

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Senator Lana Oleen at 11:05 a.m. on February 14, 2000 in Room 245-N of the Capitol.

All members were present except: Senator Bleeker, excused
Senator Biggs, excused

Committee staff present: Mary Galligan, Legislative Research Department
Russell Mills, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Judy Glasgow, Committee Secretary

Conferees appearing before the committee:
Tracy Diel, Executive Director State Gaming Agency
Bob Longino, Acting Director Alcoholic Beverage Control

Others attending: See Attached Sheet

Chairman Oleen opened hearing on:

SB 492 – State Gaming Agency, relating to financing operations

Chairman Oleen recognized Tracy Diel, Executive Director, State Gaming Agency, a proponent for **SB 492**. Mr. Diel stated that this bill proposes six amendments to the Tribal Gaming Oversight Act. (Attachment 1). Mr. Diel stated that when the Tribal Gaming Oversight Act was passed by the 1996 Kansas Legislature there was only one native American Indian casino operating in state of Kansas. Mr. Diel described each of the amendments, what would be changed and why they were being requested.

Amendment one would allow State Gaming Agency employees the opportunity to choose whether they wish to visit a Kansas racetrack and make parimutuel wages since these employees have no connection to any regulatory functions at the parimutuel racetracks. The seconded amendment would permit the State Gaming Agency to perform background investigations on enforcement agents who are employed by the Agency. The third amendment would allow the State Gaming Agency to receive individual and corporate taxpayer information on gaming license applicants from the Kansas Department of Revenue. The purpose of obtaining this information is to evaluate an individual's sources of income and the amount of income against the credit and financial history. The fourth change would allow the State Gaming Agency to communicate information it has obtained on gaming license applicants with other gaming regulatory agencies in other states. The fifth change would make it a felony to wrongfully disclose confidential information obtained under the provisions of the Tribal Gaming Oversight Act. This request has become necessary to address the problem of wrongful disclosure. The sixth change would bring K.S.A.74-9808 in line with Section 25 of the Compacts. The Tribal-State Compact does not provide for the payment of any interest or penalties by the tribes.

Mr. Diel responded to questions on the amendments from the committee.

Chairman Oleen closed the hearing on **SB 492**

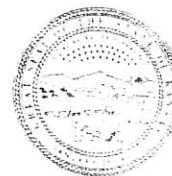
CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE, Room 245-N
Statehouse, at 11:05 a.m. on February 14, 2000.

Chairman Oleen recognized Bob Longino, Acting Director, Alcoholic Beverage Control Division, who presented an update on the state bingo operations. (Attachment 2) Mr. Longino gave an update on state revenues generated by bingo and described the department's efforts to improve the enforcement of the bingo laws. Mr. Longino stated that almost one million dollars was generated from the enforcement tax in 1999. Those funds are split into thirds with equal amounts going to the state general fund, department of revenue enforcement fund and to the cities and counties where bingo games are played. Mr. Longino provided the projected amount of revenue collected from proposed bingo face taxes for the year 1999. He stated that during the 1999 calendar year the "Bingo Licensee Operational Handbook" was developed to ensure compliance with the bingo laws. Copies of the handbook are available to committee members.

The meeting adjourned at 12:00 noon. The next meeting will be on February 15, 2000 at 11:00 a.m.

KANSAS
STATE GAMING AGENCY



TO: Senate Federal and State Affairs Committee

FROM: Tracy T. Diel, Executive Director
State Gaming Agency

DATE: February 14, 2000

RE: Testimony on SB 492

Racing & Gaming Commission

Madam Chairman and members of the Committee. Thank you for the opportunity to testify on SB 492. I come before the Committee today as the proponent of this legislation and ask that the Committee act favorably on it. I have asked that this bill be introduced in order to address some issues which have arisen since its initial passage and implementation. The bill as introduced proposes six (6) amendments to the Tribal Gaming Oversight Act. As background for the Committee, the Tribal Gaming Oversight Act was passed by the 1996 Kansas Legislation. At the time of its implementation, there was only one native American Indian casino operating in the State of Kansas and the State Gaming Agency had been created through an Executive Order signed by Governor Graves.

I would like to take this opportunity to explain the amendments and answer any questions which the Committee may have on this proposed legislation.

The first change amends K.S.A. 74-9803. This statute removed the State Gaming Agency from the Department of Commerce and Housing and made it a part of the Kansas Racing and Gaming Commission. As such, the State Gaming Agency and its employees were made part of the Kansas Racing and Gaming Commission. The Tribal Gaming Oversight Act provided that the Commission would exercise responsibility only in the areas of budgeting, personnel expansion and arbitration authorization. All other management functions and responsibilities would be handled by the agency. However, under K.S.A. 74-8810, all employees of the Kansas Racing and Gaming Commission are prohibited from engaging in parimutuel wagering at racetracks regulated by the Kansas Racing and Gaming Commission.

An Assistant Attorney General assigned to the Commission as legal counsel determined that this prohibition against parimutuel wagering applied to employees of the State Gaming Agency, even though those employees had no connection to any regulatory functions at the parimutuel racetracks. However, he went on to determine that individuals who were involved in the Commission's function of regulating at the racetracks could engage in gambling at the native American Indian casinos. He

based his opinion upon the statutory provision contained in the Tribal Gaming Oversight Act, K.S.A. 74-9809, which prohibits employees of the State Gaming Agency from gambling at any of the tribal gaming facilities located in the State of Kansas. His opinion indicated this statute did not include Commission employees who did not work for the State Gaming Agency.

The present amendment removes State Gaming Agency employees from the prohibition of gambling at parimutuel racetracks, but keeps in place the prohibition against gaming in native American Indian casinos. The employees of the State Gaming Agency are not involved in any regulatory decisions at the racetracks, so their choice to wager at a racetrack will not be detrimental to the regulatory efforts of the Commission. The ability of Commission employees to gamble at casinos, which they do not regulate, but prohibiting State Gaming Agency employees from wagering at racetracks, where they have no regulatory responsibilities, has created an inequity. This proposal would correct this situation and allow State Gaming Agency employees the opportunity to choose whether they wish to visit a Kansas racetrack and make a parimutuel wager.

The second change will amend K.S.A. 74-9804 and permit the State Gaming Agency to perform background investigations on enforcement agents who are employed by the Agency. Under the current statute, background investigations for the position of enforcement agents are conducted by the Kansas Bureau of Investigation. This creates a time lag in employing agents hired by the Agency.

Originally, it was envisioned that the KBI would perform all background investigations necessary under the Tribal-State Compacts and the Tribal Gaming Oversight Act. This would mean a small staff for the State Gaming Agency and limited resources to perform background investigations. However, in Fiscal Years 1998 and 1999 the State Gaming Agency staff was increased and the KBI was removed from the casino background process. This was in response to a need to address the amount of time it was taking to complete casino employee background investigations. The agency now has sufficient staff and resources to perform enforcement agent background investigations when they are needed. Adoption of this amendment will allow the Agency to have a shorter recruiting time and a better ability to manage this function.

This amendment will not change the standards used in determining whether an individual should be employed as an enforcement agent. In addition, this request is similar to a statutory change that was implemented for the Racing Commission staff in Fiscal Year 1999. The change would give the agency the choice of using the KBI or performing the background investigations internally.

The third proposed change would amend K.S.A. 74-9805 to allow the State Gaming Agency to receive individual and corporate taxpayer information on gaming license applicants from the Kansas Department of Revenue. Under present Kansas law, the State Gaming Agency can receive tax information from the Internal Revenue Service, but cannot receive the same type of information from the State's Department of Revenue. The Agency can obtain tax information on individuals from the different county taxing entities, but cannot obtain tax information from the Department of Revenue. Previously, this type of income tax information was being obtained through the KBI when they were conducting background investigations. When the process was changed during Fiscal Year 1998, there was no provision made for this information to be communicated to the State Gaming Agency. The information is needed to complete background investigations on applicant's who are

seeking a gaming license. The purpose of obtaining this information is to evaluate an individual's sources of income and the amount of income against their credit and financial history. It also allows the agency to determine if an individual is generating or losing income as a result of gambling. This tool is valuable in determining whether a gaming license should be granted.

This provision is similar to SB 408 which was introduced by the Senate Assessment and Taxation Committee. At the time, this legislation was drafted, I did not know that the Department of Revenue would also be seeking to remedy this situation.

The fourth change would also amend K.S.A. 74-9805. It would allow the State Gaming Agency to communicate information it has obtained on gaming license applicants with other gambling regulatory agencies in other states. At the present time, the Tribal Gaming Oversight Act does not allow this to occur. This would permit the agency to share with casino regulatory agencies in other states information on common gaming license applicants. At the present time, we do communicate with other jurisdictions about applicants. However, we do not communicate specific information about these applicants, unless the information is a matter of public record. This creates a problem for other jurisdictions which may wish to deny an individual a gaming license based upon our information. However, because of due process concerns, we cannot relay specific non-public information which may have been the basis for our decision on an applicant.

The fifth change would again amend K.S.A. 74-9805 and would make it a felony to wrongfully disclose confidential information obtained under the provisions of the Tribal Gaming Oversight Act. This statute allows the State Gaming Agency to share confidential information with the different tribal gaming commissions. Presently, wrongful disclosure is a misdemeanor. Given the type of information which is being passed along to the tribal gaming commissions, the upgrade from misdemeanor to felony is necessary.

This request has become necessary to address the problem of wrongful disclosure. Over the last year we have become concerned that confidential information contained in background investigations and given to the tribal gaming commissions is being accessed by inappropriate individuals. This suspicion is based upon information which has anonymously been relayed to the Agency and a lack of confidence in some instances regarding the safeguarding of this information. To date, we have not been able to prove facts sufficient to warrant the prosecution of an individual. However, this change would signal to all concerned the importance of this issue.

The sixth change would amend K.S.A. 74-9808. The statute calls for any funds given to the State Gaming Agency from the state general fund to be viewed as a loan and interest be paid by the tribes who have tribal-state compacts. Any funds received by the State Gaming Agency are used solely by the Agency. At no time does any of the tribes receive or have access to this money. These funds allow the Agency to function during the period of time, at the beginning of the fiscal year, when no funds are being received or if the a tribe fails to pay. Once the assessment payments are paid by the tribes, then the amount used to capitalize the agency are reimbursed to the State.

Under Section 25 of the Compacts, the different tribes are required to pay for the reasonable and necessary costs of regulation incurred by the State. Each year, the State Gaming Agency assesses the four tribes the cost of the agency. These assessed costs are paid in three equal installments. The first installment is due on September 21, with subsequent payments due on

January 1 and April 1. The Tribal-State Compact does not provide for the payment of any interest or penalties by the tribes. The proposed amendment would bring the statute in line with Section 25 of the Compacts.

If the Committee has any questions, I will be happy to answer them.

STATE OF KANSAS

Bill Graves, Governor

Robert Longino, Acting Director
Division of Alcoholic Beverage Control
Kansas Department of Revenue
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DEPARTMENT OF REVENUE

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Division of Alcoholic Beverage Control

MEMORANDUM

TO: Senator Lana Oleen, Chairperson
Senate Committee on Federal and State Affairs

FROM: Robert Longino, Acting Director

RE: KDOR Bingo Update

DATE: February 14, 2000

Madame Chairperson and Committee Members - Good Morning

As Senator Oleen stated, I am Bob Longino, the acting director of the Alcoholic Beverage Control Division. We were asked to come over today and give the committee a brief update on Bingo operations in the state and attempt to answer any questions you may have.

My personal learning curve on bingo is in a fast ascending trajectory and to ensure we fully provide you with a brief yet comprehensive update, I have brought some of the Department of Revenue's key players in bingo operations with me. I would like to introduce them to you now.

First, I am sure you all know Phil Wilkes. Phil has been involved with bingo operations for quite some time with the department and will be available to answer technical questions that may arise. Secondly, we have Joyce Bartel. Joyce is the supervisor of the compliance management section that has done a tremendous amount of work in the last year increasing and enhancing our interaction with bingo operations. Joyce has also brought Bonnie Leonard, a long time department employee, with vast experience in bingo operations.

Our agenda today will be brief. I will give a quick update on state revenues generated by bingo and then describe the department's efforts to improve the enforcement of the bingo laws. We will then attempt to answer any specific questions you many have.

From the revenue stand point, I have passed out two documents that will provide additional information. The first one is titled Kansas Bingo Statistics. This sheet identifies the historical record of

Sen. Federal & State Affairs Comm
Date: 2-14-00
Attachment: # 2-1

licensees, overall sales revenues, and the enforcement tax collected. As you can see in the last entry, just shy of 1 million dollars was generated from the enforcement tax last year. Those funds are split into thirds with equal amounts going to the state general fund, department of revenue enforcement fund and to the cities and counties where bingo games are played.

The second document, titled Bingo Tax Worksheet, addresses some of the information from above but for only the last 6 years. Of particular interest is the total sales tax collections from bingo. Additional information is provided addressing the projected amount of revenue collected from proposed bingo face taxes.

Another area we would like to address is the effort undertaken by the department to increase our efforts in managing compliance. Joyce and her team had a busy and very productive 1999. Starting with just one of 15 people with significant bingo experience, she aggressively developed a plan to train her personnel, educate bingo operators and to establish a field presence that would conduct numerous compliance reviews.

During the 1999 calendar year, Joyce's section completed 156 reviews and conducted 14 workshops with just shy of 300 people representing 154 licensees in attendance. Of particular note was the development of the "Bingo Licensee Operational Handbook." This handbook was not just thrown together but put together with input and support from a wide variety of folks involved with bingo operations. I have copies for the committee members to review at their pleasure. The feedback we have received on the handbooks is that they have been very helpful.

As we move into a new year, the department plans on continuing its efforts working with licensees and registerants to ensure compliance with the bingo laws. Based on solid data from last year, we hope to be able to identify trends and focus our efforts in those areas as part of our future strategy.

That concludes the formal portion of our update. We will now attempt to answer any specific questions you might have.

Kansas Bingo Statistics

Prepared by D. Philip Wilkes
Kansas Department of Revenue

Sales, Tax Revenues and Number of Licensees By Fiscal Year

<u>FY Ending</u>	<u>Number of Licensees</u>	<u>Call Bingo</u>	<u>Sales Reported</u>		<u>Tax Revenues Collected</u>			<u>Change From Previous Year</u>
			<u>Instant Bingo</u>	<u>Total</u>	<u>Call Bingo</u>	<u>Instant Bingo</u>	<u>Total</u>	
06/30/83	---	\$ 26,845,000	\$ 0	\$26,845,000	\$ 805,350	\$ 0	\$ 805,350	+7%
06/30/84	---	27,241,000	0	27,241,000	817,244	0	817,244	+2%
06/30/85	634	26,985,000	0	26,985,000	809,555	0	809,555	-1%
06/30/86	548	24,408,000	0	24,408,000	741,884	0	741,884	-8%
06/30/87	537	25,397,000	0	25,397,000	774,577	0	774,577	+4%
06/30/88	570	25,362,000	0	25,362,000	766,545	0	766,545	0%
06/30/89	587	26,452,000	0	26,452,000	794,912	0	794,912	+4%
06/30/90	---	27,181,000	0	27,181,000	815,433	0	815,433	+3%
06/30/91	---	28,148,000	0	28,148,000	844,101	0	844,101	+4%
06/30/92	550	29,954,000	0	29,954,000	898,627	0	898,627	+6%
06/30/93	565	30,347,000	0	30,347,000	912,726	0	912,726	+1%
06/30/94	552	31,950,000	11,875,000	43,825,000	958,714	118,750	1,077,464	+18%
06/30/95	569	31,674,000	12,653,000	44,327,000	950,211	126,531	1,076,742	0%
06/30/96	553	30,472,000	14,003,000	44,475,000	914,147	140,031	1,054,178	-2%
06/30/97	511	30,404,000	14,266,000	44,670,000	912,131	142,664	1,054,795	0%
06/30/98	454	27,700,000	12,661,800	40,361,800	831,000	126,618	957,618	-9%
06/30/99	522	27,963,000	13,997,500	41,960,700	838,895	139,975	978,870	+2%

Bingo Tax Worksheet

Historical Collections		Collections		Gross Receipts		Amount Of Sales	
Rate	Collections Call 3%	Collections Instant (Card) 1%	Call	Instant	Sales Tax collections from Bingo	Tax to State General Fund (SGF)	
FY 99	\$ 838,895	\$ 139,975	27,963,167	\$ 13,997,500	\$ 2,056,073	1,951,213	
FY 98	\$ 831,500	\$ 126,618	27,716,667	\$ 12,661,800	\$ 1,978,545	1,877,639	
FY 97	\$ 912,131	\$ 142,664	30,404,367	\$ 14,266,400	\$ 2,188,868	2,077,235	
FY 96	\$ 914,417	\$ 140,031	30,480,567	\$ 14,003,100	\$ 2,179,700	2,068,535	
FY 95	\$ 950,211	\$ 126,531	31,673,700	\$ 12,653,100	\$ 2,172,013	2,061,241	
FY 94	\$ 958,713	\$ 118,751	31,957,100	\$ 11,875,100	\$ 2,147,778	2,038,241	
FY 93	\$ 912,726	n/a	30,424,200	n/a	\$ 1,490,786	1,414,756	

Per Bingo Face Tax:

Based on 277,000,000 faces sold annually

Rate	Tax collection		
\$0.002	\$554,000	(each (\$ 0.001) generates	\$277,000
\$ 0.003	\$831,000		
\$ 0.008	\$2,216,000		
\$ 0.009	\$2,493,000		

State General Fund Receipts FY 99

		Call and Instant Bingo Tax/Fund	Sales tax from bingo games	Total to SGF	Shortage
Current	1/3rd of bingo tax to SGF plus sales tax from bingo	\$ 323,027	\$ 1,951,213	\$ 2,274,240	
HB 2013	1% instant, \$.002 per face, Sales exempt	\$693,975	0	\$ -	\$ (2,274,240)

For a revenue neutral bill, sales tax exempt, \$300,000 set aside for admin costs & remaining collections to SGF would require a tax per face of \$0.009, with 1% on instant \$2,332,975 \$2,332,975 \$ 58,735

Phase out of sales tax

	Sales Tax Collection from Bingo	Amount to State General Fund	Amount Generated
In FY 99 total sales tax generated (at the 4.9% state rate)	\$ 2,056,073	\$ 1,951,213	
If state rate change to 2.5%			
Amount of sales tax loss	(1,049,017)	(995,517)	
Additional bingo face tax to match lost SGF		\$ 0.0036	\$ 997,200
If state sales tax eliminated			
Amount of sales tax loss	2,056,073	1,951,213	
Additional bingo face tax to match lost SGF		\$ 0.007	\$ 1,939,000

- Notes: 1. There would be increased administrative costs with a state sales tax rate of 2.5%. Special forms and system processes would be required to track and collect the special rate
2. Local units of government who impose a local sales tax would also lose revenue with the elimination of the state sales tax.
3. The state highway fund would lose slightly over \$100,000 annually from the 5.1% they currently receive from state sales tax collections with the elimination of the sales tax.