

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 11:35 a.m. on Thursday, April 28, 2005, in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Dennis Hodgins, Kansas Legislative Research Department
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

William J. Falstad
Stephen L. Martino
Representative Carl Krehbiel

Others attending:

See attached list.

Chairman Brungardt called upon William Falstad, nominee as a member of the Kansas Racing and Gaming Commission, to give an opening statement regarding his background and qualifications. Mr. Falstad gave a brief overview of his education and work experience. He stated that his most recent experience as a member of the Kansas Lottery Commission had given him some added insight into the application of past experiences to the challenges that may be presented to him as a member of the Kansas Racing and Gaming Commission. (Attachment 1)

Following brief committee questions, the Chairman expressed the committee's appreciation to Mr. Falstad's attendance and participation in the confirmation hearing.

Senator Hensley made a motion to move to the full Senate the confirmation of William J. Falstad to be a member of the Kansas Racing and Gaming Commission, seconded by Senator Gilstrap, and the motion carried.

Chairman Brungardt opened the hearing on the confirmation of Stephen Martino as Executive Director of the Kansas Racing and Gaming Commission. He stated that the committee had a request by Representative Carl Krehbiel to address the committee regarding the Governor's nominee for the position of Executive Director.

Representative Krehbiel expressed his concerns regarding Mr. Martino's nomination relating to his qualifications, work experience, and political fund raising activities for the Governor's 2002 campaign. He spoke about substantial campaign contributions to the Governor from the gambling industry, and that the nomination of a major solicitor of campaign contributions to the position of overseeing the gambling industry could create an appearance of giving the gambling industry favorable treatment. Representative Krehbiel stated that he did not believe the nomination of Mr. Martino to this position would serve the public interest of the people of Kansas. (Attachment 2)

Senator O'Connor asked what percentage of the campaign funds came from the gaming industry. Representative Krehbiel responded that he did not have a specific number on that because it can be difficult to identify which interests are involved in that industry. He stated that he had heard from an individual who tracked these campaign donations, and he was not going to assert that the information he was given was absolutely correct, but he had been told the owner of the dog track in Wichita, by himself or by entities he controls, contributed \$250,000.

Following committee questions and comments, Chairman Brungardt called upon Stephen Martino to respond to the testimony and questions presented by Representative Krehbiel. Mr. Martino stated that he has never hidden from the fact that he raised money for the Governor, and it is included in his résumé as well as having been addressed at the last confirmation meeting. He explained that he started working for the Governor in February 2000 on a part-time basis while attending Washburn Law School as a full-time student. Following graduation in December 2001, he assumed the position of Deputy Campaign

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 11:35 a.m. on April 28, 2005 in Room 231-N of the Capitol.

Manager and Director of Finance. He said in that position he supervised all fund-raising activity for the campaign, and worked closely with then-Commissioner Sebelius to target potential donors. Mr. Martino stated that he left the Sebelius for Governor campaign August 1, 2002, five days before the primary election, and did no fund-raising for the campaign after that date. He briefly explained about his contacts with racing interests, and in fact, were minimal at best. He related two instances when he had contact with racing interests as detailed in his written testimony. He said at events he primarily was a scrivener and recorded what was said to ensure necessary follow-up occurred. (Attachment 3)

Mr. Martino reviewed the campaign finance reports from his tenure with the Governor's campaign, and it showed a total of \$9,000 contributed by racing interests, which he detailed in his written testimony. He said that the \$9,000 was one-third of one percent of all the money raised by the Governor's campaign during his service.

Senator Vratil referred to Representative Krehbiel's written testimony which classified his concerns into two categories; one of which was Mr. Martino's qualifications for the position. Senator Vratil stated that this committee explored his qualifications at the confirmation hearing held on March 30, and asked Mr. Martino if there was anything further that he would like to say to this committee in response to Representative Krehbiel's questions as presented in the last paragraph of the first page of his written testimony.

Mr. Martino responded in regard to the highest position he had obtained; he said at present he was an associate in a law firm. He said that it appeared to him there were four ways the Governor could go in making this type of appointment: (1) she could go out of state to find someone that she believes is qualified; (2) she can nominate someone from inside the state that absolutely has no experience, knowledge, or not having been engaged with anything remotely involved with gaming ever; (3) she could have nominated someone with extensive experience in the racing and gaming industry, and most likely that person would come from inside the industry itself which could cause a different set of problems; or (4) she could nominate someone with a knowledge of the Kansas gaming laws with an understanding of the legislative and public opinion history of gaming in the state. He stated that he felt he was a candidate from the last category. Mr. Martino explained that through the law firm he works for, he has represented a client, who is not regulated by the State of Kansas, but has an interest in monitoring Kansas gaming laws. This legal relationship has allowed him to research state law, court common law, and Attorney General's opinions in regard to gaming. He stated with that background and with substantial knowledge of the history of gaming in Kansas, and these qualities would serve him well should he be confirmed.

Senator Vratil referred to the other concern of Representative Krehbiel's which related to gambling industry contributions, and asked how much money did the gambling industry, the parent and subsidiary companies and suppliers contribute to the Sebelius campaign. Mr. Martino responded that he did not know, but he could say that the Sebelius campaign did receive contributions from several if not all of the Indian tribes that have casinos in the state. He said he could assure the committee that when he was raising money for the Sebelius campaign, gaming and racing contributions were not set out as some kind of separate category where special interest was directed. He stated that the campaign staff was raising a lot of money from a lot of people and from various businesses, attorneys, doctors, etc.; and it was done at 100% compliance of the law. He added that he was not aware of any ethical or legal infraction that was incurred by the Sebelius campaign in the fund raising.

Senator Vratil asked what was Mr. Martino's role in soliciting campaign contributions from the gambling industry. Mr. Martino replied that he could not recall doing anything out of the ordinary as it regards soliciting campaign contributions from gaming or specifically racing entities that wouldn't have been done for any other person, attorney, doctor, etc. Those were probably done on a call list, and it would have been unusual for him to place a personal phone call. He did not recall that happening with any racing entity. Mr. Martino referred to the two occasions in June and July of 2002 which are noted in his written testimony and talked about earlier. He said he was confident he did not personally solicit any funds at either of those events, nor does he remember making any telephone calls to any gambling entities.

Senator Vratil asked for clarification that at those two events he primarily took notes, and Mr. Martino

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 11:35 a.m. on April 28, 2005 in Room 231-N of the Capitol.

responded that was his primary role.

Senator Gilstrap inquired what kind of management style he would have as Executive Director, and the number of staff he would have in that position. Mr. Martino replied that there are between 43 and 48 full time employees, and that he had managed staff before but not as large as the Racing and Gaming Commission. He said he felt the best way to lead staff was to set clear standards of conduct, encourage and foster open communications between himself and staff, also within the staff itself, and hold everyone accountable for his/her actions and make sure the State of Kansas gets an honest day's work out of everyone. He commented that a lot of the staff had extensive employment history and commitment to the agency, and he hoped that would continue and the people would feel good about the jobs that they do.

Senator O'Connor referred to Mr. Martino's confirmation packet of information, noted his wife works for the State of Kansas, and asked where she worked at the state. Mr. Martino replied that his wife is the Director of Communications and Marketing for the Department of Labor. (Attachment 4)

Committee questions and discussion continued relating to the possibility of having staff research the campaign contributions which are public documents. Mr. Martino stated that it was his understanding that Carol Williams, Executive Director of the Ethics Commission, had given him a "clean bill of political health."

Committee discussion continued regarding the possible research into the campaign contribution records, and it was the consensus of the committee that an investigation would not change what the committee had looked at or heard in previous discussions.

Senator Vratil made a motion to recommend confirmation of Mr. Martino as Executive Director of the Kansas Racing and Gaming Commission to the full Senate. Senator Gilstrap seconded the motion, and the motion carried.

Meeting was adjourned at 12:22 p.m.