

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 Thursday, February 17, 2005, in Room 241-N of the Capitol.

All members were present except:

Senator Anthony Hensley (E)

Committee staff present:

Athena Andaya, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Doug Lawrence, Kansas Greyhound Association
Bob Stephan, Legal Advisor, Destination Kansas/River Falls Gaming (DK/RFG)
Ed Gillette, Legal Advisor, DK/RFG
Larry Waldrop, Legal Advisor, DK/RFG
Jim DeHoff, Executive Secretary of the Kansas AFL/CIO
Phil Ruffin, Wichita Greyhound Park/Camptown
Steve Ward, President, Kansas Greyhound Association
Paul Treadwell, President, Kansas Quarter Horse Racing Association
Pam Davis, Kansas Thoroughbred Association
Brian Garrels, City Administrator, Eureka, Ks.
Don Denney, Unified Government of Wyandotte County
Gene Ralston, Board of Directors, Kansas Quarter Horse Association
Glenn Thompson, Executive Director, Stand Up for Kansas
Kathy Bassett, Topeka resident
Rex Haney, Gage Bowl, Topeka
Vern Schwanke, Bowling Proprietors Association
Kevin Neuman, Grey2K USA (written only)
Frances Wood, Women's Christian Temperance Union (written only)
Ron Hein, Prairie Band Potawatomi Nation
Whitney Damron, Kickapoo Tribe and Sac & Fox Nation

Others attending:

See attached list.

Chairman Brungardt called for bill introductions. Amy Campbell requested, on behalf of the Kansas Association of Beverage Retailers, the introduction of a bill which would make the Kansas Liquor Control Act uniform.

Senator Vratil made a motion to introduce the requested bill, seconded by Senator Reitz, and the motion carried.

Senator Vratil made a motion to introduce the bill, seconded by Senator Reitz, and the motion carried.

SB 168 - Kansas expanded lottery act; authorizing destination casinos, electronic and video gaming and other games at certain locations

Chairman Brungardt opened the hearing on **SB 168**. He called upon Doug Lawrence, Kansas Greyhound Association, to testify in support of **SB 168**. Mr. Lawrence referred to the handouts with his written testimony, noting the Legislative Research Department's comparison of **SB 168** and **SB 170** giving a breakdown of issues between the two bills. He also included a copy of the Feasibility Study conducted by the Kansas Lottery last year, and referenced page 5 depicting the largest revenue projection scenario for the state was shown for the three casino areas of Kansas City, Wichita, and Southeast Kansas, that amounted to almost \$900 million. A discussion of problem gambling developed by the Public Sector

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on Thursday, February 17, 2005, in Room 241-N of the Capitol.

Gaming Study Commission, Florida State University, was also included in the handouts. Mr. Lawrence said that former Kansas Senator Lana Oleen served on the National Council of Legislators from Gaming States (NCLGS) which had commissioned the study. (Attachment 1)

Mr. Lawrence explained that there was a loose coalition of supporters behind this proposed legislation which included the Kansas Greyhound Association, Kansas Thoroughbred Association, and Kansas Quaterhorse Association along with some developers who were willing to step forward and make huge investments in Kansas and have been working together for the last several years. He stated that 90% of the language in **SB 168** comes from **SB 499** introduced by Governor Sebelius last year. He said the bill was divided into two main parts, i.e. Destination Casinos and Video Lottery Terminals. The Destination Casino portion of the bill, beginning on page 1 and going through page 13, describes the requirements for development of large destination casinos in three locations in Kansas. The Video Lottery Terminal portion establishes a mechanism of placing video lottery terminals in Parimutuel racing facilities in Kansas, and private clubs operated by non-profit veteran's service organizations which begins on page 14.

Mr. Lawrence said that both portions of this bill are crucial to the strategy of generating a new revenue stream for Kansas. He said it was estimated that this bill would generate \$150 million in Fiscal Year '06, and make available another \$200 million dollars in FY '07 when all the components are combined. Mr. Lawrence outlined ten key provisions which are detailed in his written testimony.

Ed Gillette, legal consultant for Destination Kansas/River Falls Gaming, L.L.C. and also a former member of Governor Sebelius' Committee on Gaming, testified in favor of **SB 168**. He told the Committee that the Committee on Gaming conducted eight public meetings throughout the State, heard over 30 hours of live testimony, reviewed literally thousands of pages of information on gaming and had a number of informal conversations between committee members on the pros and cons of the issue. The proponents and opponents of expanded gaming were also heard from by the Committee on Gaming. He explained what that committee concluded and talked about the committee report. (Attachment 2)

Mr. Gillette stated that the problem with the expansion of Indian Gaming in the Kansas City area was two-fold. First is the issue of whether or not the Department of Interior will agree to off reservation land in trust, and second, the Indian tribes demand of exclusivity. He explained the process and discussion that went into the study by the Committee on Gaming. He stated emphatically that the Committee on Gaming pointedly stated that it did not support full exclusivity for an Indian casino in exchange for revenue sharing. Mr. Gillette added that the Committee on Gaming further stated that only Wyandotte County had the potential to support more than one significant casino, and that it was a better idea to develop one casino in Wyandotte County than attempting to develop many casinos.

Robert Stephan, Legal Advisor for Destination Kansas/River Falls Gaming, spoke in favor of **SB 168**. He talked about the constitutional authority of the State of Kansas in owning and operating a casino gaming establishment. Mr. Stephan gave background history of the constitutional issues debated over the years he was the Kansas Attorney General. As the Attorney General he stated he had issued an Executive Summary as well as a Memorandum in regard to constitutionality of state owned and operated casinos as detailed in his written testimony. On page two of his written testimony, Mr. Stephan listed the ten elements of owning and operating a casino which are much the same as a lottery. He concluded his testimony by stating that it was abundantly clear that under the Constitution of the State of Kansas and case law that Kansas has the constitutional authority to enact, through the Legislature, a state owned and operated casino. (Attachment 3)

Senator Vratil questioned in regard to page 2 and 3 of Mr. Stephan's Memorandum, as to where those elements came from and whether they were from case law or were Mr. Stephan's conclusions. Mr. Stephan responded that he took it from case law that involved the elements that would be needed to designate a state owned and operated lottery. Senator Vratil requested that those case citations be furnished the Committee, and Mr. Stephan said he would be glad to furnish that information.

Senator Vratil asked Mr. Stephan to clarify the tenth element listed relating to the state not being required to own the real estate upon which a casino operates or the casino buildings or gaming equipment as long

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on Thursday, February 17, 2005, in Room 241-N of the Capitol.

as it owns and operates the casino itself. He asked what is left, and Mr. Stephan said the money. He explained that it was the same way as a Lottery dispenses its tickets through Quick Shops and other retail establishments in the state. The Lottery does not own the buildings, the land, or equipment, but they receive the money that comes from the Lottery. Senator Vratil questioned whether anyone had challenged the constitutionality of the Lottery. Mr. Stephan replied that he did not know, but stated that he could not believe that the Lottery would be deemed unconstitutional because of the earlier testimony of the Supreme Court's previous rulings regarding the Lottery.

Larry Waldrop, Managing Member of River Falls Gaming LLC, testified in support of **SB 168**. He stated that this was the first time in the many years that proposed expansion of Kansas Lottery has been presented that the various proponents have joined together in support of one bill. He explained the elements of a Destination Casino Resort, and emphasized that this type of development will not only increase tourism in Kansas, but will also capture more tourism dollars from the visitors to existing attractions. More importantly, he stated that destination Casino Resorts will generate the much needed revenue to the state with a limited number of locations. (Attachment 4)

Mr. Waldrop talked about the proposal including a 400 room hotel, resort spa and fitness center, a "Branson style" showroom, special events center for larger entertainment venues and conventions and several quality themed restaurants. The development and investment team is committed to spend over \$200 million to bring to Kansas a first class resort in Wyandotte County which will also create over 5,000 construction jobs, 6,000 permanent jobs and another 10,000 jobs in support related companies. He stated that annually the State will receive over \$200 million in direct revenue and local units of governments will have an additional \$30 to \$40 million.

Jim DeHoff, AFL/CIO, spoke in favor of **SB 168** as it would be an excellent economic development opportunity with the additional job opportunities that expanded Kansas gaming would provide. He said that it is estimated that Kansas would realize a net gain of up to 10,000 new jobs on a permanent basis and up to 4,500 new jobs in construction. Businesses in the community would realize gains in support services for the recreational casino facilities. (Attachment 5)

Steve Ward, Kansas Greyhound Association, submitted written testimony in favor or **SB 168**, in the interest of time and allowance for more proponents to be heard. (Attachment 6)

Phil Ruffin, Wichita Greyhound Park/Camptown, testified in support of **SB 168**. (no written testimony was submitted)

Paul Treadwell, Kansas Quarter Horse Racing Association, testified in support of **SB 168**. He said that when Kansas voters approved changing the state's Constitution to permit the lottery and parimutuel racing, the voters intended to permit gaming activities carefully regulated by the State which would return a benefit to taxpayers. The state and its tax payers do not receive anything from the gaming dollars that are spent on Missouri riverboats and at Native American casinos in Iowa and Oklahoma. Mr. Treadwell stated that the state needs economic development, and this bill provides several avenues for that to happen. He explained one avenue is to increase breeding and racing of greyhounds and horses in Kansas which will provide funds for economic development and support small communities and rural areas in the state. He concluded that the greatest benefit that this bill has is that it makes approximately \$100 million in state funds available for the education system in Kansas. He included with his written testimony information regarding having over 91,000 quarter horses in Kansas and having over 7,000 members in their association. Mr. Treadwell stated that those numbers could increase greatly, possibly doubling, with the passage of **SB 168**. (Attachment 7)

Senator Vratil inquired of Mr. Treadwell whether the purse supplements that are called for in this bill were for economic development purposes for greyhounds and quarter horses; and Mr. Treadwell responded affirmatively, and that it was for the thoroughbreds, greyhounds and quarter horses. Senator Vratil commented that to his knowledge this would be the only situation in Kansas history where for economic development purposes an entity like Mr. Treadwell's, the Quarter Horse Association, would be receiving a guaranteed stream of revenue from the State of Kansas in perpetuity without any

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on Thursday, February 17, 2005, in Room 241-N of the Capitol.

accountability provisions. He asked Mr. Treadwell if he could identify any other entity in the State of Kansas that has that kind of beneficial situation. Mr. Treadwell responded that there were none that he knew of; however, those groups are having to compete against other states for races and against the economy itself. Senator Vratil asked if Mr. Treadwell believed in accountability for the expenditure of state dollars. Mr. Treadwell replied that he did.

Pam Davis, Kansas Thoroughbred Association, testified in support of **SB 168**. She spoke about the positive impact of the income from the racing industry and breeding programs in Kansas. She talked about the Agricultural business and Ag related occupations that come from this industry and equine programs. Ms. Davis stated that one of the problems the industry has was a lack of enhancement for breeding and racing programs. She explained that a lot of people foal and breed their mare outside of Kansas in order to take advantage of other racing and breeding programs. She urged the Committee to pass **SB 168** in order to improve the agricultural economy based on this industry. (Attachment 8)

Brian Garrels, City Administrator for Eureka, Ks., spoke in favor of **SB 168**. He stated with the passage of this bill Kansas' racing establishment would be able to provide larger purses. Kansas would be able to compete with other states in the racing industry to attract owners, trainers, and jockeys from other states and to retain the ones from Kansas. He added that the addition of slot machines would help increase the productivity and vitality of Eureka Downs. It would create an economic ripple effect that would necessitate hiring more trainers, selling more hay and other agricultural products, hiring additional workforce during the race season and facilitate a need for development in Greenwood County. He said small rural areas have very limited opportunities to compete with larger urban areas for substantial population and economic growth. Mr. Garrels concluded his testimony by saying that horse racing has been a historical attraction in Eureka since 1872, and with the passage of this bill, the Legislature would be helping sustain the historical and cultural attraction that the area has know for over 132 years. (Attachment 9)

Don Denny, Unified Government of Wyandotte County, testified in support of **SB 168**. He stated that every year since 1991, local government in Wyandotte County and Kansas City, Kansas, have lobbied the Legislature for expanded gaming in Kansas, and most specifically, the opportunity for a destination casino in Wyandotte County. In 1996, there was a very clear mandate when 82% of the electorate overwhelmingly said they supported expanded casino gaming in their community. He pointed out that the State of Kansas was losing millions of Kansas dollars to the State of Missouri because of the continual increase in the casino gaming industry in Missouri. Mr. Denny said a "no" vote to expanded gaming in Kansas was not going to protect the Kansas economy or prevent Kansans from gambling at casinos in neighboring states, but it would prohibit the Kansas economy from benefiting. (Attachment 10)

Gene Ralston, Kansas Quarter Horse Association, spoke in favor of **SB 168**. He spoke about the exportation of dollars out of Kansas which hurts the state economically. There are many owners of race horses and trainers of race horses who do not come to Kansas or race in Kansas because of the purse structure and the availability of racing opportunities. He said these owners and trainers spend their racing dollars in California, New Mexico, Oklahoma, Texas, Louisiana, Iowa, as well as, other states because of racing legislation which has been established in those states. Mr. Ralston stated that this bill would increase purse sizes and attract trainers and owners to race here in Kansas, and consequently, increase the funds going to the State as well as enhance other business which support the racing industry. (Attachment 11)

Mayor Stephanie Eickhoff, City of Edwardsville, submitted written testimony in support of **SB 168**. (Attachment 12)

Chairman Brungardt called the first opponent to testify against **SB 168**. Glenn Thompson, Stand Up For Kansas, testified that there were numerous deficiencies contained in the bill including not specifying the percentage of video lottery terminals (VLTs) revenue to be paid to parimutuel sales agents (racetracks) and club sales agents (veteran clubs) and the percentage of VLT revenue to be retained by the state. He stated the primary reason Stand Up For Kansas opposes expanding gambling in Kansas was the severe adverse economic and social impacts the proposed casinos would have on citizens living in surrounding regions. He talked about the two studies completed in 2004: (1) a study commissioned by the Kansas

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on Thursday, February 17, 2005, in Room 241-N of the Capitol.

Lottery, and (2) a study commissioned by the Wichita Downtown Development Corp. Mr. Thompson's detailed comparisons of the two studies was outlined in his written testimony. (Attachment 13)

Mr. Thompson emphasized that the accessibility to a casino is a major contributor to gambling addiction. He concluded that the so-called destination casinos and parimutuel racetrack casinos proposed in **SB 168** would simply be regional casinos, pulling most revenue, totaling hundreds of millions of dollars, from surrounding counties. Terms used in the bill to promote the casinos as major tourist attractions, such as "destination casinos," "tourism," and "economic development," are not consistent with results of the Kansas Lottery study and the Wichita downtown Development Corp. study.

Kathy Bassett, citizen of Topeka, testified in opposition to **SB 168** and **SB 170**. She stated she adamantly is against the expansion of gambling in Kansas because of the effect gaming has on communities and personal lives, including financial ruin, increased crime with resultant imprisonment, divorce, and attempted and successful suicides. Ms. Bassett told the Committee how gambling destroyed members of her family, including her only brother, her mother, and her son. Her brother, David, was a very educated man with four degrees including a Masters of Social Work, and had worked for nine years as a mental health counselor and eventually a supervisor. Her mother was a nurse who also developed a gambling habit and had loaned her brother money to help cover his losses. Her son, Jason, began gambling after working for Harrahs in Topeka and at Lake Tahoe. He began embezzling money at work to cover his own gambling debts and had given money to his uncle and his grandmother to help cover their gambling losses.

Ms. Bassett related that her son was arrested for felony theft in May of 2003, and subsequently went to prison. Jason's marriage also suffered, and he has three young sons. Her elderly mother filed bankruptcy due to gambling debts in the fall of 2003, which necessitated her mother's continued full time employment as a nurse to pay off the bankruptcy. Ms. Bassett gave emotional testimony about the weekend after Christmas of 2003, when her brother, David, committed suicide on top of their father's grave. He left a note asking to be buried as close to his father as possible, and told his wife to find someone "free of addiction." She stated that the foregoing tragedies were the direct result of involvement with a Kansas casino. She said she did not approve of what her brother and son did, but understood the source of their mistakes. Ms. Bassett urged the Committee to not allow the expansion of gambling in the State of Kansas as it would only cause other devastating tragedies for Kansas families, both financially and socially. (Attachment 14)

Rex Haney, owner of Gage Bowls in Topeka, Past President of the Kansas State Bowling Proprietors Association, testified against **SB 168**. He explained that the number of bowling centers in Kansas have decreased about 10% since the Bowling Proprietors last testified before the Legislature on gaming. He said it was ironic that he read in the newspaper the day before that the Indian gaming and other gambling is up by 10%. Mr. Haney talked about how the bowling centers in Kansas compete every day for the recreational dollar of the Kansas consumers, and that those businesses are further harmed if gaming were expanded only to the areas stated in **SB 168**. He emphasized that the bowling centers are facilities for families, fund raisers for charities, and also conduct youth sports such as high school bowling. He explained that bowling centers have had a very positive effect with respect to the Kansas economy in relationship to the number of employees that work at the centers, payrolls, sales tax collected, and personal and property taxes paid. Mr. Haney stated that State gaming should not single out certain groups and give those groups certain monopoly privileges that would cause the decline of other entertainment segments in Kansas. (Attachment 15)

Vern Schwanke, co-owner of Colby Bowl Fun Center, spoke in opposition to **SB 168** in its present form. He spoke about fairness and the effects this bill, in its current form, would do to existing businesses in the recreation and hospitality industry in Kansas. He pointed out that a provision in this bill would allow veterans organizations with Class A liquor licenses, to have video lottery machines. This proposal is just a "feel good" approach to expanded gaming opportunities in the state, but it will be extremely harmful to independent recreation business because, unlike veterans organizations, they pay full taxes to the State of Kansas. He explained that the recreation business depends on discretionary spending, and at a time when the small businesses face 15% to 20% annual increases in utilities, property insurance, and healthcare

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on Thursday, February 17, 2005, in Room 241-N of the Capitol.

insurance; it is impossible to increase their prices at the same pace. The Kansas Lottery would be coming to the smaller communities to directly compete with recreation businesses. It would be done through a not-for-profit veterans organization, while at the same time, the taxpaying, lifelong business are prohibited by Kansas law to have the same opportunity. He said the State should not be in the business of picking economic winners and losers, nor should it be competing with its own citizens in the recreation business.

Mr. Schwanke concluded that if expanded gaming is not done fairly, with a concern for a level playing field, it will have negative consequences to recreation businesses in Kansas. Expansion must provide opportunity for taxpaying recreation businesses, such as bowling centers, to compete. (Attachment 16)

Kevin Neuman, Grey2K USA, submitted written testimony in opposition of **SB 168**. (Attachment 17)

Frances Wood, Director of Legislation, Women's Christian Temperance Union, submitted a written statement for the record in opposition to **SB 168** and **SB 170**. (Attachment 18)

Chairman Brungardt announced that the hearing on **SB 168** would be continued at the next Committee meeting on February 22 in order to hear the remaining opponents that were signed up to testify.

The meeting was adjourned at 12:05 p.m. The next meeting is scheduled for Tuesday, February 22, at 10:30 a.m.