

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:40 a.m. on Tuesday, February 15, 2005, in Room 231-N of the Capitol.

All members were present.

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:

Senator Dennis Wilson  
Scott Heidner, American Council of Engineering Companies of Kansas  
Melissa Wangemann, Legal Counsel, Secretary of State's Office  
Senator John Vratil  
Clark Stewart, Chief Executive Officer, Butler National Corporation, Olathe  
Jeff Thorpe, President, Boot Hill Gaming, Dodge City, Ks.  
Gene Schwein, Citizen, Ulysses, Ks.  
Clausie Smith, Mayor, Bonner Springs, Ks. (written only)  
Glenn Thompson, Executive Director, Stand Up For Kansas  
Marsha Strahm, Legislative Liaison, Concerned Women for America of Kansas  
Mike Farmer, Executive Director, Kansas Catholic Conference  
Pat Bullock, Heart of Kansas Southern Baptist Association  
Ron Hein, Legal Counsel, Prairie Band Potawatomi Nation  
Kevin Neuman, Citizen, Johnson County

Others attending:

See attached list.

Chairman Brungardt called for bill introductions. Senator Dennis Wilson requested a bill be introduced on behalf of the Kansas Association of Counties, which deals with municipalities deposit of public funds.

Senator Gilstrap moved to have the bill introduced, seconded by Senator Reitz, and the motion carried.

Scott Heidner, American Council of Engineering Companies of Kansas, requested a bill concerning a technical amendment regarding confined feeding facilities, construction thereof, requiring licensed professional engineer, and amending K.S.A. 2004 Supp. 65-171d and repealing the existing section.

Senator Ostmeyer moved to have the bill introduced, seconded by Senator Reitz, and the motion carried.

**SB 121 - Charitable organizations and solicitations act; registration statement; audited financial statement**

Chairman Brungardt opened the hearing on **SB 121**. Melissa Wangemann, Secretary of State's Office, testified in support of **SB 121**. She explained the bill updates one statute contained within the Charitable Organizations and Solicitations Act to alleviate the filing burden on small charities that register with our office. Ms. Wangemann said that charitable organizations register with the Secretary of State, and they must file a financial statement with their registration, detailing the activities of their last fiscal year. In lieu of filing the financial statement, a charitable organization may file a copy of its income tax returns. She added that any organization that collects more than \$100,000 in annual contributions must also submit an audited financial statement from a CPA. Charitable organizations receiving \$100,000 in contributions are relatively small, and an audit generally costs \$7,000-\$10,000, thus this filing requirement can cost up to 10% of their annual income. Miss Wangemann stated that the Secretary of State receives very few requests from the public for copies of the audited statements.

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Miss Wangemann said **SB 121** increases the threshold amount requiring an audit from \$100,000 to \$500,000, and that the new amount was consistent with federal law. She added that to offset the loss of the audited information, the bill requires filing of income tax returns, which are currently filed at the discretion of the charity. She explained that charities that do not file income tax returns, those receiving less than \$25,000 annually, would continue to file a financial statement on a form provided by the Secretary of State. (Attachment 1)

David Owens, lobbyist on homeless issues, commented from the audience that increasingly there are non-profits that do hold funding over services. In other words, he stated the charities care more about the funding than the services the charity provides people.

Chairman Brungardt closed the hearing on **SB 121**.

**SB 170 - Authorizing electronic gaming machines and lottery facility games**

Chairman Brungardt opened the public hearing on **SB 170**. Senator Vratil explained the reasoning for drafting the bill was because expansion of gaming has the potential to encourage investment, create jobs, attract tourists and provide much needed revenue to the State. He stated that the State has the responsibility to be in full control of oversight and accountability for gaming in Kansas. (Attachment 2)

Senator Vratil explained the key elements of his proposed bill: (1) the legislation is constitutional because it allows state-owned and operated destination casinos with the gaming area and lottery gaming machines being owned by the State; (2) the balance of the facility, such as hotels, restaurants, convention spaces and other non-gaming entertainment areas, should remain on the public tax rolls to benefit the local and state taxpayers; (3) the bill provides for state-owned and operated destination casinos that are managed by the private sector; (4) the Kansas Lottery Commission would oversee a competitive process to locate and develop the casinos; (5) the Kansas Lottery Commission would conduct thorough background investigations on prospective facility managers, principals, officers and directors to maintain the integrity of each destination casino; (6) a trust fund account would be established within the state's funds to be used exclusively for necessary and appropriate funding for elementary, secondary and higher education; (7) an accelerated payment to the State of \$15,000 per electronic gaming machine would be required; (8) the Kansas Lottery Commission would authorize all lottery facility management contracts and would approve the location of the facility, construction costs, and establish accounting mechanisms to facilitate proper and full accountability with the State; (9) all gaming machines would be directly linked on-line to a central lottery communications system; (10) no casino would be authorized without the approval of the voters in the county where the facility would be located; (11) any proposed destination casino would comply with any planning and zoning regulations of the city or county in which it is located; and (12) the bill provides a constitutional manner for the state to maximize oversight to ensure proper accountability while maximizing revenues to the State.

Senator Vratil stated that in regard to the trust fund established by the passage of **SB 170**, the State would receive 75% of the net casino revenues, of which 100% of the 75% would be used for necessary and appropriate funding for education. He said the estimate that the trust fund could expect to receive was from \$200,000,000 to \$250,000,000 each year. He also estimated that the accelerated payments would total \$120,000,000 the first year. Senator Vratil clarified that the bill was calculated to avoid litigation and protracted litigation over the constitutionality of any expanded gaming in the State of Kansas. It is much less likely under this proposed bill that a law suit will be filed challenging expanded gaming in the state. He stressed that this bill was also market driven. There are no limitations on the number of machines except for a minimum of 300 per facility, and there is no limitation on the number of destination casinos. He said all those matters would be determined by the market in the normal course of business.

Senator Vratil emphasized that **SB 170** does not "divide up the pie" among the various interest groups. This bill maximizes the revenue that will come to the State of Kansas through expanded gaming. He said there are no provisions in the bill which provide a guaranteed stream of revenue to dog and horse owners and breeders, cities, counties, veteran's organizations, charitable organizations, or the any other multitude way the "pie has been divided" under other expanded gaming bills. He added that if the State of

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Kansas wants to appropriate money for economic development purposes to any or all of those entities, but those entities should be accountable to the public and to the Legislature for their receipt and use of those funds.

Committee questions related to the proposal being market driven in determining how many sites and how many machines, and whether that was a result of a market study and a decision by the Lottery Commission. Also question was asked about the bullet point relating to a county in which a destination casino is targeted and the group of people to vote on whether a casino should be allowed even though a casino affects many counties surrounding the casino and should specify a certain number of miles around the casino location.

Clark Stewart, Chief Executive Officer of Butler National Corporation, Olathe, testified in support of **SB 170**. He stated that to maintain Kansas' high standards of education, new funding mechanisms must be explored. He stated that he supported a part of the solution to maximize revenue to the State of Kansas and to dampen potential tax increases. Mr. Stewart stated that if state owned and operated gaming is permitted, jobs will be created at the destination entertainment locations, economic development will be added to serve these destinations, and gaming will become a significant revenue source of Kansas. He concluded by saying the proposed legislation requires the approval of the voters in the county where the facility would be located. The proposed destination casino must comply with any planning and zoning regulations of the city or county in which it is located, and local communities would determine if they want a destination casino in the jurisdiction. (Attachment 3)

Jeff Thorpe, Boot Hill Gaming, Dodge City, Ks., spoke in support of **SB 170**. He stated that this proposed bill would help increase tourism, economic development in Kansas, and generate meaningful tax revenues at the State, regional, and local levels. Mr. Thorpe said the Committee needed to evaluate a proposal that would: (1) maximize tax revenue to the State of Kansas; (2) enhance entertainment opportunities in Kansas communities; (3) enhance economic opportunities in Kansas communities; and (4) provide a sustainable, realistic business model. He emphasized that Dodge City and Ford County leaders believe they have a sustainable business model that effectively answers each of above items to be evaluated. His written testimony detailed how Dodge City would accomplish each of the above items. With his written testimony Mr. Thorpe included several attachments that describe specific areas of Dodge City's proposed casino in the form of reports that were prepared as a discussion of the 2004 Governor's bill for expanded gaming. (Attachment 4)

Gene Schwein, farmer and former County Commissioner from Ulysses, Ks., testified in favor of **SB 170**. He expressed concern about the Kansas economy, and the need for the State to provide additional dollars for public education. He stated that Kansas needed to hold the line on taxes, because that would enable businesses to grow and expand. Mr. Schwein said he supported **SB 170** because it provides needed funds for public schools, a new revenue source for the State Treasury, the State would control casino managers, local control requires the approval of the voters in the county of the casino location, and it creates new jobs and economic development. (Attachment 5)

Committee questions related to **SB 170** being "market driven" and the provision prohibiting any manager, who manages the casino or operates the casino in certain counties on the Missouri side of the Kansas City metropolitan area, from also operating a casino in certain designated counties on the Kansas side, which could afford an opportunity for a conflict of interest in shifting business from one casino to another casino. Also, question was asked how much money would have to be lost in order to generate \$250,000,000 for the trust fund, and those dollar figures had not been computed yet.

Senator Brownlee referred to page 9 of the bill, line 21, relating to a resolution being submitted to voters whether the operation of lottery gaming facilities by the Kansas lottery be permitted in such and such county, and asked if this provision was being rather deceptive because lottery has more than one meaning and it really is talking about casinos. Senator Vratil responded that a lottery gaming facility is defined in the State Statutes. He added that the term "casino" is not really defined any place, and from a legal standpoint that would be ambiguous.

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Senator Brownlee referred to Kansas Development Finance Authority (KDFFA) statute, and whether this bill would allow KDFFA to finance casinos.

Chairman Brungardt asked Steve Weatherford, President of KDFFA, who was in the audience, to assist the Committee in answering Senator Brownlee's question. Mr. Weatherford responded there was nothing currently in KDFFA to prevent from issuing bonds for purposes stated in **SB 170**, but it would still need to be approved by the KDFFA Board just as any other issuance of debt that KDFFA does on behalf of the State of Kansas. He explained that a public purpose would have to be found, and KDFFA would have to go through the regular procedures and processes that normally would be performed. This would be treated as a state owned facility which would be the same as issuing the debt that currently is being used to do the renovations at the State Capitol.

Written testimony was submitted by Clausie Smith, Mayor, City of Bonner Springs, Kansas, in support of **SB 170**. (Attachment 6)

Chairman Brungardt called the first opponent to testify against **SB 170**. Glenn Thompson, Stand Up For Kansas, said his organization was a state-wide coalition that opposed the expansion of gambling in Kansas. He explained that **SB 170** would create major public policy problems for Kansas and numerous economic and social problems for its citizens. The bill would permit an unlimited number of relatively small, state-owned and operated casinos in any county in the state, and counties with higher populations, such as Johnson and Sedgwick, could have numerous small casinos. Mr. Thompson stated that with a government agency overseeing the state-owned casinos, it would make government corruption not only possible, but highly probable. He emphasized that casinos, crime and corruption are inseparable, and that is why no other state is in the casino business since the risk is too high. His written testimony included two attachments referencing Attorney General Phill Kline's letter to legislative leaders expressing concerns regarding the state owning and operating casinos and excerpts from Tyler Bridges' documentary, *Bad Bet on the Bayou*, relating to casino corruption in government. (Attachment 7)

Marsha Strahm, Concerned Women for America of Kansas, testified in opposition to **SB 170**. She said that the enticement of gambling has the most allure for those in society that can least afford to lose. She stated that gambling is an economic negative in that it drives away businesses by consuming discretionary and non-discretionary income of the citizens. It creates a need for more social services. Ms. Strahm stressed that government should be about protecting the family unit and providing safety and security for all its citizens, rather than providing a green light for the basest instinct of society. (Attachment 8)

Mike Farmer, Kansas Catholic Conference (KCC), spoke against the passage of **SB 170**. He talked about the increase in the number of people whose passion for gambling is enslaving them as gambling in our state escalates. He included with his written testimony a copy of the June 1999 *Readers Digest* article, "Addicted to Luck" by Matea Gold and David Ferrell. He explained the six key points of the article. Mr. Farmer stated that accessibility is a key contributor to gambling addiction. He quoted from the final report of the National Gambling Impact Study Commission, "...the presence of a gambling facility within 50 miles roughly doubles the prevalence of problem and pathological gamblers." Mr. Farmer concluded that the KCC opposed the expansion of gambling because of the tremendous social cost to Kansas' families. (Attachment 9)

Pat Bullock, Heart of Kansas Southern Baptist Association, testified against **SB 170**. He talked about a Washington D.C. study from 1999, regarding pathological or problem gambling causing economic and social costs to individuals and families. Mr. Bullock also told about another study that shows millions of today's teenagers are gambling, either with friends at school or at parties as well as on the Internet. He stated that government will become responsible for perpetrating an addiction on citizens in the name of trying to increase funds for government budgets, and that profits are grossly overstated. (Attachment 10)

Ron Hein, Prairie Band Potawatomi Nation (PBPN), testified in opposition to **SB 170**, and stated that PBPN has consistently opposed legislation that provided for the expansion of Class 3 gaming by the State of Kansas. He explained that such gaming would negate the benefits that Tribal gaming provides to native American Indian Tribes through the federal Indian Gaming Regulatory Act (IGRA). (Attachment 11)

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Mr. Hein stated that it was correct when gaming proponents contend that the state receives no revenue from Tribal gaming, and the tribe does not pay a specified percentage of gaming revenues to the state. However, state and local government, school districts, and other taxing subdivisions benefit from Tribal gaming by virtue of numerous taxes paid as a result of Tribal gaming and the economic development currently generated for Northeast Kansas.

Mr. Hein explained that Tribal members pay federal income taxes, and only those Tribal members who both work and live on the reservation are exempt from state income taxes. Tribal members pay sales taxes on purchases made off the reservation, which is virtually all purchases by tribal members. He also said that areas being served by Tribal gaming and the reservations were severely economically disadvantaged before Tribal gaming, and unemployment ran as high as 78% on the PBPN reservation.

Mr. Hein shared the history of gaming from what has occurred with parimutuel gambling in Kansas, and with gaming in Missouri. He stated that gaming is likely to be a legislative issue every year for the next ten years, and even this massive gambling bill is probably not the end of efforts to expand gaming in Kansas. He explained how gaming expansions will effect economic development in Kansas. He reviewed the findings of the extensive study done by the Governor's Gaming Committee during the summer of 2004, and included quotes from the study in his written testimony. Mr. Hein said that **SB 170** does not meet the findings or the recommendations of the Governor's Gaming Committee. The bill has numerous detailed procedures and provisions which have not been included in earlier versions of gambling legislation which the Legislature has reviewed.

Mr. Hein explained that the Governor's committee was very clear that the state must "own and operate" the gaming as required by the Kansas Constitution, and there is no language in the Kansas Constitution about "certificates of authority," as set out in **SB 170**. This seems to be an unlawful delegation of legislative authority in violation of the Kansas Constitution. He concluded by saying gaming should not be omnipresent, nor should it be substituted for or operated to the detriment of other businesses which have made Kansas great.

Kevin Newman, Johnson County resident, testified in opposition to **SB 170**. He questioned how by having casinos in Johnson, Leavenworth, Wyandotte and Miami counties (let alone the other 101 Kansas counties) could be conceived as anything but "regional" casinos, each with a minimum of 300 slot machines; competing with each other for Kansas gamblers and potentially wreaking havoc on the local economies. He pointed out that Johnson County did not need gambling because it remains the largest source of Kansas tax revenue according to new statistics released by the County Economic Research Institute Inc. of Overland Park. A recent Kansas Department of Revenue report shows Johnson County was the biggest source of cash from individual income, sales and property taxes. The gambling issue has taken a lot of valuable time away from the Kansas Legislature, and Mr. Newman does not want this topic to take time away from public officials; those at the county and even municipal levels. (Attachment 12)

Brief Committee discussion and comments followed.

The meeting was adjourned at 12:15 p.m. The next meeting is scheduled for February 16, 2005.