

Approved _____

3/5/87
Date

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 24, 1987 in room 254-E of the Capitol.

All members were present, ~~except~~

Committee staff present:

Mary Galligan, Legislative Research
Emalene Correll, Legislative Research
Mary Torrence, Assistant Revisor of Statutes
June Windscheffel, Committee Secretary

Conferees appearing before the committee:

The Chairman said that a proposal was before the Committee from the Office of the Attorney General that dealt with the amendments to the Law Enforcement Training Act. It has been approved by the Training Commission. (Attachment #1) Senator Morris moved it be introduced. Seconded by Senator Martin. The motion carried.

HB 2552, by Representative Bideau and others, concerning cash deposit appearance bond prohibited, was called to the Committee's attention. The Chairman said that Senator Doyen had asked if this Committee would be interested in handling this on the Senate side. No action was taken.

The Chairman called to the attention of the Committee a copy of a letter dated February 18, 1987, from Mr. W. B. Tichenor, expressing his thanks for appearing before the Committee on February 13, 1987, which included a copy of his testimony. (Attachment #2)

The Chairman announced that the Subcommittee on the Lottery met yesterday. The Subcommittee was composed of Senator Morris, Chairman; Senator Bond and Senator Martin. The Chairman thanked the Subcommittee. Senator Morris gave the Report of the Subcommittee. Senator Strick moved that the Report be accepted. The motion carried, and the Report was accepted.

Copies of letters from the Chairman to the Attorney General, requesting opinions concerning minimum markups; requisite authority of the State Finance Council to ratify multi-state lottery contracts; lotto; and casino gambling; were before the Committee. (Attachment #3)

Senator Morris pointed out that the Subcommittee recommended that a constitutional amendment be prepared to permit raffles in the State of Kansas for non-profit groups. Senator Bond moved to accept the recommendation on the proposed constitutional amendment, seconded by Senator Morris, that the Committee have it drafted. The motion carried.

Senator Daniels asked for Committee introduction of a bill. It is an act which enacts the transportation of the hazardous materials act for Kansas. It clarifies the guidelines and brings Kansas into line with the federal guidelines. Senator Martin moved it be introduced. Seconded by Senator Morris. The motion carried.

The Minutes of February 18 and 19, 1987, were before the Committee. Senator Morris moved they be adopted as corrected. The motion was seconded by Senator Martin. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,
room 254-E, Statehouse, at 11:00 a.m./~~xxxx~~on February 24, 1987

The Committee then proceeded on to HB 2043, concerning the Kansas Lottery Act. On page 8, line 289, Senator Morris moved to strike the word "annual" and insert "no less than annually." That is in case they would need more than an annual audit; staff to clean up any language. Seconded by Senator Martin. The motion carried.

On page 11, Senator Morris moved to put that language to clarify at line 412, to the effect that budgets of the state lottery be submitted in accordance with K.S.A. 75-3717. Seconded by Senator Daniels. The motion carried.

The meeting was adjourned at noon.



JW
2/24/87
Attachment #1

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

February 19, 1987

The Honorable Edward F. Reilly
Senator, Third District
Capitol Building, 255-E
Topeka, Kansas 66612

Dear Senator Reilly:

Enclosed is the proposed legislation concerning amendments to the Kansas Law Enforcement Training Act which have been approved by the training commission. I believe that Mr. Tom Kelly, KBI Director, has spoken with you about the legislation and the introduction of the proposals.

Please feel free to contact this office if you have any questions regarding the legislation. Thank you for your time and cooperation in this matter.

Very truly yours,

OFFICE OF THE ATTORNEY GENERAL
ROBERT T. STEPHAN

Brenda L. Braden

Brenda L. Braden
Deputy Attorney General

BLB:may
Enclosures

Attachment #1
FSA 2/24/87

FINAL
DRAFT
2/18/87

KANSAS LAW ENFORCEMENT TRAINING COMMISSION

PROPOSED LEGISLATION #1

"There is hereby created the Law Enforcement Training Center Fund. All monies credited to such fund under the provisions of this act or any other law shall be expended only for the purpose and in the manner prescribed by law, including the expenditure for the operation of the K.L.E.T. Commission to carry out its powers and duties as mandated by law."

PROPOSED LEGISLATION #2

Amend K.S.A. 74-5616(b) as follows:

"The Commission may, after a hearing conducted in accordance with the provisions of the Kansas Administrative procedures act, suspend, revoke or deny the certification of a police officer or a law enforcement officer who fails to meet the requirements of K.S.A. 74-5605 and amendments thereto and K.S.A. 74-5607a and amendments thereto or has met such requirements by falsifying documents or failing to disclose information required for certification."

PROPOSED LEGISLATION #3

"POWERS, DUTIES & FUNCTIONS OF COMMISSION; administer oaths; subpoena powers.

"(d) In all matters pending before the Commission the Commission shall have the power:

"(1) to administer oaths and take testimony.

"(2) to issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents and testimony, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the district courts. In case of the failure of any person to comply with any subpoena issued in behalf of the Commission, or on the refusal of any witness to testify to any matters regarding which the witness may be lawfully interrogated, the district court of any county, on application of a member of the Commission, may require compliance by proceedings for contempt, as in the case of failure to comply with a subpoena issued from such court or a refusal to testify in such court. Each witness who appears before the Commission by its order or subpoena, other than a state officer or employee, shall receive for such attendance the fees and mileage provided for witnesses in civil cases in courts of record which shall be audited and paid upon presentation of proper vouchers sworn to by such witnesses and approved by the chairperson of the Commission or by a person or persons designated by the chairperson.

"(3) to enter into contracts necessary to administer the provisions of this act, the certification of law enforcement officers and amendments thereto, and

"(4) adopt such other rules and regulations as may be necessary for the administration of this act."

KANSAS LAW ENFORCEMENT TRAINING COMMISSION

PROPOSED LEGISLATION #3(a)

Prosecution of Action

The Attorney General shall prosecute such action pertaining to a hearing on behalf of the state, but the county attorney of any county or district attorney of any judicial district where the law enforcement officer has worked, at the request of the Attorney General or commission, shall prosecute such action.

PROPOSED LEGISLATION #4

Amend K.S.A. 74-5607a as follows:

"(c) . . . any person appointed as a police officer or law enforcement officer on a provisional basis who does not receive the certificate required under subsection (a) within one year following the date of their original election or appointment or does not fulfill the continuing education requirements under subsection (b) shall forfeit such office or position at the end of the original one-year period for non-compliance with subsection (a) and shall forfeit such office or position at the end of such subsequent one-year periods for non-compliance with subsection (b)."

" . . . The associate director may extend the one year period when it is shown that the failure to comply with the requirements of subsection (a) or (b) was not due to the intentional avoidance of the law."

PROPOSED LEGISLATION #5

Amend K.S.A. 74-5617(d) as follows:

"(d) No law enforcement agency head or other appointing authority shall knowingly permit the hiring or retaining of any person in violation of the requirements of this act. Any violation of the requirements of this act shall be deemed to constitute misconduct in office and shall subject the agency head or appointing authority to removal from office pursuant to K.S.A. 60-1205 and amendments thereto, or to a civil penalty of \$500 for each occurrence of non-compliance.

"(e) Whenever in the judgment of the commission any person has engaged in any acts or practices which constitute a violation of this act, or any rules and regulations of the commission, the commission may make application to the district court, without giving bond, for civil enforcement of the act or rules and regulations in accordance with the act for judicial review and civil enforcement of agency actions. The district or county attorney of any county shall at the request of the commission render such legal assistance as may be necessary in carrying out the provisions of this act. Upon the request of the commission the district or county attorney of the proper county shall institute in the name of the state or commission proceedings for appropriate relief, whether mandatory, injunctive or declaratory; preliminary or final; temporary or permanent; equitable or legal, against any person regarding whom a complaint has been made charging such person with the violation of any of the provisions of this act."

PROPOSED LEGISLATION #6

No Current K.S.A.

(a) Conviction of a felony under the laws of this state, another state, the United States or its equivalent under the uniform code of military justice disqualifies a person previously certified by the Commission to become or remain a police officer or law enforcement officer and the Commission shall immediately institute the procedure to revoke the certification of a person so convicted.

LAW OFFICES
W.B. (BART) TICHENOR
400 EAST HIGH STREET
JEFFERSON CITY, MISSOURI

2/24/87
Attachment #2
AREA CODE 314
TELEPHONE
635-7931

February 18, 1987

Senator Edward Rielly
The Statehouse
Topeka, KS 66612

Dear Senator Rielly:

First of all let me express my thanks and appreciation for your permitting me to testify before your committee concerning the lottery legislation.

Enclosed you will find a copy of my expanded testimony. I have included enough copies for your committee and trust you will see that it is distributed to them.

Let me say I very much enjoyed the opportunity to testify and was particularly impressed with the professional manner in which the hearing was conducted. Having worked in Missouri state government for twelve years, I have observed our committee hearings in great detail and must admit that the manner in which Kansas operates is far superior to the Missouri experience in most situations.

Again, thank you for your courtesy. Should there be any way that I can be of assistance, please do not hesitate to contact me.

Sincerely,

W. B. Tichenor

WBT/dn

Enclosures

Attachment #2
FSA 2/24/87

TESTIMONY OF W. B. TICHENOR
Attorney at Law
400 E. High St.
Jefferson City, MO 65101

on

HB No. 2043

My testimony with reference to House Bill No. 2043 will relate to the philosophy behind the 45-10-45 formula of the Missouri Constitutional provision with regard to the division of lottery receipts.

Basically, this provision for distribution of lottery revenue is based upon the following principles.

1. The citizens of Missouri wished to be able to play the lottery.
2. The state should ensure that the cost of providing the lottery was kept low.
3. The state should ensure that the lottery did not give rise to a large and ever growing bureaucracy.
4. The state should not be in the business of forcing, inducing, or high-pressuring citizens to participate.
5. The state should receive a portion of receipts equal to the portion allotted for prizes.
6. The lottery would never provide a significant portion of needed state funds, but would only provide a very small amount of revenue to the state.

Proponents of the lottery are quick to point out that no state currently runs a lottery on ten percent for administrative costs. However, it should be noted that no state has ever attempted to do so. It is not that it cannot be done, it is simply that the lottery promoters and suppliers of lottery goods and services want as large a piece of the action as they can get and a ten percent cap on costs means less for them.

If a lottery is run on a 45-25-30 formula as proposed in HB 2043, then clearly a third more tickets will have to be sold in order for the state to receive an amount equal to what it would receive under a 45-10-45 formula. In the case of Missouri that means that per capita sales would have to be 1.30 weekly, instead of .86. The figure of 1.30 is in excess of what any state is currently averaging and far in excess of the national average for individual states' per capita sales. I would imagine that the same case would also be true in Kansas.

I can certainly see that from the Kansas viewpoint you might feel the 45-25-30 formula would give you an advantage over Missouri. However, it should be remembered that just as Missouri is at a disadvantage

(over)

with Illinois due to population, Kansas will be at a disadvantage to Missouri because of population. Therefore, total sales and thus size of jackpots will always tend to be larger in Missouri. Thus, if our costs are capped and our amount of prizes is larger, we will be receiving more both in total dollars and percentage of revenue under our 45-10-45 formula than would Kansas under a 45-25-30.

Based upon calculations which I have done on per capita sales, I am convinced that with the core group of lottery players we have in Missouri we can operate a 45-10-45 lottery and provide just as large amount for prizes and have more revenue generated for Missouri than either Kansas or Iowa can do without the ten percent cost limit.

The limit on costs makes for good government. It provides the necessary limit to keep the bureaucracy under control and keeps state costs at the lowest possible level.

Further, when one considers the small percentage of total state budget that the lottery will produce, one can quickly see that of all sources of revenue for a state the cost of administering and collecting revenue from a lottery is more costly than any other revenue source.

The Missouri lottery, even under the most optimistic projections, will produce not more than 1.5 percent of the total state budget. I would imagine that the same is true of what a Kansas lottery will do in terms of percentage of state budget. To illustrate that in another way, the lottery revenue produced to the state will only run Missouri state government for approximately $5\frac{1}{2}$ days. The difference in administrative costs alone between 10 percent and 25 percent in Missouri would fund state government for $1\frac{1}{2}$ - 2 days.

The Missouri experience is still new. The lottery promoters came out in 1984 and assured us that ten percent after the first year would run a lottery. Now they want to back off. Not because it can't be done, but because it will adversely affect how much they can make on the lottery. We feel that a ten percent can and will work in Missouri and in other states. It will produce as many dollars for state revenue on less total sales and thus permit more consumer dollars to remain in the economy for commercial exchange instead of the redistribution of wealth under a lottery.

Since Kansas can change its percentage by statute, it would seem the cautious approach to work with a ten percent lottery to see what revenue it can actually produce before establishing a large and costly bureaucracy for the promotion, administration and collection of this form of state revenue.

STATE OF KANSAS

EDWARD F. REILLY, JR.
SENATOR, THIRD DISTRICT
LEAVENWORTH AND JEFFERSON COUNTIES
430 DELAWARE
LEAVENWORTH, KANSAS 66048-2733
913 682-1236



TOPEKA

SENATE CHAMBER

February 23, 1987

2/24/87
Attachment #3

COMMITTEE ASSIGNMENTS
CHAIRMAN: FEDERAL AND STATE AFFAIRS
AND INSURANCE SUBCOMMITTEE
VICE CHAIRMAN: ELECTIONS
MEMBER: CONFIRMATIONS
FINANCIAL INSTITUTIONS AND
INSURANCE
PUBLIC HEALTH AND WELFARE

The Honorable Bob Stephan
Attorney General
Judicial Center
Topeka, KS 66612

Dear Attorney General Bob:

The purpose of this letter is to request your opinion as to whether or not, in light of your recent determination that the retailer minimum markups are unconstitutional, a constitutional statute can be drafted and enacted by the Kansas Legislature in order to preserve some form of minimum price levels for licensed Kansas retailers.

Respectfully yours,

A large, stylized handwritten signature in black ink, appearing to be 'E. F. Reilly, Jr.' with a long horizontal flourish extending to the right.

Senator Edward F. Reilly, Jr.
Chairman
Senate Federal and State Affairs Committee

Attachment #3
FSA 2/24/87

STATE OF KANSAS

EDWARD F. REILLY, JR.
SENATOR, THIRD DISTRICT
LEAVENWORTH AND JEFFERSON COUNTIES
430 DELAWARE
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TOPEKA

SENATE CHAMBER

February 23, 1987

The Honorable Robert Stephan
Attorney General
Judicial Center
Topeka, KS 66612

Dear Attorney General Bob:

I would respectfully request your opinion as to whether or not the Kansas Legislature can delegate to the State Finance Council the requisite authority to ratify multi-state lottery contracts.

In your recent opinion, No. 87-16, you indicated that the Kansas Legislature must ratify such contracts.

I wish to inquire as to whether or not the alternative procedure suggested above would satisfy that requirement.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read 'E. Reilly'.

Senator Edward F. Reilly, Jr.
Chairman
Senate Committee on Federal and State Affairs

STATE OF KANSAS

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February 23, 1987

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PUBLIC HEALTH AND WELFARE

The Honorable Robert Stephan
Attorney General
Judicial Center
Topeka, KS

Dear General Bob:

I respectfully request your opinion as to whether the lotto would be legal under the current constitutional amendment concerning lottery in the State of Kansas.

Warmly and sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Ed Reilly'.

EDWARD F. REILLY, JR.

Chairman

Federal and State Affairs Committee of the Senate

STATE OF KANSAS

EDWARD F. REILLY, JR.
SENATOR, THIRD DISTRICT
LEAVENWORTH AND JEFFERSON COUNTIES
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TOPEKA

SENATE CHAMBER

February 23, 1987

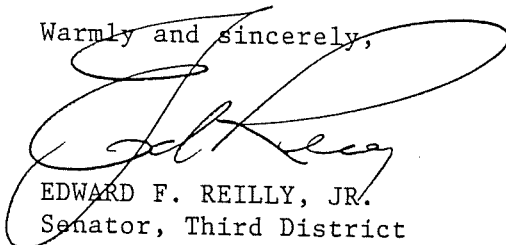
The Honorable Robert Stephan
Attorney General
Judicial Center
Topeka, KS 66048

Dear General Bob:

As Chairman of the Senate Committee on Federal and State
Affairs, I am asking your opinion as to whether casino
gambling would be allowed under the present constitutional
amendment concerning lottery.

Thank you for your time.

Warmly and sincerely,


EDWARD F. REILLY, JR.
Senator, Third District