

Approved \_\_\_\_\_

Date

2/17/87

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Edward F. Reilly, Jr. at  
Chairperson

11:00 a.m./~~p.m.~~ on February 16, 1987 in room 254-E of the Capitol.

All members were present. ~~except~~

Committee staff present:

Mary Galligan, Legislative Research  
June Windscheffel, Secretary to the Committee.

Conferees appearing before the committee:

The Reverend Richard Taylor, Kansans for Life at Its Best, Topeka  
Mr. Ken Bahr, Kansas Retail Liquor Dealers Association, Topeka  
Mr. Thomas E. Kelly, Director, Kansas Bureau of Investigation

The Minutes of the Meetings of February 12 and 13, 1987, were approved on a motion by Senator Arasmith, seconded by Senator Morris.

The Chairman directed the Committee to HB 2043, establishing a state lottery, and said there were conferees present.

He welcomed The Reverend Richard Taylor, who appeared for Mr. Chuck Wright, of Kansans for Life at Its Best. Mr. Wright was unable to appear, but his testimony, dated February 13, 1987, was handed out to the Committee at the time of Mr. Taylor's presentation. (Attachment #1) The paper includes proposed amendments and also two pages from PUBLIC GAMING MAGAZINE.

Mr. Ken Bahr, of Kansas Retail Liquor Dealers Association, Inc., was the next conferee. His remarks dealt specifically with allowing liquor stores to sell lottery tickets. (Attachment #2)

The Director of the Kansas Bureau of Investigation, Mr. Thomas E. Kelly, appeared before the Committee. He said if the bill is amended to restrict the employment of persons with a past record of felony convictions, a requirement should be made to check the state and federal criminal history repositories through the use of fingerprint cards. In addition, he said it is necessary to amend current expungement statutes for an exception to allow any pertinent expunged records to be made known to the proper authority in the Kansas Lottery. (Attachment #3) Senator Daniels said she would like information from staff. The Chairman asked that staff draft language to assist the Committee in contemplating the matter about which Director Kelly spoke.

Senator Anderson asked if he might have a lottery conferee speak at tomorrow's meeting. The Chairman said he would put the conferee on the agenda. Following that, the Committee will start discussing the bill and consider the amendments which have been proposed.

Tomorrow the Chairman also wants the Committee to give its attention to the various components that were recommended to be addressed at this Session of the Legislature by the Liquor Law Review Commission Report. Copies of the table concerning the recommendations were again distributed by staff. (Attachment #4)

The meeting was adjourned at noon.

2/16/87  
Attachment #1

House Bill 2043

Charles Wright  
I LOVE KANSAS! Inc.

Page 13, line 0456

Strike "including special bonuses and incentives." See attached two pages from PUBLIC GAMING MAGAZINE to understand how high pressure tactics are used to separate poor people from their consumer dollars.

Page 14, Between line 0508 and 0509 add

"(5) treatment of compulsive gamblers. Insurance companies shall not include treatment for compulsive gamblers in their coverage."

Page 14, line 0509

Change (5) to (6)

Page 17, lines 0624 - 0638

Remove House Committee amendments, restore bill to original, and delete "knowing" in lines 0619, 0627, and 0638. "Knowing" makes the law unenforceable. The House Committee amendment gives a blank check for unlimited food and beverage from lottery vendors seeking favors from lottery personnel. Governor Hayden told the press he wanted this legislation "squeaky clean." Unless these changes are made, the legislation is wide open for lottery gambling suppliers to buy favors with liquor and meals. Did the people of Kansas vote to give lottery gambling personnel unlimited wining and dining? I asked the House Committee to reduce the \$100 to \$25, but they opened wide the door for liquor and meals.

Page 18, line 0664

Strike "knowing such person to be." Knowing makes the law unenforceable and not squeaky clean.

Page 20, line 0720

Add "In addition to deducting back taxes and delinquent child support payments, the amount of welfare payments paid by the state shall be deducted before any prize is paid."

Page 20, line 0730

Change "exempt from" to "subject to." Lottery promoters claim they are selling recreation, therefore it should be subject to sales tax.

Attachment #1  
FSA 2/16/87

Today's lotteries are noted for maximizing sales through the use of sophisticated marketing techniques, targeted at the customers who buy the tickets. However, regardless of how strong product marketing may be, lottery sales growth depends to a large degree on the cooperation of those actually doing the selling: the lottery's retail agents.

The agent is perhaps the most important link between a lottery and its players. Agents are the "middlemen;" they are in contact with players on a day-to-day basis. Lottery-to-player marketing programs, the effectiveness of point-of-purchase materials, and player awareness all hinge on the retailer doing his or her job.

Marketing officials at the nation's lotteries have recently been reemphasizing the importance of giving retailers added incentive to effectively assume the role of the state lottery's agent. Many lotteries have recently initiated measurable agent incentive programs, some with astounding results in the form of increased sales volume.

#### "Ask For The Sale"

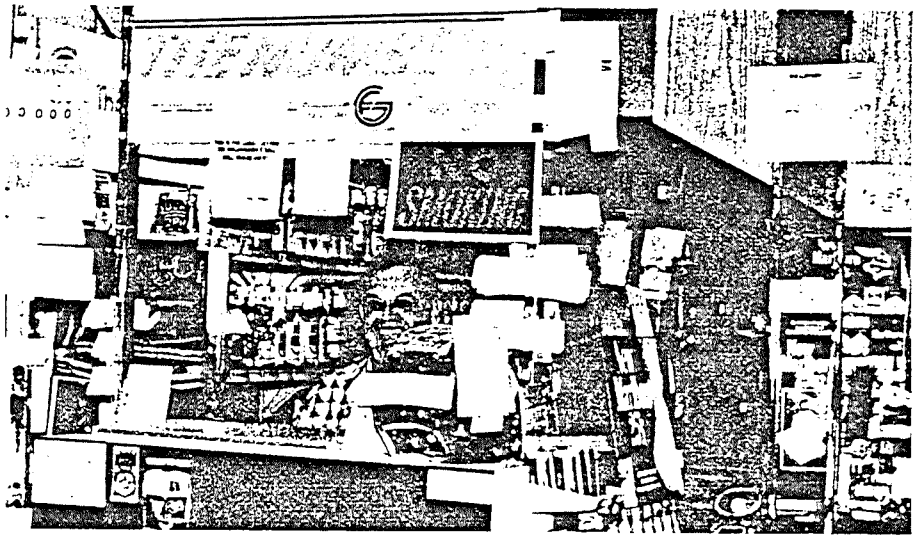
One agent marketing method currently sweeping the country is the "Ask For The Sale" program. Arizona was the first state to initiate such a program, according to Ben Novoa, director of marketing for the Arizona Lottery.

Novoa said the lottery selects a group of retailers with less-than-average sales volume to implement the concept. At the beginning of four weeks with predictably slow sales—the last weeks of an instant game, for example—the lottery will give these agents a quantity of tickets outright (the number depending on how much of a surplus is yielded by a particular game; the total giveaway has numbered as high as 20,000). A retailer will be given around 100 tickets, along with a sign for the counter saying, "If I don't ask you to buy a lottery ticket, I'll give you one free."

Lottery representatives will give clerks in the agent locations lines to say at the end of a transaction plugging the lottery, Novoa said; e.g. "Would you like your change in lottery tickets?" or "Have you played the latest lottery game yet?" If the retailers maintain

# Agent Incentives Maximize Lottery Sales

*Vitalized marketing at the point of sale demands agent support.*



Massachusetts Lottery sales agents are periodically polled by surveys regarding suggestions, customer preferences.

their supplies of tickets throughout the entire four-week period by asking customers to play the lottery, the tickets left are theirs to keep, including any winning tickets that might be included in the giveaway supply.

The incentive also works in the reverse; if participating retailers forget to ask for the sale and give away all their free tickets during the first week or two, the sign remains standing for the entire four weeks. Any giveaways after an agent's complimentary tickets are gone comes out of his or her own pocket (Novoa said this is a rare occurrence).

In every "Ask For The Sale" program so far in Arizona, says Novoa, sales

have increased dramatically, the lowest increase approximating 35 percent and a few retailers showing as much as a 300-500 percent jump in lottery sales.

The idea, in various forms, has been periodically used by other lotteries. The Massachusetts lottery occasionally runs contests which involve sending representatives into retail locations to purchase items other than lottery tickets, according to District Marketing Manager Frank Marugo. If the clerk asks the official to purchase a lottery ticket, says Marugo, he or she is awarded a cash prize on the spot. If the clerks fail to plug the lottery, they are told what they missed.

Other states which either have in

## Agent Incentives

the past initiated or are currently planning "Ask For The Sale" programs include Michigan, Washington, New Jersey and Ohio.

### Contests

Many lotteries motivate their retail agents by sweetening the pot with various contests. One popular contest consists of a drawing for agents at the end of instant games.

The procedures are similar in the various states offering the drawings. After selling all the instant tickets in a book, the agent sends the empty book, identified with the retail address, into the lottery. At the end of an instant game, the lottery will hold a drawing for the agents, the winner receiving cash and/or prizes. Obviously, the agent who sends in the most empty books has the best shot at winning the drawing, so the contests typically give instant game sales a shot in the arm.

The agent contests generally offer prizes large enough to generate substantial participation, which translates into increased sales. Illinois' current retailer contest offers the winner the vacation of his or her choice, according to Assistant Marketing Director Van Johnson. Prizes in Massachusetts for agent drawings include three \$1,000 winners and 180 winners of lower amounts. New Jersey's lottery awards retailers as much as \$15,000 for winning a drawing, and Ohio's agent bonus game pays up to \$10,000. According to Ohio Lottery Marketing and Advertising Manager William M. Bailey, agent bonus drawings amounted to one of the factors making instant games the second-fastest growing game in the state's mix, right behind lotto.

### Incentive Bonus Plans

Most states offer some type of bonus as incentive for retailers to maximize sales. These include bonuses both for selling and for cashing winning tickets, as well as extra commission for sales exceeding a certain amount.

Several lotteries, including Illinois, Maine, Massachusetts, Ohio, Rhode Island and Pennsylvania, award agents one percent of prizes exceeding a set amount for winning tickets sold. The amount varies: Pennsylvania pays the

agents one percent of the prize amount for selling tickets valued at \$1,000 or more; Rhode Island pays the extra commission on any sale of a winner of \$100 or more.

Sales increase because of bonuses, lottery officials say, because at times the extra commission can be lucrative for the retailer. In New Hampshire recently, a retailer sold *himself* a \$25,000-winning ticket. According to lottery Games Manager Jim Wimsatt, that agent received \$500 for selling himself the ticket, in addition to the \$25,000 prize. Wimsatt adds that the extra commission alone—two percent—is a "big incentive" for agents to sell more tickets.

According to Ohio's Bailey, an agent in that state can earn as much as \$20,000 for selling one instant ticket if that ticket happens to be the million-dollar grand prize winner. The lottery awards one percent of the prize, or \$10,000, for selling the ticket and another one percent for redeeming it, he said.

Some lotteries offer unique bonus plans to their retailers. Arizona's retailers work on a quota system. The agents begin making six percent of gross sales. If they reach a set sales quota, the lottery adds another one percent commission across the board, resulting in a seven-percent commission on all ticket sales, winners and losers alike. The Michigan lottery hands out extra tickets to agents that prominently display point-of-purchase materials, as well as offering an extra two percent commission (total: eight percent) on sales of lotto subscriptions.

An increasing number of lotteries now offer commissions for cashing as well as selling winning tickets, partly because of reports of agents refusing to pay large winners. Although the problem has not been extensive, lottery officials in many states have deemed it necessary to offer added incentive to pay the larger prizes (normally up to \$600).

Lotteries have always imposed penalties ranging from a warning to removal of an agent's terminal for refusing to pay on winning tickets. But in 1982, officials at the Maryland State Lottery decided enforcement and discipline

of this nature was counterproductive, and initiated a plan by which the lottery lowered the standard sales commission from five to four percent, but added a three-percent commission for cashing tickets. Since roughly half of gross sales are returned to the players in prizes, the lottery was actually taking away one percent and adding one-and-a-half percent: a net increase for the agents of one-half percent, provided they cash the winning tickets (see "Lottery Agent Compensation: Getting Retailers To Do Their Job" by Robert Laird, PG, November 1984).

Since Maryland's bold move worked well, additional lotteries have initiated bonuses for cashing winning tickets.

On December 11, the Michigan lottery initiated a fat two-percent bonus to retailers for cashing winning tickets, without reducing the standard commission, according to Marketing Director Bruce McComb. Many other lotteries have offered a percentage of prizes for cashing winning tickets from the start.

Other lotteries in the U.S. that currently offer bonuses to retailers for cashing winning tickets include: Connecticut, \$1 per claim (larger agents in the state double as claim centers); Massachusetts, one percent of claim; New Jersey, one percent of claim; Ohio, 1.5 percent with at least 50-percent cashing ratio (one percent with 40 to 49-percent cashing ratio); .5 percent with 30 to 39-percent ratio); District of Columbia, three percent (for cashing daily numbers tickets).

These cashing and selling incentives are all in addition to the overall amount agents earn selling lottery tickets. According to lottery officials, agents earn, depending upon the size of the state and the sales volume, anywhere from \$8-\$10,000 to over \$90,000 annually from selling lottery tickets. Ray Shaffer, marketing director for the Pennsylvania State Lottery, says the leading lottery agents in his state earn over \$91,000 per year from selling tickets. According to Marugo, top Massachusetts retailers earn as much as \$85,000 from annual lottery sales.

### Agent Input

Officials of all state lotteries maintain efforts to keep retail sales agents moti-

# Studies estimate women comprise a third of compulsive gamblers

New York Times

New York, N.Y.

About a third of the nation's 12 million compulsive gamblers are women, according to Arnold Wexler, vice president of the National Council on Compulsive Gambling. Studies published recently indicate that by the year 2000, women may account for half of the Americans with the affliction.

The studies were published by Dr. Robert Custer, a Veterans Administration psychiatrist and the founder of the National Foundation for the Study and Treatment of Pathological Gambling, a research and treatment

center in Baltimore.

Custer said 600 male and female gamblers were studied over 13 years and the results were published in his recent book, "When Luck Runs Out."

Although only 1 percent of those seeking treatment and joining Gamblers Anonymous five years ago were women, Wexler said, the proportion has risen to 20 percent now.

"We used to see nothing but middle-aged, middle-class white businessmen," said Valerie Lorenz, a psychologist at the foundation in Baltimore. "But the compulsive gambler no longer fits into a nice, neat category. Since the lotteries started, we are seeing more women, blacks and teen-agers. Now gambling is truly democratic."

Lorenz said women with gambling problems were from all social classes, vocations and age groups.

One member of Gamblers Anonymous, Joy, can still remember when, as a young woman in New Orleans, she lost entire paychecks.

"I was working 40 hours a week and making \$35 after taxes," said Joy, 47 years old and now a resident of Connecticut. "I was gambling once a week, and when I lost my entire paycheck I would take a streetcar or bus instead of a taxi. I would buy one chicken and cut it up into four parts or eat hot dogs for the week."

What started as a social pastime soon turned into a 30-year compulsion that cost Joy thousands of dollars.

Experts cited several reasons for the surge in the proportion of gamblers who are women, including greater accessibility of gambling, the chang-

ing social role of women and the increasing availability of credit.

"There has been a change in the amount of risk-taking by women," said Carol Nagy Jackline, a professor of psychology at the University of Southern California and chairman of the Program for Study of Women and Men. "It has to do with having higher status."

While gambling is very visible nationwide — in casinos, off-track betting parlors and lottery games — compulsive gambling is dubbed the invisible disease.

"You are a junkie, but there are no signs," said Carol, another member of Gamblers Anonymous, who lost more than \$200,000, her business and her children's trust funds at Atlantic City casinos. "With an alcoholic you can tell, but with gambling there are no telltale signs. When my straight friends found out, they couldn't believe it. I am a rational person when it comes to money, but when I walked into the casinos money didn't mean anything. It was the thrill of playing."

Many gamblers cite the excitement of making a bet, not the potential windfall, as their driving force. "The feeling that comes with gambling is better than love, sex, your husband and children," Joy said.

In 1980, the American Psychiatric Association designated compulsive gambling a psychiatric disorder. The group defines a compulsive gambler as one who is "chronically and progressively unable to resist impulses to gamble" and for whom "gambling compromises, disrupts or damages family, vocation and personal pursuits."

# K R L D A

KANSAS RETAIL LIQUOR DEALERS ASSOCIATION INC.

2/16/87  
Attachment #2

1950 W. 21st St.  
WICHITA, KS. 67203  
(316) 832 - 1155

CARL L. MITCHELL  
PRESIDENT

TRACY MOODY, 1st Vice - President  
AL FIFFE, 2nd Vice - President  
WAYNE BENNETT, Secretary - Treasurer

February 13, 1987

Mr. Chairman, members of the committee, I am Ken Bahr representing the Kansas Retail Liquor Dealers Association. I would like to briefly comment on H.B. 2043, specifically Section 23, allowing retail liquor stores to sell lottery tickets.

The Kansas Retail Liquor Dealers Association supports a lottery in Kansas and the opportunity to sell lottery tickets. Because liquor licenses are issued to business people only after a background investigation has been conducted, and since they are bonded, the Kansas Retail Liquor Dealers Association believes that these retail liquor dealers have demonstrated that they are responsibly established business in the State and their respective communities. The Association would also like to point out that the geographic location of the 1000+ liquor stores throughout Kansas makes them convenient outlets for the sale of lottery tickets to the public.

While not all retail liquor stores may wish to sell lottery tickets we believe that the Legislative intent to allow the market place to determine the number of businesses who can and wish to sell lottery tickets is a sound one. As responsible business people in their communities the KRLDA supports H.B. 2043 and the opportunity to be a retailer of lottery tickets.

I would be happy to respond to any questions or concerns you may have.

Attachment #2  
FSA 2/16/87

2/16/87  
Attachment #3



THOMAS E. KELLY  
DIRECTOR

# KANSAS BUREAU OF INVESTIGATION

DIVISION OF THE OFFICE OF ATTORNEY GENERAL  
STATE OF KANSAS  
1620 TYLER  
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ROBERT T. STEPHAN  
ATTORNEY GENERAL

TESTIMONY BY THOMAS E. KELLY

DIRECTOR, KANSAS BUREAU OF INVESTIGATION

ON HOUSE BILL 2043

FEBRUARY 16, 1987

My concerns regarding the bill are primarily technical and need to be considered in the light of security aspects of the Kansas Lottery.

Throughout the bill there is emphasis placed on security in regard to vendors, lottery retailers and the actions of certain employees of the state; however, there is no restriction in regard to the hiring of employees for any position in the Kansas Lottery or the Kansas Lottery Commission. It would be possible to hire employees with a record of a felony conviction in any position unless the bill clearly states that no person may be employed who has a past record of felony conviction. If such a restriction is desirable, it should be set forth in the bill as a bar to consideration for employment.

If the bill is amended to restrict the employment of persons with a past record of felony conviction, a requirement should be made to check the state and federal criminal history repositories through the use of fingerprint cards. I will further explain this process later in this report.

In addition, it is necessary to amend the current expungement statutes, KSA 21-4619, and 21-4619A, for an exception to allow any pertinent expunged records to be made known to the proper authority in the Kansas Lottery.

In regard to restrictions concerning who may be certified as lottery retailers, Section 8 (h)(1) restricts anyone who has been convicted of a felony "in this or any other jurisdiction" unless at least 10 years have passed since satisfactory completion of the sentence or probation imposed by the court for each such felony.

Section 8 (h)(2) restricts anyone being certified who has been convicted of illegal gambling activity "in this or any other jurisdiction."

The above restrictions also apply to partnerships, corporations, and unincorporated associations. Section 8 (h)(1) and (h)(2) both use the language "in this or any other jurisdiction" when referring to the location of any conviction of a felony or illegal gambling activity respectively. This may logically be interpreted to mean the State of Kansas or any other state as well as the Federal Court system.

Attachment #3  
FSA 2/16/87

In order to conduct an accurate criminal history record check on an individual it is necessary to use fingerprint cards bearing the known fingerprint impressions as well as other identifying data of the person. In Kansas, the Kansas Bureau of Investigation maintains the state criminal history record repository which includes the fingerprint cards for persons arrested in the state on felony charges. The fingerprint cards for persons arrested in other states and by law enforcement units of the federal government are maintained by the Identification Division of the Federal Bureau of Investigation (FBI).

In previous contacts with the Identification Division of the FBI, they have advised due to the standards imposed by Public Law 92-544, they are restricted as follows: "The only non-federal applicant fingerprints which we are authorized to process are those submitted in connection with law enforcement and in instances where fingerprinting is required by state statute for licensing or employment." (emphasis added)

In addition to the above requirement the FBI charges a fee of \$14.00 per card for fingerprints submitted for licensing or employment. For the purpose of security, the licensing may be synonymous with certifying.

In the event it is determined fingerprints are required of all the persons to be employed or licensed under the Kansas Lottery Act, the act should be amended to so read. The amendment should clearly show that two sets of fingerprints are to be collected from each employee and lottery retailer and forwarded to the Kansas Bureau of Investigation who will, in turn, forward one copy of the fingerprints to the Federal Bureau of Investigation for the purpose of determining whether the person has a criminal record. These cards must be submitted to the FBI by the KBI and the response is received by the KBI. In addition the KBI charges \$10.00 per card for a fingerprint search of the state criminal history repository, for all non-criminal justice agencies.

It is also necessary to be certain the expungement statutes are amended to add an exception to allow any expunged records material to the requirements in Section 8 (h)(1) and (h)(2) in regard to licensees, be made available to the proper authority in the Kansas Lottery.



2/3/87  
Attachment #A

TO: SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS  
FROM: KANSAS LEGISLATIVE RESEARCH DEPARTMENT  
RE: LIQUOR LAW REVIEW COMMISSION RECOMMENDATIONS

The table below displays the topics of recommendations made by the Liquor Law Review Commission about which decisions have not been made by the Committee. None of the items listed would be required to implement liquor by the drink. The page numbers included in the table refer to the Commission report. An asterisk (\*) has been placed beside items about which a decision has been made for liquor by the drink establishments but not for other segments of the industry.

Item/Issue	Page No.
-----	
TAXATION/ALLOCATION OF REVENUE	
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Allocation of Tax Revenue	11
GENERAL	
* License fees	8 & 11
Eligibility of Licensee's Spouse	12
Under-Age Purchases	12
Mandatory Minimum Penalty for Purchases by Minors	12
ABC Board of Review, Staffing and Powers of ABC	12
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* Beverage Handler Training and Licensing	17
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* Point of Purchase and Delivery	8
RETAILERS	
Residency Requirement	19

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Ownership of Retail Liquor Stores	20
Liquor Sales by Other Establishments	20
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Use of Credit Cards	21
Point of Sale Merchandise	22
Restrictions on the Solicitation of Business	22
* Election Day Sales	22
Limitations on Wholesalers and Retailers--Public Service	13

The Committee has not yet addressed any of the Commission's recommendations about wholesalers and suppliers. Those recommendations are on pages 23-29 of the report.

Recommendations regarding minimum price markup and price and brand advertising also were made by the Commission but not yet addressed by the Committee. The Attorney General has been asked to review recent court decisions and issue opinions about how those decisions might impact Kansas laws.

\* Election Procedure to Be In LBD

\* LICENSE CHANGE IF VOTE OCCURS

\* ALL EFFECTIVE JULY 1, 1987

10% OF THOSE WHO VOTED FOR SEC OF STATE PREVIOUS  
ELECTION.