

Approved: March 25, 1999
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Senator Lana Oleen at 11:10 a.m. on March 17, 1999 in Room 254-E of the Capitol.

All members were present:

Committee staff present: Mary Galligan, Legislative Research Department
Russell Mill, Legislative Research Department
Theresa Kiernan, Revisors of Statutes
Judith Glasgow, Committee Secretary

Others attending: See Attached Sheet

Chairman Oleen recognized Anthony Fadale who is working on the three bills that were heard last week, **SB 299, 313 and 304**. Mr. Fadale stated that progress has been made on **SB 299** and will be ready to bring it back to the committee for their consideration.. Mr. Fadale stated that he has explained the circumstances regarding **SB 313** to all the parties involved and the Attorney General's Office will have some type of study evaluation on this item. In regard to **SB 304** a meeting was held with Mr. Speaker of Commerce and Housing to work on narrowing the definitions and working through some of the differences.

Chairman Oleen asked Mary Galligan, Legislative Research Department to review **SB 329-Authorizing Electronic Gaming Machines** and **SB 330 - Relating to video lottery machine games for the committee**.

Ms. Galligan provided a document to the committee members comparing the two bills. (Attachment 1). **SB 329** authorizes lottery machines at parimutuel licenses where live horse and/or dog racing has been authorized and **SB 330** would allow video lottery machines in clubs, drinking establishments, or CMB, bingo halls, race tracks, historic tourist attractions and State Fair locations. **SB 329** creates a dual oversight administration; the lottery owns and operates the games as required by the Kansas Constitution, but the Racing and Gaming Commission is the gate keeper in regard to where they may have the machines. Both bills allow any kind of game that is being played on an electronic game machine. Both bills state that the Governor would have to approve any new games. A chart was provided to the committee showing the revenue flow for **SB 329** as introduced and also with proposed amendments (Attachment 2).

Chairman Oleen asked for action on committee minutes for March 4, March 8, March 9, and 10, 1999. Senator Biggs moved the minutes of March 4, 8, 9, and 10 be approved. Senator Vratil seconded the motion. The motion carried.

The meeting adjourned at 12:05 p.m. The next meeting of this committee will be March 18, 1999.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST

DATE: MARCH 17, 1999

NAME	REPRESENTING
Kevin Scott	Kansas Lottery
Tracy Drel	SGA
Merle Anderson	Senior Citizen Johnson 14521 West 65, Shawnee
Lister Lanson	Kansas chafar au
Laura Abeyta	PBP Nation
Richard Klemm	Harran's
Dave Schneider	Kansans For Life At Its Best
Denny Burgess	HPBA
Ron GACHES	WICHITA GREYHOUND PARK
Myron Szafe	KRGC
Jerry Hathaway	KREC
Matthew ROOS	KANSAS RACING
JOHN COSTELLO	Kansas Racetrack, L.L.C.
Lamie William	Governors Office
Alan Steppat	HARRAH'S
Steve Montgomery	Ks. Greyhound Kennel Owners' Assoc.
John Petecum	Ks. Bowling Propriety Assn
Glenn Thompson	Stand Up For Ks

Video Lottery Bills—Comparison of Major Provisions

Provision	S.B. 329	S.B. 330
New games authorized	Games on electronic gaming machines. §2(c) and §4(a) Governor would have to approve any new games (existing law §4(b))	Games on video lottery machines (VLMs) §3(a), §4 Governor would have to approve any new games (existing law, §13(b))
Locations	Facilities on or immediately adjacent to the real estate of a parimutuel licensee where live horse or dog racing has been authorized prior to July 1, 1999 §2(n), §4(b), and (c)	Any lottery retailer who is: 1. a club or drinking establishment or on-premise CMB retailer who has been licensed at the same location for at least four years 2. a bingo licensee licensed for at least four years at the same location 3. an organization licensee under the Racing Act 4. a nonprofit historical tourist attraction, determined by the Executive Director 5. the State Fair at locations established by rules and regulations of the Lottery Commission §3
Number of machines	Not specified	Maximum of five machines per facility, plus one machine per 1,000 ft ² of the premises as defined in rules and regulations §3(a)
Prohibited machines, locations, playing time and games	The existing prohibition against games on VLMs would remain in effect §2(w) and §4(a)(1) Electronic gaming machines at locations other than racetracks and lottery ticket dispensing devices would be prohibited §4(c) in balloon	Machines that directly dispense coins or cash and machines that do not meet statutory requirements of §4 and §10(n). Devices that award credits and that contain a circuit, meter, switch, or computer program capable of removing and recording the removal of credits when the award of credits are dependent upon chance unless authorized by the Lottery §6(d)(E). VLMs could not be played when the premises where they are located are not open to the public §18(b)

Provision	S.B. 329	S.B. 330
Advertising	Not addressed	<p>The Lottery would have to adopt rules and regulations prohibiting lottery retailers from holding themselves out to the public as gambling establishments, casinos, or other terms suggesting any form of lottery or gambling. §13(a)(14)</p> <p>Machines could not use any word or name suggesting any form of lottery or gambling, gambling establishment, or any city, county, state, country, or governmental entity to describe a certified machine §4(h)</p>
Types of gaming equipment authorized	<p>Any machine authorized by the Lottery Commission, activated by cash, token, or electronic card (purchased from a lottery gaming machine operator) to play any game authorized by the Lottery Commission §2(b) and (c) and §4(a)</p> <p>Machines could dispense cash, tokens, merchandise, or credits that could be redeemed for cash §2(a)</p>	<p>VLMs capable of accepting cash, coins, or tokens and on which a person can play a game authorized by the Lottery. Prizes would be free games or credits that could be redeemed for cash. §10(n)</p> <p>Machines could not accept more than \$2 on a single game or award free games or credits in excess of \$1,000 per game. §3(d)</p>
Age restrictions on players	<p>No one, except nongaming employees, under 21 could be in an area where gaming is conducted</p> <p>No employees under 21 could be involved in gaming</p> <p>No person under 21 could wager on electronic gaming machines §14</p> <p>There would be no statutory penalty for violation of those provisions</p> <p>It would be a class A nonperson misdemeanor for a licensee to allow anyone under the age of 21 to play an electronic gaming machine §6(a)(4)(balloon version)</p>	<p>Video lottery retailers could not permit persons under 18 to play VLMs or to be in an area where VLMs are located. Violation would be a class A nonperson misdemeanor for the first offense; a level 9 nonperson felony for second or subsequent offenses §17. Conviction of a felony would preclude contracting with the Lottery for at least ten years §12(h).</p> <p>Persons under 18 would be prohibited from playing or being in the area of VLMs §18(c).</p>
Duration of contracts with the Lottery	<p>Minimum of seven years; renewable for seven-year periods §8(c)</p> <p>Sanctions for violations apparently would have to be part of contract</p>	<p>Annual contracts subject to termination or renewal §12(c)</p>
Average payout	<p>Not less than 80 percent of the amount wagered §8(g)(1)</p>	<p>Not less than 85 percent and not more than 95 percent of amount wagered §3(f).</p>

Provision	S.B. 329	S.B. 330
Fees	None	<p><u>Annual fees:</u> VLM manufacturer—\$20,000 VLM distributor—\$5,000 VLM operator or leasing company—greater of \$150/machine or \$5,000 One-time application fee—maximum \$500 in addition to annual fee §1 Video lottery retailers application fee—\$50/machine Video lottery retailer certificate—maximum \$500</p>
Allocation of revenue	All revenue would be earmarked §5(e) (see attached table)	All fees credited to Lottery Operating Fund §1 40 percent of net machine revenue would be remitted to the Lottery. A minimum of 30 percent would be transferred to the State Gaming Revenue Fund §14(d)(2).
Sales tax	Gross sales would be subject to sales tax	VLM game sales would be exempt from sales tax §20
Qualifications for contracts with Lottery for placement of electronic gaming machines	None in addition to being licensed as a track owner or manager or an organization licensee authorized to own or construct a track and being located in a county where voters have approved electronic games. The Lottery would not have any discretion in selection of operators §8(a)	Same as existing qualifications to be a lottery retailer, except that video lottery retailers would have to be one of the specific categories of businesses listed above. Video lottery retailers would have to undergo a background investigation the extent and nature of which would be described in rules and regulations §12
Certification of machines	Lottery to examine prototypes of machines and to notify the Racing and Gaming Commission of types of machines approved §8(f) Racing and Gaming Commission to issue certificate for each machine authorizing use as specific parimutuel licensee facility §8(e) The Racing and Gaming Commission would be required to inspect and certify individual electronic gaming machines §21(s)	All machines must have a certificate from the Executive Director of the Lottery §3(b) Lottery would examine prototypes of machines. Persons seeking examination and certification of machines and associated equipment would have to pay the cost of examination in advance. §(e)
Licensing or certification of machine manufacturers, distributors, or operators	Not addressed (Parimutuel licensees could enter into contracts with technology providers, but those entities would not be selected or subject to any selection standards §8(b))	VLMs vendors would contract with and be certified by the Lottery prior to manufacturing, distributing, selling VLMs or associated equipment for use in Kansas. §1

Provision	S.B. 329	S.B. 330
Conflicts of interest		<p>No VLM vendor could be or have interest in another VLM vendor or retailer and no retailer could be or have an interest in a vendor. A VLM leasing company could not own, manage, control, or have a financial interest in a vendor or retailer. A financial institution could not be a vendor or retailer. §2(a)</p> <p>The Lottery would have to adopt rules and regulations preventing direct and indirect payment by manufacturers, distributors, or operators to video lottery retailers or shareholders and owners of video lottery retailers. §13(a)(13)</p>
Local option	<p>Electronic games could only be played in counties where voters had approved them. A vote could be initiated by the county commission or by petition and voted on at a special or general election. A petition would have to be signed by at least 10 percent of voters who voted in the last Secretary of State election. If the proposal were rejected, it could not be submitted to the voters again for at least two years. §18</p>	None
Penalties	<p>Failure to post problem gamblers sign—maximum \$500 per day fine §12</p>	<p>Machines without required lottery certification would be prohibited on the premises of video lottery retailers, bars, and bingo licensees.</p> <p>Any machine without a lottery certificate would be contraband and a public nuisance subject to confiscation by a law enforcement officer.</p> <p>Placement of an illegal machine or sale of an illegal machine would be a level 8 nonperson felony. §3(b)</p> <p>The only VLMs that would be allowed in bars or bingo halls would be those certified by the Kansas Lottery. §3(b)</p>
Lottery abolition	<p>The Lottery would be abolished July 1, 2007, rather than July 1, 2002 §20</p>	<p>Lottery abolished July 1, 2002. Existing law, not in the bill.</p>

REVENUE FLOW IN 1999 SB329 (as introduced)				
	Million \$			
Coin in	\$4,515.0	\$1,806.0	Per capita wager	
Slot Drop	\$1,131.8	\$452.7	Per capita drop	
NET MACHINE REVENUE	\$258.0	22.8%	Percent of drop	
Sales Tax	\$55.5	4.9%	4.9% State sales tax	
Local Sales Tax	\$34.0	3.0%	1% SG Co; 2% KCK	
Net after sales tax	\$168.6			
REVENUE DISTRIBUTION BASED ON 1999 SB 329				
Lottery Game Operator Operating Expenses (45% of net machine income)	\$75.9	45.0%		
Electronic Gaming Machine Equipment (25% of net machine income)	\$42.2	25.0%		
Lottery Game Operator Facilities (14% of net machine income)	\$23.6	14.0%		
TOTAL TO TRACK OWNER/MANAGERS	\$141.6	84.0%		
Most populous city in the county	\$0.270	0.16%		
Organization licensee	\$0.270	0.16%		
Bingo Licensees	\$0.270	0.16%		
\$40 per point to greyhounds	\$5.0	3.0%	\$40/point, not percent	
To horse race operators	\$1.5	0.89%	\$1.5 million, not percent	
Lottery Commission Operating Expenses	\$3.2	1.9%	Lottery expense, not percent	
Kansas Education Technology Enhancement Fund (balance after all payments above)	\$16.4	9.7%	\$48,585	Each institution
Total Amount Allocated	\$168.6	100.0%		

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REVENUE FLOW IN 1999 SB329 (possible amendments)				
	Million \$			
Coin in	\$4,515.1	\$1,806.0	Per capita wager	
Slot Drop	\$1,131.8	\$452.7	Per capita drop	
NET MACHINE REVENUE	\$258.0	22.8%	Percent of drop	
Sales Tax	\$55.5	4.9%	4.9% State sales tax	
Local Sales Tax	\$34.0	3.0%	1% SG Co; 2% KCK	
Net after sales tax	\$168.6			
REVENUE DISTRIBUTION BASED ON 1999 SB 329				
TOTAL TO TRACK OWNER/MANAGERS	\$141.6	84.0%		
Most populous city in the county	\$1.686	1.00%		
Organization licensee	\$1.686	1.00%		
Bingo Licensees	\$0.000	0.00%		
\$40 per point to greyhounds	\$0.0	0.00%	\$40/point, not percent	
To horse race operators	\$0.0	0.00%	\$1.5 million, not percent	
Racing Commission Operating Expenses	\$0.8	0.47%	KRGS expense, not percent	
Lottery Commission Operating Expenses	\$3.2	1.90%	Lottery expense, not percent	
Economic Development Initiatives Fund (½ balance after all payments above)	\$9.8	5.81%		
Kansas Education Technology Enhancement Fund (balance after all payments above)	\$9.8	5.81%	\$29,006	Each institution
Total Amount Allocated	\$168.6	100.00%		

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REVENUE FLOW IN 1999 SB329 (Fiscal Note Calculations)				
	Million \$			
NET MACHINE REVENUE	\$141.3	22.8%	Percent of drop	
Net after sales tax	\$141.3			
REVENUE DISTRIBUTION BASED ON 1999 SB 329				
TOTAL TO TRACK OWNER/MANAGERS	\$118.7	84.0%		
Most populous city in the county	\$1.413	1.00%		
Organization licensee	\$1.413	1.00%		
Bingo Licensees	\$1.413	1.00%		
\$40 per point to greyhounds	\$5.0	3.57%	\$40/point, not percent	
To horse race operators	\$1.5	1.06%	\$1.5 million, not percent	
Lottery Commission Operating Expenses	\$3.2	2.27%	Lottery expense, not percent	
Kansas Education Technology Enhancement Fund (balance after all payments above	\$8.6	6.10%	\$25,491	Each institution
Total Amount Allocated	\$141.3	100.00%		