

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 March 18, 2004 in Room 231-N of the Capitol.

All members were present except:

Senator Donald Betts- excused
Senator Mark Gilstrap- excused

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:

Representative Lee Tfanelli
Senator Jay Emler
Chief John Douglass, Chief of Police, City of Overland Park
Tammy Williams, City of Overland Park
Matthew All, Chief Counsel to the Governor

Others attending:

See Attached List.

Chairperson Brungardt called the meeting to order. He asked the committee to listen to conferees concerning **HB 2393, Establishing joint committee on Kansas security**. And two bills concerning open meetings and open records; **HB 2489, Open meetings act, closed meetings for discussing security issues** and **HB 2490, Open records act, closed records, security issues**. He welcomed Representative Lee Tfanelli to the podium.

Representative Tfanelli presented an overview and testimony in support of **HB 2393 (Attachment 1)**.

Chairperson Brungardt thanked Representative Tfanelli and welcomed Senator Jay Emler to the podium.

Senator Emler also expressed his support for **HB 2393 (Attachment 2)**.

Chairperson Brungardt thanked Senator Emler and welcomed John Douglass to the podium.

Mr. Douglass presented testimony in favor of **HB 2489** and **HB 2490 (Attachment 3)**.

Chairperson Brungardt thanked Mr. Douglass and welcomed Tammy Williams to the podium.

Ms. Williams presented testimony in favor of **HB 2489** and **HB 2490 (Attachment 4)**.

Chairperson Brungardt thanked Ms. Williams. He informed the committee that they had written testimony from Doug Anstaett of the Kansas Press Association, Inc. (**Attachment 5**); Judy A. Moler of the Kansas Association of Counties (**Attachment 6**); Michael Pepoon for Sedgwick County (**Attachment 7**); Danielle Noe for Johnson County (**Attachment 8**); and Harriet Lange with the Kansas Association of Broadcasters (**Attachment 9**).

Chairperson Brungardt asked the committee to consider action on **HB 2393, HB 2489, and HB 2490**.

Senator Teichman made a motion to recommend HB 2393, HB 2489, and HB 2490 favorable for passage. The motion was seconded by Senator Barnett. HB 2393, HB 2489, and HB 2490 were recommended favorable for passage.

Chairperson Brungardt asked the committee to finish taking action on **SB 499, Kansas expanded gaming**

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on March 18, 2004 in Room 231-N of the Capitol.

opportunity act; authorizing destination casinos, electronic and video gaming and other games at certain locations. He asked the committee to follow an informal procedure with what was anticipated to be several additional amendment proposals to the bill. Seconds would not be required to save time and the group could operate in an informal group discussion format while amending the bill.

Senator Vratil stated that he had eight proposed amendments to the bill (Attachment 10). He explained to the committee that amendment one would insert language which would ensure that the decision to place video lottery terminals in a county is submitted to and approved by the voters of the county.

Chairperson Brungardt asked the committee for questions on amendment one. None were asked. He then called for a vote on the amendment.

The bill was amended according to Senator Vratil's first amendment.

Senator Vratil explained that amendment two would establish 21 years of age as the minimum age for employment in a destination casino or video lottery games area.

Chairperson Brungardt asked the committee for questions on amendment two. None were asked. He then called for a vote on the amendment.

The bill was amended according to Senator Vratil's second amendment.

Senator Vratil explained that amendment three would clarify if a subpoena is required to compel access to records held by the destination enterprise manager or destination casino manager, the subpoena would be issued by the court instead of the commission's executive director.

Chairperson Brungardt asked the committee for questions on amendment three. None were asked. He then called for a vote on the amendment.

The bill was amended according to Senator Vratil's third amendment.

Senator Vratil explained that amendment four enables multiple proposals to be considered and clarifies that after the destination casino commission has issued three certificates of authority, the commission shall commission a statewide feasibility study.

Chairperson Brungardt asked the committee for questions concerning the fourth proposed amendment by Senator Vratil.

Senator Gilstrap asked whether the amendment was necessary after Senator Teichman proposed her amendment on March 17, that gave the commission the responsibility to determine whether a market is suitable for a casino.

Matt All explained that Senator Teichman's amendment of March 17, allowed the commission to make a finding that more than one casino in a market place would be economically feasible. If the commission found the finding feasible, a second casino could be located closer than 50 miles to the first.

Senator Vratil explained that he agreed with Senator Gilstrap and Senator Teichman. He stated that the bill should remain as amended on March 17 by Senator Teichman's amendment. He asked the committee to adopt all of his amendment four except the part that would change page nine, line 23.

Chairperson Brungardt asked the committee for additional questions or concerns. None were stated. He then called for a vote on the amendment.

The bill was amended according to Senator Vratil's fourth amendment, except for page 9, line 23.

Senator Vratil explained that amendment six removes the reference to tribal gaming on page eight of the bill.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on March 18, 2004 in Room 231-N of the Capitol.

Chairperson Brungardt asked the committee for questions concerning amendment six.

Mr. All offered an amendment along the same subject of Senator Vratil's sixth amendment (Attachment 11). The amendment requires that the destination casino commission shall not issue a certificate of authority that would violate market protections for a tribal casino.

Senator Vratil explained that he would offer Mr. All's amendment after the committee takes action on his sixth amendment.

Senator O' Connor expressed concern over page eight, section (c), section (iii).

Mr. All explained that it was their intent not to make the destination casino commission to consider the economic feasibility of any casino in which the state did not have an economic stake.

Senator Vratil explained that upon hearing discussion, he felt like it was unnecessary to strike tribal gaming facilities. He asked the committee to leave page eight of his proposed sixth amendment the way it currently stands.

Chairperson Brungardt asked the committee for further questions or concerns with Senator Vratil's sixth amendment. None were asked. He then called for a vote on the amendment.

The bill was amended according to Senator Vratil's sixth amendment, minus the proposed changes to page eight.

Senator Vratil asked the committee to consider the amendment proposed by Mr. All (Attachment 11).

Chairperson Brungardt asked the committee for further questions or concerns with the amendment. None were asked. He then called for a vote on Mr. All's proposed amendment.

The bill was amended according to the proposed amendment by Mr. All.

Senator Vratil stated that he wished not to offer his fifth amendment. His fifth amendment would clarify that paragraph (g) on page nine, would only apply to tribal compacts negotiated subsequent to July 1, 2004. Senator Vratil then explained that the first part of amendment seven would require each destination casino to make a net payment of up to \$15,000 for each electronic gaming machine to be operated at a destination casino.

Chairperson Brungardt asked the committee for questions.

Senator O' Connor asked if the casino would get the money back.

Senator Vratil stated that Senator O' Connor was correct, that the casino would eventually receive the \$15,000 back.

Senator Teichman asked if the intention of the amendment was to level the playing field for everybody.

Senator Vratil stated that Senator Teichman was correct.

Chairperson Brungardt asked the committee for further questions or concerns. None were asked. He then called for a vote on the first part of Senator Vratil's seventh amendment.

The bill was amended to require each destination casino to make a net payment of up to \$15,000 for each electronic gaming machine, according to Senator Vratil's seventh amendment.

Senator Vratil explained that the second part of his seventh amendment would extend the life of the Kansas Lottery and the Kansas Lottery Commission to the year 2016.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on March 18, 2004 in Room 231-N of the Capitol.

Chairperson Brungardt asked the committee for questions on the amendment. None were asked. He then called for a vote on the second part of Senator Vratil's seventh amendment.

The bill was amended to extend the life of the Kansas Lottery and the Kansas Lottery Commission to the year 2016, according to Senator Vratil's seventh amendment.

Senator Vratil explained that amendment eight addresses disbursement of funds remaining in the gaming act revenue fund after transfers and payments are made to each account maintained for each destination casino manager, video lottery parimutuel sales agent, and video lottery club sales agent. He further explained that by allocating money on percentages in this manner, more money can be distributed than exists.

Chairperson Brungardt asked the committee for questions concerning amendment eight. He asked Mr. All about his concerns with the amendment.

Mr. All explained that it was a problem yet to be solved. He stated that the problem would be fairly easy to fix down the road.

Senator Teichman asked if the math problem could be solved by a percentage instead of a dollar figure.

Senator Vratil stated the problem could be solved, but it was a matter of determining the percentages. He explained that he would withdraw his amendment and sit down with the Governor's staff to come up with a solution to the problem. Senator Vratil explained that he had another amendment for the committee to consider (Attachment 12). The amendment is technical and concerns page 18 of the bill. The amendment would strike, "to the public," from line 16.

Mr. All stated the amendment was an improvement to the bill.

Chairperson Brungardt called for a vote on the amendment.

The bill was amended on page 18, line 16.

Chairperson Brungardt asked the committee for additional amendments.

Senator Gilstrap stated he had an amendment on page 12 of the bill. The amendment has to do with the percentage of the revenue that would be received by the counties. He asked the committee to consider adding a floor to the percentage, so that the counties received no less than 2 percent of the revenue.

Senator Vratil observed that no party would receive less revenue.

Senator Gilstrap stated that Senator Vratil was correct.

Chairperson Brungardt called for a vote on the amendment.

The bill was amended on page 12, according to Senator Gilstrap's proposed amendment.

Senator Gilstrap explained an additional amendment (Attachment 13). The amendment concerns page eight, lines five and nine.

Senator Teichman pointed out that the word "by" also needed to be struck from line five.

Senator Gilstrap agreed with Senator Teichman.

Chairperson Brungardt asked if the amendment gave the Kansas Racing and Gaming Commission the authority to pose a contract on two parties.

Senator Gilstrap deferred the question to Mr. All.

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MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on March 18, 2004 in Room 231-N of the Capitol.

Mr. All stated he felt like the amendment did not collide with contract law. He explained that the amendment gives the tracks and the breed groups time to come up with a percentage on their own. If no progress is made within 30 days, the Commission is given the opportunity to decide. He further explained that the amendment provides a time limitation for negotiation.

Senator Vratil explained that as the bill is currently written, the breed groups would have the ability to block any application by a parimutuel facility to become a destination casino by refusing to agree to a split of the gaming revenue.

Chairperson Brungardt called for a vote on the amendment.

The bill was amended on page eight, according to Senator Gilstrap's proposed amendment.

Chairperson Brungardt asked the committee for additional amendments.

Senator Betts asked the committee to consider an amendment to page 17, that would allow facilities that provide recreational and sports activities and that are approved club keno licensees to also offer video lottery terminals(Attachment 14).

Senator Vratil observed that the amendment included those facilities where individuals under the age of 21 congregated.

Chairperson Brungardt called for a vote on the amendment.

The bill was amended on page 17, according to Senator Bett's proposed amendment.

Chairperson Brungardt asked the committee for additional amendments.

Senator Teichman asked the committee to consider an amendment to page 23 of the bill. The amendment would require a certain amount of days for tracks to run races in order to have video lottery terminals. She explained to the committee that the number of racing days at Anthony Downs needs to be decreased because they did not race many days. Senator Teichman explained the importance of this amendment to the breed groups and that part of agribusiness for the state of Kansas.

Senator Barnett asked why Anthony Downs was unique.

Senator Teichman explained that Anthony Downs is only currently racing six days a year. To achieve 40 days would be difficult.

Chairperson Brungardt called for a vote on the amendment proposed by Senator Teichman.

The bill was amended on page 23.

Chairperson Brungardt asked the committee for additional amendments.

Senator O' Connor asked about the definition of commission on page one, line 21. She asked for its difference from the destination casino commission on page six, line nine, section four.

Ms. Kiernan explained that on page three, section two, there were definitions for the Kansas Expanded Gaming Opportunity Act.

Chairperson Brungardt asked the revisor to be conscious about specifying the definition for commission. He then asked the committee to approve the amendment to the bill concerning the Kansas State Scholarship Program (Attachment 15).

Chairperson Brungardt called for a vote on his proposed amendment.

CONTINUATION SHEET

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The bill was amended to include language concerning the Kansas State Scholarship Program.

Chairperson Brungardt asked the committee to consider taking the contents of **SB 499** and inserting it into **HB 2053**.

Senator Vratil made a motion to insert the amended contents of **SB 499** into **HB 2053** and recommend the bill favorable as amended for passage. The motion was seconded by Senator Gilstrap. The contents of **SB 499** were inserted into **HB 2053** and the bill was recommended favorable as amended for passage.

Chairperson Brungardt thanked the committee.

The meeting was adjourned at 12:00 p.m. The next meeting is scheduled for March 23, 2004 at 10:30 a.m. in room 231-N.

Senate Federal and State Affairs Committee

Date: March 18, 2024

Name:

Representing:

E.P. "Tom" Farr	VFW Dist I Sr Vice Comdr.
Alissa Rowinsky	Governor's Office
Matt All	Governor's Office
Bob Kelly	KICH
Shirley Allen	Butler Nat'l
John Rottenberg	KANSAS RACING LLC
Larry Seckington	KANSAS RACING LLC
Dan Murray	Federico Consulting
DARRELL BUCKEN	KANSAS VETERANS OF FOREIGN WARS
John Douglas	City of Overland Park
Tammy Ours	City of Overland Park, KS
Eric Sartorius	City of Overland Park
Patrick Skerley	OTEC
David Assmann	KTA
Ed VanFleet	Lottery
Jeff Rutland	KQ. Quarter Horse Assn.
Karen Tolle	Ks Quarte Horse Raising Assn
Tracy Diehl	KRBC
Doug Lawrence	KGA
Andy Shaw	Kearney + Associates
Glenn Thompson	Stand Up For Kansas
Bettie Thompson	
Harriet Lange	Ks Assn of B Casters
Stephanie Buchanan	DOB
John McElroy	KSGal

Senate Federal and State Affairs Committee

Date: March 18, 2004

Name:

Representing:

~~Pepe Deserres~~

Prairie Band Potawatomi Gaming Bureau

B. J. MCGEE

KANSAS V. F. W.

James Burr

Kickapoo Nation

Richard Stuckey

Kansas ELKS ASSN. Inc

~~Richard~~ Ralph Snyder

Ks. American Legion

CARL LINDSEY, JR.

KANSAS ELKS ASSOC.

Jerry L. Briggs

Moose Lodges of Kansas

Steven Ward

Kansas Greyhound Assoc.

Tracy Wildey

Kansas Greyhound Assoc.

JEFF COURSE

JIA

Keith Kocher

KS Lottery

Danielle Ha

Johnson County

Judy Jaquet

CKM

Larrie Ann Lower

KS Bowling Prope

John Peterson

Harrah's

Ron Hein

Prairie Band Potawatomi Nation

Paul Waldrop

River Fall Entertainment

Tom Burgess

River Falls Entertainment

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STATE OF KANSAS

House of Representatives



THE CAPITOL

Lee Tafanelli
Representative, Forty Seventh District

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Testimony in support of HB 2393

Thank you Chairman Brungardt and members of the committee for allowing me the opportunity to testify in support of HB 2393. HB 2393 would establish a 10-member Joint Committee on Kansas Security. This joint committee would replace a House Select Committee on Kansas Security that was put in place following the events of 9-11.

With the ever increasing importance of security at the local state and federal level, we must make sure that we have the appropriate oversight mechanism in place to ensure that our citizens, our communities and our state have taken every possible measure to ensure the safety and security of citizens and our infrastructure. And, in the event of a disaster, that we have the appropriate coordinated response plan in place to ensure that we have the necessary support to minimize the disaster effects.

The committee would also have the oversight and review of Homeland Security funding that is being passed through the state to ensure that we are operating from a base strategy and that the funding support to state agencies and local first responders enhances the state's ability to plan and respond to any possible disaster.

I believe that this is an extremely important step in the right direction as we begin to get our arms around the Homeland security issue and puts a structure in place that allows the legislature the appropriate committee to deal with a wide array of Homeland Security issues.

Thank you for allowing me the opportunity to testify and I would appreciate your support of HB2393.

Senate Federal and State Affairs Com.

Date: March 18, 2004

Attachment: # 1

FEDERAL AND STATE AFFAIRS
March 18, 2004

Testimony of Jay Scott Emler
on HB 2393

Chairman Brungardt and members of the Committee, thank you for allowing me to appear this morning in support of HB 2393. My name is Jay Scott Emler and for the past two years I have been privileged to serve the State of Kansas as Co-Chair of the Special Committee on Kansas Security. Representative Tafanelli, of course, serves as the other Co-Chair. The committee is currently comprised of five representatives and five senators.

As we have taken testimony over the last two years, one fact has become quite apparent. Security issues for Kansas deal with more than just terrorist acts of foreign countries or nationals. Disasters, whether natural or man-made, will continue to occur in the state and in the United States. This state and this legislature must remain vigilant and prepared. These past two interims have dealt with this state's preparedness for both terrorist activities and natural disasters. The work of the Security Committee should not, however, be a "sometimes thing". We need to establish a standing committee that will be able to serve the public welfare on a year around basis.

The bill is simple. The explanation is simple. I would be happy to stand for questions.

Senate Federal and State Affairs Com.
Date: March 18, 2004
Attachment: # 2

John M. Douglass, Chief of Police
Overland Park Police Department
913 327-6935; john.douglass@opkansas.org
March 18, 2004

Chairman Pete Brungardt and Members of the Senate Committee on Federal and State Affairs

I am here today in support of HB2489 and HB2490, which provides the expansion of the Open Records Act and the Open Meetings Act to allow for matters of Homeland Security to be discussed privately with elected governing bodies. It is obvious that when the framers of these statutes envisioned the limited circumstances in which the public's business could be conducted outside the public view that the idea of the need for discussing homeland security was not yet even a consideration. September 11 opened our eyes to the fact that in many ways we are a vulnerable society living in extraordinarily dangerous times.

This time last year the United States was preparing to go to war in Iraq. Across the Country, cities such as Overland Park were making detailed plans for the protection of its citizens for the potential of terrorists' attacks. Since Overland Park is my only real point of reference, I will use it as an example. In our City, we created detailed plans and analysis designed to protect the public against potential terrorists' strikes in response to hostilities. Detailed deployment strategies were devised. Staff allocations were designed. In doing all of this we came to realize that the best laid plans of the City were totally vulnerable to disclosure. We could not discuss them with the Governing Body because to do so was to make them accessible to public record. We could not go into executive session to protect them because the Open Meetings Act did not allow it. We were also very cautious about what could be written down because the Open Records Act did not protect it. Our need to withhold this information from the public purview is not based upon a desire to withhold the public's business from the public. Rather the certain knowledge that this very limited and sensitive information, should it be known to our adversaries, would render it helpless and ineffective. Ironically, the mechanisms we have in place for review by the people ensured that no review by its elected officials could safely occur.

Senate Federal and State Affairs Com.

Date: **MARCH 18, 2004**

Attachment: # **3**

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TESTIMONY IN SUPPORT OF HOUSE BILL 2489/HOUSE BILL 2490

TO: The Honorable Pete Brungardt, Chair
Members of the Senate Committee on Federal and State Affairs

Date: March 17, 2004

RE: House Bill 2489/House Bill 2490 -- Proposed legislation relating to homeland security exemptions to the Kansas Open Meetings and Kansas Open Records Acts

Ladies and Gentlemen:

Thank you for the opportunity to testify in support of HB 2489 and HB 2490 regarding the proposed homeland security exemptions to the Kansas Open Meetings and Kansas Open Records Acts.

Kansas Open Meetings Act

The Kansas Open Meetings Act requires generally that all meetings of a public body be open to the public.¹ In the last year, the Chief of Police of the City of Overland Park has expressed a desire to discuss, in closed session, matters of security relating to private businesses and other security issues within the City of Overland Park unrelated to the security of City buildings or the Governing Body. The current text of the Kansas Open Meetings Act contains a provision permitting an executive session for the purpose of discussing “matters relating to the security of a public body or agency, public building or facility or the information system of a public body or agency, if the discussion of such matters at an open meeting would jeopardize the security of such public body, agency, building, facility or information system . . .”² This provision is interpreted very narrowly by City staff who find that it is limited by its terms to the security of the Governing Body of the City of Overland Park, a City-owned building or facility or the information system of the City. It does not appear that this exception is broad enough to encompass security matters that may be associated with the security of the municipality as a whole, its infrastructure or private buildings.

¹ K.S.A. 75-4318 (a)

² K.S.A. 75-4319(b)(13)

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Date: **MARCH 18, 2004**

Attachment: # **4**

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Like other departments, the Overland Park Police Department has been called upon to respond to security concerns in an effort to protect the citizenry and law enforcement officials desire to keep the elected officials abreast of their efforts in this area. It is the position of the City of Overland Park that to permit a discussion of such security matters in a closed meeting would require that the language of K.S.A. 75-4319 be clarified and HB 2489 provides the needed clarification.

Kansas Open Records Act

The Kansas Open Records Act requires generally that all records of a public agency be open to the public.³ The definition of public records is extremely broad. It covers not only information that is made, maintained or kept by a public agency, but also information that merely comes into the possession of the agency.⁴ The current text of the Open Records Act provides an exemption from mandated disclosure for “[r]ecords of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.”⁵ A narrow reading of this provision leads one to believe that by its terms it is limited to protecting the public agency’s own security or that of the public agency’s building or facility, or information in the possession a public agency which is related to a “building or facility which is used for purposes requiring security measures . . .” or a facility providing the listed utilities.⁶ It appears questionable at best that community-wide homeland security issues would come within this exception.

The current text also provides an exemption for “[p]lans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.”⁷ If the governmental entity is working with a private agency relative to security matters, the public agency could refuse to disclose “plans, designs, drawings or specifications . . .”⁸ There is no provision, however, that clearly permits closure of the governmental entity’s analysis of that information or additional information the private entity may provide the agency. In addition, some information in the security arena may also be analyzed and protected under the criminal investigation exception to the Open Records Act, however, this provision in no way covers all possible records associated with security measures.⁹

³ K.S.A. 45-216

⁴ K.S.A. 45-217(f)(1)

⁵ K.S.A. 45-221 (a) (12)

⁶ Id.

⁷ K.S.A. 45-221 (18)

⁸ Id.

⁹ K.S.A. 45-221 (a)(10)

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Therefore, while it appears some security information may be closed pursuant to current exemptions, it is the City's position that the current provisions of the Kansas Open Records Act should be clarified to permit the closure of all records relating to community-wide security issues. The City believes HB 2490 will provide this needed clarity.

City staff has met with the Kansas Press Association and I believe it is the position of both parties that the current language of the proposed bills adequately addresses the interests of both parties. The City would therefore request that you support HB 2489 and HB 2490.



Kansas Press Association, Inc.

Dedicated to serving and advancing the interests of Kansas newspapers

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March 18, 2004

To: Federal and State Affairs Committee

Re: HBs 2489 and 2490

I am Doug Anstaett, executive director of the Kansas Press Association.

Thank you for the opportunity to express the support of the Kansas Press Association for House Bills 2489 and 2490.

This bill is another example of working together for good government. We want to commend the Overland Park police chief, city administration, the League of Kansas Municipalities, Kansas Association of Counties, Kansas Association of School Boards and other organizations that worked together to craft a compromise on legislation to amend the Kansas Open Records Act and the Kansas Open Meetings Act.

These bills add some language to KORA and KOMA to cover some security situations involving private companies. While an entirely new exemption was initially proposed, all parties agreed some clarifying language to the previous security measures exemptions in both acts was all that was needed.

Overland Park officials believed private security arrangements presented to public agencies might be subject to KOMA and KORA. Although our attorney, Mike Merriam, didn't believe that was a problem and that such measures were covered, we understand the need for clarification when the law appears vague.

The Kansas Press Association supports the new language and offers its support to the approval of these two bills.

Senate Federal and State Affairs Com.

Date: **MARCH 18, 2004**

Attachment: # **5**



Written Testimony on HB 2489 and HB 2490
Before the Senate Federal and State Affairs Committee
By Judy A. Moler
General Counsel/Legislative Services Director
March 18, 2004

The Kansas Association of Counties supports legislation that would amend the Kansas Open Meetings Act and the Kansas Open Records Act to provide for a exemptions that would allow for the discussion of matters and records “ relating to the security of a public body or agency, public buildings or facility or information system of a public body or agency, if the discussion of such matters at an open meeting would jeopardize the security of such public body, agency building, facility or information system.” The Kansas Association of Counties would like to see the language broadened to include meetings and records which deal with potential actions taken or discussed in event of terrorism or dealing with homeland security. This would extend to the records needed to make such decisions. The ability for county commissions to meet and discuss sensitive issues of security is essential for the protection of our Kansas citizens. Since the tragic events of September 11, 2001, these security issues have come to the forefront and make it essential for this legislation to be in place for the protection of our local communities.

The Kansas Association of Counties asks for passage of HB 2489 and HB 2490.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randy Allen or Judy Moler by calling (785) 272-2585.

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Senate Federal and State Affairs Com.
Date: MARCH 18, 2004
Attachment: # 6



GOVERNMENT RELATIONS

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Wichita, KS 67203
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Fax: (316) 383-7946
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Michael D. Pepon
Director

TESTIMONY ON HB 2489 and HB 2490
Before the Senate Committee on Federal and State Affairs
March 18, 2004

Chairman Brungardt and members of the committee, I appreciate the opportunity to submit written testimony in support of two bills that give local governments increased flexibility to address issues of security and public safety for the benefit of the citizens of the state of Kansas. HB 2489 amends the Kansas Open Meetings Act (KOMA) to allow a public body to go into a closed or executive sessions for matters relating to security measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy or affect the operation of government. HB 2490 uses similar language to exempt records from public disclosure under the Kansas Open Records Act (KORA). Both KOMA and KORA currently provide for security exemptions relating to public bodies, buildings and facilities. These proposed bills will expand this protection more broadly to the people of the state of Kansas.

Like all cities and counties in Kansas, Sedgwick County has had to adapt and react to a post September 11th world. Sedgwick County has taken a number of steps to prepare itself for terroristic attacks. Whenever the security threat goes from yellow to orange, we assemble a group of representatives from the local security community, including but not limited to: the FBI, local law enforcement (Sheriff and police), Fire, EMS, Emergency Management, Transportation security (Mid Continent Airport) and the Secret Service. If they determine that a credible threat exists to the citizens in our area, they go through a checklist of proposed measures. Obviously, if they were to determine that official government action was necessary, the Board of County Commission would need to be apprised and involved in making these decisions. It is of critical importance that these decisions not be made in public and available to the very people we are trying to protect the public against. So far we have not had to take this action to the County Commission, but it is important to have these steps available if needed.

The proposed legislation before you is not unique to the state Kansas. From my review of a book entitled Open Meetings Laws, by Ann Taylor Schwing, it is clear that at least ten other states already have similar language in statute. This book came out in 1994, so you can imagine the increase in the number of states that now have such laws.

In summary, HB 2489 and 2490 are necessary pieces of legislation and Sedgwick County urges you to support both bills.

Senate Federal and State Affairs Com.

“Sedgwick County...working for you.” Date: **MARCH 18, 2004**
Attachment: # **7**



Johnson County, Kansas

OFFICE OF THE COUNTY MANAGER

Written testimony in support of HB 2489 & HB 2490
presented to the

Senate Federal and State Affairs Committee

by
Danielle Noe
Intergovernmental Relations Coordinator

March 18, 2004

Thank you for the opportunity to present testimony in support of HB 2489 and HB 2490.

Johnson County believes that openness in county government is essential to building public confidence. Nevertheless, there are times when privacy or other legitimate reasons require executive sessions or the closing of certain records.

Since September 11, 2001, the role of county government – as emergency planner, coordinator, financier, and first responder – has taken on heightened significance. It is imperative that local officials have the option to keep certain sensitive information private. In order to safeguard the public, Johnson County supports clarifying the Kansas Open Meetings Act to authorize executive sessions to discuss certain sensitive information which if released may jeopardize the safety of citizens. Likewise, Johnson County supports clarifying the Kansas Open Records Act to prevent the release of certain documentation or records, which if released may jeopardize the safety of citizens.

Both HB 2489 and HB 2490 provide an important safeguard for citizens. While current law has some safeguards for protecting information which relate to the security of the public body or public buildings etc., it is not clear that information which may also protect the citizenry at large could be excluded from the open meetings and open records requirements.

Johnson County believes that the new language offered in both HB 2489 and HB 2490 provides a clear guideline for local units of government to follow when making the important decision of whether or not to meet in executive session or to close certain records. Therefore, we request your favorable consideration of both HB 2489 and HB 2490.



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Written Testimony for Senate Federal and State Affairs Committee
Regarding HB 2489 and HB 2490
March 18, 2004
Harriet Lange
President/Executive Director

HB 2489 and HB 2490 in their original form were overly broad. In their original form, the bills would have resulted in unintended consequences by allowing for broad interpretation of what constitutes "security measures".

However, due to the willingness of the proponents to work out compromise language with the opposing parties, you have before you two bills which are much narrower in scope but still accomplish the goals of the proponents. We encourage you to pass the bills without further amendment.

Thank you for your consideration.

Senate Federal and State Affairs Com.

Date: MARCH 18, 2004

Attachment: #

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Sen. John L. Vratil
Proposed Amendments to SB499
Committee on Federal & State Affairs
March 18, 2004

Amendment 1

Page 18, Between Lines 42 and 43

Insert language which would ensure that the decision to place video lottery terminals in a county is submitted to and approved by the voters of the county.

Amendment 2

Page 29, Beginning in Line 11 through Line 16

Beginning in Line 11 and continuing through line 15 delete language following "conducted". Insert new language that would establish 21 years of age as the minimum age for employment in a destination casino or video lottery games area.

Amendment 3

Page 15, Line 37

Delete the word "Issue" at the beginning of the line and insert "Request a court to issue" in its place.

The change would clarify that if a subpoena is required to compel access to records held by the destination enterprise manager or destination casino manager, the subpoena would be issued by the court instead of the commission's executive director.

Amendment 4

Page 9, Line 6

Change "proposal" to "proposals".

Change would ensure that multiple proposals might be considered.

Page 9, Line 7

Change "is" to "are".

Grammatical change in response to change suggested in Line 6.

Page 9, Line 17

Delete "When" and insert "After".

The change clarifies that after the destination casino commission has issued three certificates of authority, the commission shall commission a statewide feasibility study.

Page 9 End of Line 21

Insert language that would ensure that the feasibility study described in Line 17 is commissioned and completed within 12 months of the issuance of the third certificate of authority.

Page 9, Line 23

Change "50" to "30".

The change would reduce the distance established between an existing destination casino and a proposed destination casino for which a new certificate of authority is issued.

Amendment 5

Page 9, Line 26

Insert ",subsequent to July 1, 2004," between "If" and "a".

The change would clarify that paragraph (g) would only apply to tribal compacts negotiated subsequent to July 1, 2004.

Amendment 6

Page 8, Line 29

Insert "or" between "destination enterprise" and "destination casino" and remove "or tribal gaming facility".

The change would remove the reference to tribal gaming in "New Sec. 5. which describes the proposals for destination enterprises and destination casinos.

Page 9, Line 26 through Line 42

Delete paragraph (g) in its entirety.

This change is consistent with the proposed change on Page 8, Line 29. It removes, from New Sec. 5., additional reference to the tribes.

Amendment 7

Page 3, Line 21

Change "may" to "shall"

The change would require each destination casino to make a net payment of up to \$15,000 for each electronic gaming machine to be operated at a destination casino.

Page 36, Line 39

Change "2012" to "2016".

The change would extend the life of the Kansas Lottery and the Kansas Lottery Commission to 2016 to allow the destination casinos and the VLTs sufficient time to establish their success or failure.

Amendment 8

Page 27, Paragraph (d)

Delete paragraph (d), Line 6 through Line 27.

Paragraph (d) addresses disbursement of funds remaining in the gaming act revenue fund after transfers and payments are made to each account maintained for each destination casino manager, video lottery parimutuel sales agent, and video lottery club sales agent. Paragraph (d) and its subparagraphs (1), (2), (3), and (4) identify specific appropriations that are to be made from the gaming act revenue fund. The language is not clear as to who is responsible to make the specified payments should the gaming act revenue fund not have sufficient funds in it to meet the specified amounts.

1 player.

2 (d) "Video lottery terminal associated equipment" means any propri-
3 etary device, machine or part used in the manufacture, operation or main-
4 tenance of a video lottery terminal.

5 (m) "Video lottery terminal manufacturer" means any individual,
6 firm, corporation or other legal entity certified by the Kansas lottery to
7 assemble or produce video lottery terminals or video lottery terminal as-
8 sociated equipment for sale or use in this state.

9 (n) "Video lottery parimutuel sales agent" means a parimutuel li-
10 censee specifically certified by the Kansas lottery to become a certified
11 video lottery parimutuel sales agent and offer video lottery terminals for
12 play to the public at the parimutuel licensee location.

13 (o) "Video lottery club sales agent" means a veterans and fraternal
14 organization specifically certified by the Kansas lottery to become a cer-
15 tified video lottery club sales agent and offer video lottery terminals for
16 play to the public at the club location.

17 (p) "Veterans or fraternal organization" means an organization which
18 is licensed as a class A club pursuant to the club and drinking establish-
19 ment act, has been in continuous existence and operation for a period of
20 not less than five years prior to the date of application to become a video
21 lottery club sales agent and is a bona fide member of one of the following
22 organizations:

- 23 (1) The American Legion;
- 24 (2) the Veterans of Foreign Wars;
- 25 (3) the Fraternal Order of Eagles;
- 26 (4) the Benevolent and Protective Order of Elks;
- 27 (5) the Knights of Columbus;
- 28 (6) the Loyal Order of Moose; or
- 29 (7) the Order of the Mystic Shrine.

30 (q) "Voucher" means a bearer instrument in the form of a printed
31 ticket or facsimile issued by a video lottery terminal to a player that rep-
32 resents the existing credit balance accumulated by a player of the video
33 lottery terminal. A voucher is a secure document that carries a unique
34 identifier in the form of a serial number and bar code issued by the central
35 video lottery terminal computer system.

36 New Sec. 12. (a) The Kansas lottery shall implement a video lottery
37 program whereby it places video lottery terminals at parimutuel licensee
38 locations and club locations.

39 (b) The Kansas lottery shall not place video lottery terminals at any
40 parimutuel licensee location or club location unless the commission has
41 adopted rules and regulations as provided in sections 11 through 20, and
42 amendments thereto.

43 New Sec. 13. (a) In accordance with rules and regulations adopted

(c) The Kansas lottery shall not place video lottery terminals
in a county unless the question of the placement of lottery terminals in
such county has been submitted to and approved by the voters of such
county at an election called and held thereon. Such election shall be
called and held in the same manner as provided by section 7, and
amendments thereto.

1 (b) No employee or contractor of a destination enterprise manager,
2 destination casino manager, video lottery parimutuel sales agent or video
3 lottery club sales agent shall loan money to or otherwise extend credit to
4 patrons of the destination enterprise, parimutuel licensee or veterans or
5 fraternal organization.

6 (c) Violation of this section is a class A nonperson misdemeanor upon
7 a conviction for a first offense. Violation of this section is a severity level
8 9, nonperson felony upon conviction for a second or subsequent offense.

9 New Sec. 26. (a) A person less than 21 years of age shall not be
10 permitted in an area where destination casino games or video lottery
11 games are being conducted ~~except for a person at least 18 years of age~~
12 ~~who is an employee of the destination enterprise manager, destination~~
13 ~~casino manager, video lottery parimutuel sales agent or video lottery club~~
14 ~~sales agent. No employee under age 21 shall perform any function in-~~
15 ~~volved in gaming by the patrons.~~

16 ~~(b) No person under age 21 shall play or make a wager on a desti-~~
17 ~~nation casino game or video lottery game.~~

18 New Sec. 27. (a) Except as when authorized in accordance with sub-
19 section (c), it is unlawful for any destination enterprise manager, desti-
20 nation casino manager, video lottery parimutuel sales agent or video lot-
21 tery club sales agent, or any employee or agent thereof, to allow any
22 person to play destination casino games or video lottery pursuant to the
23 Kansas expanded gaming opportunity act, or share in winnings of such
24 person, knowing such person to be:

- 25 (1) Less than 21 years of age;
- 26 (2) a member of the destination casino commission, the executive
- 27 director, a member of the commission or an employee of the Kansas
- 28 lottery;
- 29 (3) an officer or employee of a vendor contracting with the Kansas
- 30 lottery to supply gaming equipment or tickets to the Kansas lottery for
- 31 use in the operation of any lottery conducted pursuant to the Kansas
- 32 lottery act;
- 33 (4) a spouse, child, stepchild, brother, stepbrother, sister, stepsister,
- 34 parent or stepparent of a person described by subsection (a)(2) or (a)(3);
- 35 or
- 36 (5) a person who resides in the same household as any person de-
- 37 scribed by subsection (a)(2) or (a)(3).

38 (b) Violation of subsection (a) is a class A nonperson misdemeanor
39 upon conviction for a first offense. Violation of subsection (a) is a severity
40 level 9, nonperson felony upon conviction for a second or subsequent
41 offense.

42 (c) The executive director may authorize in writing any employee of
43 the Kansas lottery and any employee of a lottery vendor to play a desti-

(b) No person under the age of 21 shall be employed
at a destination casino.

(c)

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gaming machines as required by this subsection and may rely upon testing done by or for other states regulating electronic gaming machines, if the executive director deems such testing to be reliable and in the best interest of the state of Kansas.

(d) (1) Electronic gaming machines operated pursuant to the Kansas expanded gaming opportunity act shall:

(A) Pay out an average of not less than 87% of the amount wagered over the life of the machine;

(B) be directly linked to a central lottery communications system to provide auditing and other program information as approved by the Kansas lottery; and

(C) be on-line and in constant communication with a central computer located at a location determined by the executive director.

(2) The Kansas lottery shall lease or purchase, at the expense of the destination casino manager, all gaming equipment necessary to implement the communications system and central computer. The executive director shall select the computer system most suitable for conducting the monitoring and auditing functions required by the Kansas expanded gaming opportunity act. The communications system and central computer selected shall not limit participation to only one electronic gaming machine manufacturer, distributor, supplier or provider.

New Sec. 9. In addition to any other power provided by this act, the executive director, and employees and agents designated by the executive director, shall have the power to:

(a) Investigate alleged violations of the Kansas expanded gaming opportunity act and alleged violations of the certificate of authority, the management contract and this act and rules and regulations adopted hereunder.

(b) Examine or cause to be examined by any agent or representative designated by the executive director any books, papers, records or memoranda of any destination enterprise manager, any destination casino manager or any business involved in electronic gaming or lottery games authorized pursuant to the Kansas expanded gaming opportunity act, for the purpose of ascertaining compliance with the provisions of the certificate of authority, the management contract and this act and rules and regulations adopted hereunder.

(c) ~~Issue~~ subpoenas to compel access to or for the production of any books, papers, records or memoranda in the custody or control of any destination enterprise manager or destination casino manager, or to compel the appearance of any destination enterprise manager or destination casino manager for the purpose of ascertaining compliance with the provisions of the certificate of authority, the management contract and this act and rules and regulations adopted hereunder. Subpoenas issued under

Request a court to issue

1 (5) the applicant, the principals and the officers and directors, if a
2 corporation, have completed acceptable background investigations by
3 federal or state authorities.

4 (d) If the destination casino commission is considering more than one
5 proposal for a destination casino, the destination casino commission shall
6 select the ~~proposal~~ that, in the judgment of the destination casino commission,
7 ~~is~~ in the best interest of the state as a whole. The destination
8 casino commission shall favor proposals that: (1) Have larger investments
9 in infrastructure; (2) create more jobs and have higher payroll; (3) have
10 lower management fees and expenses; (4) create more revenue for the
11 state; (5) are likely to succeed in the marketplace; (6) have a more ex-
12 periented and qualified management team; (7) have more effective and
13 aggressive plans for identifying and counteracting problem gambling; (8)
14 would attract more tourists; and (9) have the support of the local
15 community.

proposals

are

16 (e) The destination casino commission shall issue not more than five
17 certificates of authority. ~~When~~ the destination casino commission has is-
18 sued three certificates of authority, the destination casino commission
19 shall commission a statewide feasibility study to determine whether ad-
20 ditional destination casinos would be in the best interest of the state and
21 where any additional destination casinos should be located.

After

Such feasibility study shall be commissioned and completed within 12 months of the issuance of the third certificate of authority.

22 (f) The destination casino commission shall not issue a certificate of
23 authority for a destination casino within ~~50~~ miles of any destination casino
24 for which a certificate of authority has been issued during the preceding
25 two years.

30

26 (g) If a tribal compact is negotiated and signed by the governor and
27 approved by the legislature in accordance with K.S.A. 46-2301 *et seq.*,
28 and amendments thereto, the destination casino commission shall not
29 issue a certificate of authority for any destination casino within ~~50~~ miles
30 of the proposed site for the tribal casino until the United States secretary
31 of interior issues a final decision on the tribal compact and any related
32 land issues pursuant to the Indian Gaming Regulatory Act, including any
33 determination under 25 U.S.C. 2719 (b)(1)(A), provided, however, if the
34 secretary of interior has not made a final decision on the tribal compact
35 and any related land issues within one year after legislative approval of
36 the tribal compact, the destination casino commission may consider pro-
37 posals and issue a certificate of authority for a destination enterprise and
38 casino to be located within 50 miles of the proposed site for the tribal
39 casino. If the secretary of interior gives final approval to the tribal compact
40 and any related land issues, the destination casino commission shall not
41 issue a certificate of authority for a destination casino within 50 miles of
42 the tribal casino for a period of two years after such approval.

30

43 New Sec. 6. (a) The certificate of authority issued by the destination

1 (5) the applicant, the principals and the officers and directors, if a
2 corporation, have completed acceptable background investigations by
3 federal or state authorities.

4 (d) If the destination casino commission is considering more than one
5 proposal for a destination casino, the destination casino commission shall
6 select the proposal that, in the judgment of the destination casino com-
7 mission, is in the best interest of the state as a whole. The destination
8 casino commission shall favor proposals that: (1) Have larger investments
9 in infrastructure; (2) create more jobs and have higher payroll; (3) have
10 lower management fees and expenses; (4) create more revenue for the
11 state; (5) are likely to succeed in the marketplace; (6) have a more ex-
12 periented and qualified management team; (7) have more effective and
13 aggressive plans for identifying and counteracting problem gambling; (8)
14 would attract more tourists; and (9) have the support of the local
15 community.

16 (e) The destination casino commission shall issue not more than five
17 certificates of authority. When the destination casino commission has is-
18 sued three certificates of authority, the destination casino commission
19 shall commission a statewide feasibility study to determine whether ad-
20 ditional destination casinos would be in the best interest of the state and
21 where any additional destination casinos should be located.

22 (f) The destination casino commission shall not issue a certificate of
23 authority for a destination casino within 50 miles of any destination casino
24 for which a certificate of authority has been issued during the preceding
25 two years.

26 (g) If a tribal compact is negotiated and signed by the governor and
27 approved by the legislature in accordance with K.S.A. 46-2301 *et seq.*,
28 and amendments thereto, the destination casino commission shall not
29 issue a certificate of authority for any destination casino within 50 miles
30 of the proposed site for the tribal casino until the United States secretary
31 of interior issues a final decision on the tribal compact and any related
32 land issues pursuant to the Indian Gaming Regulatory Act, including any
33 determination under 25 U.S.C. 2719 (b)(1)(A), provided, however, if the
34 secretary of interior has not made a final decision on the tribal compact
35 and any related land issues within one year after legislative approval of
36 the tribal compact, the destination casino commission may consider pro-
37 posals and issue a certificate of authority for a destination enterprise and
38 casino to be located within 50 miles of the proposed site for the tribal
39 casino. If the secretary of interior gives final approval to the tribal compact
40 and any related land issues, the destination casino commission shall not
41 issue a certificate of authority for a destination casino within 50 miles of
42 the tribal casino for a period of two years after such approval.

43 New Sec. 6. (a) The certificate of authority issued by the destination

, subsequent to July 1, 2004,

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1 tract between the parimutuel licensee and representatives of the horse
 2 and greyhound racing industry. As a part of its application for authori-
 3 zation to develop a destination casino at a parimutuel licensee location, a
 4 parimutuel licensee shall provide the destination casino commission with
 5 a contract approved by the official breed registering agencies as recog-
 6 nized by the Kansas racing and gaming commission pursuant to K.S.A.
 7 74-8830 and 74-8832, and amendments thereto. The contract shall specify
 8 the distributions to be made from the gross destination casino revenues
 9 to provide purse supplements to the appropriate breed groups. Such con-
 10 tract shall become a part of the management contract if the parimutuel
 11 licensee is authorized to develop a destination casino. A parimutuel li-
 12 censee must receive the consent of its organization licensee, as defined
 13 in K.S.A. 74-8802, and amendments thereto, before applying to develop
 14 a destination enterprise and destination casino under this act. A desti-
 15 nation enterprise and destination casino shall not exist at a parimutuel
 16 licensee location except as provided in this section.

17 (c) Subject to the provisions of section 7, and amendments thereto,
 18 the destination casino commission, in its discretion, may issue a certificate
 19 of authority for the proposed destination casino, if the destination casino
 20 commission determines that:

21 (1) The proposal constitutes a destination enterprise and a destination
 22 casino;

23 (2) the proposal (A) includes ancillary destination enterprise opera-
 24 tions which would provide for dining, lodging, meetings, conferences and
 25 entertainment other than gaming; and (B) demonstrates through a market
 26 study that, considering all other competing gaming and other entertain-
 27 ment venues, the proposal would (i) be economically feasible, (ii) be prof-
 28 itable for the state and (iii) not render economically infeasible any other
 29 destination enterprise/destination casino or ~~tribal gaming facility~~ which
 30 is approved by the state and in which the state has a financial stake;

31 (3) the proposed destination enterprise either: (A) consists of an in-
 32 vestment in infrastructure, including ancillary destination enterprise opera-
 33 tions, of at least \$75 million; or (B) consists of an investment in infra-
 34 structure, including ancillary destination enterprise operations, of at least
 35 \$30 million and demonstrates through a market study that at least 15%
 36 of its gaming consumers would reside outside the state of Kansas; and

37 (4) the applicant: (A) Has sufficient access to financial resources to
 38 support the activities required under the Kansas expanded gaming op-
 39 portunity act; (B) is current in payment of all taxes, interest and penalties
 40 owed to any taxing subdivision where the person is located in Kansas; and
 41 (C) is current in filing all applicable tax returns and in payment of all
 42 taxes, interest and penalties owed to the state of Kansas, excluding items
 43 under formal appeal pursuant to applicable statutes; and

or

1 (5) the applicant, the principals and the officers and directors, if a
2 corporation, have completed acceptable background investigations by
3 federal or state authorities.

4 (d) If the destination casino commission is considering more than one
5 proposal for a destination casino, the destination casino commission shall
6 select the proposal that, in the judgment of the destination casino com-
7 mission, is in the best interest of the state as a whole. The destination
8 casino commission shall favor proposals that: (1) Have larger investments
9 in infrastructure; (2) create more jobs and have higher payroll; (3) have
10 lower management fees and expenses; (4) create more revenue for the
11 state; (5) are likely to succeed in the marketplace; (6) have a more ex-
12perienced and qualified management team; (7) have more effective and
13aggressive plans for identifying and counteracting problem gambling; (8)
14would attract more tourists; and (9) have the support of the local
15community.

16 (e) The destination casino commission shall issue not more than five
17certificates of authority. When the destination casino commission has is-
18sued three certificates of authority, the destination casino commission
19shall commission a statewide feasibility study to determine whether ad-
20ditional destination casinos would be in the best interest of the state and
21where any additional destination casinos should be located.

22 (f) The destination casino commission shall not issue a certificate of
23authority for a destination casino within 50 miles of any destination casino
24for which a certificate of authority has been issued during the preceding
25two years.

26 ~~(g) If a tribal compact is negotiated and signed by the governor and
27approved by the legislature in accordance with K.S.A. 46-2301 *et seq.*,
28and amendments thereto, the destination casino commission shall not
29issue a certificate of authority for any destination casino within 50 miles
30of the proposed site for the tribal casino until the United States secretary
31of interior issues a final decision on the tribal compact and any related
32land issues pursuant to the Indian Gaming Regulatory Act, including any
33determination under 25 U.S.C. 2719 (b)(1)(A), provided, however, if the
34secretary of interior has not made a final decision on the tribal compact
35and any related land issues within one year after legislative approval of
36the tribal compact, the destination casino commission may consider pro-
37posals and issue a certificate of authority for a destination enterprise and
38casino to be located within 50 miles of the proposed site for the tribal
39casino. If the secretary of interior gives final approval to the tribal compact
40and any related land issues, the destination casino commission shall not
41issue a certificate of authority for a destination casino within 50 miles of
42the tribal casino for a period of two years after such approval.~~

43 New Sec. 6 (a) The certificate of authority issued by the destination

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1 in accordance with the provisions of the Kansas expanded gaming oppor-
2 tunity act; or

3 (E) any machine excluded from the definition of gambling devices
4 under subsection (d) of K.S.A. 21-4302, and amendments thereto.

5 KANSAS EXPANDED GAMING OPPORTUNITY ACT

6 New Sec. 2. (a) Sections 2 through 33, and amendments thereto,
7 shall be known and may be cited as the Kansas expanded gaming oppor-
8 tunity act and shall be part of and supplemental to the Kansas lottery act.

9 (b) If any provision of this act or the application thereof to any person
10 or circumstance is held invalid, the invalidity shall not affect any other
11 provision or application of the act which can be given effect without the
12 invalid provision or application.

13 DESTINATION CASINOS

14 New Sec. 3. As used in this act, unless the context otherwise
15 requires:

16 (a) "Accelerated destination casino net payment" means the ad-
17 vanced payment to the state treasurer of a portion of the state's future
18 share of destination casino net revenues upon the final contract between
19 the executive director and a destination enterprise manager for the con-
20 struction of a destination enterprise pursuant to Kansas expanded gaming
21 opportunity act. The destination casino commission ~~may~~ authorize an ac-
22 celerated destination casino net payment of up to \$15,000 for each elec-
23 tronic gaming machine to be operated at a destination casino. If the des-
24 tination casino commission authorizes an accelerated destination casino
25 net payment, it shall set a schedule for the destination casino manager's
26 recovery of the accelerated destination casino net payment from the
27 state's share of the destination casino net revenues of no shorter than five
28 years. In any year, the amount of the recovery destination casino man-
29 ager's recovery of the accelerated destination casino net payment from
30 the state's share of the destination casino net revenues shall not exceed
31 20% of the total amount of the accelerated destination casino net
32 payment.

shall

33 (b) "Ancillary destination enterprise operations" means a service, fa-
34 cility, or operation, such as a restaurant, hotel, entertainment venue, or
35 meeting space that is part of a destination enterprise and is likely to attract
36 or retain consumers at a destination enterprise and its related destination
37 casino.

38 (c) "Certificate of authority" means a written approval of the desti-
39 nation casino commission for establishment of a destination enterprise
40 and destination casino, pending approval by the local voters, pursuant to
41 this act.

42 (d) "Destination casino" means a gaming operation with destination
43 casino games, owned and operated by the state of Kansas, approved by

1 (c) Moneys in the lottery operating fund shall be used for:

2 (1) The payment of expenses of the lottery, which shall include all
3 costs incurred in the operation and administration of the Kansas lottery,
4 *other than expenses incurred pursuant to the Kansas expanded gaming*
5 *opportunity act*; all costs resulting from contracts entered into for the
6 purchase or lease of goods and services needed for operation of the lot-
7 tery, including but not limited to supplies, materials, tickets, independent
8 studies and surveys, data transmission, advertising, printing, promotion,
9 incentives, public relations, communications and distribution of tickets
10 and shares; and reimbursement of costs of facilities and services provided
11 by other state agencies;

12 (2) the payment of compensation to lottery retailers;

13 (3) transfers of moneys to the lottery prize payment fund pursuant to
14 K.S.A. 74-8712, and amendments thereto;

15 (4) transfers to the state general fund pursuant to K.S.A. 74-8713,
16 and amendments thereto;

17 (5) transfers to the state gaming revenues fund pursuant to subsection
18 (d) of this section and as otherwise provided by law; and

19 (6) transfers to the county reappraisal fund as prescribed by law.

20 (d) The director of accounts and reports shall transfer moneys in the
21 lottery operating fund to the state gaming revenues fund created by
22 K.S.A. 79-4801, and amendments thereto, on or before the 15th day of
23 each month in an amount certified monthly by the executive director and
24 determined as follows, whichever is greater:

25 (1) An amount equal to the moneys in the lottery operating fund in
26 excess of those needed for the purposes described in subsections (c)(1)
27 through (c)(4); or

28 (2) except for pull-tab lottery tickets and shares, an amount equal to
29 not less than 30% of total monthly revenues from the sales of lottery
30 tickets and shares less estimated returned tickets. In the case of pull-tab
31 lottery tickets and shares, an amount equal to not less than 20% of the
32 total monthly revenues from the sales of pull-tab lottery tickets and shares
33 less estimated returned tickets.

34 Sec. 37. K.S.A. 74-8723 is hereby amended to read as follows: 74-
35 8723. (a) The Kansas lottery and the office of executive director of the
36 Kansas lottery, established by K.S.A. 74-8703, and amendments thereto,
37 and the Kansas lottery commission, created by K.S.A. 74-8709, and
38 amendments thereto, shall be and hereby are abolished on July 1, ~~2008~~
39 ~~2012~~.

40 (b) This section shall be part of and supplemental to the Kansas lot-
41 tery act.

42 Sec. 38. K.S.A. 2003 Supp. 19-101a is hereby amended to read as
43 follows: 19-101a. (a) The board of county commissioners may transact all

[2016

1 requirements of the Kansas expanded gaming opportunity act and any
2 other applicable standards and regulations. The video lottery terminal
3 manufacturer providing such terminals and equipment shall pay all costs
4 associated with such testing.

5 (c) Each video lottery parimutuel sales agent or video lottery club
6 sales agent shall hold the executive director, the commission, and this
7 state harmless from and defend and pay for the defense of any and all
8 claims which may be asserted against the executive director, the com-
9 mission, the state or the employees thereof, arising from the participation
10 in the video lottery system; specifically excluding, however, any claims
11 arising from the negligence or willful misconduct of the executive direc-
12 tor, the commission, the state or the employees thereof.

13 (d) Each video lottery parimutuel sales agent or video lottery club
14 sales agent shall provide access to all records of the video lottery pari-
15 mutuel sales agent or video lottery club sales agent and the physical prem-
16 ises of the locations where the video lottery activities are conducted for
17 the purpose of monitoring and inspecting the activities of the video lottery
18 parimutuel sales agent or video lottery club sales agent and video lottery
19 games, video lottery terminals and associated equipment.

20 GENERAL PROVISIONS

21 New Sec. 21. (a) There is hereby established in the state treasury the
22 gaming act revenues fund. Separate accounts shall be maintained in such
23 fund for receipt of moneys from each destination casino manager, video
24 lottery parimutuel sales agent and video lottery club sales agent. All ex-
25 penditures from the fund shall be made in accordance with appropriation
26 acts upon warrants of the director of accounts and reports issued pursuant
27 to vouchers approved by the executive director for the purposes set forth
28 in this act.

29 (b) All destination casino revenue and all net video lottery terminal
30 income shall be paid daily and electronically to the executive director.
31 The executive director shall remit all moneys received therefrom to the
32 state treasurer in accordance with K.S.A. 75-4215, and amendments
33 thereto. Upon receipt of the remittance, the state treasurer shall deposit
34 the entire amount in the state treasury and credit it to the respective
35 account maintained for the destination casino manager, video lottery pari-
36 mutuel sales agent or video lottery club sales agent in the gaming act
37 revenues fund.

38 (c) Within one week after receipt of a remittance pursuant to this
39 section, the state treasurer shall transfer and the executive director shall
40 use to be paid:

41 (1) From each account maintained in the gaming act revenues fund
42 for each destination casino manager amounts in accordance with the pro-
43 visions of the certificate of authority establishing the disposition of des-

1 tination casino revenue; and

2 (2) from each account maintained in the gaming act revenues fund
3 for each video lottery parimutuel sales agent or video lottery club sales
4 agent amounts in accordance with the provisions of section 18, and
5 amendments thereto.

6 ~~(d) Amounts remaining in the gaming act revenues fund after trans-~~
7 ~~fers and payments pursuant to subsection (c) shall be transferred to the~~
8 ~~state general fund and expended in accordance with appropriation acts~~
9 ~~as follows:~~

10 (1) For the state scholarship program established pursuant to K.S.A.
11 72-6810 *et seq.*, and amendments thereto, \$3.75 million in the fiscal year
12 ending June 30, 2005, \$7.5 million in the fiscal year ending June 30, 2006;
13 \$11.25 million in the fiscal year ending June 30, 2007; and \$15 million in
14 the fiscal year ending June 30, 2008, and each fiscal year thereafter;

15 (2) for Kansas comprehensive grant program established pursuant to
16 K.S.A. 74-32,120 *et seq.*, and amendments thereto, \$3.75 million in the
17 fiscal year ending June 30, 2005; \$7.5 million in the fiscal year ending
18 June 30, 2006; \$11.25 million in the fiscal year ending June 30, 2007; and
19 \$15 million in the fiscal year ending June 30, 2008, and each fiscal year
20 thereafter;

21 (3) for repayment of bonds issued in support of the Kansas public
22 employees retirement system, \$10 million in the fiscal year ending June
23 30, 2006; \$15 million in the fiscal year ending June 30, 2007; \$11.25
24 million in the fiscal year ending June 30, 2008; and \$27.4 million in the
25 fiscal year ending June 30, 2009; and \$37.1 million in the fiscal year end-
26 ing June 30, 2010, and each fiscal year thereafter; and

27 ~~(4) for such other purposes as provided by law.~~

28 New Sec. 22. (a) There is hereby created in the state treasury the
29 gaming act oversight fund.

30 (b) Moneys in the gaming act oversight fund shall be expended to
31 pay for the expenses of the Kansas lottery attributable to implementation,
32 administration and enforcement of the provisions of the Kansas expanded
33 gaming opportunity act and oversight, monitoring and of operations of
34 destination casinos, video lottery parimutuel sales agents and video lottery
35 club sales agents pursuant to the provisions of such act.

36 (c) On or before the 10th of each month, the director of accounts
37 and reports shall transfer from the state general fund to the gaming act
38 oversight fund interest earnings based on:

39 (1) The average daily balance of moneys in the gaming act oversight
40 fund for the preceding month; and

41 (2) the net earnings rate for the pooled money investment portfolio
42 for the preceding month.

43 (d) All expenditures from the gaming act oversight fund shall be made

1 (8) the applicant, the principals and the officers and directors, if a
2 corporation, have completed acceptable background investigation by
3 federal or state authorities.

4 (d) If the destination casino commission is considering more than one
5 proposal for a destination casino, the destination casino commission shall
6 select the proposal that, in the judgment of the destination casino com-
7 mission, is in the best interest of the state as a whole. The destination
8 casino commission shall favor proposals that: (1) Have larger investments
9 in infrastructure; (2) create more jobs and have higher payroll; (3) have
10 lower management fees and expenses; (4) create more revenue for the
11 state; (5) are likely to succeed in the marketplace; (6) have a more ex-
12 periented and qualified management team; (7) have more effective and
13 aggressive plans for identifying and counteracting problem gambling; (8)
14 would attract more tourists; and (9) have the support of the local
15 community.

16 (e) The destination casino commission shall issue not more than five
17 certificates of authority. When the destination casino commission has is-
18 sued three certificates of authority, the destination casino commission
19 shall commission a statewide feasibility study to determine whether ad-
20 ditional destination casinos would be in the best interest of the state and
21 where any additional destination casinos should be located.

22 (f) The destination casino commission shall not issue a certificate of
23 authority for a destination casino within 50 miles of any destination casino
24 for which a certificate of authority has been issued during the preceding
25 two years.

~~26 (g) If a tribal compact is negotiated and signed by the governor and
27 approved by the legislature in accordance with K.S.A. 46-2201 et seq.,
28 and amendments thereto, the destination casino commission shall not
29 issue a certificate of authority for any destination casino within 50 miles
30 of the proposed site for the tribal casino until the United States secretary
31 of interior issues a final decision on the tribal compact and any related
32 land issues pursuant to the Indian Gaming Regulatory Act, including any
33 determination under 25 U.S.C. 2719 (b)(1)(A), provided, however, if the
34 secretary of interior has not made a final decision on the tribal compact
35 and any related land issues within one year after legislative approval of
36 the tribal compact, the destination casino commission may consider pro-
37 posals and issue a certificate of authority for a destination enterprise and
38 casino to be located within 50 miles of the proposed site for the tribal
39 casino. If the secretary of interior gives final approval to the tribal compact
40 and any related land issues, the destination casino commission shall not
41 issue a certificate of authority for a destination casino within 50 miles of
42 the tribal casino for a period of two years after such approval.~~

43 New Sec. 5. (a) The certificate of authority issued by the destination

(g) The destination casino commission shall not issue a certificate of authority that would violate market protections for a tribal casino provided in a tribal-state compact negotiated under the Indian Gaming Regulatory Act, 25 U.S.C. 2701, et seq., and approved by the Legislature, if such violation would cause the state to forfeit its share of revenue from the tribal casino.

Senate Federal and State Affairs Com.
Date: MARCH 18, 2004
Attachment: # 11

player.

(l) "Video lottery terminal associated equipment" means any proprietary device, machine or part used in the manufacture, operation or maintenance of a video lottery terminal.

(m) "Video lottery terminal manufacturer" means any individual, firm, corporation or other legal entity certified by the Kansas lottery to assemble or produce video lottery terminals or video lottery terminal associated equipment for sale or use in this state.

(n) "Video lottery parimutuel sales agent" means a parimutuel licensee specifically certified by the Kansas lottery to become a certified video lottery parimutuel sales agent and offer video lottery terminals for play to the public at the parimutuel licensee location.

(o) "Video lottery club sales agent" means a veterans and fraternal organization specifically certified by the Kansas lottery to become a certified video lottery club sales agent and offer video lottery terminals for play ~~to the public~~ at the club location.

(p) "Veterans or fraternal organization" means an organization which is licensed as a class A club pursuant to the club and drinking establishment act, has been in continuous existence and operation for a period of not less than five years prior to the date of application to become a video lottery club sales agent and is a bona fide member of one of the following organizations:

- (1) The American Legion;
- (2) the Veterans of Foreign Wars;
- (3) the Fraternal Order of Eagles;
- (4) the Benevolent and Protective Order of Elks;
- (5) the Knights of Columbus;
- (6) the Loyal Order of Moose; or
- (7) the Order of the Mystic Shrine.

(q) "Voucher" means a bearer instrument in the form of a printed ticket or facsimile issued by a video lottery terminal to a player that represents the existing credit balance accumulated by a player of the video lottery terminal. A voucher is a secure document that carries a unique identifier in the form of a serial number and bar code issued by the central video lottery terminal computer system.

New Sec. 12. (a) The Kansas lottery shall implement a video lottery program whereby it places video lottery terminals at parimutuel licensee locations and club locations.

(b) The Kansas lottery shall not place video lottery terminals at any parimutuel licensee location or club location unless the commission has adopted rules and regulations as provided in sections 11 through 20, and amendments thereto.

New Sec. 13. (a) In accordance with rules and regulations adopted

Senate Federal and State Affairs Com.

Date: March 18, 2004

Attachment: # 13

1 tract between the parimutuel licensee and representatives of the horse
 2 and greyhound racing industry. As a part of its application for authori-
 3 zation to develop a destination casino at a parimutuel licensee location, a
 4 parimutuel licensee shall provide the destination casino commission with
 5 a contract approved by the official breed registering agencies as recog-
 6 nized by the Kansas racing and gaming commission pursuant to K.S.A.
 7 74-8830 and 74-8832, and amendments thereto. The contract shall specify
 8 the distributions to be made from the gross destination casino revenues
 9 to provide purse supplements to the appropriate breed groups. Such con-
 10 tract shall become a part of the management contract if the parimutuel
 11 licensee is authorized to develop a destination casino. A parimutuel li-
 12 censee must receive the consent of its organization licensee, as defined
 13 in K.S.A. 74-8802, and amendments thereto, before applying to develop
 14 a destination enterprise and destination casino under this act. A desti-
 15 nation enterprise and destination casino shall not exist at a parimutuel
 16 licensee location except as provided in this section.

negotiated with

If no such contract is agreed to within 30 days after commencement of r
 the matter shall be referred to the Kansas racing and gaming commis
 shall render a final decision on the matter not more than 30 days after referral of the
 matter to the commission.

17 (c) Subject to the provisions of section 7, and amendments thereto,
 18 the destination casino commission, in its discretion, may issue a certificate
 19 of authority for the proposed destination casino, if the destination casino
 20 commission determines that:

21 (1) The proposal constitutes a destination enterprise and a destination
 22 casino;

23 (2) the proposal: (A) Includes ancillary destination enterprise opera-
 24 tions which would provide for dining, lodging, meetings, conferences and
 25 entertainment other than gaming; and (B) demonstrates through a market
 26 study that, considering all other competing gaming and other entertain-
 27 ment venues, the proposal would (i) be economically feasible, (ii) be prof-
 28 itable for the state and (iii) not render economically infeasible any other
 29 destination enterprise, destination casino or tribal gaming facility which
 30 is approved by the state and in which the state has a financial stake;

31 (3) the proposed destination enterprise either: (A) Consists of an in-
 32 vestment in infrastructure, including ancillary destination enterprise op-
 33 erations, of at least \$75 million; or (B) consists of an investment in infra-
 34 structure, including ancillary destination enterprise operations, of at least
 35 \$30 million and demonstrates through a market study that at least 15%
 36 of its gaming consumers would reside outside the state of Kansas; and

37 (4) the applicant: (A) Has sufficient access to financial resources to
 38 support the activities required under the Kansas expanded gaming op-
 39 portunity act; (B) is current in payment of all taxes, interest and penalties
 40 owed to any taxing subdivision where the person is located in Kansas; and
 41 (C) is current in filing all applicable tax returns and in payment of all
 42 taxes, interest and penalties owed to the state of Kansas, excluding items
 43 under formal appeal pursuant to applicable statutes; and

1 terminals, approved by the Kansas lottery and which is provided by the
2 central video lottery terminal computer system provider in accordance
3 with this act.

4 (b) "Central computer system provider" means a person with whom
5 the executive director has contracted for the purpose of providing and
6 maintaining a central video lottery terminal computer system and the
7 related management facilities with respect to operating and servicing the
8 video lottery terminals.

9 (c) "Club location" means the licensed premises of a veterans or fra-
10 ternal organization.

11 (d) "Gray machine" means any mechanical, electro-mechanical or
12 electronic device, capable of being used for gambling, that is: (1) Not
13 authorized by the Kansas lottery, (2) not connected to the central video
14 lottery terminal computer system, (3) available to the public for play and
15 (4) capable of simulating a game played on a video lottery terminal or any
16 similar gambling game authorized pursuant to the Kansas expanded gam-
17 ing opportunity act.

18 (e) "Net video lottery terminal income" means all cash or other con-
19 sideration utilized to play a video lottery terminal, less all cash or other
20 consideration paid out to winning players as prizes.

21 (f) "Parimutuel licensee" has the meaning provided by section 3, and
22 amendments thereto.

23 (g) "Parimutuel licensee location" has the meaning provided by sec-
24 tion 3, and amendments thereto.

25 (h) "Progressive video lottery game" means any game whose jackpot
26 grows and accumulates as it is being played on a video lottery terminal
27 and whose outcome is randomly determined by the play of video lottery
28 terminals linked to the central video lottery terminal computer system.

29 (i) "Video lottery" means any lottery conducted with a video lottery
30 terminal or, with respect to a progressive game, a network of linked video
31 lottery terminals.

32 (j) "Video lottery game" means any electronically simulated game of
33 chance, including but not limited to video poker, keno, line-up, or black-
34 jack, displayed and played on a video lottery terminal.

35 (k) "Video lottery terminal" means any electronic machine in which
36 bills, coins, tokens or other media approved by the Kansas lottery are
37 deposited in order to play in a game of chance in which the results,
38 including options available to the player, are randomly and immediately
39 determined by the machine, and is connected to the central video lottery
40 terminal computer system. A video lottery terminal may use spinning
41 reels or video displays or both and must print and deliver a voucher
42 directly to each player with an existing credit balance at the end of play,
43 or if approved by the Kansas lottery may dispense cash directly to the

or a facility which has been in continuous existence and operation providing recreational and sports activities for a period of not less than five years prior to the date of application to become a video lottery club sales agent and which is an approved club keno licensee with the Kansas Lottery

AMENDMENT - SENATOR PETE BLANKARDT

72-6810
SCHOOLS STATE SCHOLARSHIP PROGRAM
FOR STUDENTS AT INSTITUTIONS OF POSTSECONDARY EDUCATION

72-6810. Definitions. As used in this act: (a) "State scholarship" means an award under this act by this state to a state scholar who has established financial need:

(b) (c) "State scholar" means a full-time, in-state student who has exhibited scholastic ability and who is initially acceptable for entering an eligible institution or who has so entered and is in good standing and making satisfactory progress.

(c) (d) "Full-time, in-state student" means a person who is a resident of Kansas and who is enrolled at an eligible institution in an educational program for at least 12 hours each semester or the equivalent thereof, or who is regularly enrolled at an eligible institution in a vocational or technical education program. The board of regents shall determine the number of hours for terms or program periods other than semesters to constitute the equivalent of 12 hours.

(d) (e) "Financial need" means the difference between the available financial resources of a student and such student's total anticipated expenses to attend an eligible institution. A student's financial resources shall include (1) four hundred and fifty dollars each year from the student's own work and resources, and (2) a contribution from the income and assets of the student's parents, if sufficient, as determined by a completed financial needs analysis statement and based upon the accepted criteria of a nationally recognized financial needs analysis agency. Financial need shall be redetermined annually.

(b) "Supplemental state scholarship" means an award under this act by this state to a state scholar who has established financial need and means a state scholarship awarded to state scholars designated prior to July 1, 2004.

Date: March 10, 2004
Attachment: # 15

(e) (f) "Eligible institution" means an institution of postsecondary education which maintains open enrollment, the main campus or principal place of operation of which is located in Kansas, and which qualifies as an eligible institution for the federal guaranteed-loan program under the higher education act of 1965 (P.L. 89-329), as amended.

(f) (g) "Open enrollment" means the policy of an institution of postsecondary education which provides the opportunity of enrollment for any student who meets its academic and other reasonable enrollment requirements, without regard for race, gender, religion, creed or national origin.

(g) (h) "Board of regents" means the state board of regents provided for in the constitution of this state and described in article 32 of chapter 74 of Kansas Statutes Annotated.

(h) (i) "Term" means one of two or more divisions of an academic year of an institution of postsecondary education in which substantially all courses begin and end at substantially the same time and during which instruction is regularly given to students.

(i) (j) "Semester" means one of two principal terms, when there are only two principal terms in the academic year, whether or not there are other shorter terms during the same academic year.

(j) (k) "Program period" means the duration of the period of time, or any division thereof, required for completion of a vocational or technical education program which is given in an institution of postsecondary education.

History: L. 1974, ch. 304, § 1; L. 1975, ch. 374, § 8; L. 1977, ch. 237, § 8; L. 1977, ch. 249, § 1; L. 1979, ch. 229, § 3; L. 1986, ch. 274, § 1; July 1.

72-6811

72-6811 Awarding state scholarships; limitation, determination of equivalent of semesters. A state scholarship may be awarded to any qualified state scholar enrolled at any eligible institution. A state scholar may be awarded a state scholarship for not more than eight semesters of undergraduate study or the equivalent thereof, except that a

state scholar may be awarded a state scholarship for not more than an additional two semesters of study or the equivalent thereof when the requirements of the educational program in which the state scholar is enrolled include the completion of a fifth year of study. The board of regents shall determine the equivalent of a semester when any program period or all or part of the terms for which a state scholar is awarded a state scholarship are not semesters.

History. L. 1974, ch. 304, § 2; L. 1975, ch. 374, § 9; L. 1985, ch. 243, § 4; L. 1986, ch. 274, § 2; July 1,

72-6812

72-6812 Amount of state scholarship equal to financial need; limitation. (a) The amount of a state scholarship awarded to a state scholar for the fall and spring semesters, or the equivalent thereof, shall be the amount of the state scholar's financial need for the period, except that state scholarships awarded to a state scholar in any year shall not exceed:

: amount of supplemental state scholarship

one thousand five hundred dollars. The amount of a supplemental state scholarship shall be

supplemental

(1) Five hundred dollars in any year if the state scholar initially is or was awarded a state scholarship for any program period, term or semester commencing prior to July 1, 1985; and

(2) one thousand dollars in any year if the state scholar initially is awarded a state scholarship for any program period, term or semester commencing after July 1, 1985;

and prior to July 1, 2004, and

(b) When state scholarships are awarded to a state scholar for any program period or for one or more terms that are not semesters, the board of regents shall determine the equivalent of the fall and spring semesters.

(3) one thousand five hundred dollars in any year if the state scholar initially is awarded a state scholarship for any program period, term, or semester commencing after July 1, 2004.

and supplemental state scholarships

History. L. 1974, ch. 304, § 3; L. 1975, ch. 374, § 10; L. 1985, ch. 243, § 5; L. 1985, ch. 244, § 1; L. 1986, ch. 274, § 3; July 1

72-6813

72-6813. Payment of state scholarships; certification; approval; disposition upon discontinued attendance of student. (a) A state scholarship may be paid annually for both the fall and spring semesters, or the equivalent thereof. Payments under any state scholarship shall be allocated equally between the semesters, when the state scholar plans to attend two semesters in an academic year, and otherwise as specified by the board of regents. State scholarships shall be paid at the beginning of each semester, program period or other term upon certification by the eligible institution that the state scholar is enrolled and is a qualified student. Payments of state scholarships shall be made upon vouchers approved by the administrative officer of the board of regents designated by it upon warrants of the director of accounts and reports. Payments of state scholarships may be made by the issuance of a single warrant to each eligible institution at which a state scholar is enrolled for the total amount of state scholarships for all state scholars enrolled at that institution. The director of accounts and reports shall cause such warrant to be delivered to the eligible institution at which such scholar or scholars are enrolled. Upon receipt of such warrant, the eligible institution shall credit immediately the account of each state scholar enrolled at that institution by an amount specified by the board of regents for each such state scholar.

(b) If a scholar discontinues attendance before the end of any semester, program period or other term, after the eligible institution has received payment under this section, the eligible institution shall pay to the state: (1) The entire amount which such scholar would otherwise qualify to have refunded not to exceed the amount of the payment made under such state scholarship at the beginning of such semester, program period or other term; or (2) if the scholar has received payments under any federal program of student assistance in the semester, program period

and supplemental state scholarships

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or other term, the state's pro rata share of the entire amount which such scholar would otherwise qualify to have refunded, not to exceed the amount of the payment made under such state scholarship at the beginning of such semester, program period or other term.

(c) All amounts paid to the state by an eligible institution under subsection (b) shall be deposited in the state treasury and credited to the state scholarship discontinued attendance fund, which is hereby created. All expenditures from the state scholarship discontinued attendance fund shall be for state scholarships.

History. L. 1974, ch. 304, § 4; L. 1975, ch. 374, § 11; L. 1979, ch. 229, § 4; L. 1985, ch. 243, § 6; L. 1986, ch. 274, § 4, July 1.

72-6814

72-6814. Administration of act by state board of regents; rules and regulations; apportionment; reports. The board of regents shall administer this act and shall:

(a) Publicize application procedures;

(b) Provide application forms, test forms, and forms for determining financial need;

(c) Adopt rules and regulations for determining educational ability, selecting examinations of educational ability and methods for giving such examinations, selecting state scholars, determining financial need, selecting financial needs analysis agencies, determining priority or apportionment of state scholarships and other matters necessary for the administration of this act. The board of regents may provide for apportionment of state scholarships if the appropriations for state scholarships are insufficient to pay all state scholars with financial need.

and supplemental state scholarships

To determine who is an in-state student for the purpose of this act, the board of regents shall adopt rules and regulations for determination of residence of students as provided by law:

(d) Designate and notify each state scholar:

(e) Approve and award state scholarships :

and supplemental state scholarships

(f) Make an annual report to the governor and legislature, and evaluate the state scholarship program for the period.

(g) Require any eligible institution to promptly furnish any information which the board of regents requests relating to administration or effect of this act.

History: L. 1974, ch. 304, § 5; L. 1975, ch. 374, § 12; July 1.

72-6815

72-6815. Applications for scholarships; financial needs analysis statements. Each applicant for a state scholarship in accordance with the rules and regulations of the board of regents shall:

(a) Be responsible for the submission to the board of regents of the results of an examination of educational ability which is given by the board of regents or in a manner approved by the board of regents;

(b) Complete and file an application for a state scholarship;

(c) Be responsible for the submission of a financial needs analysis statement to the board of regents;

(d) Report promptly to the board of regents any information requested relating to administration of this act;

(e) File a new application and financial needs analysis statement annually on the basis of which his or her eligibility for a state scholarship shall be evaluated and determined.

and supplemental state scholarship

History: L. 1974, ch. 304, § 6; L. 1975, ch. 374, § 13; July 1.

72-6816

72-6816. Financial resources to include Kansas comprehensive grants. Any student who has applied for a Kansas comprehensive grant shall make note of such application when reporting such student's financial resources required by K.S.A. 72-6810, and amendments thereto. Any student who has received a Kansas comprehensive grant shall list the grant among such student's financial resources as required by K.S.A. 72-6810, and amendments thereto.

History: L. 1977, ch. 249, § 2; L. 1998, ch. 165, § 7; July 1.

74-32,120

**STATE BOARDS, COMMISSIONS AND AUTHORITIES
HIGHER EDUCATION COORDINATION; STATE BOARD OF REGENTS**

74-32,120. Kansas comprehensive grant program; definitions. As used in this act: (a) "Kansas comprehensive grant program" means a program under which the state, in recognition that the provision of higher education for all residents of the state who have the desire and ability to obtain such education is an important public purpose and in response to the concern that many residents of the state are deterred by financial considerations from attending institutions of higher education, provides assistance to students with financial need through the award of grants.

(b) "Kansas comprehensive grant" means an award of financial assistance under the Kansas comprehensive grant program to an eligible Kansas student.

(c) "Financial need" means the difference between a student's available financial resources and the student's total anticipated cost of attendance at a certain Kansas educational institution. A student's financial resources shall be determined on the basis of criteria provided under the federal methodology of need analysis.

(d) "Full-time, in-state student" means a person who is a resident of Kansas and who is enrolling or enrolled at a Kansas educational institution for at least 12 credit hours each semester or the equivalent thereof. The board of regents shall determine the number of hours for terms other than semesters to constitute the equivalent of 12 credit hours.

(e) "Kansas student" means a full-time, in-state student who has established financial need and who is initially acceptable for entering a Kansas educational institution or who has so entered and is in good standing and making satisfactory progress toward graduation.

(f) "Kansas educational institution" means a state educational institution under the control and supervision of the board of regents, a municipal university, or a not-for-profit independent institution of higher education which is accredited by the north central association of colleges and secondary schools accrediting agency based on its requirements as of April 1, 1985, is operated independently and not controlled or administered by the state or any agency or subdivision thereof, maintains open enrollment, and the main campus or principal place of operation of which is located in Kansas.

a community college, a technical college which is accredited by the north central association of colleges and secondary schools accrediting agency,

(g) "Open enrollment" means the policy of an institution of higher education which provides the opportunity of enrollment for any student who meets its academic and other reasonable enrollment requirements, without regard for race, gender, religion, creed or national origin.

(h) "Board of regents" means the state board of regents provided for in the constitution of this state and described in article 32 of chapter 74 of Kansas Statutes Annotated

(i) "Term" means one of two or more divisions of an academic year of a Kansas educational institution in which substantially all courses begin and end at substantially the same time, and during which instruction is regularly given to students

(j) "Semester" means one of two principal terms, when there are only two principal terms in the academic year, whether or not there are other shorter terms during the same academic year.

History. L. 1993, ch. 28, § 1; L. 1998, ch. 165, § 1; July 1.

74-32,121

74-32,121 Same, award of grants; limitations; determination of semester equivalence. A Kansas comprehensive grant may be awarded to any Kansas student enrolled at any Kansas educational institution. A Kansas student may be awarded grants for not more than eight semesters of undergraduate study or the equivalent thereof, except that a student may be awarded grants for not more than an additional two semesters of study, or the equivalent thereof, when the requirements of the educational program in which the student is enrolled include the completion of a fifth year of study. The board of regents shall determine the equivalent of a semester when all or part of the terms for which a Kansas student is awarded a Kansas comprehensive grant are not semesters.

at an institution that awards a baccalaureate degree or four semesters of undergraduate study or the equivalent thereof at an institution that only awards an associate degree

History: L. 1993, ch. 28, § 2; L. 1998, ch. 165, § 2, July 1

74-32,122

74-32,122 Same, amount of grants. (a) The amount of a Kansas comprehensive grant awarded to a Kansas student for the fall and spring semesters, or the equivalent thereof, shall be (1) for a student enrolled at a state educational institution or municipal university, the amount of the student's financial need for the period, except that a grant awarded to such a student in any year shall not exceed an amount equal to one-half of the average amount of the total tuition and fees required of full-time, in-state students for enrollment at the state educational institutions for two semesters or the equivalent thereof, and (2) for a student enrolled at an independent institution of higher education, the amount of the student's financial need for the period, except that a grant awarded to such a student in any year shall not exceed the lesser of an amount equal to the total tuition and required fees of the student for two semesters, or the equivalent thereof, or an amount equal to one-half of the difference between the average amount of the total tuition and required fees of full-time, in-state students who are enrolled at the state educational institutions and the average amount of the total tuition and required fees of full-time, in-state students who are enrolled at the

community college, technical college,

independent institutions of higher education.

(b) When Kansas comprehensive grants are awarded to a Kansas student for one or more terms that are not semesters, the board of regents shall determine the equivalent of the fall and spring semesters.

History — L. 1993, ch. 28, § 3; L. 1998, ch. 165, § 3; July 1.

74-32,123

74-32,123. Same; payment of grants; certification of student enrollment and eligibility; disposition of amounts.
(a) A Kansas comprehensive grant may be paid annually for both the fall and spring semesters, or the equivalent thereof. Payments under any such grant shall be allocated equally between the semesters, when the student plans to attend two semesters in an academic year, and otherwise as specified by the board of regents. Kansas comprehensive grants shall be paid at the beginning of each semester or other term upon certification by the Kansas educational institution that the student is enrolled and is a Kansas student. Payments of Kansas comprehensive grants shall be made pursuant to vouchers approved by the administrative officer of the board of regents designated by the board upon warrants of the director of accounts and reports. Payments of Kansas comprehensive grants may be made by the issuance of a single warrant to each Kansas educational institution at which a Kansas student is enrolled for the total amount of grants for all Kansas students enrolled at that institution. The director of accounts and reports shall cause such warrant to be delivered to the Kansas educational institution at which such student or students are enrolled. Upon receipt of such warrant, the amount thereof shall be credited to the Kansas comprehensive grant fund of the Kansas educational institution and allocated within the fund to the account of each Kansas student enrolled at that institution. The amount to be credited to the account of each such student shall be specified by the board of regents.

(b) If a student discontinues attendance before the end of any semester or other term, after the Kansas educational institution has received payment under this section, the institution shall debit the account of the student by an amount equal to the entire amount which such student would otherwise qualify to have refunded, not to exceed the amount credited to the account of the student under the Kansas comprehensive grant program at the beginning of such semester or term and, if the student has received payments under any federal program of student assistance in the semester or other term, less an amount equal to the pro rata share of such entire amount which is attributable to the assistance received by the student under such federal program or programs.

(c) All amounts debited by a Kansas educational institution under subsection (b) shall be reallocated within the Kansas comprehensive grant fund of the institution to the account of other eligible Kansas students as specified by the board of regents.

History. L. 1993, ch. 28, § 4; L. 1998, ch. 165, § 4; July 1

74-32,124

74-32,124 Same; administration of program; duties of state board of regents. (a) The board of regents shall administer the Kansas comprehensive grant program and shall:

(1) Provide information regarding application procedures;

(2) adopt rules and regulations for determining financial need and cost of attendance at Kansas educational institutions, determining the average amount of tuition and fees required of full-time, in-state students for enrollment at the state educational institutions, the municipal university, and the independent institutions of higher education, determining residence, determining priority or apportionment of Kansas comprehensive grants and other matters necessary for administration of the program;

(3) allocate as base funding to each Kansas educational institution the amount of Kansas comprehensive grant funds awarded to the institution for fiscal year 1999; or, in the event funding is less than that provided for fiscal year 1999, the pro-rated share of that appropriation.

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(4) appoint a five-member advisory committee, including two representatives from state educational institutions, two representatives from not-for-profit independent institutions, and one representative from a municipal university, to recommend annually to the board of regents the formula to be used in apportioning funds in excess of the fiscal year 1999 appropriation to the Kansas educational institutions according to the formula based on financial need.

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two representatives of community colleges or technical colleges,

(5) approve Kansas students for the award of Kansas comprehensive grants; and

(6) evaluate the Kansas comprehensive grant program annually, and make a report thereon to the governor and legislature for the period.

(b) The board of regents may provide for apportionment of Kansas comprehensive grants if appropriations therefor are insufficient to pay all approved grants

History - L. 1993, ch. 28, § 5; L. 1998, ch. 165, § 5; July L.

74-32,125

74-32,125. Same; responsibilities of grant applicants. Each applicant for a Kansas comprehensive grant, in accordance with rules and regulations of the board of regents, shall:

- (a) Complete and file an application for a grant.
- (b) Report promptly to the board of regents and to the Kansas educational institution at which the applicant is enrolled or enrolling any information requested relating to administration of the Kansas comprehensive grant program.