

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairperson Nancey Harrington at 10:45 a.m. on February 13, 2003 in Room 245-N of the Capitol.

All members were present.

Committee staff present: Russell Mills, Legislative Research Department  
Dennis Hodgins, Legislative Research Department  
Theresa Kiernan, Office of the Revisor  
Nikki Kraus, Committee Secretary

Conferees appearing before the committee: Ed Van Petten, Executive Director, Kansas Lottery

Others attending: Please see attached.

Chairperson Harrington opened the meeting by asking staff to come forward in regard to a question from a previous meeting.

Mr. Mills presented an e-mail from Jeff Russell, Director of Legislative Services, explaining that the minimum cost of a bill is about \$152. (Attachment 1)

Sally Pritchett, Director, Kansas Real Estate Appraiser's Board, asked for the introduction of two bills. The first was in regard to closed meetings during investigative hearings, and the second was about giving investigative powers (Attachment 2) (Attachment 3)

Senator Gooch made a motion to introduce both bills. Senator Gilstrap seconded the motion. The bills were introduced.

Ed Van Petten, Executive Director, Kansas Lottery, asked for the introduction of a bill to eliminate the requirement for retailers' certificates; it would amend current law relating to monies and lottery transfers. (Attachment 4)

Mr. Van Petten also presented testimony to the committee regarding the status of the Lottery. (Attachment 5)

Senator Vratil made a motion to introduce Mr. Van Petten's bill. Senator Gooch seconded the motion. The bill was introduced.

Senator Gooch asked Mr. Van Petten how he saw the lottery market being affected by Indian gaming.

Mr. Van Petten said that there was some affect when the casinos first came into being in the areas around them. He stated that the effect seems minimal; sometimes when people come to pick up their winning checks, they ask for directions to the casinos.

Senator Gooch asked if the downward trend in employment and the economy has had any affect.

Mr. Van Patten replied that at the beginning of the year, sales were sluggish, but that they had picked up and the lottery had changed its marketing strategy to selling higher priced tickets with higher wins to generate sales. He said that the Lottery was not marketing to lower middle class people and that it was packaging tickets to give as holiday gifts.

Senator Teichman asked what "muscle" games are.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:45 a.m. on February 13, 2003 in Room 245-N of the Capitol.

Mr. Van Petten stated that muscle games are multi-state lotteries. Following further discussion, Mr. Van Petten introduced the members of his staff.

Chairperson Harrington commented that when Mr. Van Petten first came into the Lottery, there was a great deal of controversy, especially around advertising, and that since he has been there she had heard nothing, about which she was very happy.

Senator Gooch asked if there were any methods to educating people about how to play these games.

Mr. Van Petten explained that there was a pamphlet that had been developed by the lottery, but that even when they were distributed to retailers, those retailers did not necessarily put them out for people.

The committee discussed expectations for compliance and oversight for the Lottery. Senator Lyon stated that although he was not a huge fan of the Lottery, he did wish to compliment Mr. Van Petten on his professionalism and on his assurances to committee members that the buck stops here with any offensive advertisement.

Mr. Mills presented the committee with a summary of the Kansas Lottery prepared by Legislative Research. (Attachment 6)

The meeting was adjourned at 11:48 a.m.



**From:** Jeff Russell  
**To:** Alan Conroy  
**Date:** 1/23/02 7:23AM  
**Subject:** Re: Cost of a Bill

I responded to a request from Mr. Mills for the cost of a resolution in March of 2000. I used \$50 per hour for 1 hour of Revisor time, \$50 per hour for 1 hour of Research time. and \$52 for 850 initial copies of the resolution. Given all the variables such as the length and complexity of a bill, I would say that \$152 is the minimum cost of a bill. Please advise if you wish to discuss further.

>>> Alan Conroy 01/23/02 12:33AM >>>

I have received a legislative inquiry regarding the "cost of a bill" (printing, etc.). Didn't you, after much scientific investigation, last session arrive at the average cost of a bill? Please let me know if you have any suggestions. Thanks!

**CC:** Ben Barrett; Norman Furse; Sharon Schwartz

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Be it enacted by the Legislature of the State of Kansas:

- Section 1. K.S.A. 2002 Supp. 75-4318 is hereby amended to read as follows: 75-4318. (a) Subject to the provisions of subsection (f), all meetings for the conduct of the affairs of, and the transaction of business by, all legislative and administrative bodies and agencies of the state and political and taxing subdivisions thereof, including boards, commissions, authorities, councils, committees, subcommittees and other subordinate groups thereof, receiving or expending and supported in whole or in part by public funds shall be open to the public and no binding action by such bodies shall be by secret ballot. Meetings of task forces, advisory committees or subcommittees of advisory committees created pursuant to a governor's executive order shall be open to the public in accordance with this act.
- (b) Notice of the date, time and place of any regular or special meeting of a public body designated hereinabove shall be furnished to any person requesting such notice, except that:
- (1) If notice is requested by petition, the petition shall designate one person to receive notice on behalf of all persons named in the petition, and notice to such person shall constitute notice to all persons named in the petition;
  - (2) if notice is furnished to an executive officer of an employees' organization or trade association, such notice shall be deemed to have been furnished to the entire membership of such organization or association; and
  - (3) the public body may require that a request to receive notice must be submitted again to the body prior to the commencement of any subsequent fiscal year of the body during which the person wishes to continue receiving notice, but, prior to discontinuing notice to any person, the public body must notify the person that notice will be discontinued unless the person resubmits a request to receive notice.
- (c) It shall be the duty of the presiding officer or other person calling the meeting, if the meeting is not called by the presiding officer, to furnish the notice required by subsection (b).
- (d) Prior to any meeting hereinabove mentioned, any agenda relating to the business to be transacted at such meeting shall be made available to any person requesting said agenda.
- (e) The use of cameras, photographic lights and recording devices shall not be prohibited at any meeting mentioned by subsection (a), but such use shall be subject to reasonable rules designed to insure the orderly conduct of the proceedings at such meeting.
- (f) The provisions of the open meetings law shall not apply:
- (1) To any administrative body that is authorized by law to exercise quasi-judicial functions when such body is deliberating matters relating to a decision involving such quasi-judicial functions;
  - (2) to any administrative body that licenses or regulates a profession or occupation when such body is exercising its investigatory functions or when making determinations concerning an investigation or the initiation of disciplinary proceedings;
  - (2) (3) to the parole board when conducting parole hearings or parole violation hearings held at a correctional institution;
  - (3) (4) to any impeachment inquiry or other impeachment matter referred to any committee of the house of representatives prior to the report of such committee to the full house of representatives; and

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(4) (5) if otherwise provided by state or federal law or by rules of the Kansas senate or house of representatives.

Sec. 2. K.S.A. 2002 Supp. 75-4318 is hereby repealed. Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

2003 3rs0260  
PROPOSED BILL NO. \_\_\_\_\_

By

AN ACT concerning the real estate appraisal board; relating to the powers and duties thereof; amending K.S.A. 58-4105 and K.S.A. 2002 Supp. 58-4118 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 58-4105 is hereby amended to read as follows: 58-4105. (a) The board may adopt such rules and regulations as necessary to implement, administer and enforce the provisions of this act.

(b) The board shall:

- (1) Approve courses of instruction to meet requirements of this act and monitor approved courses;
- (2) adopt rules and regulations prescribing policies and procedures for obtaining board approval of courses, monitoring approved courses and withdrawing board approval of courses;
- (3) administer, or designate a testing service to administer, examinations required by this act;
- (4) receive and approve or disapprove applications for certification and licensure and renewal of certificates and licenses and issue certificates and licenses after approval of application;
- (5) maintain a registry of the names and addresses of persons certified and licensed under this act and transmit the registry to the appraisal subcommittee of the federal financial institutions examination council on an annual basis in accordance with federal law;
- (6) maintain all records submitted to the board;
- (7) collect fees prescribed pursuant to K.S.A. 58-4107 and amendments thereto;
- (8) review from time to time the standards for the development and communication of real estate appraisals provided for in this act and to adopt rules and regulations explaining and interpreting the standards; and
- (9) issue subpoenas and subpoenas duces tecum as provided by K.S.A. 58-4118, and amendments thereto; and
- (9) (10) perform such other functions and duties as necessary to carry out the provisions of this act.

(c) The board shall maintain an office in the city of Topeka. The board shall employ a director, who shall keep a record of all proceedings, hearings, meetings, communications and official acts of the board and perform such other duties as the board requires. The director shall be in the unclassified service under the Kansas civil service act and shall receive compensation fixed by the board. The board may employ such other employees as necessary, who shall be in the classified service under the Kansas civil service act. The

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board may make such other expenditures as necessary to properly carry out the provisions of this act. The board may enter into such contracts for the services of attorneys and appraisers as necessary to administer and enforce the provisions of this act.

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Sec. 2. K.S.A. 2002 Supp. 58-4118 is hereby amended to read as follows: 58-4118. (a) The board may investigate the actions of a state certified or licensed appraiser and may revoke, condition, limit or suspend the certificate or license of the appraiser, or censure the appraiser, for any of the following acts or omissions:

- (1) Procuring or attempting to procure a certificate or license pursuant to this act by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification or licensure or any form of fraud or misrepresentation;
- (2) failing to meet the minimum qualifications established by this act;
- (3) paying money, other than provided for by this act, to any member or employee of the board to procure a certificate or license under this act;
- (4) a plea of guilty or nolo contendere to, or conviction of: (A) Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any other similar offense; (B) a crime involving moral turpitude; or (C) any felony charge;
- (5) an act or omission involving dishonesty, fraud or misrepresentation, with the intent to substantially benefit the appraiser or another person or with the intent to substantially injure another person;
- (6) violation of any of the standards for the development or communication of real estate appraisals as provided in this act;
- (7) failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal;
- (8) negligence or incompetence in developing an appraisal, preparing an appraisal report or communicating an appraisal;
- (9) willfully disregarding or violating any provision of this act or rules and regulations of the board for the administration and enforcement of the provisions of this act;
- (10) accepting an appraisal assignment, described in K.S.A. 58-4122, and amendments thereto, when the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis or opinion, or when the fee to be paid is contingent upon the opinion, conclusion or valuation reached, or upon the consequences resulting from the appraisal assignment;
- (11) violating the confidential nature of governmental records to which the appraiser gained access through employment or engagement as an appraiser by a governmental agency;
- (12) entry of a final civil judgment against the person on grounds of fraud, misrepresentation or deceit in the making of any appraisal of real property;
- (13) disciplinary action in relation to appraisal work, including, but not limited to, denial, revocation or suspension of a license or certificate by another state, district or territory of the United States or another country; or
- (14) receipt of an order of prohibition in relation to appraisal work, by consent or otherwise, issued by an agency of the federal government.

(b) In addition to or in lieu of any other administrative, civil or criminal remedy provided by law, the board upon a finding that a state certified or licensed appraiser has violated any provision of this act or of any rules and regulations adopted hereunder, may impose upon such appraiser a civil fine not exceeding \$1,000 for each violation. All moneys collected by the board from such fines shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon

receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(c) In a disciplinary proceeding based upon a civil judgment, the appraiser shall be afforded an opportunity to present matters in mitigation and extenuation but may not collaterally attack the civil judgment.

(d) (1) In connection with any investigation, based upon a complaint or other reasonably reliable information received by the board, the board or a duly authorized agent or employee of the board may issue subpoenas and subpoenas duces tecum compelling the attendance and testimony of witnesses or the production for examination or copying of documents or any other physical evidence if such evidence relates to practices which may be grounds for disciplinary action.

(2) Within five days after the service of the subpoena or subpoena duces tecum on any person requiring the production of any evidence in the person's possession or under the person's control, such person may petition the board to revoke, limit or modify such subpoena. The board shall revoke, limit or modify such subpoena if in its opinion the evidence required does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the proceeding or investigation, or does not describe with sufficient particularity the physical evidence which is required to be produced.

(3) Upon application by the board or by the person subpoenaed, the district court shall have jurisdiction to issue an order:

(A) Requiring such person to appear before the board or a duly authorized agent of the board to produce evidence relating to the matter under investigation; or

(B) revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the evidence which is required to be produced.

(d) (e) All administrative proceedings pursuant to this section shall be conducted in accordance with the Kansas administrative procedure act.

Sec. 3. K.S.A. 58-4105 and K.S.A. 2002 Supp. 58-4118 are hereby repealed. Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.



SENATE BILL No. \_\_\_\_\_

By Committee on Federal and State Affairs  
(By request)

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**AN ACT** concerning lotteries; relating to issuance and display of retailer's certificates and transfer of Kansas lottery proceeds to the state gaming revenues fund; amending K.S.A. 74-8708 and K.S.A. 2002 Supp. 74-8711 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

**Section 1.** K.S.A. 74-8708 is hereby amended to read as follows: 74-8708. Lottery retailers. (a) The executive director shall select as lottery retailers such persons as deemed best able to serve the public convenience and promote the sale of tickets or shares in accordance with marketing plans developed by the Kansas lottery. In the selection of lottery retailers, the executive director shall consider factors such as financial responsibility, security of the applicant's place of business or activity, accessibility of the applicant's place of business or activity, integrity, reputation, volume of expected sales and such other factors as the executive director may deem appropriate. The executive director may select the state fair board as a lottery retailer to sell lottery tickets or shares only on the state fairgrounds and only during the time of the annual state fair. Other persons lawfully engaged in nongovernmental business on state property may be selected as lottery retailers.

(b) The executive director may charge an application fee to persons applying to become lottery retailers.

(c) All lottery retailer contracts awarded by the Kansas lottery under this act shall be renewable annually after issuance unless sooner canceled or terminated.

(d) No lottery retailer contract awarded under this act shall be transferred or assignable.

~~(e) Each lottery retailer shall be issued a lottery retailer certificate which shall be conspicuously displayed at the place where the lottery retailer is authorized to sell lottery tickets or shares.~~

~~(f) Lottery tickets or shares shall only be sold by the lottery retailer at the location stated on the lottery retailer certificate approved by the lottery.~~

~~(g)~~ (f) To be selected as a lottery retailer, a natural person acting as a sole proprietor must:

- (1) Be at least 18 years of age;
- (2) have sufficient financial resources to support the activities required to sell lottery tickets or shares;
- (3) be current in payment of all taxes, interest and penalties owed to any taxing subdivision where the lottery retailer will sell lottery tickets or shares;

(4) be current in filing all applicable tax returns and in payment of all taxes, interest and penalties owed to the state of Kansas, excluding items under formal appeal pursuant to applicable statutes; and

(5) not be engaged exclusively in the sale of lottery tickets and shares.

~~(h)~~ (g) No natural person shall be selected as a lottery retailer who:

(1) 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;

(2) has been convicted of an illegal gambling activity in this or any other jurisdiction;

(3) has been found to have violated the provisions of this act or any rule and regulation adopted hereunder;

(4) is a vendor or an employee or agent of any vendor doing business with the Kansas lottery;

(5) resides in the same household of an employee of the Kansas lottery or of a member of the commission; or

(6) has made a statement of material fact to the Kansas lottery, knowing such statement to be false.

~~(i)~~ (h) For a partnership to be selected as a lottery retailer, the partnership must meet the requirements of subsections ~~(g)~~ (f) (2), ~~(g)~~ (f) (3), ~~(g)~~ (f) (4) and ~~(g)~~ (f) (5) and each partner must meet the requirements of subsections ~~(g)~~ (f) (1), ~~(g)~~ (f) (3), ~~(g)~~ (f) (4) and ~~(h)~~ (g) (1) through ~~(h)~~ (g) (6).

~~(j)~~ (i) For a corporation to be selected as a lottery retailer, the corporation must meet the requirements of subsections ~~(g)~~ (f) (2), ~~(g)~~ (f) (3), ~~(g)~~ (f) (4) and ~~(g)~~ (f) (5) and each officer or director and each stockholder who owns 5% or more of the stock of such corporation must meet the requirements of subsections ~~(g)~~ (f) (3), ~~(g)~~ (f) (4) and ~~(h)~~ (g) (1) through ~~(h)~~ (g) (6).

~~(k)~~ (j) For an unincorporated association to be selected as a lottery retailer, the association must meet the requirements of subsections ~~(g)~~ (f) (2), ~~(g)~~ (f) (3), ~~(g)~~ (f) (4) and ~~(g)~~ (f) (5) and each officer or director must meet the requirements of subsections ~~(g)~~ (f) (1), ~~(g)~~ (f) (3), ~~(g)~~ (f) (4) and ~~(h)~~ (g) (1) through ~~(h)~~ (g) (6).

~~(l)~~ (k) The executive director may terminate the ~~certificate~~ contract of any lottery retailer who fails to meet any of the applicable qualifying standards for selection as a retailer provided in this section or on the grounds for termination provided in the contract pursuant to rules and regulations adopted by the commission.

~~(m)~~ (l) If a lottery retailer's rental payments for the business premises are contractually computed, in whole or in part, on the basis of a percentage of retail sales, and such computation of retail sales is not explicitly defined to include sale of tickets or shares in a state-operated lottery, the compensation received by the lottery retailer from the lottery shall be considered the amount of the retail sale for purposes of computing the rental payment.

**Section 2.** K.S.A. 2002 Supp. 74-8711 is hereby amended to read as follows: 74-8711. Lottery operating fund; deposits; authorized uses; transfers to state gaming revenues fund.

(a) There is hereby established in the state treasury the lottery operating fund.

(b) The executive director shall remit all moneys collected from the sale of lottery tickets and shares and any other moneys received by or on behalf of the Kansas lottery to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the lottery operating fund. Moneys credited to the fund shall be expended or transferred only as provided by this act. Expenditures from such fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive director or by a person designated by the executive director.

(c) Moneys in the lottery operating fund shall be used for:

(1) The payment of expenses of the lottery, which shall include all costs incurred in the operation and administration of the Kansas lottery; all costs resulting from contracts entered into for the purchase or lease of goods and services needed for operation of the lottery, including but not limited to supplies, materials, tickets, independent studies and surveys, data transmission, advertising, printing, promotion, incentives, public relations, communications and distribution of tickets and shares; and reimbursement of costs of facilities and services provided by other state agencies;

(2) the payment of compensation to lottery retailers;

(3) transfers of moneys to the lottery prize payment fund pursuant to K.S.A. 74-8712, and amendments thereto;

(4) transfers to the state general fund pursuant to K.S.A. 74-8713, and amendments thereto;

(5) transfers to the state gaming revenues fund pursuant to subsection (d) of this section and as otherwise provided by law; and

(6) transfers to the county reappraisal fund as prescribed by law.

(d) The director of accounts and reports shall transfer moneys in the lottery operating fund to the state gaming revenues fund created by K.S.A. 79-4801, and amendments thereto, on or before the 15th day of each month in an amount certified monthly by the executive director and determined as follows, whichever is greater:

~~(1) An amount to be equal to the moneys in the lottery operating fund in excess of those needed for the purposes described in subsections (c)(1) through (c)(4); or~~  
~~(2) except for pull-tab lottery tickets and shares, an amount equal to not less than 30% of total monthly revenues from the sales of lottery tickets and shares less estimated returned tickets. In the case of pull-tab lottery tickets and shares, an amount equal to not less than 20% of the total monthly revenues from the sales of pull-tab lottery tickets and shares less estimated returned tickets.~~

**Section 3.** K.S.A. 74-8708 and 2002 Supp. 74-8711 are hereby repealed.

**Section 4.** This act shall take effect and be in force from and after its publication in the statute book.

## TESTIMONY ON THE KANSAS LOTTERY

**Before the Senate Federal and State Affairs Committee  
By: Ed Van Petten, Executive Director - Kansas Lottery  
February 13, 2003**

Committee Members:

Thank you for this opportunity to address this committee regarding the operation of the Kansas Lottery. As in the past, I have put together some facts regarding the operation of the lottery and sales figures for the present fiscal year to give this committee some insight into the direction that your lottery is taking. I am very confident that this fiscal year will show the highest sales in the history of the lottery, as well as the largest transfer to our great state.

As of February 8, 2003, sales are up \$6,189,249 from one year ago, despite the fact that sales of Powerball tickets are below sales from last year by \$2,991,348. Even though we have had a record breaking Powerball jackpot, the jackpot came on a Christmas Day draw, which hurt sales. Sales on that draw were over \$2 million off from the draw on August 25, 2001, for the \$295 million jackpot. We feel that our biggest star is Super Kansas Cash, which is showing a 53.43% increase amounting to \$4,380,173, as of February 8, 2003. As you may recall, that game was modified effective February 17, 2002.

We have modified our marketing method for instant tickets, launching more games with fewer tickets. We have reduced cost of sales however, by changing printing methods, so that more games are printed at one time. This reduces per ticket costs, from printing one game at a time at the smaller per game quantities. Overall printing costs are down even though the cost per

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ticket has increased. Another consideration is that more \$2 and \$5 tickets are being offered than ever before, and these tickets being larger are more expensive to print. This method of printing and marketing tickets has required the planning of games up to nine months ahead of time, but has resulted in increased instant sales for the fiscal year of 9.22%, or \$3,818,664. As you may be aware, Kansas launched its first \$10 scratch ticket during the holiday season, which has been very successful, resulting in over \$2.5 million in sales. As such, we are planning to print a \$10 ticket to have available all year, in the very near future.

It is my opinion, that the increase in instant ticket sales is directly attributable to the change in transfer method adopted last year by the legislature in the final Appropriations Bill. As you will recall, the legislature agreed to eliminate reference to percentages for the monthly transfer amount, changing to a minimum dollar amount for each month and for the fiscal year. This flexibility has allowed us to market more higher price point tickets, which require higher percentage prize payments to be viable on the market. It is my understanding that the Office of Governor Sebelius will support the Kansas Lottery in proposing that the statutory language contained in K.S.A. 74-8711 be amended, to provide that the Lottery simply transfer those sums of money not needed for the monthly operation of the Kansas Lottery. As you are aware, there is sufficient oversight of this agency to make sure that the operating fund does not expand beyond reasonable amounts. It is anticipated that the fund should be maintained at between \$4 and \$4.5 million after each monthly transfer to insure that the lottery remains able to pay operating costs in a timely manner, as operating costs normally are over \$8 million per month.

We are now operating all lottery terminals statewide on a new satellite and radio communications network to connect the Lottery retailers to the GTECH and Lottery systems.

This private network uses all wireless communications technology, utilizing a mix of Very Small Aperture Terminal (VSAT) satellite locations, VSAT master locations, and radio locations that transmit to a central VSAT master location.

All satellite traffic utilizes Space Net satellite technology and is transmitted back to a ground station in McLean, Virginia. The transactions are then routed to the GTECH data center in Topeka via frame relay landline. End to end security is provided by the system, from the terminal to the host system in Topeka.

There have been the normal start up issues expected of a hardware and software installation of this magnitude, but overall the installation has been very successful with minimal problems.

The Lottery is beginning to realize the projected savings from the installation and those savings will continue throughout the length of the contract. The Lottery expects to save about \$1.5 million each fiscal year, starting with FY2004. For FY2003, the savings will amount to about half that amount since the new network was installed half way through this fiscal year.

As occurs every year, Legislative Post Audit audited the Kansas Lottery, under contract with the firm of Berberich Trahan. This was the seventh year in a row, that there have been no reportable findings in the course of the financial compliance audit.

As you know, the Governor has recommended that all agencies absorb a 5.9% decrease in their budgets for FY 2004. Although the budget submitted by the Governor removed the money directly from our Marketing budget, we intend to absorb the loss of funds throughout the



agency hopefully not cutting our advertising by more than half of the total cut. We understand fully the reason for the cuts and will do our part in helping the State of Kansas.

Thank you for your time, and the opportunity to share our successes.

# KANSAS LEGISLATIVE RESEARCH DEPARTMENT

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January 31, 2003

## KANSAS LOTTERY

### Summary

Kansas statutes provide for collection and allocation of revenue from three types of gambling: bingo, parimutuel wagering on dog and horse races, and the Kansas Lottery. In addition, the state is reimbursed for certain expenditures made under provisions of the tribal/state gaming compacts which regulate Indian casino gaming. Slightly over 30 percent of state revenue from gambling is used to operate the state agencies charged with licensing, regulating, and conducting (in the case of the lottery) legal gambling in Kansas.

**Lottery History.** In 1986, a constitutional amendment to provide for a state-owned lottery was approved by the voters of Kansas by a vote of 515,893 to 291,411. The 1987 Kansas Legislature approved implementing legislation which created a new state agency, the Kansas Lottery, to operate the state lottery. The legislation also established a five-member Lottery Commission to oversee the operation of the lottery; required that at least 45 percent of the money collected from ticket sales be awarded as prizes and at least 30 percent of the money collected be transferred to the State Gaming Revenue Fund (SGRF); exempted lottery tickets from the sales tax; and allowed liquor stores to sell lottery tickets.

The constitutional amendment also contained a sunset provision which would have prohibited operation of the state lottery in 1990 unless a concurrent resolution authorizing such operation was adopted by both chambers of the Kansas Legislature during the 1990 Session. 1990 SCR 1646 was adopted by the Legislature to continue operation of the state lottery.

The state lottery was scheduled for abolition under the Kansas Sunset Law in 1992. The Legislature approved 1992 SB 472 which continued the Kansas Lottery until 1996. In turn, the 1995 Legislature approved HB 2077 which continued the Kansas Lottery in existence until 2002. In order to give the Lottery a one-year "wind down" period if it is not extended, the 2001 Legislature addressed the issue of continuing the Kansas Lottery in existence beyond July 1, 2002.

The 2001 Legislature enacted HB 2038 which extends the Kansas Lottery until July 1, 2008. The bill also requires that a security audit of the Kansas Lottery be conducted at least once every three years and places responsibility for these security audits under the Legislative Post Audit Act.

New language provides that the Executive Director shall not agree to any renewal or extension of a major procurement contract unless such extension or renewal is awarded in the manner provided by the Lottery Act.

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The bill also places several limitations and restrictions on the operation of the Kansas Lottery:

- The Kansas Lottery cannot conduct games on lottery machines as defined in the bill;
- The amount of time between Keno games must be not less than four minutes;
- No retail sales of lottery tickets by electronic mail, telephone, or the Internet are permitted;
- The lottery may not engage in the unsolicited advertisement or promotion of any lottery by electronic mail or telephone; and
- All advertising and marketing practices of the Kansas Lottery will have to meet or exceed the standards of the North American Association of State and Provincial Lotteries.

### **Kansas Lottery**

**Lottery Revenue.** Receipts from the sale of lottery tickets are deposited by the Executive Director of the Kansas Lottery in the Lottery Operating Fund in the state treasury. Statutorily, moneys in that fund are used to support operation of the Lottery; pay prizes to lottery winners (*via* a transfer to the Lottery Prize Payment Fund); and provide funding for correctional and juvenile facilities, and economic development *via* the SGRF.

A minimum of 45 percent of net monthly receipts from the sale of lottery tickets must be awarded as prizes. The Lottery Act requires that a minimum of 30 percent of net monthly receipts from the sale of lottery tickets must be credited to the SGRF. However, the Legislature has frequently transferred additional amounts to the SGRF. For FY 1997 and FY 1999, the Legislature set the transfer at a minimum of 30.75 percent. For FY 1998 the transfer was set at a minimum of 31.25 percent. For FY 2000, FY 2001, and FY 2002, the transfer was set at 30.00 percent. Transfers for FY 2003 are scheduled for a grand total of at least \$59.0 million, based on a new method that supercedes the 30 percent transfer for one year. The remainder of sales receipts may be used to operate the Lottery and to pay commissions to merchants who sell lottery tickets.

Lottery revenue has been used for other purposes over the years. During the first year of Lottery operation, FY 1988, a statutorily required transfer was made from the Lottery Operating Fund to repay to the State General Fund the amount utilized to establish the Lottery. (K.S.A. 74-8712) In FY 1989, a transfer was made from the Lottery Operating Fund directly to the County Reappraisal Fund. That amount was in addition to the statutorily set amount of the SGRF used to cover a portion of the cost of statewide reappraisal. Every year from FY 1993 through FY 1997, transfers were made from the Lottery Operating Fund to the Kansas Bureau of Investigation (KBI) to finance the KBI's gaming investigation unit. (These



transfers ended in FY 1997.) In FY 1998, the Legislature authorized the transfer of \$253,195 from the KBI to the SGRF to repay FY 1996 lottery and racing moneys.

The 2002 Legislature approved a total FY 2003 budget for the Kansas Lottery of just over \$145.2 million, of which \$20.9 million is for operating the lottery and \$124.3 million is for prizes and retailers' commissions. The approved staffing level for FY 2003 is 87.8 positions.

**State Gaming Revenue Fund.** Some state revenue from both the Lottery and parimutuel wagering is transferred to the SGRF. That fund is used essentially as a holding fund from which further transfers are made on a monthly basis. No more than \$50 million can be credited to the SGRF in any fiscal year. Amounts in excess of \$50 million are credited to the State General Fund. FY 1994 was the first year during which transfers to the SGRF exceeded \$50 million. Since then, the \$50 million cap on the SGRF has resulted in \$79.5 million being transferred to the State General Fund.

Beginning on July 1, 1995, statutory transfers from the SGRF were established as follows<sup>1</sup>:

- 85 percent to the Economic Development Initiatives Fund;
- 10 percent to the Correctional Institutions Building Fund; and
- 5 percent to the Juvenile Detention Facilities Fund.

**Economic Development Initiatives Fund.** Under the state law from FY 1996 through FY 2000, the first \$50.0 million credited to the SGRF each year was divided as follows:

- \$5.0 million to the Correctional Institutions Building Fund to help offset State General Fund (SGF) expenditures in constructing and maintaining state prisons;

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<sup>1</sup> Distribution of moneys credited to the State Gaming Revenue Fund has changed since the fund's inception. Prior to June 30, 1990, 30 percent of the State Gaming Revenue Fund was used to defray a portion of costs incurred by counties during statewide reappraisal, for a total of \$15.9 million. (In addition, for each of fiscal years 1991-1995, the Legislature appropriated approximately \$3 million, \$14.9 million total, to the Department of Revenue from the Economic Development Initiatives Fund for county reappraisal aid.) At that time, 60 percent of the fund was used to finance economic development projects and 10 percent financed correctional facilities.

From FY 1991 until the end of FY 1995, 90 percent of Gaming Fund revenue was earmarked for the Economic Development Fund and 10 percent for the Correctional Institutions Building Fund (to finance adult correctional facilities). (K.S.A. 79-4804)

- \$2.5 million to the Juvenile Detention Facilities Fund to help local governments pay the cost of confining local juvenile offenders; and
- \$42.5 million to the Economic Development Initiatives Fund (EDIF).

The 2000 Legislature approved legislation (Sub. for HB 2013) which mandated an annual transfer, beginning in FY 2001, of \$80,000 from the State Gaming Revenue Fund to a new Problem Gambling Grant Fund. The new fund is administered by the Department of Social and Rehabilitation Services. As a result of this new transfer, there is less revenue available for the other three funds. Beginning in FY 2001, the amounts transferred are as follows:

- Economic Development Initiatives Fund—\$42,432,000;
- Correctional Institutions Building Fund—\$4,992,000;
- Juvenile Detention Facilities Fund—\$2,496,000; and
- Problem Gambling Grant Fund—\$80,000.

Gaming revenues in excess of \$50.0 million are credited to the State General Fund. The approved budget for FY 2003 includes an estimated \$60.0 million from gaming revenues.

Appropriations from gaming revenues in support of education related programs are made from the EDIF. A portion of the EDIF expenditures are used to support education. Approved FY 2003 expenditures from the EDIF in support of education are summarized below:

- Department of Education/State Board of Regents—\$8.89 million;
- Kansas Technology Enterprise Corporation—\$11.59 million; and
- Adjutant General Educational Assistance Program—\$243,342.

Attached is a detailed table which indicates the total approved expenditures from the EDIF for FY 2001, FY 2002, and FY 2003.



TABLE F

**ACTUAL FY 2001, ESTIMATED FY 2002, AND APPROVED FY 2003  
TRANSFERS AND EXPENDITURES FROM THE  
ECONOMIC DEVELOPMENT INITIATIVES FUND**

Agency/Program	Actual FY 2001	Approved FY 2002	Approved FY 2003
<b>Department of Commerce and Housing</b>			
Agency Operations	\$ 8,620,459	\$ 8,450,051	na
Small Business Development Centers	485,000	485,000	na
Certified Development Companies	400,000	400,000	na
Kansas Industrial Training/Retraining	3,600,000	3,600,000	na
Trade Show Promotion Grants	147,523	150,000	na
Community Capacity Building Grants	197,000	197,000	na
Economic Initiative Opportunity Fund	5,493,667	3,500,000	3,325,000
Tourism Promotion Grants	1,052,100	1,052,100	na
Mid-America World Trade Center	42,000	0	na
Mainstreet Grant and Development Prog.	216,772	216,800	na
Existing Industry Expansion Prog.	1,151,634	500,000	475,000
Travel Information Centers	9,510	115,000	na
Training Equipment Grants	277,500	277,500	na
Motion Picture and Television Rebate	6,449	75,000	na
Agriculture Products Dev.	540,000	535,000	na
Eisenhower Museum Grant	300,000	0	0
National Teachers Hall of Fame Grant	100,000	0	0
HOME Program	533,022	530,000	na
Operating Grant	na	na	15,584,926
Subtotal - KDCH	\$ 23,172,636	\$ 20,083,451	\$ 19,384,926
<b>Kansas Technology Enterprise Corporation</b>			
Agency Operations	\$ 1,360,253	\$ 1,341,174	\$ 1,226,972
Centers of Excellence	4,350,001	4,350,000	3,728,750
Research Matching Grants	1,490,225	1,260,000	1,197,000
Business Innovative Research Grants	427,534	516,000	376,200
Special Projects	118,257	79,303	75,338
Commercialization Grants	1,176,439	1,450,000	1,282,500
Mid-America Manufac. Tech. Center (MAMTC)	963,351	900,000	860,129
EPSCoR	3,200,000	3,000,000	2,850,000
Subtotal - KTEC	\$ 13,086,060	\$ 12,896,477	\$ 11,596,889
<b>Kansas, Inc.</b>			
Agency Operations	\$ 379,772	\$ 341,663	\$ 297,627
<b>State Fair</b>			
Agency Operations	\$ 134,000	\$ 0	\$ 0
Capital Improvements	100,000	0	0
Subtotal - State Fair	\$ 234,000	\$ 0	\$ 0



Agency/Program	Actual FY 2001	Approved FY 2002	Approved FY 2003
<b>Department of Education/Board of Regents</b>			
Ag in the Classroom	\$ 30,000	\$ 0	\$ 0
Challenger Project	50,000	0	0
Matching Grants - AVTS	165,070	166,855	190,000
Postsecondary Aid—AVTS	6,916,110	6,882,981	6,144,277
Capital Outlay—AVTS	2,700,000	2,700,000	2,565,000
Comprehensive Grant Scholarship Assistance	250,000	250,000	0
National Guard Educational Assistance	see below	see below	243,342
Subtotal - Education/Regents	\$ 10,111,180	\$ 9,999,836	\$ 9,142,619
<b>Historical Society</b>			
Agency Operations	\$ 40,000	\$ 0	\$ 0
Humanities Council Grant	35,000	0	0
Visitor Donation Match	48,875	0	0
Completion of Historic Sites	6,985	0	0
Subtotal - Historical Society	\$ 130,860	\$ 0	\$ 0
<b>Arts Commission</b>			
Agency Operations	\$ 119,110	\$ 0	\$ 0
<b>State Library</b>			
Grants to Local Libraries	\$ 170,000	\$ 0	\$ 0
<b>Department of Administration</b>			
Public Television Grants	\$ 350,000	\$ 0	\$ 114,099
<b>Wildlife and Parks</b>			
Local Government Outdoor Recreation	\$ 500,000	\$ 0	\$ 0
<b>Adjutant General</b>			
Kansas National Guard Educational Assist. Program	\$ 50,000	\$ 250,000	see above
<b>Death and Disability Transfer</b>			
	\$ 0	\$ 10,308	\$ 11,370
<b>State Water Plan Fund</b>			
	\$ 2,000,000	\$ 2,000,000	\$ 1,900,000
<b>State General Fund</b>			
	\$ 0	\$ 0	\$ 1,744,757
<b>TOTAL EXPENDITURES</b>	<b>\$ 50,303,618</b>	<b>\$ 45,581,735</b>	<b>\$ 44,192,287</b>

**EDIF Resource Estimate  
FY 2002 – FY 2003**

	Approved FY 2002	Approved FY 2003
Beginning Balance	\$ 1,868,022	\$ 760,287
Gaming Revenue	42,432,000	42,432,000
Other Income	2,042,000	1,000,000
Total Available	\$ 46,342,022	\$ 44,192,287
Less: Expend. and Transfers	45,581,735	44,192,287
<b>ENDING BALANCE</b>	<b>\$ 760,287</b>	<b>\$ 0</b>

## Kansas Lottery

	Actual FY 2001	Approved FY 2002	Approved FY 2003
<b>EXPENDITURES:</b>			
State Operations	\$ 20,904,232	\$ 22,191,228	\$ 20,860,266
Prizes and Retailer Commissions	108,971,225	117,556,000	124,338,000
<b>TOTAL--Operating</b>	<b><u>\$ 129,875,457</u></b>	<b><u>\$ 139,747,228</u></b>	<b><u>\$ 145,198,266</u></b>
<b>FINANCING:</b>			
All Funds	\$ 129,875,457	\$ 139,747,228	\$ 145,198,266
State General Fund	0	0	0
<b>TOTAL</b>	<b><u>\$ 129,875,457</u></b>	<b><u>\$ 139,747,228</u></b>	<b><u>\$ 145,198,266</u></b>
<b>PCT. CHANGE:</b>			
All Funds	(4.9)%	7.6%	3.9%
State General Fund	0.0%	0.0%	0.0%
FTE Positions	87.8	87.8	87.8
Non FTE Uncl. Perm. Pos.	0.0	0.0	0.0
<b>TOTAL</b>	<b><u>87.8</u></b>	<b><u>87.0</u></b>	<b><u>87.8</u></b>
<b>Transfers to the SGRF</b>	<b><u>\$ 56,535,258</u></b>	<b><u>\$ 60,500,000</u></b>	<b><u>\$ 59,000,000</u></b>

The 2002 Legislature approved sales by the Kansas Lottery of \$197 million in FY 2002 and \$204 million in FY 2003. Payments for prizes, retailer commissions, and certain categories of state operations fees (online telecommunications, online service contract, and instant ticket printing) are linked to the sales estimates and are adjusted as sales projections change.

There is a statutory minimum of 30 percent of lottery sales reserved for transfer to the State Gaming Revenues Fund (SGRF), except for sales of pull-tabs which are set at 20 percent. Since 1999, the Legislature has approved the 30.0 percent transfer rate in order to provide additional funds for prizes. Prior to FY 2000, higher transfer rates often were approved by the Legislature since any excess funds above \$50 million accrue to the State General Fund (SGF). In FY 2002, 13 transfers were scheduled. In FY 2003, a total of 12 transfers are scheduled. The FY 2002 13<sup>th</sup> transfer is intended to net at least \$4.0 million of additional revenue that will accrue in the SGF. Transfers in FY 2003 are scheduled at not less than \$4.5 million per month and for a grand total of at least \$59.0 million, based on a new method that supercedes the 30 percent transfer law for one year. An estimated \$9.0 million will accrue in the SGF at the end of FY 2003 based on these projections.



## **THE KANSAS LOTTERY**

### **Executive**

**Director:** Ed Van Petten

**Address:** (for all locations unless otherwise noted)  
128 North Kansas Avenue  
Topeka 66603-3638

**Phone:** (785) 296-5700

### **Department of Finance**

**Comptroller:** Gary Saville  
**Phone:** (785) 296-5781

### **Department of Information Resources**

**Director:** Dave Mackey  
**Phone:** (785) 296-5782

### **Division of Security**

**Director:** Darrell Pflughoft  
**Phone:** (785) 296-5714

### **Division of Sales and Marketing**

**Director:** vacant  
**Phone:** (785) 296-5762

A state operated lottery was approved by Kansas voters in the 1986 elections. Based upon the approval, the Kansas Legislature implemented legislation authorizing the creation and powers of a state agency called the Kansas Lottery. Governor Mike Hayden signed the legislation March 12, 1987. which as approved:

° The Kansas Lottery is administered by the executive director, who is appointed by the governor.

° The Kansas Lottery Commission, a five-member board appointed by the governor, consults with and advises the executive director in establishing policy, approving major contracts, rules and regulations for Lottery games and promotions, and approving the annual budget.

- The Kansas Lottery Act requires that a minimum of 45 percent of total revenue be returned to the players through the prize fund. Currently, an average of 54 percent is being paid out in prizes.

- The State Gaming Revenues Fund receives 30 percent of lottery ticket sales. (Exception: The 2001 Kansas Legislature approved 20 percent of Kansas Lottery **pull tab ticket sales only** to be transferred to the State Gaming Revenues Fund.) The Kansas Legislature determines how monies in the State Gaming Revenues Fund are distributed. Transfers up to \$50 million are made from the State Gaming Revenues Fund in the following manner: 85 percent is allocated to the Economic Development Initiatives Fund, 10 percent is transferred to the Correctional Facilities Building Fund, and 5 percent provides revenues for the Juvenile Detention Facilities Building Fund.

- Kansas Lottery tickets are exempted from sales tax.

#### DEPARTMENTAL SUMMARIES

**- Executive -** The Executive Department oversees staffing, internal auditing, legal guidance and secured operation of the Kansas Lottery. It ensures all personnel are knowledgeable of the newest and most effective products, technologies, marketing and advertising strategies within the gaming and lottery industries. Along with providing a positive environment for employees, the Executive Department maintains integrity and confidence in the agency for the benefit of all Kansans.

**-- Sales and Marketing --** The sales division is under the supervision of the director of Marketing and Sales, who is responsible for developing and implementing online and instant game sales goals and strategies, and for coordinating regional office activities including the distribution of instant and pull-tab ticket stock.

The marketing division markets and promotes the Kansas Lottery and its games in an effective and responsible manner. The marketing division is under the supervision of the director

of Marketing and Sales, who is responsible for the development of new games, contracted advertising and promotional events.

-- **Security** -- The role of the Security Department is to provide maximum security to Lottery personnel and property, to investigate and prosecute criminal violations related to the Lottery and to preserve the integrity of the Lottery and all its activities.

-- **Information Resources** -- This department is responsible for developing, maintaining, securing and providing user training and support for all the computer and telecommunications needs of the Lottery.