

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Steven Brunk at 1:40 p.m. on March 14, 2011, in Room 346-S of the Capitol.

All members were present except:

- Representative Fund – excused
- Representative Huebert – excused
- Representative Peterson – excused

Committee staff present:

- Mike Heim, Office of the Revisor of Statutes
- Doug Taylor, Office of the Revisor of Statutes
- Julian Efird, Kansas Legislative Research Department
- Dennis Hodgins, Kansas Legislative Research Department
- Stephen Bainum, Committee Assistant

Conferees appearing before the Committee:

- Representative Lance Kinzer
- Dave Heinemann, Stand up for Kansas
- Tricia Meyer, Sumner County
- Graham Hamilton, Sumner County
- Ron Swihart, Sumner County
- Barbara Zimmerman, Sedgwick County
- Dusty Tavares, City of Mulvane
- Paul Sutherland, Sumner County
- Randy Miller, Sumner County
- Charla Hamilton, Sumner County
- Representative Pete DeGraaf

Others attending:

See attached list.

The Chairman introduced a bill concerning changing the number of counties. It was received without exception.

The Chairman opened the hearing on **HR 6015 Resolution; requiring the Attorney General to bring suit to test constitutionality of a provision of Kansas Expanded Lottery Act.**

Mike Heim presented an amendment to **HR 6015 (Attachment 1).**

Representative Kinzer presented testimony as a proponent of **HR 6015 (Attachment 2).** Kansas law recognized the authority of the legislator to direct the Attorney General to bring litigation with respect to issues of public concern. This resolution asks the Attorney General to seek a judicial determination on the contract with Peninsula Gaming. Representative Brunk asked about the time frame. Is it appropriate to include a time frame? Representative Kinzer said that the statute does not specify a time frame in which the Attorney General must act. Representative Loganbill ask for an explanation of “to determine under what authority the gaming facility management contract with Peninsula Gaming was approved” from page 3, lines 24-25. Representative Kinzer said that that goes to the issue of the statutory requirement that says that a contract will not be entered into until such time as all local planning and zoning requirements have been fulfilled. They did not have authority to enter into a contract at the time that they did because those conditions were not met.

Dave Heinemann, Stand Up for Kansas, presented testimony as a proponent of **HR 6015 (Attachment 3).** He said that the county in which the casino was to be located did not have a binding resolution. He said that 82% of Mulvane registered voters live in Sedgwick County. In the 2007 referendum in Sedgwick County, 61% of these voters voted no on a casino. The devious, snaking, string annexation approach used by the City of Mulvane to annex land for the casino violates the intent of Kansas law. The City of Mulvane had not completed casino planning and zoning, as required by K.S.A. 74-8734(o), when the

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executive director of the Lottery signed the contract. Representative Loganbill asked why two different percentages were given. Dave said the 61% was the percent of Mulvane citizens who lived in Sedgwick County and voted against the casino. The 56% represents all the voters in Sedgwick County who were opposed to the casino in the 2007 county-wide casino referendum.

Tricia Meyer, Sumner County, presented testimony as a proponent of **HR 6015** ([Attachment 4](#)). She said that the planning and zoning for the Sumner County lottery gaming facility were improperly rushed through with little concern for the community.

Graham Hamilton, Sumner County, presented testimony as a proponent of **HR 6015** ([Attachment 5](#)). He said that due to the state entering into contract with Peninsula gaming before the zoning details were complete, we believe that key provisions of the Expanded Lottery Act have been compromised.

Ron Swihart, Sumner County presented testimony as a proponent of **HR 6015** ([Attachment 6](#)). He said that since the City of Mulvane has taken over the planning and zoning, plans for water, traffic and sewer are still being developed without public input.

Barbara Zimmerman, Sedgwick County, presented testimony as a proponent of **HR 6015** ([Attachment 7](#)). She said that Sedgwick County has had no input in the question of the casino. Drainage and traffic are a problem at the location. The City of Mulvane is totally disregarding the voice of the taxpayers and citizens, favoring the casino and the promise of revenue.

Dusty Tavares, City of Mulvane, presented testimony as a proponent of **HR 6015** ([Attachment 8](#)). She said that the infrastructure was still, as we speak, not in place. Water lines, electrical lines, sewer lines, EMS services and traffic control have not been presented or determined. This is the case even though the PUD has been approved by the Mulvane City Council.

Paul Sutherland, Sumner County, presented testimony as a proponent of **HR 6015** ([Attachment 9](#)). He said that he had attended the planning meetings of Sumner County and the City of Mulvane and they have been flawed and have repeatedly violated state law.

Randy Miller, Sumner County, presented testimony as a proponent of **HR 6015** ([Attachment 10](#)). He said that the plans put forward by the City of Mulvane are not even close to the plans that were put forward to the Gaming Commission.

Charla Hamilton, Sumner County, presented testimony as a proponent of **HR 6015** ([Attachment 11](#)). She said that her family had been left without representation in a matter that greatly affects our welfare and safety. Our Representatives have a constitutional duty to represent the people in their district. The Sumner County Commissioners attempted to exercise that duty by refusing to endorse the casino at exit 33. The City of Mulvane, by use of a devious snake annexation, controls the land adjacent to my subdivision and endorsed a casino 1000 feet from my home. Since we are not in the City of Mulvane the City Council has no concern for our opinions. The State of Kansas by citing the Kansas Expanded Lottery Act and Attorney General Six in his opinion of April 16, 2008 have denied my constitutional right to representation. My elected state representative will be given a class A misdemeanor if he attempts to perform his legislative duties.

Representative Pete DeGraaf presented testimony as a proponent of **HR 6015** ([Attachment 12](#)). He was concerned that the rule of law was not being enforced. Rather, big money and out of state attorneys have convinced local city and county planners to stretch and bend our rules to accomplish their objectives. It is unfortunate that Kansas is the only State in the Union to own and operate gambling establishments. Our regulators and even the AG office find themselves in an inherent conflict of interest. Instead of State agencies being in a position to protect the public, the State is now a partner with those who profit from the abuses that casinos bring.

Representative Holmes asked what was the result of the hearing on the snake annexation. Pete said that we spoke clearly that the intent of our annexation laws were absolutely disregarded by the Mulvane annexation. Representative O'Hara said that she understood that the city that annexes must provide services. How can they possibly provide services to a 100 foot swath of property? If they do not provide

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services within the time frame the annexation can be challenged. Representative O'Hara thought that in unincorporated areas it was 1000 feet rather than 100 feet. Mulvane declared that since they were a city they were only required to be 100 feet.

The following provided written only testimony as proponents of **HR 6015**.

Joan F. Storck, Salem Township ([Attachment 13](#)).

Jeanne Hall, City of Mulvane ([Attachment 14](#)).

Thomas and Verlene Griffin, Sumner County ([Attachment 15](#)).

Jean M. Laymon, Sumner County ([Attachment 16](#)).

Kristy Sutherland, Sumner County ([Attachment 17](#)).

The following presented testimony as opponents of **HR 6015**.

J. T. Klaus, City Attorney, City of Mulvane ([Attachment 18](#)).

Peninsula Gaming, Kansas Star Casino, LLC ([Attachment 19](#)).

Janis Hellard, Director, Sumner County Economic Development Commission ([Attachment 20](#)).

Representative O'Hara asked if the casino had been given any tax abatement? Ed Van Petten, Executive Director, Kansas Lottery said no, they have not been given a tax abatement. I will stand for any questions.

Representative Loganbill asked for an overview of how the whole process worked. Ed said he could give a minute and a half overview and more later. He said the Lottery is charged with setting forth the application guidelines. Various applicants then apply to the Kansas Lottery. The Lottery is charged with negotiating the best contract they can with each of the applicants. Every applicant is entitled to negotiate a contract. All contracts go before the Kansas Lottery Gaming Facility Review Board. That board is charged with determining the best of those contracts and approves one of those contracts. The Racing and Gaming Commission is charged with backgrounding and final approval. Once that final approval is final the contract is final.

Representative Seiwert asked in view of all the complaints from the people who live close to the casino, why did they pick this location, why did they not go down the road a little farther and find an area that was a mile from anybodies house? Ed said he would have no idea how to answer that. It is beyond the purview of the Lottery.

Representative Jim Howell, representing the City of Derby said that he was warned not to get involved with the casino. The only thing he has done is written letters to the new Attorney General and earlier to Attorney General Six. Our current Attorney General is reviewing the opinion of Attorney General Six and so far has not reached a conclusion. Right now we are in a kind of limbo and in the meantime the builders are operating, so I am concerned and want you to move this legislation favorably.

The hearing on **HR 6015** was closed.

The next meeting is scheduled for March 15, 2011.

The meeting was adjourned at 3:06 p.m.