

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on February 10, 2004 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Russell Mills, Legislative Research
Dennis Hodgins, Legislative Research
Theresa Kiernan, Revisor of Statutes' Office
John Beverlin, Committee Secretary

Conferees appearing before the committee:

Norm Jennings, Kansas Grape Growers and Wine Makers Association
Matthew All, Chief Council, Office of the Governor
Senator Jay Emler

Others attending:

See Attached List.

Chairperson Brungardt called the meeting to order and asked the committee for announcements.

Senator Gilstrap introduced members of the audience.

Chairperson Brungardt asked Theresa Kiernan to provide an overview of **SB 402, farm wineries; rights of licensees; fees; ownership restrictions**. After Ms. Kiernan was finished, Chairperson Brungardt asked the committee for questions.

Senator Clark asked why 10 through 21 had been stricken on page two.

Ms. Kiernan explains that the section requires that 60 percent of ingredients for the product be Kansas grown. She explained that the Kansas Grape Growers and Wine Makers Association asked for the language to be removed.

Senator Clark asked what sections were referred to on lines 19 and 20.

Ms. Kiernan answered that it was the Liquor Control Act.

Chairperson Brungardt asked the committee for additional questions. None were asked. He called Norm Jennings to the podium.

Mr. Jennings provided additional information on **SB 402 (Attachment 1)**.

Mr. Jennings addressed Senator Clark's previous question. He stated that current statute requires that 60 percent of fruit utilized in the wine be from Kansas. He explained that unlike **SB 402**, **HB 2723** does not strike, but clarifies this provision.

Senator Clark observed that the percentage of Kansas grown ingredients goes from 60 to zero percent.

Mr. Jennings stated that Senator Clark was correct. He explained **HB 2723**, leaves the 60 percent but has provisions that keep the winery from having to use poor quality fruit.

Senator Clark stated the legislature's attempt is to develop an industry.

Mr. Jennings stated that **HB 2723** was better for clarifying the intent of his association. He explained that it takes into count Kansas's desire in building this industry.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on February 10, 2004 in Room 231-N of the Capitol.

Senator Clark asked what the status was of **HB 2723**.

Mr. Jennings stated the bill has been referred to the House Federal and State Affairs Committee.

Senator Teichman asked if there is a reason why the ingredients amendment cannot be put into **SB 402**.

Mr. Jennings stated that his association preferred the amendment be added to the bill.

Chairperson Brungardt asked Mr. Jennings if there was anything else that Kansas farm wineries would like to be addressed.

Mr. Jennings explained the provision that strikes the 50,000 gallon per year requirement in **SB 402** and the provision that adds clarifying language to **HB 2723**. He explained that currently under the liquor control act, once a farm winery reached production of more than 50,000 gallons per year, the winery would have to shut down, or close all outlets run by the winery and sell only to retailers, restaurants, and clubs.

Senator Vratil asked about page five lines 13 through 17.

Mr. Jennings stated the change would allow the licensee to gain another farm winery license or have ownership of another farm winery on a minority basis.

Chairperson Brungardt thanked Mr. Jennings and welcomed Senator Emler to the podium.

Senator Emler wanted to talk to the committee about **SB 349, intoxicating liquors; retail sales outside cities; micro breweries**. He explained the problem with a micro brewery in western Kansas. He further explained how the restaurant and brewery is unable to get a license because it is located in a county with a population less than 5,000. Senator Emler asked that **SB 349** be rolled into **SB 402**. He explained that the amendment would do away with the population and the gallonage requirement.

Chairperson Brungardt asked the committee to consider action on **SB 290, revising the membership of the capitol area plaza authority**. He asked Ms. Kiernan to answer committee members' questions.

Dennis Hodgins provided a map of the Capitol Area Plaza Authority's jurisdiction (Attachment 2).

Senator Teichman made a motion to recommend SB 290 favorable for passage. The motion was seconded by Senator Vratil.

Senator O' Connor asked the committee to consider an amendment that would require five votes instead of four.

Senator Teichman made a motion to withdraw her motion.

Senator Teichman made a motion to amend SB 290, to require five votes, and to recommend SB 290 favorable for passage as amended. The motion was seconded by Senator O' Connor.

Senator Clark made a substitute motion to amend SB 290 and the jurisdiction of the Capitol Area Plaza Authority to include everything as drawn in the map presented by Mr. Hodgins (Attachment 2). The motion was seconded by Senator Teichman.

Senator Vratil stated that he could not support the bill because the committee does not know for sure if there is a constitutional problem. He explained the bill may actually restrict more than help the authority.

Senator Clark withdrew his motion. Senator Teichman withdrew her motion.

Senator Clark asked for an Attorney General's opinion on the Executive Branch power in appointment to the reduced Capitol Area Plaza Authority.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on February 10, 2004 in Room 231-N of the Capitol.

Chairperson Brungardt asked Theresa Kiernan to draft the question for Attorney General Kline.

Chairperson Brungardt welcomed Matthew All to the podium.

Mr. All provided an overview of **SB 499, Kansas expanded gaming opportunity act; authorizing destination casinos, electronic and video gaming and other games at certain locations** (Attachment 3).

Chairperson Brungardt asked Mr. All to review the make-up of the Gaming Commission.

Mr. All explained that the Commission would be made up of seven individuals. He explained the rules the commission would have to follow. He further explained that the members would be unable to accept gifts, would not be able to have worked or have financial interests in the gaming industry for two years prior to their membership on the Commission, and could not work in the gaming industry for two years after their commission. Mr. All explained that the Chair of the Commission as well as four additional members would be appointed by the governor. While the leadership of each Legislative House would appoint a member to the Commission.

Senator Vratil asked what would happen if the County Commission refused to adopt a Certificate of Authority issued by the Gaming Commission.

Mr. All explained the certificate would die.

Senator Vratil stated there was no mechanism to force a vote other than through a petition.

Mr. All stated that Senator Vratil was correct.

Senator O' Connor stated the way the Commission is set up, the governor would always have a 5-2 vote on the Commission.

Mr. All explained that the Governor's office was happy to discuss the make-up of the board.

Chairperson Brungardt asked about the gaming machines that would be placed in fraternal organizations. He wanted to know who would determine which fraternal organizations would receive the machines.

Mr. All stated the fraternal organizations that would receive up to five gaming machines would be determined by lottery.

Senator O' Connor asked Mr. All to explain the scholarship program that would benefit from the casino revenue.

Mr. All explained the scholarships would go to Kansas high school seniors, through the existing Kansas Scholars Grant Program, who are going to attend Kansas post-secondary institutions.

Senator Barnett asked whether the 2500 video lottery terminals would bring 60 million dollars in revenue to the state.

Mr. All explained the 60 million was a statistic based on if the state placed 1800 terminals at a 45 percent cut of the gross revenue.

Senator Barnett asked how much revenue three destination casinos would bring in as well.

Mr. All explained that if you assumed a casino brought in 160 million dollars in gross revenue each year, one casino would bring in 30 million dollars for the state.

Chairperson Brungardt asked for the definition of a Class A club.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on February 10, 2004 in Room 231-N of the Capitol.

Ed Van Petten explained that it was defined under the Liquor Control Act, but is restricted to members only clubs such as the Eagles, Elks, and Veterans of Foreign Wars.

Chairperson Brungardt thanked Mr. All and Mr. Van Petten.

Senator Gilstrap made a motion to introduce the bill. The bill was seconded by Chairperson Brungardt.

Chairperson Brungardt decided to wait until another time to take a vote for the introduction of **SB 499**.

The meeting was adjourned at 11:45 a.m. The next meeting is scheduled for February 11, 2004 at 10:30 a.m. in room 231-N.

Senate Federal and State Affairs Committee

Date: FEBRUARY 10, 2004

Name:

Representing:

Bob Kelly

KICA

John McElroy

KSGA

Stephanie Buchanan

DOB

Trudy Allen

Butler Nat.

J.P. SMALL

Ks Quarterhorse Racing

Joe Sebes

Leavenworth Lansing leadership

Steve Wayman

Leavenworth Lansing leadership

Harland Russell

Lansing Leavenworth Leadership

BRAUN Bode

Lansing Leavenworth Leadership

Wayne Bolby

KCVA

GEORGE WEBB

KCVA

JOHN C. BOTTENBERG

Ks. RACING LLC

Patty Clark

Ks Dept of Commerce

Carole Jordan

KDA

Janna Dunbar

Commerce

Norm Jennings

KGGWMA

DOUG LAWRENCE

Ks Greyhound Assn

DAKOTA LOONIS

GOVERNOR'S OFFICE

Alissa Rowinsky

Governor's Office

Whitney Damm

Kickapoo Tribe / Sac: Fox Nation

Mike Taylor

Unified Gov Wyandotte County / KCK

Michael White

Isle of Capti

MATT ALL

Gov's office

ED VAN-PETTEN

KAN. LOTTERY

Senate Federal and State Affairs Committee

Date: ~~5/10/04~~

Name:

Representing:

Dodie Wellstear Johnson

Patrick Hurley & Co

Heather Grace

Damron + Associates

Mike Hein

Hein Law Firm

Glenn Thompson

Stand Up For Ks.

Keith Koeber

Ks Lottery

Jai Groulx

" "

Tom Burgess

River Falls Entertainment

Gary Waldrop

" " "

Phil Bradley

KLTA

Juan Paxon

Ks Greyhound Assn

Robin Jennison

Ruffin Companies

Ed. J. "Tom" Law

KANSAS VFW's

Charles M Yunker

The American Legion

February 10, 2004

TESTIMONY - NORM JENNINGS

Senate 402 explanation submitted by the Kansas Grape Growers and Wine Makers Association of Kansas

Chairman Brungardt and Senators of the Federal & State Affairs Committee

Both Senate 402 and House 2723 contain items that will assist the survival and growth of the Kansas Grape and Wine Industry. This industry has the potential to be a major contributor to the state tourism and value-added agricultural industries, as well as a state revenue source.

Following is an explanation of Senate 402. It should be noted that House 2732 is more comprehensive as it deals with all of the current Grape & Wine Industry issues.

Page 1, Section 1a:

New item 6 (lines 31 and 32) allows for the donation of wine to nonprofit charitable and government sponsored events. Provides for donation of gift baskets with wine for auctions, as well as wine for a tasting.

New item 7 (lines 33-7) allows for tasting and sales in original unopened container at festivals, trade shows and charitable events.

New item 8 (lines 39-41) allows for sales of the wineries wines within a restaurant at the farm winery.

Page 2, Section 1b:

(Line 1) Increases the number of outlet from 2 to 5.

Section 1c:

(Lines 10-16) Addresses concerns of available quantities, quality and varietal of the fruits required for producing the wines of each winery. These three items directly impact the production of high quality wines. Fruit of the quantity and varietal must be available from the grape grower at a quality that allows for separate lot productions. Note, Senate 402 strikes this section and House 2723 offers clarifying language.

Section 1d:

(Lines 17-21) Removes the potential loss of the privileges and activities that facilitated the growth of the farm winery to a volume of 50,000 gallons. Note, Senate 402 strikes this section and House 2723 offers clarifying language.

Page 4, Section 2e:

(Line 4) Adds the fee for a farm winery restaurant license.

Page 5, Section 3 a and b:

(Lines 13, 16 and 17) Allows for ownership in other farm wineries, as a minority owner. This facilitates for the opening of additional wineries in cooperation with experienced knowledgeable industry professionals allowing for a more seamless establishment of new quality wineries.

Shipping:

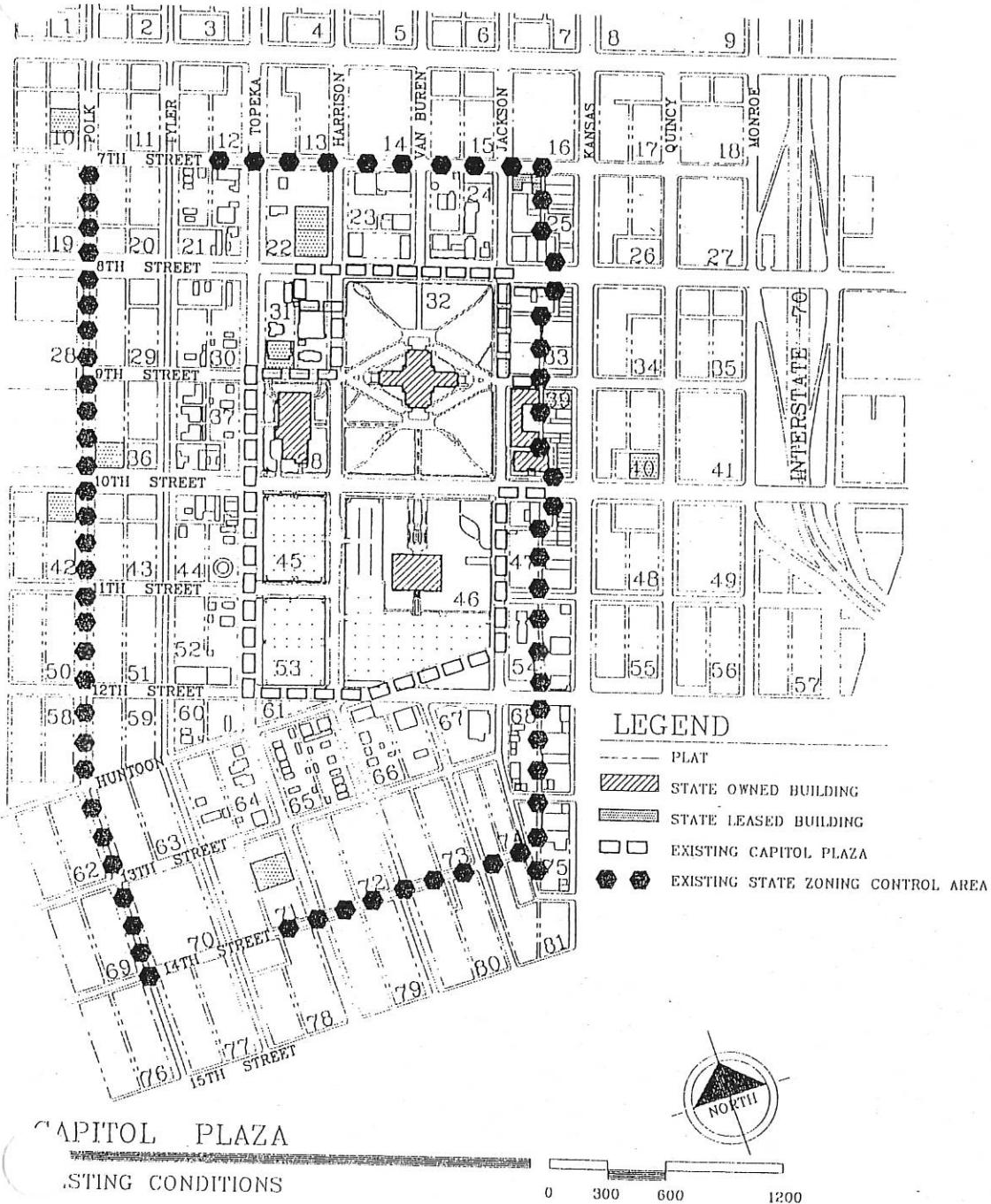
Note that Senate 402 currently does not have any revisions allowing for intrastate or interstate shipping of wines as in House 2723.

Senate Federal and State Affairs Com.

Date: FEBRUARY 10, 2004

Attachment: # 1

TESTIMONY - DENNIS HODGINS



The existing primary site or Capitol Plaza is generally defined by Topeka Avenue to the west, 8th Street to the north, Jackson Street to the east, and 12th Street to the south. It also includes the west half of Block 39 and excludes all of Block 31 except the lot at the northwest corner of 8th and Van Buren Streets. The existing State Zoning Control Area is bounded by 7th, 14th, and Polk Streets and the alley between Jackson Street and Kansas Avenue. For the purpose of analysis, however, the entire downtown area was studied in order to gain a comprehensive understanding of the Capitol Plaza Area and its surrounding environment, thus creating a more cohesive plan as it relates to the City of Topeka's physical structure.

CAPITOL PLAZA
EXISTING CONDITIONS
FIGURE 2

KANSAS

OFFICE OF THE GOVERNOR

KATHLEEN SEBELIUS, GOVERNOR

Testimony on the Final Report of the Governor's Gaming Committee

MATTHEW D. ALL
Chief Counsel to the Governor

Before the SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS
Tuesday, February 10, 2004

Mister Chairman and Members of the Committee:

Thank you for inviting me to speak today on the Expanded Gaming Opportunity Act, the Governor's plan to create jobs, encourage investment, attract tourists, and support agribusiness and educational opportunities through gaming in Kansas. For too long, Kansans have taken their gaming dollars to Missouri, Iowa, and elsewhere because we have had too few options here at home. It is time to keep those dollars here in Kansas and put them to work for us.

The focus of the Expanded Gaming Opportunity Act is not on providing gaming for gaming's sake, but on the potential for gaming to create jobs, encourage investment, and attract tourists to spend their dollars here in Kansas. To that end, the Expanded Gaming Opportunity Act will allow for a limited number of high quality "destination casinos" here in Kansas. With facilities for lodging, dining, and entertainment, these casinos will draw thousands of tourists – and their dollars – from across the region. They will also attract significant meetings and conferences, which will support local businesses in our communities.

The Expanded Gaming Opportunity Act is a careful, responsible plan. It is the result of over six months of intensive research and deliberation, both within the Governor's office and by the Governor's Gaming Committee. It balances the benefits of gaming with the need to limit its scope. It provides opportunities for many entrepreneurs to participate in gaming, but asks them to make their best

proposal to the state in a competitive process. It serves the state as a whole, but places the ultimate power to control gaming with local voters.

We believe it is the most sensible way for Kansas to proceed with gaming today.

The Expanded Gaming Opportunity Act will work as follows:

- **A new Destination Casino Commission will review proposals for a limited number of "destination casinos" in Kansas.**

The Expanded Gaming Opportunity Act will create a new Destination Casino Commission, appointed by the Governor and legislative leaders. This Commission will review proposals by developers to create up to five state-owned and operated "destination casinos" in Kansas. These destination casinos will be large, high quality facilities, with restaurants, entertainment venues, hotels, and conference space. Anyone, including a parimutuel licensee, can apply to develop a destination casino.

The Commission will negotiate with proponents in a competitive process, which will force the proponents to present their best proposals to the state and local communities. The Commission will commission a market study, paid for by the proponent, to ensure that any proposal is economically viable. The Commission will only consider proposals that include either (1) an investment in infrastructure of at least \$75 million, or (2) an investment of at least \$30 million and a showing that at least 25% of its consumers would come from out-of-state. The Commission will prefer proposals with, among other things, larger amounts of investment, more jobs and a higher payroll, lower management fees and expenses, more revenue for the state, a greater likelihood of success in the marketplace, a more experienced and qualified management team, and greater support from the local community.

If the Commission approves a proposal, it will issue a Certificate of Authority that will define the conditions of approval for the destination casino. The Certificate will include a variety of requirements, such as the location, the level of investment and amenities, the number and type of games, the maximum level of operating expenses, the manager's fee, and the amount of revenue to the state.

Although the Expanded Gaming Opportunity Act envisions a flexible, competitive process between developers, it sets a floor for the amount of revenue

the state must receive under any proposal. The revenue to the state can be no lower than 22% of gross gaming revenue (wagers minus prizes), or, in the case of an existing parimutuel dog and horse racing track, 18% of gross gaming revenue. The rate for parimutuel licensees is lower because it is contemplated that they will contribute a significant portion of the casino revenues to purses and the dog and horse breeding industries.

Although the 18-22% floor is not a tax, it is consistent with the taxation rate of similarly situated states like Iowa, Colorado, Missouri, Illinois, Michigan, Louisiana, and Indiana. Because of the competitive nature of this process, however, the Expanded Gaming Opportunity Act is expected to produce revenue to the state in excess of those minimums.

The Act will require the Commission to carefully study each new market to ensure that gaming would be appropriate. If the Commission approves three casinos, it will conduct a statewide feasibility study to determine whether additional casinos would be appropriate. Only then will the Commission be allowed to even consider proposals for two additional casinos.

The Commission will operate under strict ethical rules, including an absolute ban on any gift or meal from gaming proponents. In addition, no Commission member will be allowed to have worked for or had a financial interest in the gaming industry for two years before service, and will be banned from working in the gaming industry for two years after service.

▪ **Local governments will have early input, and voters will have the final say.**

A gaming proponent will be required to submit its plan concurrently with the county commission in the community in which the destination casino will be located. The county commission will have a reasonable period of time to submit its recommendation to the Destination Casino Commission. The Commission will be required to consider local support in its decision on a proposal.

If the Destination Casino Commission issues a Certificate of Authority, the proposal must receive a majority of a countywide vote before it can go forward. For a Certificate of Authority to be placed on the ballot, the county commission must pass a resolution requesting a vote. Absent that resolution, a petition of 10% of registered voters in the county is required to place a proposal on the ballot for local approval. This will give communities the opportunity to have gaming in their communities, but will give them the ultimate say on what form that gaming takes.

- **The Kansas Lottery will control the gaming.**

If the proposal receives a majority vote in a county, the Kansas Lottery will then implement the Certificate of Authority through a management contract with the developer and manager of the facility. This contract will establish the conditions for development and operation of the destination casino, and will place firm control of the gaming operations with the Lottery. The manager will be required to gain approval of a specific gaming plan with the Lottery. The Lottery will have complete authority over all gaming functions, and will make all significant gaming decisions, just as it does in today's Kansas Lottery.

- **The Kansas Lottery will be authorized to place up to 2,500 Video Lottery Terminals at the five existing parimutuel dog and horse racing tracks.**

In addition to destination casinos, the Expanded Gaming Opportunity Act will authorize the Kansas Lottery to place up to 2,500 Video Lottery Terminals (VLTs) at parimutuel dog and horse racing tracks. (This is the total for all tracks, not a number for each track.) These terminals will be under the full control of the Lottery.

These VLTs will direct a healthy share of revenue—14% of gross gaming revenue—to dog and horse racing purses, and will reasonably compensate the tracks owners—with 21% of gross gaming revenue—for their space and efforts. It is estimated that, after expenses of around 20% of gross gaming revenue, the state will retain approximately 45% of gross gaming revenue.

- **The Kansas Lottery will be authorized to place a limited number of Video Lottery Terminals at qualified veterans and fraternal organizations.**

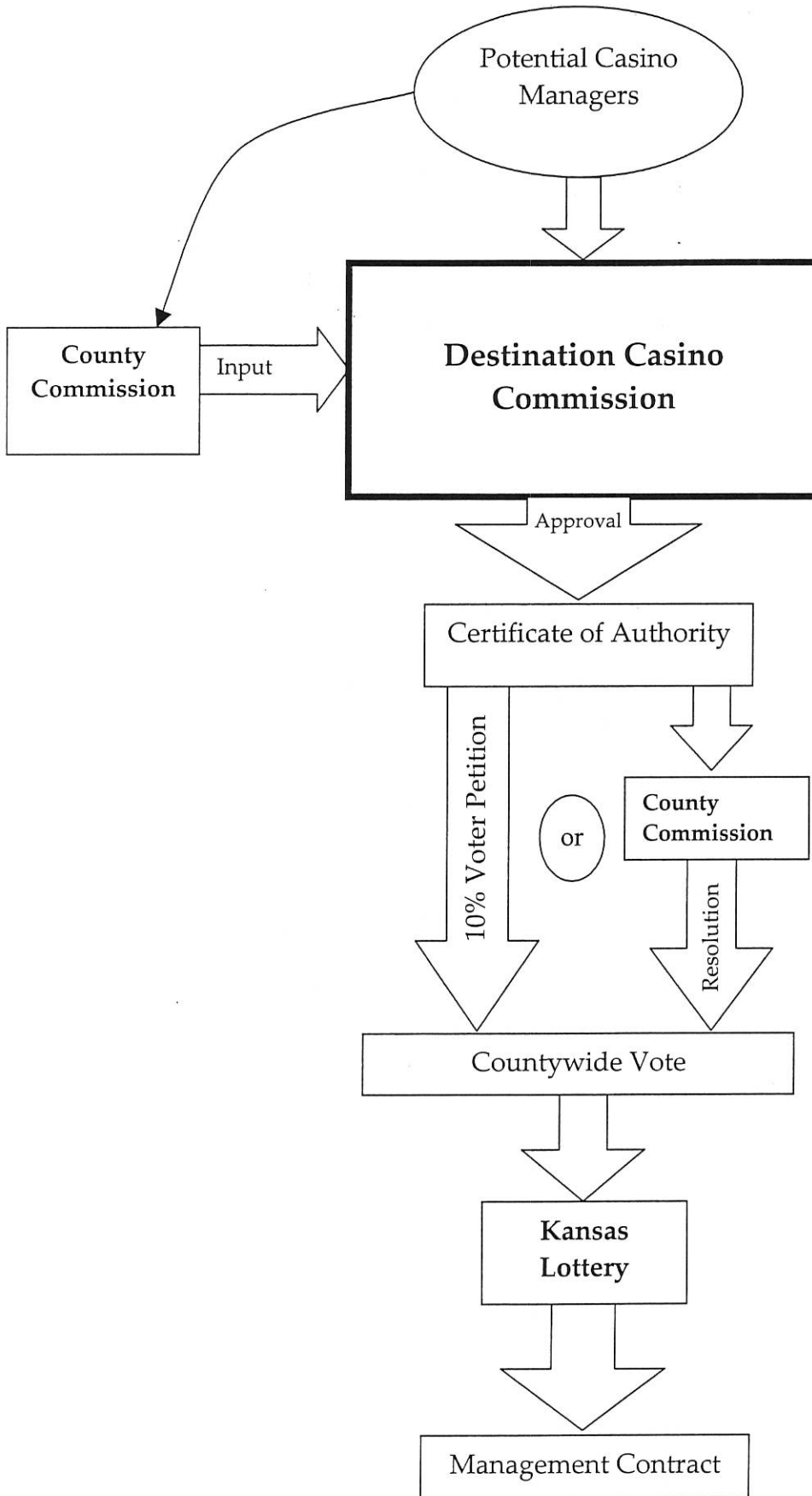
The Expanded Gaming Opportunity Act will authorize the Kansas Lottery to place up to five VLTs at qualifying veterans and fraternal organizations. These VLTs will provide these organizations with badly needed support for the services they provide for our state. These VLTs will also provide the state with a limited stream of revenue. The Lottery will only place VLTs at Class A club licensees with at least five years of continuous existence, and will place strict controls on who may play the VLTs.

- **The Act will direct revenue toward scholarships for deserving Kansas students, KPERS, and the State General Fund.**

One of the most important benefits gaming will provide the state is the ability to direct funds toward important public objectives. The Expanded Gaming Opportunity Act will direct millions of dollars from gaming to fund scholarships for thousands of deserving Kansas students. It will also help repay bonds issued to support KPERS. The remainder will go to the State General Fund, and bolster our ending balances.

I appreciate this opportunity to testify this morning. I would be happy to answer any questions.

DESTINATION CASINO COMMISSION PROCESS



The Expanded Gaming Opportunity Act is a careful, responsible approach.

- **Local input is crucial throughout every stage of the process.**

The Destination Casino Commission will receive early input from local government leaders to ensure that a proposed destination casino fits well within community development plans. If the project is determined to be compatible with the community's goals and vision, and satisfies all of the other necessary criteria as well, the Committee can approve the project. The final approval, however, must come from the local voters. Every proposal must be put to a countywide vote before it can move forward.

- **There are careful, sensible limits on the number of casinos allowed.**

The Expanded Gaming Opportunity Plan is a responsible and measured first step into gaming in Kansas. Initially the plan limits the Committee to approving only three destination casinos statewide.

At some point after the initial three casinos are established — if three are actually approved — it is possible that a developer will wish to propose an additional casino. Before such a proposal can even be considered, the Commission must conduct a statewide feasibility study to reevaluate the size and depth of the Kansas market, taking the other destinations into account.

If the feasibility study indicates that conditions are favorable for additional development, the Expanded Gaming Opportunity Plan allows for the establishment of two final destination casinos, bringing the statewide total to five.

- **Surrounding states already have far more gaming than the Expanded Gaming Opportunity Act would allow in Kansas.**

There are ten privately owned casinos in Iowa, as well as over 3,500 additional slot machines that are spread between three of the state's parimutuel tracks. Missouri is home to eleven large casinos. Colorado has 44!

Under the most favorable of conditions, The Expanded Gaming Opportunity Act allows for a maximum of just five destination casinos to be established in Kansas. Comparing this to the extent of gaming operations in neighboring states helps to put the size and scope of this proposal in perspective.

Why should we support the Expanded Gaming Opportunity Act?

Here's why.

- **It will keep Kansas dollars in Kansas.**

Today, thousands of Kansans enjoy gaming. But because they have few options in Kansas, they travel to Missouri, Iowa, and Nevada to spend their gaming dollars. These are dollars we should keep in Kansas! The Expanded Gaming Opportunity Act will create world-class gaming venues here in Kansas, and will keep our dollars in our state, working for us.

- **It will bring new dollars into Kansas.**

The Expanded Gaming Opportunity Act will favor large, world-class "destination casinos," with first-rate lodging, dining, conference, and entertainment facilities. These casinos will attract countless tourists who will spend their dollars here, supporting Kansas business. They will also attract large meetings and conferences, which will support business in our local communities.

- **It will create jobs and encourage investment.**

The Expanded Gaming Opportunity Act will encourage private investment in destination casinos in Kansas. These casinos will create jobs, both at the casinos themselves and in the surrounding communities. The construction of these destination casinos alone will create hundreds of jobs for working Kansans.

- **It will support Kansas agribusiness.**

The Expanded Gaming Opportunity Act will allow the Kansas Lottery to place Video Lottery Terminals at the state's parimutuel dog and horse racing tracks. And it will give the tracks the opportunity to become "destination casinos" that will attract tourists, entertainment business, and conferences. The revenues from this expansion will support the dog and horse breeding industries in Kansas. These industries are an important element of Kansas agribusiness. Today, many Kansas-bred dogs and horses choose to race in Iowa and West

Virginia because of their richer purses. By supporting the Expanded Gaming Opportunity Act, you will support Kansas agribusiness.

- **It will fund scholarships for deserving Kansas students.**

In today's economy, education beyond high school is a must. The Expanded Gaming Opportunity Act will direct millions of dollars from gaming to fund scholarships for thousands of deserving Kansas students. Educating our young people is the Governor's first priority. Her Gaming Act is one more element in this overall strategy.

- **It will energize our entertainment and tourism districts.**

Many Kansas communities have done amazing work developing areas to attract entertainment business and tourism. Kansas City's Village West and Wichita's Old Town are great examples. Medium-sized communities like Dodge City and Junction City are working every day to energize their entertainment and tourist districts. Under the Expanded Gaming Opportunity Act, these communities and others, will have the option of complementing this great work with gaming—but only if it works for them.

- **It is a careful, responsible Act.**

The Expanded Gaming Opportunity Act is a responsible first step into gaming in Kansas. It will authorize a new, blue-ribbon Destination Casino Commission to carefully study each new market to ensure that gaming would be appropriate. If the Commission approves three casinos, it will conduct a statewide feasibility study to determine whether additional casinos would be appropriate. It will require strong local input and control—including a countywide vote—before any proposal could move forward. And it will require any new casino to have strict rules to address problem gambling, and to contribute to programs for problem gamblers.