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Office of the Attorney General
State of Connecticut

April 17, 2018

The Honorable Joe Aresimowicz
Speaker of the House
State of Connecticut
House of Representatives
Legislative Office Building, Suite 4100
Hartford, CT 06106

Dear Speaker Aresimowicz:

You have requested opinions on several gaming-related issues. First, you ask questions about the amendments to the existing gaming agreements with the Mashantucket Pequot Tribe and the Mohegan Tribe (Tribes), and the federal approval thereof, required by Public Act 17-89. Second, you inquire about the implications of a decision in a pending U.S. Supreme Court case that could result in the lifting of a federal prohibition on sports betting. And third, you ask about the legal consequences of legislation creating a request for proposal process for sports betting or casino gaming.

In summary, we conclude that (1) Public Act 17-89's condition that the amendments to the existing gaming agreements be approved by the U.S. Department of the Interior (Interior) has not been satisfied; (2) because that condition has not been satisfied, Public Act 17-89's authorization to conduct casino gaming in East Windsor is not yet effective; (3) eliminating the federal approval condition would raise risks for the current gaming arrangements with the Tribes about which we have previously opined and continue to have serious concerns; (4) if the federal ban on sports betting is found to be unconstitutional, the Tribes would not have the exclusive right to provide sports betting to the public; and (5) legislation similar to Special Act 15-7 that would provide for a request for proposal process for sports betting or casino gaming, but requiring subsequent legislation to actually authorize such activity, would not affect the existing gaming arrangements with the Tribes.

Compact Amendments and Public Act 17-89

Last year, the General Assembly enacted Public Act 17-89, which authorized MMCT Venture, LLC (MMCT), an entity jointly owned by the Tribes, to conduct casino gaming at a facility in East Windsor. That authorization was subject to the satisfaction of several conditions, including in particular the amendment of the Mashantucket Procedures and the Mohegan Compact (Compacts) and of the related Memoranda of Understanding between the State and the Tribes (MOUs). The amendments to the Compacts must provide that the authorization of MMCT to conduct casino gaming would not terminate the moratorium on video facsimile games in the Compacts, and the amendments to the MOUs must provide that the authorization would not relieve the Tribes of their revenue sharing obligations under the MOUs. After approval by the General Assembly pursuant to Conn. Gen. Stat. § 3-6c, the amendments were to be submitted to Interior for approval pursuant to the Indian Gaming Regulatory Act (IGRA). P.A. 17-89, § 14(c).

The Governor and the Tribes executed the amendments to the Compacts and the MOUs, the General Assembly approved them, and they were submitted to Interior for approval. Under IGRA and its regulations, Interior had 45 days to affirmatively approve or disapprove the proposed amendments or, in the absence of approval or disapproval within that time, the amendments are to be deemed approved. 25 U.S.C. § 2710(d)(8)(C); 25 C.F.R. § 293.12. Interior neither affirmatively approved nor disapproved the amendments. Further, it did not publish in the Federal Register, as required by the regulations, that the amendments were approved, disapproved or deemed approved. The State and the Tribes thereafter jointly filed suit against Interior in the federal district court for the District of Columbia. *Connecticut, et al. v. Zinke, et al.*, No. 1:17-cv-2564-RC. Among other things, the State and the Tribes maintain that the amendments were deemed approved by operation of law and that such approval must be published in the Federal Register. The lawsuit remains pending.

Your first question asks whether, in light of the position the State and the Tribes have taken in the litigation, the condition in Public Act 17-89 of federal approval of the amendments has been satisfied. First, the issue is in litigation. Although we have confidence in the position we have taken that the amendments should be treated as deemed approved, it remains possible that the court could rule adversely. To take action on the assumption that the State and the Tribes will succeed in the ongoing litigation would be highly imprudent. Second, and just as importantly, IGRA and its implementing regulations provide that Interior's

approval of compact amendments is effective upon publication in the Federal Register. 25 U.S.C. § 2710(d)(3)(B); 25 C.F.R. § 293.15. Such publication has not occurred, and indeed an order requiring Interior to publish approvals of the amendments is part of the relief the State and the Tribes seek. Therefore, it is our opinion that the federal approval condition has not been satisfied.

As a follow up question, you ask if MMCT is now authorized to operate the proposed gaming facility in East Windsor. Because, in our opinion, the federal approval condition has not been met, MMCT does not have such authority yet.

You further ask for an opinion about the legal effect of removing the federal approval condition. Prior to the enactment of Public Act 17-89 when the General Assembly was first considering proposals for a gaming facility, we provided a letter to the legislative leadership addressing, among other things, the risks of proceeding with such a proposal without amending the Compacts and the MOUs. Letter to Legislative Leadership dated April 15, 2015 (copy attached). In that letter we discussed the not insubstantial risk that authorizing a gaming facility without the amendments and federal approval of them could potentially terminate the moratoriums on video facsimiles in the Compacts and the revenue sharing obligations under the MOUs. We therefore recommended that as part of any legislative authorization that amendments and Interior Department approval be required as conditions. *Id.* at 2-4; *see also* A.G. Op. No. 2017-02, 2017 WL 1052342 (2017).

Our view of the risks of proceeding without federal approval of the amendments is unchanged. Indeed, subsequent events and actions of Interior only reaffirm our view that approval of the amendments is highly recommended to protect the State's interests under the Compacts and the MOUs.[1]

Sports Betting

You note that the U.S. Supreme Court has recently heard arguments in *Christie v. NCAA*, Nos. 16-476, 16-477, involving the claim of the State of New

[1] We have evaluated possible alternative approaches the Tribes have proposed to help mitigate the risks of removing the federal approval condition, including most recently a proposal to enter a new agreement the Tribes contend would not require Interior approval under IGRA. However, because of the inherent legal uncertainty and novelty associated with such a course of action, we remain of the view that, in the absence of federal approval of the amendments to the Compacts and the MOUs, the State would remain at substantial risk of the termination of the Compacts' moratoria and the MOUs' revenue sharing arrangements. *See* Letter to Legislative Leadership dated April 15, 2015.

Jersey that the prohibitions of the federal Professional and Amateur Sports Protection Act (PASPA) on state-sanctioned sports gambling violates the anti-commandeering doctrine of the Tenth Amendment. A decision is likely before the end of the Supreme Court's current term in June. You ask, if the Supreme Court concludes that PASPA is unconstitutional, would the Tribes have the exclusive right to offer sports wagering. Of course, any views we express now on the effect of the Supreme Court's decision on the state of the law on sports betting could be altered by the Court's actual ruling.

Connecticut's agreements with the Tribes require the legislature to carefully consider a number of factors before legalizing sports wagering. In the event PASPA is struck down and state law continues to prohibit sports wagering (as it presently does), because sports wagering is a Class III game under federal law and is not an authorized game under either of the respective Compacts, the Tribes would still be prohibited from conducting sports wagering on their reservations.

Moreover, it is our opinion that if sports betting were to become lawful in Connecticut, the Tribes would not have an exclusive right under the existing Compacts and MOUs to offer it. The Compacts set out a list of authorized games. Mashantucket Procedures, § 3; Mohegan Compact, § 3. Sports betting is not listed as an authorized game. By contrast, for example, pari-mutuel betting on horse and dog racing and jai alai games are authorized games. *Id.* The exclusion of sports betting from the specific list of authorized games is compelling evidence that the Compacts do not presently authorize it. *See Mayer v. Historic Dist. Comm'n*, 325 Conn. 765, 776 (2017) (when items expressed are of an associated group, it can be inferred that items not mentioned were deliberately excluded). Amendments to the Compacts would be necessary to authorize the Tribe's sports betting, as contemplated under section 17 of the Compacts. Thus, our opinion is that the Compacts do not presently authorize the Tribes to conduct sports betting on their reservations. Nor are we aware of any other federal or state law that would be a basis for the Tribes to assert an exclusive right over sports betting.

The Tribes may argue, however, that a state law permitting sports wagering in Connecticut would violate the exclusivity provisions of the MOUs. Those provisions state that the Tribes are relieved of their obligation to pay the State a portion of the gross operating revenues from the operation of video facsimiles of games of chance on their reservations if state law is changed to permit "video facsimiles or other commercial casino games." *E.g.*, Mohegan MOU, at 2. Although it is our view that sports wagering is not a video facsimile,

whether it is a "commercial casino game" is an open question. That term is not defined in the MOUs or Compacts. How a court might resolve that question is uncertain.

If the state passed a law permitting sports wagering and a court concluded that it does constitute a commercial casino game, the Tribes could cease making payments to the State under the MOUs. In that event, however, the Tribes and the State would be restored to their respective rights under the Compact moratoria. Under those moratoria, the Tribe's authority to operate slot machines and other video facsimiles of games of chance on their respective reservations would remain an unresolved legal question, as it was prior to the time the MOUs were entered.

Request for Proposal Legislation

Your final question is about the legal effect of a law, similar to Special Act 15-7, which would establish a request for proposal process for sports betting or casino gaming but would not authorize such gaming until a subsequent act of the legislature. It was our view that the request for proposal process established under Special Act 15-7 did not implicate the Compact moratoriums or the revenue sharing obligations under the MOUs.[2] *See* Letter to Speaker Brendan Sharkey dated May 27, 2015. The reasoning set forth there applies equally here.

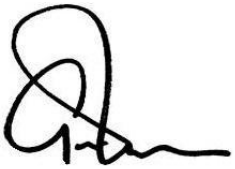
The pertinent provisions of both the Compacts and the MOUs speak only to laws that authorize the operation of commercial casino games or video facsimiles of games of chance. Section 15(a) of the Compacts provides that the moratoria on the operation of video facsimile games by the Tribes terminates if "***the existing laws or regulations of the State are amended to expressly authorize the operation of any video games of chance for any purpose by any person, organization or entity***." *E.g.*, Mohegan Compact, § 15(a) (emphasis added.) The MOUs, in turn, provide that the Tribes' obligation to make payments to the State shall continue "so long as no change in State law is enacted to permit the operation of video facsimiles or other commercial casino games ***by any other person*** and ***no other person*** within the State lawfully operates video facsimile games or other commercial games…." *E.g.*, Mohegan MOU, at 2 (emphasis added). Because the contemplated legislation would not itself authorize any gaming but rather just a preliminary process that would remain contingent on further legislative action, we take the same view as we did for Special Act 15-7

[2] The process under Special Act 15-7 did ultimately culminate in the subsequent enactment of Public Act 17-89.

that the existing arrangements under the Compacts and MOUs would not be affected. If the legislature were to consider in this or subsequent legislation the actual authorization of gaming, such authorization would raise very serious concerns of the sort we expressed prior to the enactment of Public Act 17-89.[3] *See* Letter to Legislative Leadership dated April 15, 2015.

We trust this is responsive to your questions.

Very truly yours,



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[3] The Tribes have suggested that Special Act 15-7 is distinguishable because it could only lead to the operation of a facility operated by an entity jointly owned by them and thus posed no risk to the revenue-sharing provisions of the MOU. *See* Letter to Governor Malloy dated March 23, 2018, at 2. That is not our view, and we expressly advised that gaming authorization of a jointly owned entity did pose risks to the Compacts and the MOUs. Letter to Legislative Leaders dated April 15, 2015.

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Office of The Attorney General
State of Connecticut

April 15, 2015

The Honorable Martin M. Looney
Senate President Pro Tempore
Legislative Office Building
Room 3300
Hartford, CT 06106

The Honorable Bob Duff
Senate Majority Leader
Legislative Office Building
Room 3300
Hartford, CT 06106

The Honorable Brendan J. Sharkey
Speaker of the House of Representatives
Legislative Office Building
Room 4110
Hartford, CT 06106

The Honorable Joe Aresimowicz
House Majority Leader
Legislative Office Building
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Hartford, CT 06106

The Honorable Leonard A. Fasano
Senate Minority Leader
Legislative Office Building
Room 3400
Hartford, CT 06106

The Honorable Themis Klarides
House Minority Leader
Legislative Office Building
Room 4200
Hartford, CT 06106

Dear Legislator Leadership:

This letter addresses various legal issues raised by the possible enactment of legislation that would change state law to authorize the Mashantucket Pequot Tribe and the Mohegan Tribe (collectively, the "Tribes") to operate jointly casino gaming facilities outside their respective reservations. Specifically, we address two separate legal issues: (1) implications of the proposed legislation for the existing gaming compacts with the Tribes; and (2) the effects such legislation could have if additional tribes achieve federal tribal acknowledgment. Both of these issues pose significant uncertainties and potentially serious ramifications for the existing gaming relationships between the State and the Tribes.

The purpose of this letter is not to diminish the concerns prompting this legislation. I am sympathetic to the desire to promote economic development, assist the State in competing with gaming enterprises in neighboring states, and protect the economic well-being of our existing federally recognized tribes with whom Connecticut has a special and mutually beneficial relationship. Rather, this letter is offered to identify legal uncertainties to assist your careful

consideration of the risks associated with the proposed legislation, and offer possible ways to mitigate those risks.

As we understand it, the proposed legislation would include the following principal elements: The law would authorize the licensing of one or more casino gaming facilities to be operated by some form of joint venture of the Tribes. The facilities would not be located on reservation lands and would not involve the federal government taking any lands into trust for the Tribes. The gaming facilities and operations would be subject to state law and regulation. An agreement would be entered into between the State and the Tribes addressing certain issues relating to licensing and operation of the gaming facilities, including a specified percentage of gross operating revenues to the state and the municipality in which the facilities are to be located. *See* Raised Bill No. 1090. [1]

Existing Gaming Agreements

The proposed legislation must be viewed against the backdrop of the existing agreements between the State and the Tribes. In 1991, under the provisions of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §§ 2701 *et seq.*, the Secretary of the Interior approved the Final Mashantucket Pequot Gaming Procedures (Mashantucket Procedures), governing the operation of casino gaming on the Mashantucket reservation.[2] In 1994, the State and the Mohegan Tribe entered into a Gaming Compact (Mohegan Compact), similarly governing the operation of casino gaming on the Mohegan reservation. Both the Mashantucket Procedures and the Mohegan Compact contain provisions imposing a moratorium on video facsimile games – commonly referred to as video slot machines – absent certain conditions. Specifically, § 15(a) of the Mashantucket Procedures provides:

> Notwithstanding the provisions of section 3(a)(ix), the Tribe shall have no authority under this Compact to conduct Class III video facsimile games as defined pursuant to section 3(a)(ix) unless and until either: (a) it is determined by agreement between the Tribe and the State, or by a court of competent jurisdiction, that by virtue of the existing laws and regulations of the State the

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[1] If enacted, the proposed legislation may face third-party court challenges, the outcomes of which are difficult to forecast. For example, a third party could claim that granting the exclusive right to conduct gaming to the Tribes, particularly where that gaming will be conducted off reservation land, violates the Equal Protection Clause of the U.S. Constitution. *See KG Urban Enterprises, LLC v. Patrick*, 693 F.3d 1, 18-20 (1st Cir. 2012) (raising serious doubts under the equal protection clause about Massachusetts law granting preference in awarding gaming license to Indian tribe). Similarly, a third party could seek to have the proposed legislation declared unconstitutional as a violation of the Commerce Clause, alleging that, by granting the right to conduct gaming exclusively to the Tribes for the purpose of protecting in-state economic interests from interstate commerce, the State would be unconstitutionally discriminating against interstate commerce. *See United Haulers Ass'n v. Oneida-Herkheimer Solid Waste Mgmt. Auth.*, 550 U.S. 330, 338 (2007). We are unable to predict with any certainty how a court would resolve such issues. In light of the uncertainties discussed below, it would be prudent to include a nonseverability provision in the proposed legislation that voids the law if a court determines that all or any part of it is unconstitutional, invalid or otherwise unenforceable.

[2] The Mashantucket Procedures are not technically a gaming compact, but rather procedures approved by the Secretary of the Interior following a mediation process pursuant to IGRA. *See* 25 U.S.C. § 2710(d)(7)(B)(vii). The distinction is not material for purpose of this discussion.

> operation of video facsimiles of games of chance would not be unlawful on the grounds that the Tribe is not located in a State that permits such gaming for any purpose by any person, organization, or entity within the meaning of 25 U.S.C. § 2710(d)(1)(B) (it being understood and agreed that there is a present controversy between the Tribe and the State in which the Tribe takes the position that such gaming is permitted under the existing laws of the State and the State takes the position that such gaming is not permitted under the existing laws of the State); or (ii) ***the existing laws or regulations of the State are amended to expressly authorize the operation of any video games of chance for any purpose by any person, organization or entity***. Upon such determination the operation by the Tribe of video facsimile games of chance shall be subject to the applicable provisions of the Standards of Operation and Maintenance for Games of Chance adopted pursuant to section 7 of the Compact.

Mashantucket Procedures, § 15(a) (emphasis added). A substantively identical provision is found at § 15(a) of the Mohegan Compact. Thus, the operation of video facsimile games may become permissible in one of three ways: by agreement of the State and the Tribe; by a court order; or by a change in State law that allows the operation of video facsimile games for any purpose by any person, organization or entity. *See* A.G. Op. No. 93-004 (Feb. 11, 1993).[3]

As a resolution of the dispute between the State and the Tribes over video facsimile games referenced in § 15(a), both Tribes entered into memoranda of understanding (MOUs) with the State that suspended the moratorium on video facsimile games. Under the MOUs, the Tribes could operate video facsimile games and the State would receive 25 percent of the gross operating revenues from those games. The MOUs further provided that the right to operate video facsimile games and the payments to the State would continue "so long as no change in State law is enacted to permit the operation of video facsimiles or other commercial casino games ***by any other person*** and ***no other person*** within the State lawfully operates video facsimile games or other commercial games...." Mohegan MOU dated May 17, 1994, at 2 (emphasis added). Thus, under the MOUs, the Tribes' authority to operate video facsimile games and the payment to the State would both cease if State law permitted any person other than the Tribes to operate such games or other commercial casino games. *See* A.G. Op. No. 94-003 (Feb. 4, 1994).

The proposed legislation would change state law to authorize the Tribes to operate video facsimile and other casino games. The MOUs would arguably not be implicated by this change in state law; their provisions would be terminated only by a change in state law that authorizes "any other person" to operate such games – to wit, any person other than the Tribes. However, because the proposed legislation would authorize both Tribes to operate video facsimiles and other casino games jointly, it arguably would violate both MOUs by allowing someone other

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[3] In addition, Section 17(d) of the Mashantucket Procedures and Mohegan Compact provide that the Tribes shall not be deemed to have waived "the right to request negotiations for a tribal-state compact with respect to a Class III gaming activity which is to be conducted on the Reservation[s] but is not permitted under the provisions of this Compact, including forms of Class III gaming which were not permitted by the State ***for any purpose by any person***, organization, or entity at the time when this compact was negotiated but are subsequently so permitted by the State, in accordance with 25 U.S.C. §2710 (d) (3) (A)." (Emphasis added).

than the Tribe that is a party to the respective MOUs – that is, the other Tribe – to operate such games. It would be prudent, therefore, to condition the effectiveness of any legislation upon an agreement among the State and the Tribes that such legislation is not a violation of the existing MOUs. Such legislation also should make clear that only the Tribes may own an equity interest in whatever business entity is formed to operate casinos.

That is not the end of the inquiry, however. As noted above, the moratoria on video facsimile games set forth in the Mashantucket Procedures and the Mohegan Compact themselves can be ended by a change in state law that allows ***any*** person for ***any*** purpose to operate video facsimile games, language that appears to be drawn from IGRA itself. *See* 25 U.S.C. § 2710(d)(1)(B). Unlike the existing MOUs, § 15(a) does not include the word "other." Arguably, the proposed legislation could be deemed a change in state law that would terminate the moratorium, affording the Tribes the right to conduct video facsimile games free of the payment requirements under the MOUs. How a court or other competent authority might resolve this legal issue is at best uncertain.

It is our understanding that there have been discussions about a possible solution to this uncertainty through a new memorandum of understanding between the State and the Tribes. Such agreements would memorialize mutual understandings that the language of § 15(a) was not intended to, and does not, include a change in state law that would authorize only the Tribes to engage in gaming under state law. Although presumably such an agreement would include waivers of tribal immunity, the enforceability of this possible solution is itself uncertain.

Amendments to gaming compacts under IGRA require approval by the Secretary of the Interior (Secretary). The Mashantucket Procedures and the Mohegan Compact both expressly require amendments to be approved by the Secretary. *See* Mashantucket Procedures, § 17(c); Mohegan Compact, § 17(c). In addition, the federal regulations governing gaming compacts expressly provide that "[a]ll amendments, regardless of whether they are substantive amendments or technical amendments, are subject to review and approval by the Secretary." 25 C.F.R. § 293.4(b); *see* 25 C.F.R. § 291.14 (amendments for gaming procedures). Moreover, the requirement for Secretarial review and approval cannot be waived. As the Interior Department has explained:

> [T]he Secretary must review and approve all amendments to gaming compacts. It is of no consequence that such a document is titled "memorandum of understanding" or something else. Absent Secretarial review and approval of an amendment to a compact, and publication of the notice of approval in the Federal Register, it would be of no force and effect under IGRA.

Letter from Paula L. Hart, Director, Office of Indian Gaming, Department of Interior, to Hon. Peter S. Yucupicio, Chairman, Pascua Yaqui Tribe of Arizona, dated June 15, 2013, at 2; *see also* 73 Fed. Reg. 74005 (Dec. 5, 2008) (preamble to regulations).

It is possible that an agreement between the State and the Tribes memorializing their mutual understanding of the moratorium language could be deemed an effective amendment of § 15(a) – changing "any person" to "any person other than the Tribes." If that is the case, the

agreement, if not submitted as an amendment to the Secretary for approval, would not be enforceable.[4]

On the other hand, if the State and Tribes were to submit for Secretarial approval express amendments clarifying the moratorium language so that the enactment of the proposed legislation would not result in a lifting of the moratorium, there is no certainty as to whether the Secretary would approve the amendment or what the scope of the Secretary's review would be. In particular, it is unclear if the Secretary's review would encompass the broader context of the compacts, including the MOUs and their payment requirements to the State.

Given the unique nature and history of the State's gaming relationships with the Tribes, there is very little in the way of legal precedent or guidance that allows for a confident analysis of these complex and uncertain legal questions. In light of this uncertainty and the attendant risks, the legislature should carefully weigh the anticipated benefits of the proposed legislation against the risks it poses to the current arrangements of the existing MOUs. If the legislature concludes that the likely benefits outweigh such risks, it would be advisable to include in the legislation provisions that might mitigate potential adverse consequences for the State. This could include, for example, conditioning the authority to conduct gaming not just on an agreement as to the State's and Tribes' mutual understanding that the moratorium is not implicated, with appropriate waivers of tribal immunity, but also an express provision terminating the authority granted to the Tribes and a repeal of the law if the Tribes ever contest that mutual understanding or a court or other competent authority concludes, for any reason, that the agreement memorializing that mutual understanding is invalid, illegal or unenforceable. Though such provisions may help mitigate the risks associated with the proposed legislation, they would by no means eliminate that risk.

Additional Federally Acknowledged Tribes

A second issue relates to the potential implications of this proposed legislation for any additional federally acknowledged Indian tribes. Although the federal Bureau of Indian Affairs (BIA) previously denied the acknowledgment petitions of the Eastern Pequot, Schaghticoke and Golden Hill Paugussett petitioners, the BIA is currently in the process of considering significant changes to the existing acknowledgment regulations. These changes could result in the acknowledgment of one or more of the previously denied Connecticut petitioners. A federally acknowledged tribe has rights under IGRA that, under certain circumstances, would allow it to engage in casino gaming operations on Indian lands. Specifically, IGRA provides that a tribe may engage in so-called Class III gaming activities on Indian lands, subject to a tribal-state gaming compact, if such activities are located in a state that "permits such gaming for any purpose by any person, organization, or entity...." 25 U.S.C. § 2710(d)(1)(B).

In 2003, the General Assembly repealed the so-called "Las Vegas Nights" law, which permitted nonprofit organizations to operate certain games of chance for the purpose of raising

[4] It might be advisable to request guidance from the Interior Department to obtain its views as to whether amendments are required under the gaming compact regulations; however, it does not appear that there is a formal process for making such a request under the regulations that would necessarily result in a binding decision on the issue.

charitable funds. *See* Conn. Gen. Stat. §§ 7-186a *et seq.* (repealed). It was this state law that triggered IGRA's provisions for the Mashantucket Pequot and Mohegan Tribes. *See Mashantucket Pequot Tribe v. Connecticut*, 737 F. Supp. 169 (D. Conn.), *aff'd*, 913 F.2d 1024 (2d Cir. 1990), *cert. denied*, 499 U.S. 875 (1991). The purpose of the repeal was to eliminate that trigger for any future additional federally acknowledged tribes. *See* A.G. Op. No. 2003-011 (June 10, 2003). The enactment of the proposed legislation, authorizing the Tribes to conduct casino gaming under state law, could serve as a new trigger and would significantly increase the likelihood that newly acknowledged tribes would succeed in asserting the right to casino gaming under IGRA.

Conclusion

The proposed legislation poses several legal issues that cannot be resolved with a high degree of certainty. This Office remains available to assist in evaluating the many very important concerns raised.

Very truly yours,

GEORGE JEPSEN

cc: Governor Dannel P. Malloy
The Honorable Stephen D. Dargan
The Honorable Timothy D. Larson
Co-chairs, Public Safety and Security Committee

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Office of the Attorney General
State of Connecticut

May 27, 2015

J. Brendan Sharkey
Speaker of the House
Legislative Office Building Room 4100
Hartford, CT 06106

Re: Senate Bill 1090, An Act Concerning Gaming

Dear Speaker Sharkey:

You have asked whether the above-referenced legislation, as amended by the State Senate, implicates any of the legal issues I raised in my April 15, 2015 letter to legislative leaders about the original proposal. Senate Bill 1090, as amended, does not authorize casino gaming. As a result, it would have no impact on the current agreements between the Tribes and the State of Connecticut and would not increase or otherwise affect the likelihood of the State being obligated under federal law to negotiate gaming compacts with tribes that may gain federal recognition in the future. As I stated in my April 15, 2015 letter, I am sympathetic to the desire to promote jobs and economic development, assist the State in competing with gaming enterprises in neighboring states, and protect the economic well-being of our existing federally recognized tribes with whom Connecticut has a special and mutually beneficial relationship. Should the legislature go forward with the amended version of Senate Bill 1090, my Office remains available to assist lawmakers in any efforts to address the important legal issues that would be implicated by any future legislation authorizing casino gaming outside the Tribe's reservations.

I hope this letter is helpful and responsive to your request. Please feel free to contact me with any additional questions or concerns.

Very Truly Yours,

George Jepsen