

**WASHINGTON STATE
GAMBLING COMMISSION MEETING
FRIDAY, FEBRUARY 15, 2013
APPROVED MINUTES**

- PUBLIC MEETING -

Chair John Ellis called the Gambling Commission meeting to order at 10:00 a.m. at the Tumwater Comfort Inn Conference Center and introduced the members present.

MEMBERS PRESENT: **Commissioner Chair John Ellis**, Seattle
 Commissioner Vice-Chair Mike Amos, Selah
 Commissioner Kelsey Gray, Seattle
 Commissioner Margarita Prentice, Renton

STAFF: **Rick Day**, Director
 David Trujillo, Deputy Director
 Mark Harris, Assistant Director – Field Operations
 Amy Hunter, Administrator – Communications & Legal
 Callie Castillo, Assistant Attorney General
 Michelle Rancour, Acting Executive Assistant

Agenda Review/Director's Report

Director Rick Day identified additional material that was provided to the Commissioners: a revised agenda; his letter of resignation; a news article; the federal relations procedure; House Bill 1824 regarding reducing the penalty for a person conducting unlawful internet gambling; Senate Bill 5732 about enhanced raffles, which is the Special Olympics bill; Senate Bill 5552, which is the gambling receipts intercept program; a chart relative to Senate Bill 5732; a proposed amendment that is under consideration for House Bill 1295; and a memorandum and a biography from Lisa Benavidez, the Human Resources and Training Administrator. Director Day briefly reviewed the agenda, pointing out the Commission was fortunate to have Suquamish tribal members present to talk about their problem gambling efforts. He explained there would need to be an executive session to discuss pending investigation, personnel matters, tribal negotiations, and litigation, which should last approximately one hour.

Director Day explained the purpose of the monthly management report from Business Operations Administrator Judy Pittelkau was to inform and update the Commission on the budget status. The working capital balance for December was just over the planned level. December is usually the largest revenue month and was just slightly under projections, which means the agency is pretty much on target with revenue. Expenditures were also below

allotment, and the FTEs were below the budgeted level. Taking all these factors into consideration, the commission budget is moving forward as planned. He explained that Ms. Pittelkau would be available later this year to provide the Commission with a more detailed revenue report and projections, and she would bring forward any supplemental budget changes, most of which are legislatively directed.

Chair Ellis said he had noticed that Ms. Pittelkau was not in the audience to answer any questions or absorb any comments the Commission might have, but commented that her responses were always impeccable and fully satisfactory. He mentioned a report presented to the Commission earlier in 2012 about the agency previous year's accomplishments, which showed 142 FTEs, which are 11 under the budget level. He noted that stood and he wondered how the agency accomplished all that work with such a significantly reduced staffing level. He asked if the 11 FTEs the Commission was currently down were ones that were being filled or if some of those positions were ones that were not planned to be filled. **Director Day** explained it was a combination: the agency does not plan to fill some of those positions at this point, but they are being kept open to see how that works in the future, and others are vacant. He added the agency has been fortunate that it has been able to obtain and fill a number of agent positions, so it has definitely made some progress on that side of the coin. **Director Day** indicated that staff continually tries to work the FTE levels so that in the end they are confident the revenue level will support the expenses. He thought the authorized FTE count was about 40 lower than it was in the late 1990s, and thought it was good work to be able to continue to do the job and not dramatically expand the staff levels. **Chair Ellis** agreed that was exactly right.

Director Day asked the Commissioners to let him know if at any time they wanted additional budget information. He said he would let Ms. Pittelkau know that the Commission missed her presence and ability to respond to questions. **Chair Ellis** stated he appreciated her overview very much.

Director Day reported that, at the end of last month's meeting during the public comment period, an individual came forward with a complaint regarding a progressive jackpot play. The individual was expressing concern about being barred from participating in a card game with a jackpot. He pointed out a memorandum prepared by staff to the Commission following up on that complaint. The memorandum summarizes our agent's conclusion that the business followed the WAC. The complaints were properly referred and the complainants were advised that in the event they felt the barring in that particular case was based on discrimination, they should bring that complaint to the Attorney General, as allowed for under the statute. Assistant Director Mark Harris reviewed the conclusions and the process, which is reflected in the summary memorandum included in the agenda packet. He also talked to the complainant in the matter. **Director Day** pointed out the "Commission Staff Response to Petitioner's Objection" that was filed since the last meeting in response to the Chair's invitation during the hearing.

Director Day reported that he had accepted a position as the Executive Director with the Massachusetts Gaming Commission. His resignation is effective March 15, 2013, so this would be his last Commission meeting. He said he had appreciated the last 11 years and the

Commission's confidence and support and felt very privileged for having had the opportunity to work with all of the Commission and its great staff. He joked that, if he had his way, he would just take this Commission's 150 people and place them in Massachusetts so he would not have such a complex job. He felt he was definitely privileged to have worked for this agency. His experiences in Washington form a central part of the knowledge he needs and will play an important role in creating the Massachusetts Gambling Regulatory Agency. The agency currently has a very small contingent, including a full-time Commission, and will be responsible to bring up an entire regulatory structure. The job will be very challenging, not to mention the part about moving all the way to Boston. Director Day recommended the Commission consider and appoint Deputy Director David Trujillo as Acting Director. He explained it was important to appoint an Acting Director for a number of reasons ranging from legal delegations like summary suspensions, rule making, and negotiations, and to ensure a steady leadership for staff as the Commission considers how they might ultimately design a process or replace this position. He said it was difficult for him to think of someone that was more qualified than Deputy Director Trujillo, whose biography includes two degrees, one a Bachelor of Arts (liberal arts degree in Parks and Recreation) and a Bachelor of Science in Accounting. DD Trujillo started with the Commission in 1992 as a Special Agent and has worked in Field Operations, Financial Investigations, and Tribal Gaming. He was a supervisor of the Criminal Intelligence Unit before being promoted to the Assistant Director of Licensing Operations. He became the Deputy Director of the agency in July 2009. DD Trujillo is a certified public accountant and has completed the Basic Law Enforcement Academy and holds a certification. Director Day pointed out that DD Trujillo received the Washington State Leadership award from the Secretary of State a few years ago and has completed the FBI Law Enforcement Development series. Director Day would appreciate the Commission's consideration of his recommendation.

Chair Ellis stated the Commission would have liked to have another occasion to acknowledge the excellent work that Director Day has done over his 11 years with the Commission. But since this was his last meeting, Chair Ellis expressed the Commission's recognition that Director Day and his wife Jan are undertaking a big adventure in their lives moving to the East Coast. As Director Day said, he was taking on the opportunity to start with an agency in which he will have to fill, directly or indirectly, 150 odd positions in quite a political climate. Chair Ellis said it was a big task, but there was certainly no question that Director Day was up to it. The Commission is very reluctant in accepting his resignation, but Director Day has certainly done an outstanding job here, which all of the Commissioners, members of the Legislature that are familiar with the Commission's work, and the stakeholders are well aware of. Speaking for all the Commissioners, Chair Ellis said they have enjoyed working with him as their Executive Director. They very much regret, but are excited with, his departure, given his new undertaking. The regret is a little tempered, by the fact that Director Day was leaving a highly qualified successor in Deputy Director Trujillo. Chair Ellis read from a letter received from Governor Jay Inslee addressed to Rick Day, Executive Director of the Gambling Commission:

Dear Rick, as you prepare for the next phase of your professional journey, I would like to take this opportunity to express my appreciation for your dedicated service as Executive Director of the Washington State Gambling Commission. Your leadership over these last 11

years helped to build a fair and effective gambling regulatory and enforcement program in an office that was always responsive to the evolving gambling industry.

I applaud your expertise and professionalism and know that your passion and presence will be sorely missed. Again, thank you for your hard work and dedication. Please accept my best wishes for continued success and fulfillment of all your future endeavors.

Director Day thanked Chair Ellis for his kind words, adding that from his perspective, it only works as well as the kind of staff they have, so he considered that round of applause to be for everyone that makes up the agency.

Hiring Report:

Chair Ellis thanked Ms. Lisa Benavidez for the extra hours she put in on the following presentation.

Ms. Lisa Benavidez, Human Resources and Training Administrator, replied she wished those hours were for something other than Director Day's resignation. Ms. Benavidez explained she would be providing the Commission with some information on what their requirements are in filling the position that Director Day is leaving. The Gambling Commission is a little bit unique in how its Director is appointed. It is not bound by any decisions made, or appointments made, by the Governor's office. Those appointments are made directly by the Commission of the agency. The Commissioners will decide whether they want to directly appoint an Interim Director, which Director Day has recommended, or they can do a permanent appointment of a Director. If the Commissioners feel they have someone who is qualified and meets the requirements of the position, they are not obligated to appoint an Interim Director. If they choose to appoint an Interim Director, it would allow them to either test drive the Interim Director or embark on a recruitment process. Ms. Benavidez recommended that if the Commission chooses to embark on a recruitment process, they seek assistance from an executive search firm. While the Commission does have a very competent HR staff, they are not as experienced nor have the expertise to recruit for a position at that level.

Ms. Benavidez explained that along with the rights and responsibility to appoint an Executive Director, the Commission is also the body that sets the salary for its Director. Ms. Benavidez recommended that regardless of the type of appointment – whether it is an interim appointment or a permanent appointment – the Commissioners appoint a Director at the same salary as Director Day is currently receiving. There is the assumption that the new Director would be assuming the full scope of duties that Director Day currently has. It is understood that Director Day's salary is set in consideration of other like agency directors, either in size or scope and Ms. Benavidez felt it was appropriate to appoint the new director at that same salary. The Commissioners have information before them showing how Director Day's salary was set. Using the information from the State Commission on Agency Executive Salaries, we group ourselves with like agencies, determine what our agency director's maximum salary will be, and then set the salary accordingly. It does allow some room for growth and development in the position. Currently the Director's salary is \$129,168, which takes into account the 3 percent

salary reduction that went into effect for all state employees on July 1, 2011. It is presumed that salary will be reinstated June 30, 2013, at which point the new director's salary would be \$133,157 annually.

Chair Ellis thanked Ms. Benavidez for her presentation and for preparing an excellent memorandum on short notice. He asked if there were any questions; there were none.

Chair Ellis said the Commission has several decisions to make and suggested starting with probably the easiest of the decisions, which is Ms. Benavidez' recommendation of a new salary maximum for the director. He suggested not talking about Director Day's current salary or any other proposal with regard to a specific person as such, but rather looking over the passage of time since the Commission set the current maximum salary for its Director back in 2007 – Chart B attached to the memorandum. The current maximum salary for the Gambling Commission director is \$136,500, which was set to coincide with the midpoint between a few agencies (Information Services, Fish and Wildlife, etc.) that were above the Gambling Commission director's salary – those agencies were then at \$147,000 – but was above some agencies whose director's salary was deemed to be appropriately somewhat less than the Gambling Commission's director. Back in 2007, as the chart shows, the Commission set the maximum at \$136,500. Over the passage of time, the agencies that were to be immediately above the level of the Gambling Commission director have edged up and are now significantly higher than they were. They are all currently at \$151,705 as the maximum salary for the agency head, as is shown in the first column of dollar amounts on Chart A. Chair Ellis thought it was pretty much of a housekeeping matter for the Commission to start by adjusting the maximum salary for its agency director, as recommended by Ms. Benavidez, at \$140,868. He asked if there were any questions or comments about that issue; there were none.

Commissioner Amos made a motion seconded by **Commissioner Gray** that the Commission increase the new salary maximum for the Gambling Commission Director to \$140,868. *The vote was taken; the motion passed with four aye votes.*

Chair Ellis saw the remaining issues before them as, number one, whether Deputy Director Trujillo should be appointed at this point to succeed Director Day and if so whether that should be on an acting or a permanent basis. Chair Ellis had anticipated that issue might best be discussed during their executive session, since the Commission has the authority to discuss the qualifications of an applicant for the office in executive session, but after talking to the Commissioners before the meeting, he felt that was probably unnecessary. There is a sense that Deputy Director Trujillo is admirably well qualified to fill the role of Director, at least on an acting basis. Chair Ellis said he did not know about the test drive concept. He asked if any of the Commissioners would prefer to discuss this topic in an executive session, or deal with it right now. **Commissioner Gray** replied now. **Commissioner Amos** agreed with doing it right now.

Chair Ellis said he had also gotten the sense from each of the other Commissioners that they felt that although they may ultimately appoint Deputy Director Trujillo as the permanent replacement for Director Day, it would be appropriate to make the appointment at this time on an acting basis

to give them an opportunity, perhaps at the March commission meeting, to consider whether to have a recruitment process to look at other candidates and what the timing and nature of that process should be. He asked if any of the Commissioners would like to address the issue of whether an appointment of Deputy Director Trujillo should be acting or permanent.

Commissioner Prentice said she believed the Commission was fortunate to have someone as well qualified and someone they know and trust and have watched close up for a long time like Deputy Director Trujillo. She thought that as a matter of absolute fairness and openness, they at least say there might be somebody who could outshine anyone the Commission knows. She wanted to be careful that the Commission does not appear as if they have slammed the door on anybody else. **Commissioners Gray** and **Amos** agreed with Commissioner Prentice.

Commissioner Gray made a motion seconded by **Commissioner Prentice** that the Commission appoint Deputy Director Trujillo as the Acting Director effective on Director Day's leaving.

Chair Ellis asked if Deputy Director Trujillo had any words of defense. **Deputy Director Trujillo** responded that if he was appointed, he would do his best to minimize the bumps in the road during this test drive and thanked the Commissioners for their comments. **Chair Ellis** recalled the Commission had already had a bit of a test drive about a year ago during the period when Director Day was undergoing surgery and recuperation when Deputy Director Trujillo was the Acting Director of the Commission.

The vote was taken; the motion passed with four aye votes.

Chair Ellis said the last issue was the appropriate salary level for Deputy Director Trujillo as of the time that he becomes the Acting Director. Ms. Benavidez had recommended that his salary be set at the same level as Director Day's annual salary of \$129,168, since he will be taking over the responsibilities fully that Director Day currently has. Chair Ellis asked if there was any discussion of the issue of the appropriate salary. **Commissioner Gray** said that if Deputy Director Trujillo was going to be doing the same work that Director Day had done, he should get the same salary. **Commissioner Prentice** affirmed.

Commissioner Amos made a motion seconded by **Commissioner Gray** that the Commission authorize an annual salary of \$129,168 for Acting Director David Trujillo. *The vote was taken; the motion passed with four aye votes.*

Chair Ellis commented that, as Commissioner Prentice said, the Commissioners all feel very fortunate to have Deputy Director Trujillo in place. He said he had a brief conversation a few days ago with the Chairman of the Massachusetts Gaming Commission, and he detected a significant tone of regret and jealousy in his voice when I indicated to him that it seemed that we had a fine candidate on staff to replace Director Day. Massachusetts went through quite a process, starting with more than 100 candidates before they got down to hiring Director Day. Chair Ellis suspected the Commission's process would be significantly easier. It is rewarding to all of the Commission to have Deputy Director Trujillo to step into Director Day's shoes, at least

temporarily. He thanked Ms. Benavidez for all of the excellent work she did to make this job much easier for the Commission than it might have been.

Legislative Update

Bills with Direct Impacts on the Commission

Ms. Amy Hunter drew attention to the information from the Governor's Office about a federal relations procedure that advises agencies to make sure that if they are communicating with members of Congress, their staff, or high-level federal agency personnel, that the agencies run those communications through their D.C. office, meaning the Washington State person who is in their Washington, D.C., office. This would apply to correspondence and high-level phone conversations. Ms. Hunter pointed out her memorandum that covers bills with significant impact to the Commission. The cutoff date for bills to make it out of the original policy committee is February 22. She reported that staff recommends the Commission be neutral on several bills that have more direct impacts on the Commission. If they feel that a different position would be better, staff would be happy to hear the Commission's direction. In the past when the Commission has been close to taking a position on a bill, they have typically invited the audience to share their comments. She said this is proving so far to be the session of fiscal notes, so staff are being requested to do a lot of fiscal notes and are on top of tracking the bills. A few of those fiscal notes were included in the agenda packets, usually at the end of the bill. There was one fiscal note due yesterday, two more due today, and another one due on Tuesday.

- House Bill 1403, which has a companion bill, SB 5680, adds the Gambling Commission and 12 other agencies to the list of agencies that must "fully participate" with the RCW that deals with Business Licensing Services (BLS). The bill explains that "full participation" means providing every application and information about our requirements to the Department of Revenue (DOR), which is the agency that handles BLS. This does not mean that all agencies' applications would be available for use on BLS, but means that the agency has to make sure that DOR has those applications. If they cannot be submitted then the agency has to submit a progress report to DOR. That progress report would be sent to the Governor and to the Economic Development Committee each year. Ms. Hunter thought this had to do with an audit that the Auditor's Office did about looking at online processes and applications, but it is not full participation in BLS. Staff was asked to do a fiscal note, which is in the agenda packets. Staff estimates it would cost about \$3,000 in the first year to get all of the applications over, and then \$500 each subsequent year to send that. The Commission has applications for 38 business licenses, which are for organizational licenses. This bill does not impact individual licenses, so card room employees would not be part of BLS. The House bill had a hearing, but has not yet been scheduled for executive action. The Senate companion bill has a hearing on Tuesday.

Chair Ellis asked if there were any confidentiality problems, recognizing that Ms. Hunter was not talking about applications from individuals but rather applications from organizations, since an extensive review of applications is done and staff gathers information from various sources, including the criminal database. He asked if there were any confidentiality concerns in simply turning all of the applications over to DOR. **Ms.**

Hunter replied it was blank applications that are to be submitted, not completed applications. Otherwise, that would raise the whole host of things like confidentiality.

- House Bill 1198 requires training of public officials and employees regarding public records and open public meetings. Very similar bills have been introduced in the past. The Commissioners, as members of the governing body, would also be required to take these courses. The bill has been streamlined down from what it had been in past years and now would only require that the records officers go to this training. Before, it had required that almost all employees go to the training, which may be part of what stopped it in the legislative process. The House committee heard the bill and took executive action on it, and then referred it to the Appropriations Subcommittee on General Government.
- House Bill 1197 concerns open public meetings, which would involve the Commissioners. It would require that if someone wants to testify before the governing body they need to provide their name and address. It is not required if the person just wants to be in the audience. It also requires agencies to allow public comment before taking final action on any type of rules, regulations, orders, or directives, which the Commission already does. This bill is not quite past the first cutoff date. The Committee heard the bill and has scheduled it for executive action next Tuesday. Assuming action is taken, it will have made it through the cutoff.

Rulemaking Related Bills

- House Bill 1162 requires agencies to determine whether compliance with a rule is going to result in a specified economic impact, which is defined as being \$500 if it is an individual or \$1000 if it is a business. The Commission would need to consider that before they adopted a rule. If the Commission determines the rule would have that impact, then staff would have to provide notification to the Legislature and not enforce the rule until it was enacted by the Legislature. The bill did get a hearing but so far it has not moved out of committee and has not been scheduled for executive action. Ms. Hunter suspected the bill had probably ended its journey at this point.
- Next is House Bill 1478, which would impose a moratorium on rule making, except in certain specified instances, until July 2016 or until the state is no longer facing financial deficits. No hearing has been held on this bill.
- House Bill 1163 is a 110-page bill, which was not included in the agenda packets. Ms. Hunter explained the bill would impose a moratorium on formal rule making by state agencies for three years. It does not prohibit agencies from repealing rules. The bill provides exceptions to the moratorium and also requires approval by the Legislature for certain rules before taking effect. It did have a hearing on Tuesday, but has not been scheduled for executive action.

Statewide Budget Bills

- HB 1057/SB 5034, making 2013-2015 operating appropriation, is Governor Gregoire's budget proposal. Governor Inslee has not yet proposed a budget, so staff is currently working on Governor Gregoire's budget proposal. Governor Gregoire's bill would restore the 3 percent temporary salary reduction that began in July 2011. It would also implement a new longevity step and add a 1 percent salary increase effective July 1, 2014, if certain requirements and conditions are met. The longevity step deals with general service employees that have maxed out in their salary range; about half of the Gambling Commission's staff are general service employees. The bill would increase the employer funding rate for insurance benefit premiums. It is a large bill, so the House Committee on Appropriations has heard it on a couple of dates. The Senate has not heard the bill yet.

Other Bills

- House Bill 1014 designates the Friday following Thanksgiving as "Native American Heritage Day." The bill had a hearing, is out of Committee, and is now in House Rules Committee.
- House Bill 1714, which changes open public meetings provisions, deals with executive sessions. It authorizes a governing body of a public agency to record its closed executive sessions. Ms. Hunter was sure that, if the bill passes, AAG Castillo will have advice for the Commissioners on it. The bill also allows the Attorney General's Office to provide training on the Open Public Meetings Act and approves an acceptable course of training. It then requires if someone has gone to that training, there would be a type of certification that the person could receive. This bill is scheduled for hearing next Tuesday the 19th.

Commissioner Gray asked if, since the Commission does open public meetings, this would also be in executive sessions. **Ms. Hunter** affirmed that when the Commission goes into their closed session, which they can only do for certain reasons, they would be able to record those closed sessions if they had an interest in doing so. **Commissioner Gray** asked if that would be required. **Ms. Hunter** replied it would not be required.

Ms. Hunter reviewed the four bills that would have more direct impacts on the Commission.

- House Bill 1295 appears to be a policy bill that deals with modifying the powers and duties of the Commission. This is a proposed amendment that was scheduled for executive action yesterday in the Committee, but they delayed action on the bill until Tuesday. The bill deletes Section 11 of the Commission's powers and duties and gives that power to the Legislature. That section deals with wagering limits, and the bill states that the Legislature retains sole authority for approval of any expansion or enhancement of the scope and manner of approved gambling activities and any increase in the maximum wager money or other thing of value that may be wagered or contributed by a player in any gambling activities subject to the chapter. Depending on how terms are defined, Ms. Hunter thought there were three categories of things the Commission does and some things that staff does that could fall into these different approvals. The Commission has some petitions for rule

making that deal with wagering limits plus a lot of other rules. In the past three years, the Commission has dealt with about 38 petitions from the public. Those would not necessarily be wagering limits, but they could be an expansion or enhancements. Enhancement is not a defined term, so it is hard to say what that would mean. The third category is staff approvals. Staff looks at about ten new amusement games every year and approves 250 poker tournaments a year. These are things staff approve that do not rise to the level of the Commissioners. There were over 480 gambling promotions last year, about 400 player-supported jackpot schemes, about 25 new or modified card games, about 10 new or modified gambling equipment submissions, and changes of hours for card rooms.

The House Committee on Government Accountability and Oversight heard the bill on February 7. Ms. Hunter attended the hearing and let them know that the Commission had not met and did not have a position on the bill. Ms. Hunter said she went over the three different approvals she just went through. She said she explained she was there to answer questions and provide technical assistance. She was asked if she thought the Commissioners would be against this. She replied that she did not know, but thought the Commissioners had a healthy respect for the Legislature's purview to set policies and give direction. She wanted to make sure that the bill was clear. Ms. Hunter stated that she had a meeting with the Chair of the Committee before this bill was introduced, and they discussed this as part of that meeting. The Chair of the Committee said that if the Commission had any type of language they wanted to submit, the Committee would be happy to look at it. Staff sent them options for consideration and went through these different approvals, again highlighting that the Commissioners had not reviewed the language. Some of the different options were to define what was meant by expansion of gambling or the flip side of that would be to define what they do not want expansion of gambling to mean.

Ms. Hunter pointed out an amendment, which had not been brought up for discussion. It appears the approach taken in the amendment took the information staff had sent and added some tweaks to it. The idea would be that this language would be inserted into the bill. The amendment would take out new games and new equipment, and would just say modified games. It would seem that a new card game or new equipment would now require legislative approval. Ms. Hunter thought that would impact businesses. Staff gets a number of new card games a year and has been told that sometimes manufacturers like to start their game with Washington to see what staff will do with the approval and then go from there. So staff may review and approve card games that are not even played in this state. That would be an impact, which would probably impact the tribes as well because of how the card games and equipment approvals work under the Compacts. If the Commission and staff are no longer approving new games, then when a tribe wanted a new game the Tribe would probably need to address that through a tribal amendment.

At this point, staff would recommend the Commission have a neutral position with concerns. Those concerns would be based on the impacts of businesses for normal approvals and possible interference with some of the tribal approvals. Staff can certainly continue to work with the Committee Chair and suggest some technical language. Ms. Hunter thought some

of the language definitely needed to be changed to get closer to what she thought was the intent of the bill. Staff was asked to do a fiscal note on this bill, which is in the agenda packets. Staff estimated it would cost about \$45,000 to review the various rules to see if they are enhancements or expansions and to repeal rules accordingly. That number might seem high, but several years ago staff did a detailed look of how much rule changes cost and the number adds up.

Commissioner Amos asked if there was a companion bill in the Senate. **Ms. Hunter** replied there was not.

Director Day asked for clarification that the term “enhancement” in this amendment was still in the legislation. **Ms. Hunter** affirmed. Staff had recommended that “enhancement” be taken out of the bill because it was not defined. That was not addressed in the amendment, which means it would still be in the other parts of the bill. **Chair Ellis** said as far as one of the other pivotal terms which the Commission has tried to get its hands on many times was “expansion of gambling.” The only clear authority that he recalled finding were the rulings by the President of the Senate that indicated that within the meaning of the Constitutional provision requiring a super majority vote in the Senate of a bill that expands gambling – it was defined as something that authorizes new forms of gambling or increases the occurrences of gambling. **Commissioner Prentice** agreed. **Chair Ellis** asked AAG Castillo if she had any further thoughts about a definition for expansion of gambling.

Assistant Attorney General Callie Castillo replied she did not. As far as she was aware there has been no recent authority that has changed that definition or addressed it. **Chair Ellis** indicated there did not seem to be a clear definition out there other than the Senate rulings that he could find when he did a Google search on just that term. **Commissioner Prentice** agreed, adding that having lived with that one, she has also looked to see if there was anything that was broader and more definitive. This one was just kind of mentally convenient; people can remember it, ask if it does this and this, and okay yes or no – so it kind of simplified things. Commissioner Prentice pointed out she was not saying it was the best way, but at least it gave them something to operate under.

Ms. Hunter added that she went back and looked at those rulings because she had initially thought that staff could provide an option to try to define it. She thought those rulings, because they were actually looking at a bill with the true scenario there, were a little bit easier to apply. She passed that along, but she thought trying to define what it is was probably harder to do than to define what it is not. **Commissioner Prentice** indicated the state has had the same Lieutenant Governor for awhile, so there hasn't been the opportunity to rethink it. **Chair Ellis** agreed, adding he would be very concerned about this bill, and thinking of the attitudes of Commissioners from the two basic standpoints even apart from what it does to the Legislature in trying to figure out what an expansion of gambling is unless they stick to the existing definition per the President of the Senate's rulings. The Commission has talked a number of times over the years about whether the Legislature should approve increases in wagering limits, which is specifically within the purview of the Commission now, and have always recognized, among other things, that it will expose the

Legislature to trivia. Some of those increases are modest; some of them are not as modest. But they involve technical issues that are better suited to an administrative agency than the Legislature. Also, one of the basic elements and purposes of the current structure of the Gambling Act with regard to the relationship between the Legislature's authority, which is considerable, and the Gambling Commission's authority was the concept of providing a layer of insulation from the political process for issues that are basically technical gambling issues. That layer of insulation would be stripped aside in a very major way.

Commissioner Gray asked, just for clarification, if she was hearing and reading that the Legislature would take over deciding amounts as well as games, and that each one would have to go through the Legislature for approval. **Ms. Hunter** thought that was accurate. One of her responses to a question during the hearing was that there was an interesting mismatch on who does what in the law already – the Legislature sets the amount of pull-tabs at \$1, but the Commission sets the amount for the prizes. The Legislature sets the amount of the price of the raffle ticket, but the Commission sets the amount for the prizes. There are some areas where the Commission sets it and some areas where the Legislature sets it. **Commissioner Gray** asked if, given that, it would make an encumbrance; it would make it difficult for things to go through and the timing would take a lot longer. Things would have to be put on hold for months. **Ms. Hunter** thought that was accurate. There are things that would be stopped or never started, and the Commission would be in a different process than it is now. **Commissioner Gray** thought this was not a bill the Commission would endorse at all. **Ms. Hunter** replied she would not expect the Commission would endorse it. She thought it was probably as much of a question of whether the Commission wants to be neutral with concerns or whether they want to take a position against it.

Commissioner Prentice said she was having the same kind of discomfort, maybe slightly different, that she was not sure what the intent was. Even for something as simple as a raffle – she thought it was Senator Jim West, the Chair of the Ways and Means Committee who tried to get an increase – that took about five years to finally get the increase. And he wasn't just anybody, and yet the Legislature kept turning him down and did not want to do it because there were always some fierce opponents in the Legislature of any form of gambling. They may not hear from them often, but if it even begins to smell like an increase, it is an automatic no and it is stopped. So it is more difficult to do even something that seemed as simple as raising raffles or being able to auction off something. Senator Prentice said she was also not clear on what the intent was or what it is the bill is trying to accomplish. She thought the Commission would probably be neutral because they were not clear on the intent. **Chair Ellis** added that, ironically, as he recalled, one of the rulings by the President of the Senate that was very clear was that an increase in the cost of a raffle ticket was not an expansion of gambling. **Commissioner Prentice** agreed. **Commissioner Gray** said it appeared to her that the role of the Gambling Commission and the expertise of the staff ends up being questioned; that the role changes. **Chair Ellis** agreed. **Commissioner Prentice** added she was always wary when there is legislation like that; even something as insignificant as a comma might have a huge impact. She said she has probably been extremely conservative in wanting to change and to plunge into areas, thinking they did

not really mean that and wondering what to do now. **Commissioner Gray** thought the Commission would want to consider not just being neutral, but being opposed to the bill.

Commissioner Gray made a motion that the Commission authorizes staff to oppose the bill and share its concerns. **Chair Ellis** asked if there was a second.

Commissioner Prentice said she would rather amend the motion to say the Commission should share their concerns because she was still not clear as to what the bill sponsor wants to accomplish. She did not think she wanted to just say no, but wanted to scrutinize it; look before leaping. **Commissioner Amos** agreed with Commissioner Prentice – he thought the Commission needed to have more information on it.

Chair Ellis indicated the motion failed for lack of a second.

Director Day clarified the staff recommendation was to advise the Legislature that the Commission was neutral, but with this list of concerns. Staff would continue to share those concerns as they have been discussed and put forward. **Commissioner Prentice** agreed. **Chair Ellis** agreed, adding he thought that was exactly the sense of the Commission. **Director Day** added that, from his perspective, the term “enhancement” was actually more problematic because that was a completely new term in the code and he did not know where that would go. **Commissioner Prentice** replied it could be anywhere they wanted it to go.

Ms. Hunter asked if Chair Ellis wanted to ask the public for their comments or wait until the agenda topic for other business. **Chair Ellis** replied he would defer public comments since the Commission has decided not to take a position on the bill.

- Senate Bill 5723 is a companion to House Bill 1835 and is the idea that was presented last month from Special Olympics of Washington. The Senate Bill is scheduled for hearing on Monday and the House Bill is scheduled for hearing on Tuesday. Staff is working on a fiscal note on the bill, which is due today. The point of the legislation is that these raffles would be different. In initial conversations with staff, it became clear that Special Olympics would not be able to conduct the large raffle they were envisioning without proposing legislation. Staff has been working with the Special Olympics on technical language to address various things that would need to be included. Ms. Hunter reviewed a chart she prepared that compared what is currently allowed for raffles and what would be allowed under this bill. Under this bill, bona fide charitable or nonprofit organizations with a primary purpose of serving individuals with intellectual disabilities would be able to conduct enhanced raffles. The bill would allow four enhanced raffles per year for eligible organizations. The Special Olympics is an organization that would meet this definition, as well as a couple other groups that would probably meet this definition.

For enhanced raffles only, tickets can be sold for not more than \$250; the current raffle price limit is \$100, which increased from \$25 in 2009 and took about three years to pass. Under this bill, the grand prize per raffle must not exceed \$5 million; currently a single prize is

limited to \$40,000 unless it is approved by the five-person Commission when the conditions in WAC 230-11-067 are met. In November 2009, the Commission approved an organization to offer raffle prizes totaling \$930,000, which included a condominium that was valued at about \$600,000. That was the single largest raffle prize offered in the past several years. This bill would also authorize smaller prizes, including “early bird,” “refer a friend,” and “multiple ticket” drawings. Staff did recommend those terms be defined in the bill because it was really important that it was in the bill as opposed to getting to rule making and then the Commission trying to define what those terms meant. The “refer a friend” and the “multiple ticket” drawings are separate drawings and are not currently allowed.

The organization would have to have a dedicated employee who would be responsible for oversight of the enhanced raffle operations. This bill would allow call centers if they are licensed by the Commission and would also allow an organization to hire a consultant, if that consultant was licensed by the Commission. Currently call centers or consultants for raffles are not allowed. That deals with restrictions that are in the current definition of a raffle. Consultants for other types of gambling are allowed and are licensed as gambling service suppliers. Staff did suggest a provision be added requiring that the organization must be the primary recipient of the funds that are raised to make sure the organization stays the primary recipient of funds, not the consultant or the call center. The organizations will share that same desire, but staff thought it was important enough to have it stated in the bill.

This bill would allow credit cards for enhanced raffles and would also allow tickets that are part of a multiple-ticket package to be purchased at a discount. Credit cards and discounts are currently allowed for raffles, which is the only gambling activity where credit cards are allowed. The sales may be made in person, by mail, by FAX, or by telephone. Currently only sales in person are allowed. The organization envisions having a website where someone could print an entry form and mail it in with the payment. Sales by mail may conflict with the U.S. Code, which is fairly broad, but the Commission is not the enforcer of federal laws. In the past if staff thought there was a conflict with any type of law, staff has tried to pass that on to alert legislators. This would also allow the receipts, including ticket confirmation, to be sent to the purchasers by either mail or by e-mail. If the organization determines the ticket sales are insufficient to qualify for a complete enhanced raffle, then a raffle winner would still get 50 percent of the net proceeds as a grand prize. This requirement is probably stricter than what current requirements are. Currently if there is going to be a large raffle under WAC 230-11-067, an organization would have to submit a plan to the Commission to protect the licensee in the event of low ticket sales. That plan could include not awarding the prize or refunding the money to the purchasers. Under this bill, someone is still going to be a winner; it just might not be the grand prize that was originally anticipated.

One requirement deals with purchase contracts for smaller prizes, which may be similar to current requirements. This would require that the raffle and the smaller raffles (the

drawings) would be independently audited, as defined by the Commission during rule making. Those audit results would have to be reported to the Commission, which is definitely stricter than current requirements. The Commission does not require independent audits by outside third parties. This demonstrates the organization's interest in protecting its assets. Another requirement is that no drawing may occur by using a random number generator or similar means, which is clearer than it is in the current rules.

The bill would change several aspects of raffles, which was why staff had suggested the organization come before the Commission last month. The organization has been very clear as they have sent things out to other interested parties that the Gambling Commission has not taken a position on the bill. At this point, staff would recommend a neutral position, along with some technical impacts. Some of that would have to do with the question about the U.S. Code and how that overlays with this. One thing staff is doing when looking at the various bills, whether they are related to the Gambling Commission, the Lottery Commission, or the Horse Racing Commission, is to look at whether the bill is going to allow an activity for any person, for any purpose, which is the language that is used under the Indian Gaming Regulatory Act.

Chair Ellis thanked Ms. Hunter for preparing the table, which was very helpful and well worth the considerable time that went into it. He asked if Mr. Eliason would like to speak on the bill.

Mr. Denny Eliason, a volunteer for Special Olympics-Washington, said he very much appreciated the authorization the Commission gave at the last meeting for the organization to have the opportunity to work with Commission staff on this very important issue. Over the last month, there has been an extensive and thoughtful exchange with staff on a host of technical issues. Mr. Eliason has very much valued and appreciated that input. Nearly every suggestion that was made by staff, if not every suggestion, is incorporated in the bill the Commission has before them. The organization has endeavored over the last better part of two months to do extensive outreach into the community and tried to figure out everyone that might have an interest in this issue in a very cooperative way. They also reached out especially to the tribal community and tried to share with them the concept, early drafts of this legislation, and certainly the bill as they arrived to it in this form. Even as this bill was introduced, the organization has continued that outreach with interested parties in the community and it is still very much a work in progress. The organization appreciates that this is new ground that they are treading here, and are asking both the Commission and, ultimately, members of the community and the Legislature to authorize what is a new activity in this state, or at least an activity that has not been seen on this scale. Mr. Eliason reminded the Commission that this was not a new concept, that this very idea is used quite successfully by Special Olympics in a number of states – he thought seven other states. It has been most extensively used in California and in Colorado, a state very similar to Washington.

Charities should not engage in this activity lightly, nor should this activity be undertaken without some sort of supervision by a state authority, which is why threaded throughout this bill there is Gambling Commission oversight. It is anticipated that the Commission would review every enhanced raffle that was proposed, and ultimately give their blessing. Both the charity involved and, ultimately, any contractor they might use would also have to have a relationship with the Commission and be licensed by them. To date the organization has received a great deal of input from members of the community and Commission staff, which is reflected in the draft before the Commission. The organization has reached out to numerous members of the Legislature. To date, Mr. Eliason knew of no entity that was opposing this measure. That may change next week, but he would be surprised, given the real dialogue that he has tried to create around this issue. If that opposition comes, the organization stands ready to work with anyone who has concerns about this issue. Mr. Eliason pointed out a concern that Ms. Hunter had raised that there may be some federal overlay in challenges as it relates to the process that is proposed here, which again is patterned very directly after what happens in other states that offer enhanced home-based raffles. The organization has talked with its consultant about the questions thoughtfully raised by Commission staff. They have sold more than five million raffle tickets and, in their experience, about 20 percent of those work with a procedure where a person downloads the raffle form off a website, sends the form through the U.S. mail with payment, and then gets back a receipt (not a raffle ticket) either through an e-mail or through the U.S. mail. That very procedure has been used in well over a million instances nationwide.

The Chair of their Board, who is a partner at Foster Pepper, has his law firm reviewing to make sure that the organization is not running afoul of federal law. Special Olympics is one of the highest regarded charities in the nation, and they will do nothing that violates either state or federal law. As this issue moves forward, the organization will certainly be sharing with the Commission and staff the findings of Foster Pepper in this regard as they continue to research that issue.

Chair Ellis asked whether Foster Pepper or anyone else has contacted the Postal Inspector to get an informal expression of what their views would be. **Mr. Eliason** replied he believed that was part of their review, which regrettably was why they did not have an opinion back at this point. They are also doing outreach to the charities that have reviewed this issue in other states, including Special Olympics of California and Colorado.

Chair Ellis asked if there were any other questions of Mr. Eliason; there were none. He thanked Mr. Eliason for coming to the meeting. **Mr. Eliason** thanked the Commission and staff.

Director Day asked for clarification that the plan would be to proceed with the Commission being neutral on this piece of legislation and supply the technical information as staff moves forward. **Chair Ellis** asked if any of the Commissioners wanted to propose a different approach; no one did. Chair Ellis directed staff to continue on that path.

- Senate Bill 5552 is the gambling intercept payment program that looks at parents who are not paying child support and makes sure that if they have any gambling winnings it gets paid to the custodial parent. The part that pertains to the Commission is a couple paragraphs at the bottom of page 3, section 3. They have had this with the state lottery since 1986. In Ms. Hunter's conversations with the Lottery Commission, they said they quite often collect that and also employment security payments. The Lottery's is more encompassing; this would be limited to child support. The bill had a hearing on Tuesday. Because the Commissioners had not had a chance to discuss the bill, Ms. Hunter had only explained some technical information and some terms. This bill would require that the Department of Social and Health Services (DSHS) would develop rules to implement a gambling payment intercept program. Under the terms currently used, although amendments are being worked on, this would require card rooms and casinos – those are the terms used -- to withhold cash payments if the player is behind in child support. DSHS would develop a process for some type of a search of a database that would list the parents that are behind and then provide that information to the card rooms. Ms. Hunter was not sure how that would work at this point. One of the discussions during the hearing was that it should be tied to the W2Gs, a federal form that has to be filled out for gambling winnings. The amount varies depending on what type of gambling activity is being done. Although many fall at the \$600 threshold, some are \$1,200. Businesses already use a W2G so they would be familiar with those requirements, instead of if the Committee just set an across the board threshold amount, which was one of the ideas that has been discussed subsequent to the hearing.

Another part of the bill would require DSHS to work with the Washington State Gambling Commission to make every effort to negotiate tribal gaming compacts with the Tribes that include this gambling payment intercept program. During the hearing, Ms. Hunter suggested that they would need to amend the Gambling Act, which is what the Legislature did when they wanted to add electronic benefit cards as an item of negotiation. If there is a substitute bill, it would have a provision like that in it. Staff was asked to do a fiscal note, and estimated that the cost would be indeterminate because of how the negotiations work and how often they come up. Each one varies; negotiations can be very quick, or they can be very long. Ms. Hunter did not think the Commission needed to take a position on the bill at this point unless they have recommendations on a certain approach. Ms. Hunter thought it was likely that a substitute bill would probably encompass not just card rooms but also horse racing and other areas.

Commissioner Prentice thought the Commission would probably have to be very precise within the law when it comes to section 3. Enhanced card rooms and casinos belong to the Tribes, so the Commission needs to be sure that they are saying exactly what needs to be said. **Ms. Hunter** agreed, adding she thought that was actually the advantage of using the W2Gs.

Commissioner Gray said that, although the purpose is fine, she had a concern that unless the W2Gs or something similar are used it would put an undue burden on casinos and card rooms to find out whether somebody is behind on their child support. That is a lot of work,

a lot of time, and a lot of expense. **Ms. Hunter** responded she thought that language would probably get cleaned up, but if it does not, she would pass along what the Commissioners have expressed. Staff has been talking with them about those extra burdens. Particularly, as the bill went in, it would apply to any winnings so, in theory, with a \$1 winning the operation would check the database and see if it needed to withhold the \$1. There are at least three other states that do this and tie it to the federal forms. **Chair Ellis** said that was good to hear. It seems like it might be easier and perhaps, even more productive in terms of keeping money available for paying child support to require the casinos to check ID and to prohibit the person that owes child support from gambling. He asked if there were any other questions and whether any of the Commissioners had a suggestion to take a different approach on this bill.

Commissioner Gray asked if Ms. Hunter was suggesting the Commission remain neutral on this bill, but share their concerns, especially for the implementation of this. **Ms. Hunter** affirmed. **Chair Ellis** said to go with that position.

- House Bill 1824 would reduce the penalty for people conducting unlawful internet gambling in their primary residences if they are doing it for recreational purposes. It would change it from a felony and make it a Class 3 civil infraction, which is about a \$103 fine when the different assessments are added. The bill is scheduled for a hearing next Tuesday in the House Government Accountability and Oversight Committee. Staff recommends the Commission be neutral on the bill or not take a position on it. Staff would make sure in testimony to let the members know about our enforcement efforts, which have focused on providers not on individuals. Staff would also pass along that the law has been upheld as being Constitutional. One real benefit is that the current law is clear and it has been helpful with the cases the agency has pursued, but also for the public. There is some information out there that this is a felony and people know about the prohibition, so it might be a bit confusing if suddenly they have something that is an infraction. Ms. Hunter thought many operators now have a block on Washington gamblers, so she was not sure they would take the risk of opening up that block. Staff's suggestion would be that they let the Committee know about those things.

Chair Ellis said he was reading the bill to address Ms. Hunter's last point; whether someone who was operating a gambling game over the internet from their primary residence would shift from a felony category to a civil infraction. But that would only imply if they were doing it for recreational purposes and presumably not for business purposes. **Ms. Hunter** affirmed that was how she read the bill. **Commissioner Gray** asked if that meant for recreational purposes that money does not move. **Ms. Hunter** replied her understanding was that money would still move but they were doing it for fun, as opposed to trying to set it up as business. She said she would read that to mean that a person could go onto the internet and could gamble for money, as long as they were in their primary residence and as long as it was for their own enjoyment. And now they would be committing a Class 3 civil infraction as opposed to a felony. **Commissioner Gray** said that was as long as it was not a business. **Ms. Hunter** affirmed. **Chair Ellis** added that if they mistakenly deducted the

cost of the portion of their home where they were operating this game, they may be in trouble. **Commissioner Prentice** commented that it was fun if they won and it was not fun if they did not.

Ms. Hunter said it was an interesting bill. If the Commissioners were comfortable with it, she would pass along a neutral position and the information received from them. **Chair Ellis** asked if any Commissioner suggested a different approach; no one did. He said to go with that position.

Update on Suquamish Wellness Problem Gambling Program

Chair Ellis explained that the Suquamish Tribe representatives were scheduled for 11:30 a.m. for an update on their problem gambling program. Since the Tribe has representatives present, and it is just a few minutes past 11:30 a.m., the Commission would hear from Ms. Sense-Wilson of the Suquamish Tribe. He said the Commission appreciated the Tribe taking the time to come today and were delighted to have them at this meeting.

Director Day pointed out that Ms. Sense-Wilson is a licensed mental health counselor, holds a certification as a chemical dependency professional, and is a gambling counselor from both Washington State and nationally.

Ms. Sarah Sense-Wilson, an Oglala Sioux who works for the Suquamish Tribe Wellness Center, thanked the Commission for the invitation to this meeting. She said she was thrilled to be present today to share information about their program. She provided some brochures, including an overview of the program and the demographics. The gambling program at the Suquamish Tribe started about three years ago, and she came on board about 2½ years ago. Since then the program has really flourished. Currently they have 28 patients enrolled in problem gambling treatment: 23 are female and 5 are male. They are also working with individual family members: 20 percent are Native American; 10 percent are African American; and 70 percent European American.

Their services are pretty broad and expansive. Currently they do community outreach and education in a number of different ways. They have put on community events and symposiums that are educational and holistic in their approach, which is very important to them. They are responsive to the unique needs of their Suquamish community. They put on workshops and financial empowerment seminars in collaboration with the Northwest Indian College. They have brochures and do monthly articles in the Suquamish Tribal paper. They also partner with the Suquamish Tribal Youth Program and put on leadership workshops. They have partnered with the Evergreen Council on Problem Gambling to do a mural project. Other workshops include anti-oppression and youth organizing trainings. Ms. Sense-Wilson said she has been invited to participate with the Healing of the Canoes project, which is a research project at the Chief Kitsap School to work and inform the youth about addiction and family disease. She has also worked with the youth program in co-sponsoring their renewal pow-wow that is devoted to recovery and also with their basketball tournament. The program has a prevention group for Native American women, which primarily highlights and focuses on empowerment and educating native women

about issues that are relevant and pertinent to them. They talk about issues such as historical trauma, racism, looking at oppression and identifying ways and strategies to overcome those issues as they impact native women, both within the tribal community and outside the tribal community. The program highly values bringing in cultural values and indigenous knowledge systems into the work that they do with them. They have family support nights that are open to the community where they get a lot of family members and friends of people who have problem gambling. They also have sponsors that come in. It is very welcoming environment and is open to the community. They feed everybody and, depending on the make up and the group, they discuss whatever topic the group is interested in. They may say they want to learn more about enabling or they may want to know about intervening in dealing with a family member who is an active gambler.

The program meets the clients wherever they are at, which Ms. Sense-Wilson felt was the best approach. They do individual one-on-one counseling, both with the identified patient and also with family members. Currently there are two groups. Phase 1 of the treatment program is a three-hour group meeting once a week for four to six months depending on their progress. A lot of the group members love it so much they do not want to leave and grow attached to the support system. What was really exciting to her was to see in the community, not necessarily at the Wellness Center but within the community, there is a burgeoning growing recovery community happening which they are doing on their own; they are organizing themselves. They also do family and couples counseling as well, which Ms. Sense-Wilson found was a very critical component. A lot of times, the individual will come in but does not necessarily want their families involved. Over time they are able to break that down and bring in their family members. Those are the ones that do the best; the patients that involve their family members, whether it is their adult children, their grandparents, or their spouses. Those are the ones that really take off well with their recovery. The program also does referrals when they get phone calls saying someone's spouse needs help, and asking where they can go. They will share the various resources available. In their region, unfortunately, they do not have a lot of options; the closest other providers are private practitioners. One of them is in Tacoma and there are a number of programs in Seattle, but in her area there really are not many opportunities for people to get the professional skilled specific gambling treatment care. Their program is kind of the only show in town at this point, but over time they hope that is going to change. Presently Ms. Sense-Wilson is the only certified counselor at Suquamish Wellness, but they are working on expanding to meet the Tribe's needs. The program also does consultations. She receives a number of phone calls asking if something is normal or what would she suggest the person does in a certain case or situation. She also gets calls from other treatment providers that are providing chemical dependency (CD) treatments. There are a number of CD treatment programs in the area that call and ask for suggestions, information, and material.

Ms. Sense-Wilson has gone out to one of the treatment programs and provided training for them. She is also planning on going to one of the clean and sober houses next week and doing training for the folks that reside there. The future of the Suquamish Problem Gambling Program is they are in the preliminary stages of becoming a certified treatment agency with the state. Currently 85 percent of her salary is covered by the tribal funds. There is a big need and the resources are

growing smaller, but she is hoping they can move things along to meet the needs of the community. One of the other things they are doing is providing a providers coalition with other tribal providers in the region. The Tulalip, Puyallup, and Swinomish Tribes are all part of it and they are hoping to add other tribes. There are some specific, unique issues that relate to working in a tribal community. It is a good networking support system where they are able to consult with each other and discuss clinical issues that come up as well.

Chair Ellis thanked Ms. Sense-Wilson, adding the program is very impressive. He asked if she had a sense about the existence of similar programs outside her immediate area and outside the Tribes that she listed. He asked if most Tribes have some form of a problem gambling program. **Ms. Sense-Wilson** responded that Maureen Greeley was present and she could probably answer that better. It is a little mysterious to her. Sometimes they meet at different trainings and conferences and are able to talk with other tribal communities to see where they are at with building a program. An example that Ms. Sense-Wilson was aware of was the Tulalip Tribe is the only other treatment provider that does a group. She knew that some of the other programs are just kind of lifting, and that is a challenge to build it from the ground up.

Commissioner Gray asked about the demographics and how Ms. Sense-Wilson found the European Americans, how they get into the program. **Ms. Sense-Wilson** replied the people find the program, usually through the Help Line or through GA, which have been the primary sources of referral.

Chair Ellis asked if most of the people in their programs were ones who have done most of their gambling in tribal casinos or if they were gambling on the internet. **Ms. Sense-Wilson** replied that most of them are tribal casinos. **Chair Ellis** said the Commission has received a number of materials in connection with this meeting concerning problem gambling. One of them, in particular, that caught his attention was an article from the New York Daily News that indicated statistics similar to the ones in Ms. Sense-Wilson's brochure that says 4 of every 100 people in the U.S. have a problem. The national statistics shown here are 5 million compulsive gamblers and 15 million people who are at risk. He also noticed that the program has some very important scientific developments. The American Psychiatric Association in its newest Diagnostic and Statistical Manual has defined problem gambling/compulsive gambling as the only non-drug behavioral addiction, which places compulsive gambling clearly in a major category of a national problem. That kind of scientific support is referred to as the gold chip of research.

Commissioner Gray wondered, as a sideline, if that would bring it into the health care realm. **Chair Ellis** said that DSM itself is the gold standard in this area. **Ms. Sense-Wilson** affirmed that was true. **Director Day** noted that, as he was listening to the statistics, it seems like females were the largest percentage. He has heard quite a bit about young adult males being involved in gambling, as well, so he was surprised that the female statistic is that high. **Ms. Sense-Wilson** responded that may be reflective of her lack of ability to reach young adult males. She was willing to acknowledge that the program is not reaching everybody that it needs to reach.

Director Day said he appreciated Ms. Sense-Wilson being willing to start this off, adding staff also anticipates the Tulalip Tribes coming and talking to the Commission about their program, followed by the Puyallup Tribe. Sometimes it is hardest to be the first, but the Commission really appreciated her taking her time. **Ms. Sense-Wilson** thanked the Commission for their time.

Approval of Minutes – January 10-11 Commission Meeting

Chair Ellis asked if there were any suggested changes to the minutes as presented; there were none.

Commissioner Gray made a motion seconded by **Commissioner Prentice** to approve the minutes from the January 10-11, 2013, Commission meeting as submitted. *The vote was taken; the motion passed with four aye votes.*

- ADMINISTRATIVE PROCEDURE ACT PROCEEDINGS -

New Licenses and Class III Certifications

Deputy Director Trujillo reported that staff did not notice any unusual items or anything to draw the Commission's attention to and recommended approval of all new licenses and class III certifications listed on pages 1 through 15. He pointed out the public card room report that shows there are 57 licensed and operating house-banked card rooms. Since last month the Commission may have heard rumors that an application was received for the Oak Tree, but as of yet staff has not received that application.

Chair Ellis asked about the status of the Emerald Downs application. **Deputy Director Trujillo** replied it was still in process; it has not yet been completely vetted.

Chair Ellis thought it was worth noting that this list represented one of those important reasons for having an Acting Director in Director Day's absence. There are a number of things that only the Director can do and one of them is approving these applications on a temporary basis at the time they are submitted pending the next Commission meeting when the Commission approves them permanently or at least for the period of the application. If there were no Acting Director, all of these applicants would have to discontinue licensed activities until the next Commission meeting and only then could they continue with their business.

Commissioner Amos made a motion seconded by **Commissioner Gray** to approve the new licenses and class III certifications listed on pages 1 through 15. *The vote was taken; the motion passed with four aye votes.*

Defaults:

a) Patricia K. White, Class III Employee, Revocation

Ms. Hunter reported that the Kalispell Tribal Gaming Board revoked Ms. Patricia White's license after she took abandoned player terminal tickets and gambled with them, which she admitted doing. Although her tribal license has been revoked, her state certification remains active, which means that she could transfer to a house-banked card room at this point. Director Day issued charges by certified mail and regular mail. Staff received the certified mail receipt back and it appears that Ms. White was the one who signed for it so staff has no reason to think she did not get the charges. The charges notified her that failure to respond would result in a default order revoking her certification. A reminder call was not made to her because staff does not have a phone number for her. Because Ms. White did not respond to the charges, staff is recommending the Commission revoke her certification.

Chair Ellis asked if there were any questions; there were none. He asked if Ms. Patricia White or her representative was present; no one has stepped forward.

Commissioner Gray made a motion seconded by Commissioner Prentice that the Commission revoke Patricia K. White's Class III Certification. The vote was taken; the motion passed with four aye votes.

b) Bao T. Duong, Card Room Employee, Revocation

Ms. Hunter reported that Mr. Bao Duong was charged with manufacturing marijuana. He admitted to a Renton Police Officer that he was operating a marijuana grow house with over 250 plants, but he did not have a certificate to grow or to possess marijuana. Mr. Duong was issued an order of summary suspension, which is where staff feels the violation is serious enough to warrant having them stop gambling activity immediately. An agent personally served the charges, so staff knows he received them. Because Mr. Duong did not respond to the charges, staff recommends the Commission revoke his license.

Chair Ellis asked if there were any questions; there were none. He asked if Mr. Bao T. Duong or his representative was present; no one has stepped forward.

Commissioner Amos made a motion seconded by Commissioner Gray that the Commission revoke Bao T. Duong's Card Room License. The vote was taken; the motion passed with four aye votes.

c) Seila L. Sem, Card Room Employee, Revocation

Ms. Hunter reported that Mr. Seila Sem, who is currently working, has over \$4,500 in court ordered fines and fees that are in collections due to nonpayment. Charges were sent by certified mail and regular mail. Staff did not receive the signed receipt back nor the regular mail charges. Staff presumes that Mr. Sem did in fact receive the charges. Staff was unable to reach Mr. Sem for a reminder call, but they did leave a message with his employer. Mr. Sem did not respond to the charges, so staff would recommend that his license be revoked.

Chair Ellis asked if Ms. Hunter had any information about whether Mr. Sem had made significant payments towards those fines and fees over the years. **Ms. Hunter** replied she did not believe he had, but she was not 100 percent certain. Unfortunately the information she has – number four in the Facts on page two – shows the amounts and how long they have been out there, but does not tell what amount they would have started at. Typically, that information is in the case report by the agent and staff usually reflects it in the charges, so Ms. Hunter was somewhat doubtful that any payments had been made. **Director Day** added that paragraph six might be helpful. **Chair Ellis** thanked Director Day for finding the information. **Ms. Hunter** indicated that paragraph six says that Mr. Sem has made no payment on his court ordered fines and fees since their imposition.

Chair Ellis asked if there were any questions; there were none. He asked if Mr. Seila L. Sem or his representative was present; no one has stepped forward.

Commissioner Gray made a motion seconded by **Commissioner Amos** that the Commission revoke Seila L. Sem’s Card Room Employee license. *The vote was taken; the motion passed with four aye votes.*

Rules Up For Discussion And Possible Filing

Staff Proposed Rule Change: Licensees must submit new and updated documents and information within thirty days

- a) Amendatory Section: **WAC 230-06-080** – Reporting changes to application information and submit updated documents and information

Deputy Director Trujillo reported staff was requesting this rule change to clarify a rule that was inadvertently clouded during the rule simplification process (RSP). Prior to the rule simplification process, Commission rules said that a licensee must provide staff, or notify them, within so many days of changes to their application documents. The rules also said that a licensee must provide staff with new or updated documents within so many days of being effective. Documents included articles of incorporation, bylaws, contracts related to gambling activities, cash contributions, etc. The timeline for reporting ranged anywhere from 10 days, 20 days, 30 days, or more. During the rule simplification process, staff tried to align most of those reporting requirements to 30 days. In section 1 of the current rule, the 30-day reporting requirement was written into the rule. The RSP writers at the time thought that it enveloped the second portion of that rule, but since that time staff has learned that it has been a little bit murky and that licensees do not clearly know if they are required to provide the information immediately, within 30 days, or more. It has also caused some staff questions. So this rule is proposed to clarify that requirement so that all parties know. The change is written into subsection 2. Staff recommends filing this rule change for further discussion.

Commissioner Gray asked what burden that 30 days would place on businesses; if it was more, less, or about the same. **Deputy Director Trujillo** replied that staff went with the 30-day

requirement because that seemed to be the average of the 10, 20, 30, 60 days, or the end of quarter requirements. Staff has not heard that it has been burdensome and most licensees, at this point, seem to be abiding by the 30-day requirement. There are a few that were not sure, and when they have asked, staff has mentioned the 30 days. There was some discussion at the study session this morning about whether the term application should also be defined because it is in that rule. Staff will take that back and look at it, but it does not really impact the rule currently before the Commission, but it is something staff will be considering. **Director Day** asked if staff selected to go with the 30-day time limit in the RSP as sort of a standardization. **Deputy Director Trujillo** affirmed staff tried to align it to 30 days because of the multiple reporting periods. Industry people were working with staff during the rule simplification project.

Commissioner Prentice asked about the submission of the document. More and more references are being seen to send things by FAX, where for a long time that was considered old fashioned. She asked if that would be acceptable, and then they could send the better looking one later. **Deputy Director Trujillo** affirmed staff does receive documents via FAX, in person, and through the mail. It generally is the choice of the document provider.

Deputy Director Trujillo commented that Assistant Director Harris has pointed out that the agenda says WAC 230-03-065, but the correct WAC number should be WAC 230-06-080.

Chair Ellis asked if there were any questions; there were none. He called for public comment; there was none.

Commissioner Amos made a motion seconded by **Commissioner Prentice** that the Commission accept for filing and further discussion Amendatory Section WAC 230-06-080. The vote was taken; the motion passed with four aye votes.

Other Business/ General Discussion/Comments from the Public

Chair Ellis opened the meeting to other business, general discussion, and comments from the public.

Mr. Victor Mena, Chief Operating Officer for Washington Gold Casinos and President of the RGA, commented on House Bill 1295 for the record. He appreciated the Commission putting the neutral with concerns piece into the discussion. On behalf of the card rooms, they also feel that the Commission has done an exceptional job in dealing with the issues that are raised in this bill. The Commission has always been very patient in the process of rule making, passage of games, and passages of other regulatory WACs. The process has been open to the public and discussed openly in a great setting where the public has an opportunity to talk about these types of issues ten months out of the year. This bill would put a burden on a lot of operators to be able to have to deal with such items as new games, modifications to games, or enhancements to certain rules that are up. That would put the burden to the Legislature to have to handle that, which is quite a bit for them to deal with on such a micro level. Mr. Mena believed the Commission was doing exactly what the purpose of House Bill 1295 does. He believed that this Commission has been very cognitive and aware of legislative wants and needs as far as an

expansion of gaming, and has brought them forward to the Commission. And he thought the Commission has been very receptive to those comments. Mr. Mena said that it seemed that House Bill 1295 is kind of redundant, except for the fact that it is in process here in an open setting and there is the opportunity to be ferreted out for such minutia that the legislators probably should not be burdened with. For instance, a nonprofit would probably have to hire a lobbyist to take a look at certain rules in a charity bingo type situation. With that said, Mr. Mena believed the Commission has done a great job with the rule-making process.

Chair Ellis appreciated those comments and thanked Mr. Mena. Chair Ellis mentioned that he thought one of the concerns that was expressed by one of the legislators during the hearing on House Bill 1295 was the amount of time it takes the Commission to take action on petitions for rule changes that are submitted. It seemed that the Gambling Commission process was not understood that – the time concern related to the fact that they are a part-time Commission that does not meet daily but has meetings every month. Also the Administrative Procedure Act sets forth requirements that dictate the Commission’s schedule for handling matters, starting with the question of whether they should accept a matter for filing and further discussion, sometimes an intermediate hearing 30 days later, and then usually a hearing another 30 days later on final action. So it is built into the process under the existing state statutes, and under the Commission’s schedule, for a minimum of 60 days to take action on an item. Chair Ellis did not think that was understood at all. Ms. Hunter probably pointed that out, but it bears repeating.

Ms. Dolores Chiechi, Executive Director of the Recreational Gaming Association, echoed Mr. Mena’s comments and said she would look forward to the concerns that are raised in correspondence from the Commission to the Committee and to the Legislature on some of the mis-statements that were made during the hearing, including getting some better awareness and more intimate knowledge of what this Commission does. Ms. Chiechi believed the Commission has always taken into consideration concerns of the Legislature and concerns of specific legislators who have come forward with those concerns as the Commission was looking at different rule changes. Ms. Chiechi appreciated that. She also wanted to bring up House Bill 1442, which is another bill that adds an additional simulcast location in counties over one million in population. Essentially what that does is to allow King County a second simulcasting location. She brought it to the Commission’s attention only because it would likely be a gambling licensee who would be applying for that second location. That may be something that should be added to the Commission’s radar screen to watch. It is on the floor for full consideration of the House at this time.

Chair Ellis thanked Ms. Chiechi and asked if there were other members of the audience that would care to address the Commission; there were none.

Executive Session to Discuss Pending Investigations, Tribal Negotiations, and Litigation

Chair Ellis explained the Commission would go into the executive session after a ten minute break. At the end of the Executive Session, the public meeting would be resumed solely for the purposes of adjourning the meeting. He noted that the March meeting may be one day and recommended the audience check the agency website to verify the date and time of the meeting.

Director Day thought it was highly likely the meeting would be reduced to one day and because of staff's ability to get a speaker, the meeting will probably be on Friday.

Chair Ellis called for a ten minute break at 12:30 p.m. before going into the executive session, which will last approximately one-half hour. He asked that everyone who would not be attending the executive session to clear the room in ten minutes.

Adjourn

Chair Ellis adjourned the meeting at 1:00 p.m.

Minutes prepared by:

Gail Grate, Executive Assistant