

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 Tavanelli
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 Tavanelli to the podium.

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

Chairperson Brungardt thanked Representative Tavanelli 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**

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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.

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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.

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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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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.

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

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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.