## SB 582: Authorize Indian Gaming/Revenue House Debate, 2<sup>nd</sup> reading May 31, 2012

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**Speaker Tillis:** Senate bill 582, the clerk will read... Rep. West is recognized to debate the bill.

**Rep. West:** Thank you, Mr. Speaker, Members of the House. I want to talk to you about what the bill will do for the people at the far western end of the state; I'm going to leave all the legal stuff for some of the lawyers I know are going to speak in a little bit.

What this bill would do is it would create 400 jobs in North Carolina. We'd be replacing machines with live people at the casino. Those 400 jobs are going to be 80%, 82% filled by non-members of the tribe, meaning they will come out of the surrounding counties out in the western end of the state. Graham County is one of those counties that joins Swain County which is the highest unemployment in the state. Those people could drive 30 minutes to get a job like that and they'd think they'd died and went to heaven. You have other counties out there that has the same kind of unemployment rate and it would mean jobs for those people.

Another thing this bill would do is it would produce four and a half million dollars worth of purchased goods and services in the area up there. It would create a 300 million dollar economic benefit in Swain and Jackson County – so this means a lot to the folks in western North Carolina, and I would just like to say that the Eastern Band has been a great partner in western North Carolina in economic development and local endeavors we have in the western end of the state. This bill will strengthen our tourism industry and create jobs for all of western North Carolina, and I would ask for your support on this bill.

Speaker Tillis: Rep. Haire, please state your purpose.

**Rep. Haire:** To speak on the bill.

**Speaker Tillis:** The gentleman is recognized to debate the bill.

**Rep. Haire:** Thank you, and I would certainly like to echo what Rep. West had to say on the economic impact, but there has been some information passed out here that has to do with what a constitutional issue has been raised under the North Carolina Constitution. And, once again, I don't mean to bore you, but you know that I'm an old history major, but you've got to remember that the Eastern Band of the Cherokee Indians lived in western North Carolina a long time before

the white people showed up. And in 1836, after they had saved his life at the battle of Fallen Timbers, Andrew Jackson signed a bill to have the Eastern Band move to the State of Oklahoma.

Now, there were a few of them that were not moved because they were considered educated, and there were some of them that hid out in the mountains that they didn't find. And so here this land existed that once was owned by the Cherokees, and the Cherokees were not recognized as citizens but there was a white man up there by the name of Wells Thomas who was the only white person who was ever the Chief of the Eastern Band of Cherokee Indians. So the Indians got to buying up land and putting it in his name, and he had thousands of acres of land there in western North Carolina in his name. During the War Between the States he raised for the Confederate Army what's known as Thomas' Legion, and of course after the war was not able to pay the debts that he had incurred. And he actually became insane. And a lawsuit was brought to take this land away from him which really he just held in trust for the Cherokee Indians.

And so the case went to court, federal court. It's known as the Indian Trust Act, and the government interceded and found that this land was held in trust for the use and benefit of the Eastern Band of Cherokee Indians and there has been legislation passed along on that over the years. And right today the Indians do not technically own the land – it's owned by the United States government that holds it in trust for the Eastern Band of the United States, uh for the Eastern Band of Cherokee Indians. So, for many years then, it's been recognized as being a sovereign nation. It has its own proper government, it has its own school system, it has its own police department, has its own social services, has its own hospital, and so it is a free and separate entity – a sovereign nation.

It is the only federally recognized tribe in the State of North Carolina, and I think very few, I think only two in the southeastern United States. So when the National Indian Gaming Act was passed it had in mind sovereign nations like the Eastern Band of Cherokee nation. And so, what they have done is turned what used to be, and I want to digress for a moment, I remember going to the tribe as a young man, a kid actually, and it is about as poor as any place you could've found. And later when I got out of the Air Force and I went back to practice law we represented the Eastern Band of Cherokee Indians for a while. And I know what the school system was. They didn't really have a school system. And the tribe, the lands up there, had no development and very little of anything that went on up there except they had the pageant, they had a few motels, they had a few gift shops, and that was all.

But you talk about a transformation having been made while Harrah's being permitted to come in and establish this casino. But it's not just a casino anymore. It has now grown to be a resort. Because if you want to come to Harrah's you can play golf at the Sequoyah National Golf Club. You can, they're getting ready to, put in a spa. They have a Ruth Chris restaurant there. They have a Paula Deen restaurant there. They have over a thousand rooms there. And if you do like I do, a couple weeks ago I went to go see Natalie Cole at their theater that they have there. A month ago I went to go see Diana Ross. So they bring in all kinds of class acts for people to come in to see. So it is an engine but its like a car. It's running on three wheels, but we need the last wheel – and that is the class 3 gambling.

And so I know other people want to speak, but I can't tell you what this would mean to western North Carolina, as Rep. West said, all the added jobs. But what it has meant today, because right now he's talking about 400 new jobs, but right now there's approximately eighteen hundred people. Let me repeat that, approximately eighteen hundred people that work at the casino there in Cherokee. I can think of, you know, we go all out to recruit new businesses to come into the state of North Carolina to help us out – this is one that wants to come in and that won't cost North Carolina any money but will make us some money for education. So I certainly hope that you will vote to support this bill. Thank you.

Speaker Tillis: Rep. Stam, please state your purpose.

**Rep. Stam:** To speak on the bill.

**Speaker Tillis:** The gentleman is recognized to debate the bill.

**Representative Stam:** Mr. Speaker, members of the House. The Cherokee Nation is indeed a sovereign nation under law, but this bill purports to affect the law outside the lands of the Cherokees and therein lies the problem.

I will explain why I think the compact is legally flawed. You do not have to agree with me that it is legally flawed; if you think that there is even a one-third chance or a ten percent chance that my argument may be correct, then this is the worst bill for the state of North Carolina I have ever seen. I don't know who was negotiating on our side. I want to take you through a few papers that have been put on your desk so you can understand the background.

The first is the last few articles of our declaration of rights. That's the equivalent of the Bill of Rights in the U.S. Constitution. These are the four provisions that apply:

"No person or set of persons is entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services."

There are some who will argue that the Cherokee nation is not a person. We will debate that and I will show you that that is not for sure and that it well could be considered a person under our Constitution. Section 33 doesn't say anything about persons. What it says is:

"No hereditary emoluments, privileges, or honors shall be granted or conferred in this State."

Section 34, says:

"Perpetuities and monopolies are contrary to the genius of a free state and shall not be allowed."

Section 35 lumps it all together:

"A frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty."

This compact and bill violates all three, and therefore all four, of these provisions of the Constitution we have taken an oath to uphold.

It is a separate or exclusive privilege from the community. It is a hereditary privilege because it is based upon bloodline. It would be conferred or granted by the state. And it is a monopoly.

One thing that's been amazing to me has been the explanations I've heard of the bill. Almost no one actually discusses the compact itself. When you put all the amendments to the compact together it's about 28 pages long. Did anyone ever point this part out to you?

Section 4.1(A): "In the event that any live table gaming is permitted for any person other than the tribe in the geographical zone encompassing the portions of the state of North Carolina located west of interstate highway I-26 as that interstate highway is presently located as of this execution date, the state shall forfeit its' right to the monthly payments required by section 4.1."

Think about that for a minute. Under this compact the estimate that I've heard is that the state will get about 3 million dollars for education per year for the next 30 years. That is really a trivial amount of money. This is a tiny fraction of our education budget. However, if someone successfully challenges this exclusivity provision and wins, we don't even get that money. We get nothing from the rest of the Cherokee gambling. If that provision is successfully challenged, the state of North Carolina gets a big fat zero for education.

The next document is a memorandum by Jeanette Doran of the Institute for Constitutional Law explaining why this is an exclusive emolument or privilege and why it is a hereditary privilege. The point is not whether you agree with it. If you can conceptually think that maybe someone west of I-26 will decide that they would like to have live table gaming as well, they might find a judge that agrees with them. Someone will see all the profit going to the Cherokee Nation. Of course they will. Do they have a chance of winning? Of course they have a chance. And if they win North Carolina gets a big fat zero.

Black's Law Dictionary defines what a monopoly is:

"control or advantage obtained by a supplier or producer over the commercial market within a given region. The market condition exists when only one economic entity produces a particular product or provides a particular service."

Of course this is a monopoly. That's the bargained for consideration that the Tribe wanted in exchange for turning over 4 to 8 percent of profits to the state.

John Orth wrote the book on our state Constitution. He deals with these three provisions. Many of the cases that discuss one of these provisions discuss all three of them because they fit

together. A successful plaintiff only has to win under one of these three provisions. But I've heard the Cherokee Nation is not a person so therefore the first provision doesn't apply.

This next memo mentions the *Pfizer* case. The majority held that foreign nations were persons and another case where the Supreme Court decided that sometimes Tribes are "persons" and sometimes they are not. It depends on the legislative history of the time.

Back in December I put myself to sleep for about a month in a row reading the latest issue of the Campbell Law Review, "A Story of Privileges and Immunities from Medieval Concept to the Colonies." What are the privileges and immunities that are included in our Constitution? They primarily relate to trade and the ability to trade freely. Unlike in Europe, unlike under the kings, unlike under the charters that were given to the explorers who went to America, Englishmen wanted the ability to trade fairly and without monopoly. There was a constant struggle between the colonists and the Crown. In the Articles of Confederation (even before the Constitution) they put in the "privileges and immunities" clause. It had mostly to do with trade. The reason I mentioned the Articles of Confederation (around 1777 or thereabouts) is because the provision in our Constitution is based on the Virginia Declaration of Rights. That's when it was written. People were thinking at the time that they didn't want to be like England which had primogeniture and guilds and monopolies, and only one person could sell salt and the Queen granted licenses for another person to sell tea. They wanted to be free.

Section 34 says that monopolies are "contrary to the genius of a free state." What is the genius? It's the animating idea behind a republican form of government. People are free;

**Speaker Tillis:** Rep. Blust, please state your purpose.

**Rep. Blust:** to ask if Rep. Stam will yield for a question.

**Speaker Tillis:** Does the gentleman yield?

**Rep. Stam:** In about two minutes.

**Speaker Tillis:** The gentleman does not yield.

**Rep. Stam:** That was the animating principle of the American experiment: Freedom for all. Now, we know that they didn't grant freedom to everybody at the time. There has been a constant struggle to make "all" actually all. But that's the animating idea. This compact is exactly contrary to what the people who founded North Carolina wanted to do. I'm not going to talk about jobs. It's easy to counter those types of arguments. As legislators we've got a duty to the Constitution of this state as well.

I urge you to vote "no." Unless it wasn't obvious I am not speaking for the majority caucus on this. I just happen to be a representative for the 37<sup>th</sup> District who cannot vote for a compact such as this.

**Speaker Tillis:** Rep. Blust, or does the gentleman yield at this time?

**Rep. Stam:** I do now.

**Speaker Tillis:** The gentleman yields.

**Representative Blust:** Rep. Stam, this bill is dealing with a document called the First Amended and Restated Tribal Compact. So there has been a tribal compact in existence for a while. Would your same analysis have applied to the compact that's been in existence? To your knowledge has anyone ever brought the suit that you say they might prevail on?

**Representative Stam**: Rep. Blust, I haven't seen that first compact. I think someone did actually file suit. I don't know the result. It's very different than this one which, by the way, was not actually signed until about a week ago. It's been very difficult for people to try to analyze it because they didn't get around to actually agreeing to it until after the Senate passed the Bill. Thank you. Any other questions?

**Speaker Tillis:** Rep. Fisher, please state your purpose.

**Rep. Fisher:** Thank you, Mr. Speaker, to speak on the bill.

**Speaker Tillis:** The lady is recognized to debate the bill.

**Rep. Fisher:** Thank you, Mr. Speaker. Ladies and Gentlemen of the House I wanted to talk for just a minute or two about the reasons why I'll be voting for this bill.

I remember going to Cherokee as a small child with my parents and being very excited to go there to see how another culture lives. And, as a little girl, being very excited and impressed with what I saw. However, what I didn't know later as a grownup, is that what I saw was a lot of poverty, a lot of struggle, a lot of want for more and better. And what strikes me as I listen to my colleague speak against this bill is that this is not a bad deal for us. I have been brought back to Raleigh to vote on incentive legislation for other parts of the state that cost the state more than many of us – I know I will never see that amount of money in my working life as long as I live. We have paid more in incentives than I would ever see. But this particular deal, I don't think it's the worst deal, this deal cost the state nothing, and will in fact bring hundreds of jobs to western North Carolina. It will bring tourism economy to an increased level. And it will be revenue coming to the state over thirty years that'll amount to about sixty to ninety million dollars, and that's without North Carolina spending a dime in incentives.

The other thing I want to make sure you understand and know is that the Cherokees spend two hundred, no sorry, twenty million they spend on offsite vendors coming in to do business in Cherokee. These are people who are not members of the tribe who come from elsewhere to do work for the Cherokee. They bring those jobs to other people. They have spent fifty-one million in grants by the Cherokee preservation foundation through the revenue that they receive to create new businesses and to help other entities, other residents to find opportunity and stability who are not members of the tribe. And so the point I guess I want to make there is that when you know that 80% of the employees on the reservation are not members of the tribe, when you see

the good that they have done through the good stewardship of the revenues that have come into the tribe for places around Cherokee not member lands then you have to think they have been very good stewards of the money that they receive.

In terms of education, Cherokee high school graduation rate is 94.5%. Now how many schools can we say that about in North Carolina? They lift us up in North Carolina in terms of education. If you go to the Cherokee traditional school there is a line across the floor. When you cross that line you can't speak anything but traditional Cherokee language. It's impressive. I invite you all to go there sometime. I really think that we need to do more to preserve the culture of the native people in this state and in this country. I think that what they are doing in Cherokee goes a long way to preserving that for all of us, and for those reasons I will vote for this legislation because I think that above all the evidence I've seen is that this lifts people out of poverty. And that's what we want. So I urge you to support this legislation. Thank you

**Speaker Tillis:** Rep. Bradley, please state your purpose.

**Rep. Bradley:** To speak on the bill.

**Speaker Tillis:** The gentleman is recognized to debate the bill.

**Rep. Bradley:** Thank you, Mr. Speaker. Most of the people in this chamber recognize me as a radical constitutionalist, and that's true. And having listened to the arguments of the gentleman from Wake County, Rep. Stam, regarding the constitutionality, he's right – if the Eastern Band of the Cherokee were a member of North Carolina. But that's where the fundamental question comes into play. Are the Eastern Band of the Cherokee a "sovereign nation," or not? Back when the United States did the Trail of Tears and we pushed the Cherokee out, and we drove them to the brink of extinction, one of the things that we did in order to make up for those crimes that we committed was that we recognized that they had a territorial claim in the United States that predates the United States. And we also recognized that they are a sovereign nation unto themselves with self-determination. It is true that some of the things that we are considering here are not according to the North Carolina State Constitution, and if they were a member of North Carolina then that would prohibit our ability to do this. But the reality is that we shouldn't even be considering this. We should have no control over the practices of another sovereign nation. This is up to the Eastern Band of the Cherokee's self-determination to decide for themselves what they want to do or not to do. We should have no place in this decision, and quite frankly I'm offended that they have to come through us to do what they want to do.

I don't believe that gambling is a good idea. I don't believe that hiring the live people at the tables is a good idea, but that's not up to me to say. That's not up to me to determine. And they do not fall under the jurisdiction, or they should not fall under the jurisdiction of the North Carolina or the United States Constitution. Are we telling them the truth when we say that that the Cherokee nation is sovereign, or are we once again lying to them as we have since the beginning of our nation? That's the question that we have to ask ourselves. I'm going to support this compact because there's really no other choice. A better choice would be to completely back out and let them do what they want because they are a sovereign nation. But this is what

they want and they should have the right to self-determination, even if we disagree, because they are sovereign. Thank you, ladies and gentlemen.

**Speaker Tillis:** Rep. Hilton, please state your purpose.

**Rep. Hilton:** To speak on the bill.

**Speaker Tillis:** The gentleman is recognized to debate the bill.

Rep. Hilton: Thank you, Mr. Speaker. I just want to throw out some facts - the information I've read and some facts about what's going on here. The Eastern Band of the Cherokee Indians have already invested \$650 million to expand Harrah's Casino. They've hired lobbyists who many of you have seen walking the halls. And the gambling industry has hired lobbyists to influence this legislation bring Las Vegas-type Class 3 gambling here to North Carolina. So this is an expansion. This is a fact: if this bill passes, it will expand and increase the number of people that will be gambling in this state. And many of them North Carolina citizens – people from your districts. So what does that mean? It means more people will be traveling to the western part of the state and spending money that takes money out of your economy. It doesn't come back. So it doesn't help your area, and what little bit money that they say that will come to Raleigh is very little, but just a court challenge away to going away. Now they want to expand this casino to two other casinos. There's a 5-county area: Jackson, Swain, Haywood, Graham, Cherokee. They want to build maybe two other casinos. It's coming. So it's an expansion, folks.

Now experts on gambling tell us that casino gambling is the most predatory business in the country. And according to the Wall Street Journal article, casinos make 90% of their profits off 10% of their customers who become addicted to this kind of gambling. The facts show us that when this type of gambling starts, we also see an increase in societal problems: increases in crime rates, divorce rates, domestic violence, child abuse, bankruptcy, suicide.

We also see more organized crime will be coming to our state because that's what they go after — this type of policy. I mean, I'm a certified police officer recently, and I've taken criminal justice courses. I just finished my Associate's Degree in criminal justice. And one thing we studied in organized crime — they go where this gambling is and that's where they prosper. So that's what you're going to see. And as a police officer — you'll see other police officers here that are going to be opposed to it - we try to set policy and we try to encourage policies that will drive crime rates down, not increase crime rates. This will increase crime rates. When Harrah's Casino was built, crime rate in the first 5 years went up 25% in Jackson County. Statistics show us in Atlantic City within that first 15 years the crime rate rose 199% and larceny increased 481% - in Atlantic City, the first 15 years. Folks, it's coming. We pass this, we're going to see these problems. Societal problems that will take more out of our economies, that will hurt our people that we represent. That's why for so long our state has opposed, they've stiff-armed this kind of gambling, because they know it harms the people. Why would we do something that we know, with scientific facts it's been proven that it harms people? We don't need to do this.

I've been here for 12 years. I was here when the lottery was passed. And we were told that the lottery would fix education, no more problems for education. Has it fixed education? Do we still have a revenue problem for education? Absolutely. On our side, those who opposed it, we said, "Look, don't do this. If you pass a lottery, we're going to roll out the red carpet for the gambling industry". And we were told by those who supported it, "No, if we pass a lottery, this will assure that these forms of gambling that you're concerned with will not come. If you pass a lottery, it won't happen. We'll put restrictions on marketing. We'll put restrictions on games with the lottery."

So they pass a lottery. What happens? Who was right? Here we are wanting to expand other forms of gambling. Since the lottery was passed, we've already increased the marketing of it, we've already increased the games that are played. And there were a lot of people who voted for it in good faith who got good amendments that would limit that to get their vote on the lottery. Well, they told you wrong. You went along with it and now look what we have. We're wanting to spend more money on preying on people to get them to spend more money on the lottery. Who in this room, in this building thinks that everyone in this State doesn't know we have a lottery? Then why in the world do we need to spend more money to market it, to get more people to spend their money on something that you know and I know that their chance of winning is practically none? We just want them to spend more of their money.

Folks, we're here, we swore an oath to represent the folks, to uphold the constitution and look after our folks and do the things that will not harm them. This will harm the people of North Carolina. It will drive up crime rates. It's not a good deal. It's full of problems. There's a lot of red flags. It's been moved through here. It's gone through the Senate; it hasn't had a proper hearing. It's gone through this House; it hasn't had a proper hearing. We don't know what this compact does. No one can tell me what this compact really does, what's going to be the outcome. But here we are, it's on the floor of the House and there's still too many unanswered questions. We don't know what harm this could bring. I say let's put the brakes on it. Let's vote no and take a better look at it.

**Speaker Tillis:** Rep. Rapp, please state your purpose.

**Rep. Rapp:** To debate the bill.

**Speaker Tillis:** The gentleman is recognized to debate the bill.

**Rep. Rapp:** Thank you, Mr. Speaker. Members, I have had a great deal of grief about this bill. And I want to tell you that I have the highest regard, the highest regard for the Eastern Band of the Cherokees. And let me say that what Rep. Haire said, what we heard earlier from Rep. West and from Rep. Fisher is indeed the case. I know no group of individuals that has been better stewards of the resources then this current leadership that exists in Cherokee. And what you've heard about the schools, what you've heard about the infrastructure and the community, the transformation in the last 20 to 25 years is remarkable. There is absolutely no question about that.

What I am concerned about, though, and the reason that I'm standing to oppose this measure is because this is not about simply adding live gaming to the existing casino – this is about expansion. Now if this were just about adding live gambling to the existing facility, I would have supported it. It's there. And in previous rulings, decisions, discussions it's believed to have been fine and acceptable and appropriate. It's there, and no matter what happens about this bill today, it will be there tomorrow, as well. So we're not making a decision about those 1,800 people who have jobs there today losing them based on what you do here today. That is not a factor in this conversation. What is a factor is whether or not we want to see it expand, and that's my problem. In fact, my original conversation with the Chief and members of the tribe in my office a year ago, my understanding was that that was what it was going to be – the addition of live gambling - and they made their case very effectively – but my understanding was: in the existing facility. Subsequently, as the negotiations evolved, they were talking about four sites – four additional sites. It is now down to two additional sites for a total of three that would be located in the far west. And that's where my problem comes in.

Now, I'm not going to repeat what you've heard. I'm going to just try to add some things. But you know, the amount of money we might generate from this, the two to three million dollars per year. They like to talk about this as sixty to ninety million dollars. It's two to three million dollars per year. When you put that across the state budget, you can do the equation of what that translates into in terms of revenue for the state.

But let's talk about the other thing that has not, to my knowledge, been included in the discussion about this. What about ALE's enforcement of the gaming laws? What about the expense of the law enforcement being factored into the control of the games? What about the social costs of this, as well? Anyone who has dealt with that, and I think Rep. Hilton spoke eloquently just as a police officer, but I've heard this from our county sheriffs and several of our local law enforcement people about spouses coming to them, pleading with them to stop their husbands or wives from gambling because the family is short of money. There is a social cost. We do get involved. There's no way of getting around that. So from the standpoint of the social cost from law enforcement, I think we need to take that into account, as well.

Some of you are aware of the poll that was reported by the North Carolina Policy Watch (It was done May 15<sup>th</sup> - that's when it was put out.) in which 53% of the folks in this state said they opposed this living gambling, 38% said they favored it and 9% said they were undecided. But 53% - a majority – were opposed to it.

Now I would say that the standpoint of...There's another context that I want to put this in because some of you know I've been here for 10 years. I was one of the ones who voted against the Education Lottery. I had the same concerns that you've heard expressed about it. And I also helped to author the legislation banning video gaming, as well as the sweepstakes gaming which is in the courts right now. We're waiting for the arguments to be heard this September in the Supreme Court on that law. But I think what I'm concerned about and what you've seen is across this State there's a wildfire opening of sweepstakes parlors, the video gambling, and I challenge anybody to not find one of those in your community today. I mean, they've sprung up just everywhere. And what I don't want to see happen is that North Carolina becomes the State of gambling. But if I look around, and this is a small piece of it in the bill we're looking at,

combined with what we're involved in with the video gambling and the video sweepstakes, I see some dark days ahead for North Carolina. So for this reason I'm going to oppose this legislation. I have an amendment that I want to propose, but I want to talk to the bill advocates before I introduce it to the body. I'm really looking for a way to help my friends, and I consider them my friends for many, many years, in the Cherokee tribe. And I'm looking for a way to find some common ground, but I'm not going to introduce it until I talk to Rep. West, until I talk to Rep. Haire. But I want to, Mr. Speaker, let folks know that I probably will be introducing an amendment shortly. Thank you.

Speaker Tillis: Rep. Owens, please state your purpose.

**Rep. Owens:** To speak on the bill.

**Speaker Tillis:** The gentleman is recognized to debate the bill.

**Rep. Owens:** Thank you very much. Mr. Speaker and ladies and gentlemen of the House, yes, some of the things that have been said have been true. Some of the things you've heard were exaggerations. Now, what's the truth? The truth is, if you've never been to Cherokee, you need to go, because a lot of the things you're assuming...I mean, it's the largest hotel in North Carolina. It's already a big economic factor. It's run clean. But the truth is you're talking about the money going out of your community to there. No, a lot of it is not going there because people won't go play machines. They're taking that money to Vegas, or Atlantic City, or Dover or wherever else there is. Money needs to stay in North Carolina.

Now some years ago we looked at it. This would bring in at that time it was 1,800,000 more tourists. It's probably down now. But even if it brings in 1,200,000 – you're not talking about the revenue that you heard: \$3,000,000 a year. With all that extra sales tax, occupancy tax, all the other revenues that people will spend throughout their visit to North Carolina will bring in tens and tens of millions of dollars to North Carolina, not counting the 400 direct jobs that will be made instantly and it will be more than that in the future. And then there's another six to eight hundred indirect jobs that will be created by people having to help provide this.

If you went to Cherokee 25 years ago and you saw what was there and how the people in that area of the State lived, and you go there now...I didn't like spaghetti when I was little because it didn't look right, but once I ate it, I ate too much. It made me, you know...[through laughter] what we do with the Cherokee. But they run a first class operation. And if you haven't ever been, you really don't know what you're talking about unless you see it first-hand yourself. I partake and go to a few gambling establishments across the country and they run a first class operation. But right now we need to substitute live people for machines, and right now that's what you're doing. Most people gamble, and these tourists that come want to spend their money in this State, they don't want to be playing against some machine; they want a live person that they're dealing with.

This is good for North Carolina. This is good for the people. I realize that we try to say that the morality is tough, but I've got news for you folks: people are going to gamble, and people are going to drink, and people are going to smoke, and people are going to overeat like I do. These

things are going to happen. But we need to do what's best for somebody that has really done a great job. My hats are off to the Cherokee Nation for what they've done for Western North Carolina in particular, but the whole state. They've been great corporate citizens. They've given hundreds and millions of dollars to worthwhile projects across this State helping people. And more important, they've certainly helped their own by allowing them to have opportunities to make a decent wage. I encourage you to vote for this bill.

**Speaker Tillis:** Rep. Keever, please state your purpose.

**Rep. Keever:** To speak to the bill, please.

**Speaker Tillis:** The lady is recognized to debate the bill.

**Rep. Keever:** Thank you, Mr. Speaker. I stand to support this bill. To me, this is not about what we as North Carolina get out of this compact. It's about what the Cherokee Nation has done and will do for its own people. It will not change people's gambling habits. But I have witnessed the good it has done in the tribal community: the quality of life, the health and education. I've been impressed most of all by the investment they have made in their school system and in their young people. This is an economic engine for the far western part of the State. It provides jobs. It provides excellent education. It has improved the health 100% of the members of the tribe.

This is not a lottery. They are not pretending to support education. I would not have supported the Education Lottery, were I here, because education should be funded first. They are investing in their young people's education and health, and money only has value in how it is used. The Cherokee tribe has done a wonderful job with the money that they have raised. The majority of the people that come to Harrah's are from out-of-state. There are provisions to help people who have a problem with gambling. I urge you to support this on behalf of the Cherokee Nation.

**Speaker Tillis:** Rep. Harrison, please state your purpose.

**Rep. Harrison:** To ask Rep. Stam a question. Is he in the chamber?

**Speaker Tillis:** The gentleman is returning to his seat...He anticipates by the pace that he is prepared to respond.

**Rep. Harrison:** Thank you, Mr. Speaker.

**Speaker Tillis:** The gentleman yields.

**Rep. Harrison:** I appreciate your scholarship on this, and I had a chance to skim this document from the Institute for Constitutional Law. I didn't get to read it carefully, but as I understand it, there is a case to be made that there's a chance that this contract might be deemed to be a hereditary emolument?

**Rep. Stam:** A hereditary privilege, I would say. Yes. A good chance, excellent chance.

**Rep. Harrison:** Thank you . A follow-up?

**Speaker Tillis:** Does the gentleman yield to a follow-up?

**Rep. Harrison:** Yes, thank you. So if that were the case, say the gambling industry were to challenge this and it were deemed by a court to be the hereditary privilege, would that mean that the entire State could possibly be opened to Class 3 gaming?

**Rep. Stam:** Rep. Harrison, if you look at page 2 of the bill which is 292.2, and if you go down to subsection C: "Nothing in this section shall modify or affect laws applicable to persons or entities other than the tribes..." A judge would have a choice, a difficult choice to say that the whole law goes down or subsection C goes down. So I don't know whether a judge would open up the whole State, or throw the whole law out. My opinion would be more likely a judge would throw out subsection C because judges tend to like to interfere as little as possible with legislation.

Rep. Harrison: Thank you, Mr. Speaker. Thank you, Rep. Stam.

**Speaker Tillis:** Pages, if you will please come to the front. Come to the well of the House, please. We know it's three o'clock and it's Thursday, so we're going to have you come to the House and thank you for your service. Members, while the Pages are doing that, the Chair has consulted with the opponents of the bill and the Chair anticipates an objection to third reading. Therefore, the Chair would encourage members who are considering amendments to possibly consider taking those up on third reading. Any amendments in order will be taken from the floor on third reading. The members are also welcome to send them forward today, but in the interest of time management, the Chair would like you to consider that.

[Pages were dismissed...]

**Speaker Tillis:** Rep. McElraft, please state your purpose.

**Rep. McElraft:** To debate the bill.

**Speaker Tillis:** The lady is recognized to debate the bill.

**Rep. McElraft:** Thank you, Mr. Speaker. Members of the House, I wanted to just say that I've changed my mind on this bill. I started out saying that I would not support this bill, and then I started being real with myself. I started thinking about what it meant to support this bill and I wanted to be honest with you.

I went to Cherokee and did a little research. I actually took my mother and two sisters, and we had a wonderful time. It was my mother's birthday. She's 87 - will be 87. She's had a stroke since then, but we had a great time celebrating her birthday. She couldn't make it to Las Vegas, she loves Las Vegas. By the way, mother, two sisters – Southern Baptist. I'm Catholic. So it has nothing to do with morality. We truly believe as Republicans and as Conservatives, that

people should have the right after 21 to do what they want to do. I believe that there are gambling addictions out there. I believe that it's entertainment for other people.

And I enjoyed the days I spent at Cherokee with my mother who lives three hours from there, living in Georgia, and my two sisters. And, as I was there doing my research (I didn't charge my travel to the state, by the way) I noticed that it looked like there were tables there, Las Vegas style tables there already. And there was a gentleman or two or a lady or two behind them giving money to people, change and all. So quite frankly it already looks like there is Las Vegas style gambling there. The only difference is the people sitting there are gambling against a machine. And if you know anything about gambling, and not that I do, but I will tell you that gambling against a machine is much worse odds than gambling against a live dealer.

So for those North Carolinians and those who come from Georgia and other places who spend their money in North Carolina, you would think that we would want to give them the best chance to win their money so they can go and spend it in our state. Live gambling is probably the best way to do that. Live dealers. It's not going to change the people who are already gambling there. Sure, I looked around and saw people who couldn't afford to be there. And who am I to judge them? But I know there were other families there having fun. Cherokee's a great place. Like they said, the hotel's wonderful. The food – we spent more time I think eating there, we had three wonderful meals there. And we got comp because we lost so much money, no, I'm kidding. My point is is that it can be recreation for people. It can take an 87 year old woman who can't go on a cruise or do other things, but she can go there and sit at a machine or play blackjack or whatever and enjoy it with her daughters.

What the Indian tribe at Cherokee has done I have seen all over Oklahoma. I'm from Oklahoma. There's almost a casino in every town in Oklahoma now. Oklahoma has generated almost five hundred million dollars for the non-gambling revenue. I don't ever want North Carolina to become an Oklahoma as far as gambling, but the Indians in Oklahoma are now building their own hospitals, are now taking care of themselves. They are out of poverty in Oklahoma for the first time since **we** put them there on the reservations. It is time for us to respect the Cherokees and their sovereignty, and it is time for us to step back and not think about our personal beliefs, but allow people to do what they want themselves and make those choices, and not stand in their way.

I don't believe this compact is going to hurt North Carolina. I do believe that it will bring more Georgians and more Tennesseeans and more people who can't afford to go to Las Vegas to our state. And I hope you will support this.

**Speaker Tillis:** Rep. Michaux, please state your purpose.

**Rep. Michaux:** To speak on the bill.

**Speaker Tillis:** The gentleman is recognized to debate the bill.

**Rep. Michaux:** Mr. Speaker, I listened with a great deal of alacrity with what Rep. Stam had to say, and I'm glad he raised the legal issue on that because what you must understand is that us

lawyers know is that there are always two sides to an issue. And that if you try to out-guess a jury, you try to out-guess a judge, you're taking a big gamble on a whole lot of things when you do that. But be that as it may, what I want to you is very simply this: we have gambling in this state already.

There're folks on their way to Cherokee right now to spend the weekend up there and they're going to gamble. They're going to gamble with a bunch of machines up there and not live dealers. And like my friend Brother Owens, I've been to a few of these casinos too. Matter of fact, sometimes I cross paths with not only Brother Owens, but a whole lot of other folks in here in some of these places. But be that as it may, the fact of the matter is: we have gambling in this state already. It's in a casino, and it's in the western part of the state.

So if we're going to have it, why not have it so it's beneficial to the people it will help? And that's the people out there who are going to get those extra jobs, where you're going to have live dealers, where you're going to have people who are making the money to live with it.

You're going to have problems anywhere you go with anything that you do. I don't drink. I think liquor is a bad problem. People are habitually addicted to drinking. They cause a whole lot more damage in my mind than a lot of these other things cause so why not go ahead on and just accept the fact that we have gambling in this state now and that what this bill does is simply provide more jobs for people in an industry that's already in the state. I hope you will support the bill.

**Speaker Tillis:** Rep. Jones, please state your purpose.

**Rep. Jones:** Debate the bill.

**Speaker Tillis:** The gentleman is recognized to debate the bill.

**Rep. Jones:** Thank you, Mr. Speaker. I don't know that I'll add a lot to what's been said today except that I want to explain why I will not support the bill. I've heard a lot of valid arguments, I guess, from both sides, and I think one wise representative said that sometimes things get exaggerated I guess on both sides. But I do think we need to be honest with ourselves and say that this is not about jobs. This is not about just legitimate jobs because if it were it would have been passed a long time ago.

I'm very confident that regardless of which party would be in control here that if there were legitimate jobs out there on the table that they would have passed legislation to allow it – not only in one section of the state and not only under one people, as we've been discussing, but in every area. Like many of you, I represent a relatively impoverished area. We have certainly very high unemployment as we do pretty much throughout this state. And if I thought that these were legitimate jobs I'd probably be fighting like a lot of you to have this come to my county too.

I've heard a lot of comments "well we have gambling in this state already" or "they're going to do it so why don't we just go ahead and say it's ok." And I guess the answer is because it's not ok for a lot of the reasons that we've heard already. Folks, it is a moral issue. And I know that there are people who feel like government shouldn't be in on moral issues. If that's the case then

why don't we, while we're here this session, go ahead and take a stand and legalize prostitution. We could create jobs in this state. I'll probably get a few laughs with that but let's be honest about it – we could say we created jobs. Drug trafficking. Loan sharking. There are all kinds of jobs out there that we could say that we helped to create.

But if I were going to vote for this bill, I think of all of the arguments that I have heard I would probably accept the argument that Rep. Bradley made. That this is a sovereign nation, why not just let them do what we want to do? And by the way, I think there are very good reasons from both conservatives and liberals to oppose this bill. But I do want to say as someone who sees myself as relatively conservative that as a conservative I don't think that that means that anybody ought to be able to do whatever they want to do. Folks, that's not conservatism, that's anarchy. That's chaos.

I think on the liberal side I would just suggest that sometimes we talk about regressive taxes or regressive amounts of money being taken from certain people who probably can least afford it. I do know that often in cases and instances of gambling as it stands that the most money ends up being forfeited by those who can afford it the least. I've seen statistics that say that 50% of the money for this comes from 5% of the people. And we have heard, I think Rep. Hilton made a very eloquent argument about the social costs. And quite honestly I think a lot of what we deal with here as a legislature is related to social costs.

Mr. Speaker, if he would yield for a question, I would like to ask a question for Rep. Stam.

**Speaker Tillis:** Does the gentleman yield?

Rep. Stam: I do yield.

**Speaker Tillis:** He yields.

**Rep. Jones:** Thank you, Rep. Stam. You heard the argument made about tribal sovereignty and how basically we shouldn't interfere because this is a sovereign nation. I'm not a lawyer. I don't play one on TV. We've got some good lawyers here, maybe you could explain a little bit. I did do a little research and I understand that sovereignty given to Indian Tribes in the United States is a little bit different than the sovereignty we extend, for instance, to other nations. Could you maybe speak to that question?

**Rep. Stam:** I could. We could look at this by asking "what if this were Germany?" Germany is a truly sovereign nation. If there were a trade pact between Germany and the United States that said the United States could manufacture cars in Michigan but not manufacture them in North Carolina, would we put up with that? No.

Indian tribes in law are called "domestic dependent nations." They are called "nations" but they are "domestic dependent nations." Cherokees, like all other Indian tribes, serve in the United States Army. They don't serve in the Cherokee army. They vote in our elections. It is not the same as Germany or France. If all this law did was to say that Indians can gamble with each other on Indian land, then Representative Bradley would have some kind of point. But this bill

and compact tells the state of North Carolina that people cannot engage in certain businesses and competition with the Cherokees outside of tribal land: a totally different situation.

Rep. Jones: Thank you, Rep. Stam. Again, I would just say that I do oppose the bill and I ask

that you would vote against it. Thank you.

Speaker Tillis: Rep. Brandon, please state your purpose.

**Rep. Brandon:** To speak briefly on the bill.

**Speaker Tillis:** The gentleman is recognized to debate the bill.

**Rep. Brandon:** I want to echo the comments of my colleagues who rise to support the bill. I do want to say that the Cherokees are an example of sustainable communities. They've done a great job of being able to take the monies that they've gotten for themselves and create a community that doesn't really require a lot of our oversight from the state or outside or use our funds to take care of them. I wish some of our own communities would have that same mentality of "each one teach one" and not "each one teach ten" and they're doing a great job with that. They've been excellent stewards of this state and I hope that we can all support the bill and support their wishes as a sovereign nation. Thanks.

Speaker Tillis: Rep. Ingle, please state your purpose.

**Rep. Ingle:** To debate the bill.

**Speaker Tillis:** The gentleman is recognized to debate the bill.

**Rep. Ingle:** Thank you, Mr. Speaker. We've heard a lot of arguments today, ladies and gentleman, pros and cons. I think back to what Rep. Rapp had to say that I think is a very important part of this bill. It may justify an amendment. It's a fact that when you look at the Cherokee nation it's not all one piece of property. It's not contiguous. It's divided. And because of that when you look at this bill – three locations. As Rep. Rapp so eloquently said, we're talking about some major changes in things that are going to be going on there in Cherokee if this occurs.

I have the concerns that we heard here today in reference to the social concerns. What we've seen in Las Vegas and other locations where vice does follow the gambling and as we continue to increase what is being done here there at the Cherokee nation. So because of that I cannot support this bill and will not. Based on my years, forty years in law enforcement, in what we see and the difficulties, certainly that is not to say that the Cherokee nation has not done some great things with the funding they have received for education and other things in view of what they've received their with the machines. I think this is taking it a step too far, and I will not support this bill. Thank you.

Speaker Tillis: Rep. McGuirt, please state your purpose.

**Rep. McGuirt:** To ask if Rep. West would yield to a question.

**Speaker Tillis:** Does the gentleman yield?

**Rep. West:** I yield, Mr. Speaker.

**Speaker Tillis:** He yields.

**Rep. McGuirt:** Rep. West, tell me if you can, will the passage of this bill eliminate the video gaming in Cherokee? Or will that continue as well?

**Rep. West:** I can't answer that question thoroughly, but I think it will eliminate a lot of them because we'll be replacing a lot of the games that are video with live dealers. Now there may be some games that's left that are video so I cannot answer that question completely.

**Rep. McGuirt:** Thank you, sir. Mr. Speaker, to debate the bill.

**Speaker Tillis:** The gentleman is recognized to debate the bill.

**Rep. McGuirt:** I'm inclined to vote in favor of this bill, and I probably will vote in favor of this bill because I want to do all I can to eliminate video gaming in any form in North Carolina. Video gaming is not gambling. With gambling you've got a chance. With video gaming you ain't got a chance! You're playing against a computer that's programmed to take your money. Live dealing is much preferable to the video machines. And I hope you'll join me in voting for this bill. Thank you.

**Speaker Tillis:** Rep. Pittman, please state your purpose.

**Rep. Pittman:** Debate the bill.

**Speaker Tillis:** The gentleman is recognized to debate the bill.

**Rep. Pittman:** Thank you, sir. My...

**Speaker Tillis:** The House will come to order.

**Rep. Pittman:** My Cherokee history is not perfect by any means, but I understand that we, and by "we" I mean white Europeans coming over here, has had a bad effect on their history in many ways. I know what it is to feel a sense of collective guilt even for things I haven't done because as a Christian I realize as a human being I may not have been there but I bear a part in the crucifixion of Jesus Christ. And so I feel a sense of collective guilt in what the white man has done for the Cherokee over the years.

I have some sympathy for Rep. Bradley's concern about the idea of a sovereign nation and we shouldn't be deciding this. Quite frankly, I wish we weren't deciding this. I wish we didn't have anything to do with it. To say that they're a sovereign nation and then we get to decide this – I'm

uncomfortable with that. However, the simple fact of the matter is the way things are set up we do have to decide this.

And there's a sense of wanting to help the Cherokee people, and I have nothing against helping the Cherokee people at all. But for one thing, you know, I heard somebody say earlier about how many folks that were not Cherokees getting some of these jobs. I don't know how that helps the Cherokee people for non-Cherokees to get a lot of the jobs. And I don't believe that we can help any people by encouraging them to adopt corrupt practices. Over the years of our relationship with the Cherokees we've brought problems to them associated with alcohol as *audio indistinguishable* was saying earlier today. We've brought them diseases that this continent didn't know until we came here. We brought them death and destruction through warfare and displacement from their land. Now we're bringing them a corruption through gambling. And we want to do more of that? To degrade the moral fiber of their society even further?

I know a lot of people might disagree with me that gambling is immoral but I believe that it's a mutual effort to steal from each other, and I believe that's breaking one of the ten commandments. So as a Christian, I just can't support that, and I hope that this body will not. Thank you.

**Speaker Tillis:** Rep. Faircloth, please state your purpose.

**Rep. Faircloth:** To debate the bill.

**Speaker Tillis:** The gentleman is recognized to debate the bill.

**Rep. Faircloth:** I hadn't intended to speak on this issue, but it raises quite a few concerns for all of us 'cause it's so important to our state, and it's also vitally important to our future. I had a Cajun, a few years back, to qualify in court as an expert on gambling. Learned a lot about the different kinds of gambling. A lot of people don't know much about gambling. They participate sometimes in activities they don't really understand.

For instance, if I pick up this piece of candy off my desk and I say to my seatmate here "I bet you \$25 that I can hit that circle in front of the Speaker with this piece of candy and you can't." and he says "ok I'll take that bet," are we gambling? A lot of lawyers in here; I bet even some of them would miss the question. That's a game of skill – that's not gambling. You can bet on that in North Carolina. However, if Kelly says "let me bet somebody that you can't hit that any better than he can" – now we've got the third party in. That's where the skill goes away and the chance picks up. Gambling is betting on chance.

Had an experience one time where I got a complaint and went to this little curb market and there was a five gallon water jug sitting there. It was about half full of water. In the bottom of the jug was a baby food jar. It was surrounded by nickels and dimes and quarters and it sat on the counter right there in the curb market. And the complaint that I was answering was from a mother who said that her son was taking his lunch money and instead of taking his lunch money and buying lunch at school he was going down to that curb market and he was dropping that quarter in that jug to see if it would go through the water and land in the baby jar. If it did the

shop owner gave him a candy bar. Is that gambling? Went to superior court and won it. It is gambling, because it was chance – predominately chance.

Gambling is a very nebulous thing, and if you start examining all of the details in it...I'll give you one that some of you may have seen. If you had turned on TV and looked at the poker games that are playing, the professional poker games, all the guys sitting around the table - and most of them are guys - were old gray-haired guys like me, some of them wearing cowboy hats, that had been gamblers for years and won all kinds of trophies and won all kinds of money. You go home tonight and turn on that TV. They are college graduates. They are 18, 19, 20 years of age that are world champions in poker and they sit at tables and play.

This is a tough, tough question for all of us. Is gambling wrong? To me gambling is wrong. Is it a moral issue? Yes, it's a moral issue. But if there are also economics involved there's the future involved for us. There's the question of does this situation we're talking about, if we allow it to occur, does it spread to the rest of our state? Boy this is not an easy one.

I stand before you knowing a lot about the issue, but still not knowing quite how I'm going to vote because I love the Cherokee nation. I love the heritage. And I don't want to do anything to hurt them. But I love my state of North Carolina too. I wish I could tell you which way I was going to vote, but I'm going to wait a few more minutes before I decide.

**Speaker Tillis:** Rep. Horn, please state your purpose.

**Rep. Horn:** To debate the bill.

**Speaker Tillis:** The gentleman is recognized to debate the bill.

**Rep. Horn:** I, too, had not planned to speak on this bill. And I've had a difficult time deciding how I was going to vote. When I walked into this chamber I was leaning in one direction and as I've listened to the debate I'm tending to lean in another and I recognize it is a moral issue to a great extent. And I'm concerned about that that affects the least among us. Spent forty years in the food business and most of that was calling on convenience stores and saw the number of people lined up to buy lottery tickets. Talk about no chance in your video games, that's pretty much a dead-end.

But I was fascinated to listen to and see how many people had visited Cherokee and hear the good times they had. How many of the people here have visited Pine Ridge in South Dakota, where you're going to see a nation of Indians in true poverty? I mean break-your-heart poverty. They have alcoholism they cannot control. They have kids that don't go to school at all ever. They have not a lot of crime because there's nothing to steal. There're no jobs – there's nothing there. It is the worst place in the country, as far as I'm concerned.

My heart breaks every time I think about Wounded Knee and the Dakota Sioux and Pine Ridge and if you haven't been there I beg you to go. Because talk about a forgotten people and a forgotten nation. And I see what the Cherokees, the Eastern Band of Cherokees have done for

their people. And, to a great extent, how they've taken almost nothing and turned it into something because we've allowed them to exercise their rights to self-determination.

So it's been rumored that I'm a gambler. I am. I love to gamble. I've been to lots of casinos all over the world. I admit it – I love it. I really enjoy it. It's great fun. Fortunately, I can afford it. But I also look around in those casinos and I see dealers – professional dealers, well trained to know who should be there and who shouldn't. And that's not what happens with one of those video game machines. So I think that gaming with live dealers can be good, controlled, beneficial. Can do the right thing for the people. Can help those who need help. Can identify those who don't know they need help. And can continue to bring people out of poverty into education – those wonderful results that we have already heard about here in the Cherokee nation, so I will be voting for this bill and I encourage you to do the same.

Speaker Tillis: Rep. Hilton, please state your purpose.

**Rep. Hilton:** To speak a second time.

**Speaker Tillis:** The gentleman is recognized to debate the bill a second time.

**Rep. Hilton:** I won't speak long, but I just want to address something that was raised by Rep. McGuirt about what will happen to these existing machines. There is nothing in the bill that says they have to do away with these machines. If we build two other casinos in two other counties what will probably happen is they'll replace those machines with live dealers and then move those machines over to those other establishments. So probably you'll see an increase in video gaming if this bill passes. Thank you.

**Speaker Tillis:** Rep. Hager, please state your purpose.

**Rep. Hager:** Thank you, Mr. Speaker. To debate the bill.

**Speaker Tillis:** The gentleman is recognized to debate the bill.

**Rep. Hager:** We've heard a lot about morality and social cost and I think I want to remind you guys that the five counties surrounding this area have double digit unemployment. Now we have to decide for ourselves – what's more moral: to give 400 people who don't have jobs jobs? Bring them out of poverty, being able to pay their mortgage, being able to pay their power bill. Or to leave them in poverty? I think we have to decide – what's the more moral issue here?

I choose to put them to work. Does crime actually increase in these areas? I've got a study here from the National Gambling Impact Study Commission created by Congress and they say "no." Communities surrounding casinos are just as safe as communities further away from casinos. The National Gaming Impact Study also found that casinos reduce welfare and unemployment rates. That's exactly what we're trying to do in Graham County where in January unemployment was 20.5% and is now 16.7%. Or in Swain County with unemployment was 19.4% is now 13.6%. That's exactly what we're trying to do, guys, and you have to decide which is more

moral: to give a husband or a man or a father or a wife or a mother a job, or to leave them where they are. I will be voting "yes" on this bill.

...[courtesy of the gallery]...

**Speaker Tillis:** Rep. Stam, please state your purpose.

**Rep. Stam:** To speak a second time.

**Speaker Tillis:** The gentleman is recognized to debate the bill a second time.

**Rep. Stam:** Thank you, I just want to disabuse the members who think that there's anything in this bill that will get rid of one videogame. I am glad that the members recognize that video games are a menace. But this bill does not require the destruction or removal of one single video game.

Secondly, and I address this to all the folks out east who have thought about the tolls across Pamlico Sound. In 1879, in *Washington Toll Bridge Company v. Commissioners of Beaufort*, the Supreme Court of North Carolina considered a law that said those passing over the bridge would pay one half the existing rates if they were residents of a certain part of Beaufort and Pitt while everybody else paid full freight, and prohibited the opening of another bridge somewhere else to get around it. Our Supreme Court law said this violated the monopoly provision, the exclusive emoluments provision, and is contrary to the genius of a free state, and this is what I want to explain.

We've had several speeches saying that this will be good economically for the Cherokees. Guess what? All monopolies are good for the monopolist and they harm those who are not part of the monopoly. That's why our state constitution has been forbidding monopolies for hundreds of years as contrary to the genius of a free state.

**Speaker Tillis:** Representative Moore, please state your purpose.

**Rep. Moore:** To debate the bill.

**Speaker Tillis:** The gentleman is recognized to debate the bill.

**Rep. Moore:** Thank you Mr. Speaker, ladies and gentlemen of the house. Given the hour I won't go into too much detail but I did want to respond to some of the arguments offered by my good friend Representative Stam with respect to some of the legal issues. It's very rare that he and I are on opposite sides of the issues here but today we are. I want to stress a few things: I always get amused when Representative Stam brings in the Articles of Confederation. You did not bring in Magna Carta today though, so I am proud of that.

The issue basically was: "Is an Indian tribe, an Indian nation, is that a person under the law?". So as my good friend from Wake did, when you can't really find a case that helps your own point you argue a bunch of different things to infer it. But there's actually a case directly on point. The

case is *Inyo County of California v. Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony*. It's a United States Supreme Court case from 2003. In that case the Supreme Court was called upon to define whether a Native-American tribe would be considered a person under the law, specifically under 42 U.S.C. 1983. The finding of that case was in fact that it is not--that a sovereign nation or an Indian tribe is not a person.

All this talk about emoluments and all these arcane legal arguments hinge on whether or not the Cherokee nation is in fact a person. The Supreme Court has ruled that Indian tribes are not persons. It's a relatively recent case, it's on point, and it defines the issue.

The other issue has to do with whether this is a monopoly. I would submit to you it is not a monopoly. Think about it. The Casino has been in operation now all these years. It's the only casino in the state. There have been cases filed and arguments made against it, and it's open. It's still in business.

So what's the net effect of this bill? Again members, you've seen the compact, you've heard discussions. We're not voting on the compact. We don't have jurisdiction on the compact: that is between the governor and the Indian tribe. What we are voting on, very simply, is the legislation that would enable the compact to go forward. All this legislation is really doing, when you cut to the chase, is take where it's a computer, where it's a machine sitting there, and doing this gambling or whatever you want to call it and it replaces that machine with a live person. It puts a person there earning a job instead of a computer. The horse is out of the barn folks; it's just a matter of whether you want a live person there or whether you want a machine.

With respect to the territorial issue about it being west of I-26, that's something that has to be done. There has to be a "bargained for" exchange for there to be revenue sharing. This process has been vetted, I assure my colleagues. I don't see any way that this bill can in any way expand this beyond where it is right now. It's further defined. It's narrowly tailored to achieve that purpose. This very simply will not lead to an expansion of gambling in North Carolina. Ladies and gentlemen, I would appreciate your support of this bill.

**Speaker Tillis:** Rep. Stam please state your purpose.

**Rep. Stam:** Will Rep. Moore yield for one question?

**Speaker Tillis:** Does the gentleman yield?

Rep. Moore: Yes.

**Speaker Tillis:** He yields.

**Rep. Stam:** Rep. Moore, looking at the four constitutional provisions and your argument about whether the Indian tribe is a person or not, would you admit to the House that that has no relevance to the argument on Section 33 or 34 of the Constitution?

**Rep. Moore:** I think it's all relevant because everything that ties in with respect to the emoluments is simply not there. You're talking about, I think, the hereditary issue. It's not hereditary. It's not something vested by heredity. This does not go to a person, this goes to an Indian tribe which has been found to not be a "person."

Speaker Tillis: Rep. Graham, please state your purpose.

**Rep. Graham:** To speak on the bill.

**Speaker Tillis:** The gentleman is recognized to debate the bill.

**Rep. Graham:** Thank you, Mr. Speaker and Members of the House. It's an honor and a privilege to stand up and be an American Indian today. I do want to speak on this bill; I do want to emphasize some points that I have not heard stressed in our discussion this afternoon. And I'll be brief.

Until you've lived in any community, and you've had the opportunity to live the culture as I have, and I'm sure the Cherokees have as well – the impact that our decision today could potentially have could cause harm to a tribe that's well respected in this state. There's a moral issue here. When we talk about opportunity for our American Indian citizens in Cherokee we need to be real careful when we talk about history and how history has treated our American Indian people. And this compact, and I want to commend our Governor for negotiating this compact, working with not just the Cherokee, but all tribes in this state, making sure that she was fair, and looking at the needs of all of our state recognized tribes and coming up with a compact that was fair and that we could live with. And I commend her counsel and the Governor for allowing input from other tribes on this issue.

But do you realize, and I've heard jobs and I've heard other impact relative to the compact, but let's look at the human side of this thing and consider the healthcare issues and the benefit that the proceeds from gaming will allow the Cherokee tribe to enjoy. Do you realize that as a result of the existing gaming on the Cherokee reservation North Carolina does not put any Medicaid money into that community? Did you realize that? Now think about this. The Cherokee community takes care of their healthcare needs. They don't depend on Medicaid dollars in this state to do that, and I'm proud of that. I'm proud of that – they have their healthcare system. Do you realize that as a result of their healthcare system our private providers, our specialists, receive over thirteen million dollars in revenue as a result of the hospital system in Cherokee referring clientele to specialists? That's revenue for specialists, because they have a good healthcare system as a result of the gaming proceeds. The American Indian health board, which is comprised of American Indians across this state, has endorsed this bill because of the advantages and benefits of healthcare that will be generated if we approve this bill.

We're not talking about approving gambling. We're talking about improving a way of life. The Cherokee – they have their gambling. We're talking about improving a way of life. This is nothing new. Gambling exists for many *audio indistinguishable* in this state. And I encourage you to look at the moral issues and the healthcare benefit and the other benefits that we're going to confer to Cherokee today. And if you haven't made up your mind on this vote, consider the

human side, and the human suffering that you could enhance today. Please consider this. Please consider the needs of this community, and the benefits that our vote will do to enhance the quality of life for the Cherokee people. I commend this vote to you. And I hope you will find a way to support this bill. Thank you, Mr. Speaker.

**Speaker Tillis:** Rep. Hastings – Rep. Killian, please state your purpose. I'm sorry, the Chair apologizes; Rep. Hastings, please state your purpose.

**Rep. Hastings:** To speak on the bill.

**Speaker Tillis:** The gentleman is recognized to debate the bill.

**Rep. Hastings:** Well, as I've learned today, some of our leadership just found out about the Cherokee reservation not long ago. Some of us have been more involved over the years. Especially having worked in the 11<sup>th</sup> Congressional District for a member – for a cardinal in the Appropriations of the House who actually served as the subcommittee chair for the Department of the Interior – this is not a new issue, it goes back many years.

I've not taken any money from any party about this issue, but I just want to go on record because I've had a number of constituents ask what my opinion is – and it does pain me to go against some of my friends and leadership but I'm going to go on record. Many of you might think that since the Honorable Chief is here that this is not a divisive issue on the reservation. But I'll tell you as a person who worked for a Congressman in the 11<sup>th</sup> Congressional District, the gaming issue on the reservation itself is very divisive, and I don't plan to support the bill today.

**Speaker Tillis:** Rep. Killian please state your purpose.

**Rep. Killian:** To speak on the bill.

**Speaker Tillis:** The gentleman is recognized to debate the bill.

**Rep. Killian:** Thank you, Mr. Speaker. Fellow members, we've heard today from a few of our peers that they're gamblers. Well, you probably won't be surprised the know that I'm not. That said, I'm not risk adverse. If you know some of the things that I've done, obviously I'm very familiar with risk, and I'm very eager to take risk at times.

However, when I look at this situation, and I evaluate the rewards versus the risks and I see the potential up-side is potential jobs and revenues and the ability for a great nation to continue to take care of itself, I think that's a good thing. But on the other hand, I do see the legal risk that was so eloquently pointed out to us by Rep. Stam. I also see some of the social issues that have also been pointed out.

But in addition to that, I also see, from my development perspective, some economic risks. And if you think about the potential of gaming and its impact on a community from an economic standpoint and you think about how it's been described as "this has the potential to bring Las Vegas here" and you further that to thinking about how Las Vegas is faring now in this economic

crisis that we have, I think that illustrates my concerns as a developer, the potential for drastic economic impact on a community – because Las Vegas is the foreclosure capital of this country. Its dependence on one particular industry has accelerated and exacerbated an existing problem that has made an absolutely economically catastrophic place. And when I consider the additional risks that have been pointed out on top of *that* in my opinion, the potential rewards of this expansion versus those potential risks are not sufficient, and therefore I would suggest that you vote against this bill.

Speaker Tillis: Rep. West, please state your purpose.

**Rep. West:** To speak on the bill a second time, Mr. Speaker.

**Speaker Tillis:** The gentleman is recognized to debate the bill a second time.

**Rep. West:** Thank you, Mr. Speaker and members of the House. You've heard a couple of times today that this bill is not about gaming – we already have gaming in Cherokee. It's been going on several years. It's about how we're going to do the gaming and how we're going to create jobs. What this bill will do, it'll create jobs – not all in Cherokee or Cherokee County, people get confused, it'll create jobs in my county – jobs that we so desperately need out in the far west. And I would urge you to support the bill.

**Speaker Tillis:** Further discussion, further debate. If not, the question before the House is the passage of House Committee Substitute for Senate Bill 582. All those in favor will vote "aye;" all those opposed will vote "no;" the clerk will open the vote. The clerk will lock the machine and record the vote. 66 having voted in the affirmative and 49 in the negative the House Committee Substitute for Senate Bill 582 has passed its second reading.

The chair has conferred with the opposition and anticipates an objection; therefore it is the judgment of the chair that this will be carried over till next week for third reading. Members who have suggested and, it was with that understanding, that some members did not send forth an amendment today so in respect to those members. I would encourage those members who are considering amendments to confer with the bill proponents and we will work this out.

Ladies and gentlemen, on Monday there are retirement celebrations for members who will not be returning next year, and to make sure we will have ample time to allow people to get to their events the chair would like to have session at 5:30. We most likely will not be taking up this bill on third reading unless, through prior agreement, we can know if we'll be taking up amendments if there are any amendments. And if the debate is going to go as it did today we will most likely take this up on Tuesday.