



TESTIMONY

Senate Committee on Federal and State Affairs

Expanded Gaming Proposals

SB 237

An Act concerning the Kansas expanded lottery act; relating to racetrack gaming facilities.

SB 241

An Act concerning the Kansas expanded lottery act; relating to racetrack gaming facilities; creating the Kansas agricultural opportunity act.

SB 319

An Act concerning the Kansas expanded lottery act; relating to racetrack gaming facilities; relating to pari-mutuel racing; creating the Kansas agricultural opportunity act.

February 1, 2012

Chairman Brungardt and Members of the Committee:

Good morning Chairman Brungardt and Members of the Committee. I am Whitney Damron and I appear before you today on behalf of Kansas Entertainment, LLC, the joint venture partnership of International Speedway Corporation and Penn National Gaming – the development group selected by the State of Kansas to develop the destination casino for the Northeast Kansas Gaming Zone.

Historically, when matters of interest or concern to Kansas Entertainment have been brought before this Committee, both Jeff Boerger, President of Kansas Speedway Development Corporation and Karen Bailey, the Director of Public Affairs for Penn National Gaming has appeared before the Committee. Both Jeff and Karen extend their regrets to the Committee for their unavailability today, as they and the Hollywood Casino Team are constrained with events leading to the opening of the \$411 million Hollywood Casino at Kansas Speedway, which held a charitable pre-opening event on Monday of this week with a ribbon cutting ceremony scheduled for Friday, February 3, after which the facility will open to the general public.

Literally on the eve of the opening of Kansas Entertainment's \$411 million Hollywood Casino at Kansas Speedway, we are before you to express our strong opposition to legislation that proposes to dramatically alter the economic fundamentals of the gaming market in the northeast Kansas gaming zone under any of the bills under consideration today. We have seen these proposals before and we must continue to point out the unfairness of what the proponents are asking the Legislature to do for them.

### **Pari-mutuel Racing/Slots-at-Tracks.**

Most egregious is the shift in revenues from the state to the track owner. And while I am trying to be fair with my characterizations in my testimony, let's be honest and to steal a term from my law school days, let's take judicial notice that we are talking about one developer – Phil Ruffin, as Mr. Ruffin controls the pari-mutuel tracks in at least two of the three major markets and perhaps all three.

Under SB 66 as passed in 2007, the pari-mutuel track owner would receive 25 percent of the gross gaming revenues or drop from the slot machines (i.e., money left over after winnings are paid). In SB 237 and SB 241, that amount is increased to 58 percent of the gross gaming revenues. In SB 319, that percentage is calculated slightly differently, but the end result is the same for all practical purposes.

Proponents argue they should receive revenues equal to the lottery gaming facility operators, yet they have none of the minimum investment requirements the casinos have nor did they have to go through a competitive RFP process designed to identify the best possible destination casino resort.

Under SB 66, criteria used to evaluate proposals to be a lottery gaming facility operator included the following factors:

- Size of the proposed facility;
- Geographic area in which the facility is to be located;
- The facilities location as a tourist and entertainment destination;
- The estimated number of tourists that would be attracted by the proposed facility;
- The number and type of lottery facility games to be operated at the proposed facility; and,
- Agreements related to ancillary lottery gaming facility operations.

All three markets that ultimately saw a lottery gaming facility application approved had multiple applicants with highly-competitive proposals.

The minimum investment requirement for the northeast gaming zone was \$225 million and an additional privilege fee of \$25 million.

Under the Act, there is nothing even remotely close to these kinds of requirements for pari-mutuel track owners and certainly there was no framework creating competition for a license.

By providing pari-mutuel track owners with an extraordinary windfall of revenues with minimal capital at risk, it places the destination casinos at a highly-uncompetitive position and jeopardizes an investment of more than \$400 million and a full-time workforce of more than 1,000 people. Allowing a facility like The Woodlands, located less than two miles from Hollywood Casino to enjoy the competitive advantages proposed in any of the three bills before you today will also have significant negative financial impacts upon the future expansion of the Hollywood Casino and other businesses located in Village West. In addition, state and local revenues and charitable contributions will be reduced as well, given that a substantial amount of revenues are dedicated to community and charitable programs per our development agreement with the Unified Government of Wyandotte County and Kansas City, Kansas. Revenues from our facility are also committed to the school districts and economic development organizations in our region. Under these newly-proposed statutory changes, The Woodlands would not be subject to these same obligations.

When I look around the room I see many of the same people who were working the statehouse in 2007 on the gaming bill. A number of them were called into a meeting with Governor Sebelius on March 23, 2007 – the day SB 66 was debated on the House floor – and to a person, all agreed to support SB 66 as written, with no amendments. Irrespective of past commitments, ever since the passage of SB 66, these same parties have sought preferential treatment before regulatory bodies and the Kansas Legislature to increase dramatically increase their revenues beyond what was ever contemplated in the enabling legislation.

The problem with these proposals lies not with the economics of the pari-mutuel industry, but rather with the unwillingness of one person to turn loose of his control over the debate.

Phil Ruffin controls Wichita Greyhound Park, Camptown Greyhound Park and may or may not have a controlling option on The Woodlands. Unfortunately for the horse and greyhound industry in our state and the citizens of southeast Kansas, this one person has effectively blocked consideration of any other pari-mutuel or gaming legislation that might be worthy of consideration by the Kansas Legislature through his unwillingness to follow through on commitments made in 2007 or stand aside and allow proponents for a lottery gaming facility in southeast Kansas to have their proposal considered without having changes to the pari-mutuel facility licenses tacked onto their bill.

Specifically, I am referring to provisions of SB 237 that would lower the investment threshold for a lottery gaming facility license in the southeast gaming zone from a minimum of \$225 million to \$100 million and provisions of SB 241 and SB 319 that would lower the minimum investment to \$50 million, with corresponding decreases in the privilege fee. Kansas Entertainment would not oppose either of those changes to the Kansas Expanded Lottery Act.

We do not have an opinion on allowing the citizens of Sedgwick County the opportunity for another vote on whether they would like to see slot machines at Wichita Greyhound Park as allowed for in SB 319, but we do expect the owners of the Kansas Star Casino will have an opinion for you to consider.

It would be interesting to see if another operator could step in at either The Woodlands or Camptown Greyhound Park and run a successful pari-mutuel/slots operation under SB 66. Unless the current owners decide to live up to the commitments made to horse and greyhound owners in 2007 or sell their properties to other investors, we may never know.

On behalf of Kansas Entertainment, LLC, we thank you for consideration of our comments on SB 237, SB 241 and SB 319.

I would be pleased to respond to questions at the appropriate time.

WBD

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