposed compact.

Bruce Monell addressed the Chairman and members of the commission and Tribe and public. I commend the council and the tribe in bringing this whole compact together. It is a much needed arena for that area. For that particular area employment has always been difficult and so it's an important thing to bring forward, all the benefits to the tribe and so forth. I feel that you need to look just a little bit deeper at the social issues that gaming throughout the State and this compact and other compacts that will come after it to expand gambling influence. I think you need to re-look at your clauses that address the percentages, such as the percentage of money that is given back to various communities for services, social services and other things because there is a very extensive social issue that goes with this. We realize there are lots of economic benefits and there are social benefits to the tribe and to others close around. There have been studies, one in the State of Wisconsin that show the deepness of the social problems that exist with gaming and with the families of gamers and with communities in those areas. I hope the Commission truly looks at those aspects and looks at the percentage given back to various areas. I don't think it is high enough to really deal with the long term social issues that gaming brings to the State of Washington and the expansion of it in the State of Washington. Thank you.

Chair Ellis thanked Mr. Monell.

Janice Mabee, Chairwoman of the Sauk-Suiattle Tribe, in the foothills of the Cascade Mountains. We are an ancient River People and I bring greetings from the Sauk-Suiattle Indians to thank Chairman John Ellis, Commissioner Alan Parker, and other members of the Commission. I am very happy for this chance to speak here in the beautiful lands of the Medicine Creek Tribe. As a child I bathed in the ice waters of the Suiattle River and watched my father and my grandfather make shuttle-nose canoes. We spoke in our native language and I learned to hunt and fish and gather. But most importantly I learned from my elders the value of people's generosity and tradition. It is in the spirit of the teaching of the Sauk-Suiattle Indian people that I am proud of all the successes that the native tribes have made through their gaming and I raise my hand to all of those tribes that have supported them and in the same spirit the Sauk-Suiattle Tribe stands to support this Spokane compact. We wish them the same success as the rest of us. We also appreciate the Spokane's commitment to their tribe on a government-to-government basis; the small tribes and the rural tribes and have been assured that they will not hurt the gaming and the leasing tribes. Any casino monies that come to the Sauk-Suiattle Indian Tribe provide a governmental service to our people not to economic development. We have met government-to-government with both the Governor's Office and the Spokane Indian Tribe to better understand their compact. Our concerns were addressed by the Spokane Tribe by speaking with them directly and we take them for their word. Again, I raise my hands to the Commission for this opportunity and thank you for speaking this morning.

Chair Ellis thanked Chair Mabee.

Phil Charles, proud member of the Lower Klallam Tribe of Port Angeles, Washington, testified that the Lower Klallam Tribe is a very small tribe with an enrollment of about 800 members. Mr. Charles explained that he was also the Vice-Chairman of the Lower Klallam Tribe and in the company of Councilman Russell Hepper and also Councilman Dennis Sullivan. I apologize to the elders that my back is to them. We come here today in the spirit of this event of the centennial accord. We support our brothers and our sisters of the Spokane Tribe. We support their compact. We also have met on a government-to-government basis with the Governor's Office and the Spokane Tribe to better understand their compact. We had some discomfort with it at first, but our meetings with the State and the Spokane Tribe brought a lot of comfort to us to better understand their compact. We are comforted by the State and the Tribes commitment to ensure that we small tribes will also share in their success. We are a leasing tribe; we lease our machines out, we don't have a casino. We are a very rural area, very small. We support Appendix Spokane and we are very grateful for any monies that come to us through this. These monies that we receive from them help us support our health program. We have our own health clinic now. Not only does it support tribal members but it also helps support the surrounding community to non-tribal member communities. It also supports our day-care and our Head Start Program, helping to supplement monies to ensure that our children have a good start in life and that is what our life is all about, is to ensure that my children, their children, our grand-children succeed in life. We look forward to working with the State and with all the Tribes to ensure the prosperity of Indian Gaming and we urge you today to support that and to approve Spokane's compact. Thank you very much.

Chair Ellis thanked Mr. Charles.

Gabriel Galanda Indian Law and Gaming Lawyer with Williams, Kaster and Gibbs in Seattle, and Gaming Counsel for not only the Lower Elwha Klallam Tribe but also the Skokomish Nation, which Nation being a signatory to the 1855 treaty of Point-No-Point. Chairwoman Denese LaClair of the Skokomish Nation was here this morning and apologizes to each of you and to the Spokane people for having to leave to take care of Tribal business. She asked me to briefly stand before you today to echo the words and statements of support of both the Sauk-Suiattle Tribe and the Lower Elwha Klallam Tribe in support of both Spokane Tribe and the proposed compact. I won't restate that support, but will simply observe to you that we are not aware that any other tribe has ever stepped forward in support of another tribes compact in the history of this process. And here you have not only one, two, but three sovereign Governments, who as the former Chairman of Spokane said our distinct entities in their own right with distinct traditions and cultures and communities, all stepping forward in unison and support of the Spokane Nation. Thank you very much.

Chair Ellis thanked Mr. Galanda.

Chuck Cox, tribal member of the Spokane Tribe, testified he lived on the reservation for 21-years. I joined the Marine Corp, did my time. There was no work on the reservation when I got out of the Marine Corp so my wife and I came to Seattle where I went to welding school. I worked in the shipyard for 27-years and retired in 1994. I've seen a lot of things on this side of the mountains, things the tribes have done for their people with their casinos, with the machines that they have right now and going on. I ask you, look in your hearts. Look in your minds. All we are asking is the chance for my fellow people, and I have a few elders here who are older than me, and the people who went before me, went before us, just like my brother Jim said, the man he said John Keifer, he was one of the big pushers for a casino in the Spokane Indian Reservation. If we get the opportunity to have this compact approved my tribe can do the same thing that these other tribes are doing. My tribe can help the smaller little tribes. That's all we ask of you folks. To look in your hearts and put yourselves in the same position as we are now and what would you ask the people that you are asking for? To give us this opportunity to help us and we will turn around and help you and work with you and work with everybody else. We won't be stepping on anybody's toes. We take this opportunity to speak with you with open hearts and open minds to really consider this compact. That way this compact will help everybody in the State of Washington. I thank you very much.

Senator Prentice: Mr. Chairman, I move that the Spokane compact be approved as presented to the Commission and forwarded to the Governor with a positive recommendation.

Representative Wood seconds the motion.

Chair Ellis: It's been moved and seconded that the Spokane compact be transmitted by the Commission to the Governor with a recommendation that she execute it. Senator Prentice.

Senator Prentice responds, I think in answer to those that are concerned with gaming having sort of exploded in our State, remember that this is what congress gave us. This is the avenue for economic development, so however we approve or disapprove this is what we have.

Senator Prentice goes on to say that how our State gambling is structured, is a model for other States as this is how tribal relations should occur and for those of us with long memories and I am certainly one, we can't rewrite history but I believe it is time to move forward for the benefit of the tribe and the State. I know that you will do what I've seen others do in addition to the benefits you've talked about, the preservation of the language, the preservation of the culture and this should be important to all of us.

Senator Prentice appreciated that tribal members came to discuss the compact with her several times. they listened and they discussed this with respect and she appreciates that it's very clear that they listened. The reference to those of us with loved ones that have gone, I guess I would have to put myself in that category and it has occurred to me that as I traveled through tribal territory, my husband would accompany me and it occurred to me that he would certainly be cheering me on, coaching me, telling me what to do because after we had visited every tribe we discussed the new insights that we had gained as people that we respect have informed us. So I will be voting yes on this compact.

Representative Wood: It is kind of a shame we can't be sitting in the circle as tradition has it but the circle of life is represented here. More than 20 years ago I was working as a reporter at KHQ in Spokane with Jamie Sijohn and here we are more than 20-years later, she's in the audience and I'm up here as one of the 9 people who will finally, hopefully put a lot of this behind us and move on from here.

I'm sorry it took so long and my thanks to the people in our Legislative session, a lot of it happened in the last week and for everybody, I can't name you all but just look around and if you see people who look like they haven't gotten a good nights sleep in about a week and a half, they haven't and I thank you for everybody that has worked so hard here at the end to bring this to closure. I am so proud. It's one of the days when you get to think about how proud it is and what a privilege it is to be an elected official and get to do things like this. Thank you for all the tribes because government-to-government State to the Spokanes in this instance, but all of the tribes now, it's broken down a lot of barriers there. The treaty of Ft. Laramie in 1851 was done in 2-days and it lasted about 2-days. This takes longer, but it will last. Thank you.

Senator Delvin: This is a good morning diversion from other Legislative duties I am use to doing so I appreciate that. I sincerely appreciate the Spokanes Tribe to moving forward in the process after so many years of not having a compact and coming into the compact system as the other tribes have. I really do appreciate that and this last week taking the time to meet with me to and discussion my concerns and the issues I have with the compact.

For others here is a little background. When the Legislature made the policy to have gambling in this State and the way that the Legislature has input on the gambling activities was to put us Ex Officio members on this committee. One from each caucus so I represent my caucus; you represent the elders who represent their tribe, I represent my caucus. And we've had discussions on the broader topic of gambling to begin with but also on Indian gaming.

So, and my own philosophy is, I don't have anything against gambling, you know it's a choice to make and there are issues socially sincerely with that as there are with any other vice that we regulate in this State, be it drinking or others. But I always thought that there ought to be a fair competitive for Indian vs. non-Indian that there ought to be, if you

are going to have gambling let it be fair. I understand certainly the tribes needs in the State for economic development and a way to pull them forward in today's economy, I can certainly understand that.

The one issue that I still do trouble with and the reason why I'm going to be voting no, is the machine limit policy that was put into this compact and it will probably be in other compacts to come, because it is a change of policy in the sense that I see it, although I would argue it a change of policy in changing that limit that has always been out there and talked about.

And I would like to sit down and maybe that is part of the process that doesn't work really, is the negotiating of these compacts because we get the compact at the end and then it is up to a yes or no vote for us. So maybe in the future, I'd like to certainly work on that on how that negotiation takes place, so we as policy people have a bigger input in the negotiation and that compact and it certainly would help a lot.

So, again I certainly appreciate the Spokane Tribe for coming forward, coming in the compact system, I mean making those leaps of faith with the State of Washington. I do really appreciate that and thank you for that and that is all I have. Thank you.

Representative Curtis: You know I enjoyed visiting with the Spokane Tribe. They are very nice people and I have enjoyed watching this process for the short period of time that I have been on this Committee. I'm doing a lot of catch-up. But I am not new to the gaming industry and understanding it and I think that the Spokane Tribe probably epitomizes why we have IGRA. They need gaming to have a viable economy. And I think that is appropriate and I don't question the Federal Government's decision in giving it to them and I actually have a very good sense I believe in what direction this vote will go.

But I find myself in a position sitting on the healthcare, education, and transportation committees, all of those are significantly impacted by gaming. But without revenue sharing I find it difficult to vote for this contract.

I understand that the Spokane Tribe wants, offered to do negotiations on revenue sharing, I wasn't on the committee at that time. I understand why it was pulled off the table. I don't believe that you can exchange one good economy of the non-tribal gaming for having tribal gaming, but I do believe that we do have to develop a way to try and develop a formula for us to support the impacts of gaming. We have many senior citizens that are bussed up to gaming facilities that are sitting at slot machines and then I see them come testify the next week in the healthcare committee about not being able to afford the pharmaceuticals when in fact that is a choice and I understand that. But we have no way of offsetting the damage of that choice.

So I am going to vote no on this compact representing my caucus, but I want the message to be that I am willing to negotiate. I want to find a way to make things work and I don't want to create animosity. I think we all need to live here together and make things work together. So with that message, and I pretty much do what I say I am going to do. So, I would like to make sure that the Spokane Tribe understands why I am voting no, it's not necessarily against their right to game, I believe we could have had a better compact. Thank you.

Commissioner Parker: I want to congratulate the leadership of the Spokane Tribe. I think that was probably one of the most strategic presentations that we've seen, if not the most in support of their compact. It's also very impressive that you have added expressions of support forthcoming. I was very pleased to hear Senator Prentice express her support. I have tremendous support for her commitment and her knowledge and her expertise, so I would like to join in expressing my support for this compact and look forward to voting in favor of it. I respect the other Ex Officios in their position, I think that they have to vote as they see fit but I just wanted to again congratulate the Spokane, I think it is a model of the government-to-government negotiation process. In negotiation you know you don't get everything that you want, but speaking as a Commissioner there may be things that I would rather see in this compact but I think it's a product of some of the best efforts of both sides and I think it deserves to go forward.

Commissioner Niemi: Mr. Chairman, I was in the Senate in 1988 and I was very pleased when we began to set up these tribal negotiations and the compacts. I understood the benefits to the tribes and I think from what I have seen since then the tribes have indeed fulfilled what we had hoped would happen. I have seen many, many benefits probably for all of you in Spokane. You know that there are not as many benefits in Eastern Washington than along the I-5 corridor, but I am sure that you also will be able to benefit from the casinos. Since tribal gaming has been allowed by the federal government, this past year tribal gaming throughout the United States brought in \$22 billion dollars in gross revenue. That is probably not too surprising, but on the other hand all gaming in Las Vegas only brought in \$6.5 billion; so the tribes are really coming up. In this State last year, tribal gaming brought in \$1.2 billion dollars. I would anticipate that along with the Spokane and the other gaming tribes, it will be up to at least \$3 billion in a couple of years. You also know that we have reached a peak in the number of machines that we initially had and the other tribes, when they start, are going to be asking for more machines. I think anybody who is concerned about the expansion of gambling will have to realize that gambling is going to increase, which is not a concern of mine. Everyone in this room may or may not know, but every other state in the United States that has tribal gaming also has revenue sharing. We are the only state that does not have revenue sharing. Now I understand the Spokanes were willing to have revenue sharing, but that was not accepted by the administration. I question whether it is fair for the rest of the people in the state of Washington that all other states have revenue sharing and the Washington tribes do not have revenue sharing.

I realize the other tribes are going to come back and are now requesting more machines. I realize the incomes are going to go up and I think we all need to think deeply that we are not like everybody else in the United States. I also would like to say that I understand about all these years that have gone on in Spokane negotiations and I would like to compliment our Attorney General Jerry Ackerman our Director Rick Day and the other members of our staff and all the people from the Spokane Tribe that have tried so hard and have done so well. I will be voting against this compact because it lacks revenue sharing, but I am not voting against the Spokanes and I am very glad that you will have a compact.

Commissioner Bierbaum: I am relatively new to this Commission having served on the Commission for only 18 months so I necessarily look to the people who have been involved in the process so much longer than I have in weighing my decision and making a decision on this compact. I particularly weigh heavily on the opinion of Senator Margarita Prentice who has been involved in this process for so long, as well as fellow Commissioner Alan Parker. The fact that those individuals support this compact weigh heavily in my decision to support the compact as well. I was also very impressed. One of the first things that I experienced when I came onto the Commission was the Spokane Tribes, Jerry and Rick having to go back to the Spokane Tribe and tell them that their compact, which they had worked so hard for, that we were going to have to take 18 steps backwards. And the willingness of the tribe to nevertheless continue the negotiations, even in the face of what may have felt like a bait-and-switch; although it wasn't. So I want to applaud the Spokane Tribe for keeping at this process for so long and I am voting in favor of the compact.

Commissioner Rojecki: With serious brevity here we can always remember the past and how we got here today. It's history so let's carry on, let's move on and let's vote.

Chair Ellis: Let us all remember that model of brevity. I doubt that it will ever be surpassed. I too will be brief, I am going to vote in favor of the compact. It's going to bring to an end many years of contentious litigation and bring the Spokane Tribe into the fold and into the framework of the State. I think the very admirable State regulatory setup for class III gaming. The benefits of the compact to the tribe to other tribes, to smaller tribes, to local communities have been explained in detail and I won't reiterate those, but I will simply say for all of those reasons that have been described by many speakers I am certainly going to vote in favor of the compact.

So unless there are more comments by Commissioners and seeing none, all of the Commissioners in favor of the motion to send the compact to the Governor with a recommendation that she execute it after review, signify by saying aye.

Commissioners Parker, Bierbaum, Rojecki, Senator Prentice, Representative Wood, and the Chair vote Aye..

Chair Ellis states that is 6 aye votes. All those opposed to the motion, signify by saying nay.

Commissioner Niemi, Senator Delvin and Representative Curtis vote Nay.

Chair Ellis: I believe that is three nay votes so the motion is adopted 6 votes to 3 votes.

Senator Prentice made a motion seconded by **Representative Wood** that the Spokane Compact be approved as presented and forwarded to the Governor with a positive recommendation. *Vote taken, the motion passed with six aye votes and three nay votes (Commissioner Niemi, Senator Delvin, and Representative Curtis voted nay).*

Chair Ellis announced that the compact would be transmitted to the Governor with the Commission's recommendation that she execute it. Chair Ellis stressed how much we value the work that has gone into this compact, particularly the work that the Spokane Tribe and its negotiators and elders and the entire tribe have put into it. After the first draft was rejected they were willing to go back to the table and show good faith and be flexible notwithstanding the years of contentions both ways. Chair Ellis thanked the negotiating team of Rick Day and Jerry Ackerman for their persistence and for their willingness to return to the table after the product of their labors was rejected. He also thanked his fellow Commissioners for their efforts and participation in putting this together, particularly Senator Prentice who as always is a stalwart as well as an institution as she has been involved in these matters for many years, as Commissioner Bierbaum emphasized. We all rely on her a great deal. So the Compact will go to the Governor. Chair Ellis thanked everyone for their participation and called for a ten minute recess at 11:40 a.m. Chair Ellis reconvened the meeting at 11:50 a.m.

10. Approval of Minutes:

Commissioner Niemi made a motion seconded by **Commissioner Bierbaum** to approve the minutes of the regular meeting of January 11-12, 2007, as presented. *Motion passed unanimously.*

Rules Up for Final Action

11. Petition for Rule Change – Recreational Gaming Association

WAC 230-40-835, WAC 230-40-865, WAC 230-40-870, WAC 230-40-885

Ms. Heston reported that these are the rules having to do with the accounting staff coming in other than on the weekends to check the triplicates of credit and fill slips from the locked container in which they are held. This rule has not changed and staff recommends that it be adopted and the petitioner requests that it take affect 31 days from filing. **Chair Ellis** asked if there were any input pro or con or otherwise from affected members of the industry since the last meeting. **Ms. Heston** affirmed and directed Chair

Ellis to two letters contained in his agenda packet. **Chair Ellis** recalled that both of those letters indicated support for the rule change as proposed.

Dolores Chiechi asked the Commission to support the petition.

Commissioner Niemi made a motion seconded by **Commissioner Rojecki** to adopt amendatory sections WAC 230-40-835, 230-40-865, 230-40-870, and 230-40-885, as presented by staff. *Vote taken; the motion was passed unanimously.*

Rules Up for Discussion and Possible Filing

12. Rules Simplification Project

WAC 230-07 – Charitable and nonprofit rules.

Ms. Heston moved on to Item 12, explaining this is a rule that is up for discussion, possible filing and it is a rules simplification chapter for Charitable and Nonprofit Rules. This was intended to be filed at the January Commission Meeting but we had a clerical error, it was not on the agenda so it is being filed today. As far as substantive changes within the chapter there are very few. One is on page 6 of the chapter and this is a change mis-headed. It's a proposed change to chapter 07 not to chapter 10. The second thing is that what was discovered was that in looking at the chapter we had various time periods listed for licensees reporting financial data. The intention was, the rule said calendar year, license year, fiscal, preceding 12-months and in looking at the RCW it was discovered in the statute that it has to be the 12 consecutive month period preceding the date of application for a license or license renewal. The rules were and reviewed and changes to all the dates were made to match the requirement of the RCW. **Ms. Heston** stated there was one more that I would point out and that is on page 46 regarding some changes to recording. There was an inconsistency within the rule. At one point it said that there was a \$500,000 limit for dollar amount that licensees must exceed in order to perform certain accounting procedures. Later in the rule it said \$300,000, which was changed so both said \$500,000.

Commissioner Rojecki made a motion seconded by **Commissioner Bierbaum** to accept for filing and further discussion new section WAC 230-07, as presented by staff. *Vote taken; the motion was passed unanimously.*

13. Rules Simplification Project

WAC 230-10 – Bingo rules.

Ms. Heston reported that the only two big changes to the bingo rules are; the first of those is on page 2 and this has to do with changing the amount of time licensees have to keep records. There were multiple amounts of time, 1 year, 2 years, 3 years and what we did was simply roll the majority of record keeping material into the bingo daily records which have to be kept for two years so that it is less confusing to licensees about what part has to be kept. And there is a list of the rules that are affected by that on page 3. The other major change to the chapter was that there were rules in the WAC for Keno

Bingo. However, Keno Bingo has never been played, even after someone petitioned to have Keno Bingo put in the rules, it was never operated and no one is operating it now and no one plans to operate it in the future. All those rules have been repealed and next month's Commission packet will have those rules with strike through to indicate that.

Chair Ellis asked if there were any questions of Ms. Heston by members of the Commission. There was none. Chair Ellis opened the public hearing.

Ronnie Strong, commented on some rules that were moved and put in the places, wanting to make the Commissioners aware that there are some changes that need to be worked out to get those back in the proper spots. He indicated they would like to work with Ms. Heston to get those things taken care of.

Commissioner Bierbaum made a motion seconded by **Commissioner Niemi** to accept for filing and further discussion new section WAC 230-10, as presented by staff. *Vote taken; the motion was passed unanimously.*

14. Business/General Discussion/Comments from the Public/Adjournment

Chair Ellis called for any comments from the Commission. **Director Day** recognized Melinda Froud for her work putting all the compact language to life and Gail Grate for bringing all of that into a document. They do a tremendous job.

With no further business, **Chair Ellis** adjourned the meeting at 12:05 p.m. and noted the next commission meeting would be conducted in Olympia at the Red Lion Hotel.

Minutes submitted by,
Carol Kell, Secretary Administrative