

Approved: January 19, 2006  
Date

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE  
SPECIAL LEGISLATIVE SESSION - 2005

The meeting was called to order by Chairman Dwayne Umbarger at 9:20 A.M. on June 21, 2005, in Room 123-S of the Capitol.

All members were present except:

Senator Mark Taddiken- excused

Committee staff present:

Norman Furse, Revisor of Statutes  
Jill Wolters, Senior Assistant, Revisor of Statutes  
Michael Corrigan, Assistant Revisor, Revisor of Statutes Office  
Mary Torrence, Senior Assistant, Revisor of Statutes Office  
Alan Conroy, Director, Kansas Legislative Research Department  
J. G. Scott, Kansas Legislative Research Department  
Julian Efird, Kansas Legislative Research Department  
Dennis Hodgins, Kansas Legislative Research Department  
Susan Kannarr, Kansas Legislative Research Department  
Carolyn Rampey, Kansas Legislative Research Department  
Matt Spurgin, Kansas Legislative Research Department  
Robert Waller, Kansas Legislative Research Department  
Judy Bromich, Administrative Analyst  
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

None

Others attending:

See attached list.

Chairman Umbarger welcomed Eric Rucker, Office of the Attorney General, who was present with some written information (Attachment 1), as requested in the committee discussion during the previous day's meeting. Mr. Rucker presented the anticipated costs associated with the issue of litigation regarding the following two matters before the United States Supreme Court:

- State v. Marsh, 04-1170, approximately \$154,500.00
- Richards v. Prairie Band Potawatomi Nation, 04-631, approximately \$43,500.00

Total: approximately \$198,000.00

Following committee questions and discussion, Senator Morris recommended a separate bill to appropriate \$150,000 for Kansas v. Marsh and remove the cap on the Tort Claims Fund in order to pay expenditures associated with the Prairie Band Potawatomi Case in FY 2006. The Chairman explained that the bill would be read into the Senate the next day, June 22, 2005, and after that the Committee will consider action on the bill.

The Committee discussed the issue of the premium for the life insurance for the National Guard to reimburse life insurance premiums for those on a tour of duty. Senator Morris recommended the Legislature would appropriate the money to the Adjutant General's Office (approximately \$390,000 - \$400,000) and then when the approximately 2,000 individuals rotate back to Kansas, the Adjutant General's Office would issue a check for the insurance premium once a year. Senator Morris mentioned that there would have to be a disclaimer that if a person decided to opt out they would not be eligible for the insurance refund which would be contained within the Adjutant General's rules and regulations and some transition time would be necessary of 60 days, and let the Adjutant General establish their rules and regulations. Senator Morris noted that the

## CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 9:20 A.M. on June 21, 2005, in Room 123-S of the Capitol.

three individuals that were killed in their tour of duty need to be grand-fathered into the bill. The Revisor will work on a draft bill.

The Chairman acknowledged J. G. Scott, Chief Fiscal Analyst, Kansas Legislative Research Department, who presented an overview for an appropriations bill. Mr. Scott explained that in the substantive bill it will be explained how the money will be spent and the appropriations bill will determine how much money is to be spent. Then the money will be appropriated in the appropriations bill. The Committee came to a consensus that \$143 million is the amount that will be considered for the appropriations bill, but that amount could change after the Senate Education Committee meets on June 22, 2005.

Chairman Umbarger and Senator Morris explained that tomorrow, June 22, 2005, when the Legislature convenes for the special session, the Committee can take official action on anything discussed in committee on June 20 and June 21, 2005. For these two days, the Committee was agreeing by consensus prior to final action taking place by the Committee on June 22, 2005.

Chairman Umbarger called the committee's attention to discussion of the gambling issue. The Chairman said he and Senator Morris would recommend passage of **2005 HB 2481** tomorrow when the Special Session begins, along with consideration of two additional options. Senator Morris explained that the Special Session would require new bill numbers. By consensus, the Committee agreed to recommend passage of the contents of **2005 HB 2481** tomorrow when the Special Session begins with the official introduction this bill (5rs9043).

The Chairman said a second option for the Committee will be to look at reducing from five to two the number of destination zones. The Committee discussed Senator Barone's proposal. Senator Barone mentioned that no one has discussed changing the rules in **2005 HB 2481**. Chairman Umbarger acknowledged Mary Ann Torrence, Senior Assistant, Revisor of Statutes Office, who explained her understanding of what was talked about in the Committee the previous day. The bill draft (5rs9052) by Senator Barone was discussed at this time. Ms. Torrence reviewed the bill draft with the Committee and discussion followed.

Chairman Umbarger explained his suggested Gaming Proposal for Education (Attachment 2). Committee discussion followed. This bill draft number was 5rs9056. The Chairman asked staff for a comparison of these three gambling proposals in writing. The Chairman recognized Dennis Hodgins, Principal Analyst, Kansas Legislative Research Department, who reviewed Attachment 2 with the Committee and identified what was included in each gambling bill. Committee questions and discussion followed.

Regarding the sites, the Committee came to a consensus to agree on two zones (Wyandotte and Southeast Kansas - Cherokee and Crawford Counties). (See page one of Attachment 2.)

Regarding the Benefit District - four percent maximum, and (a) 2.5 percent to the home county and 0.5 percent to the other counties, the Committee came to a consensus for Option (a) which is a 2.5 percent to the home county and 1.5 percent divided among the counties that are contiguous to the home county. (See page two of Attachment 2 - Senator Umbarger's proposal) in reference to bill draft 5rs9056.

Chairman Umbarger asked that the Committee consider his proposal (5rs9056) that used **2005 HB 2481** as a blueprint with changes discussed. Following further discussion, the Committee came to a consensus to change the .05 percent for problem gambling to 1.0 percent. Regarding the first page, the Committee concurred by consensus to add wording regarding a bond and lawsuit provisions. The Committee discussed the site selection and in response to a question, Ed Van Petten, Executive Director, Kansas Lottery, mentioned that in regard to the site selection clause, the tighter the clause, the better. Mr. Van Petten will work with the Revisor about wording. The Committee came to a consensus to go with the Senator Umbarger's proposal (5rs9056) with the changes previously discussed. The Revisor will provide a draft of this bill later in the day for the Committee to review.

## CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 9:20 A.M. on June 21, 2005, in Room 123-S of the Capitol.

The meeting recessed at 11:20 a.m. and reconvened at 4:40 p.m.

Chairman Umbarger recognized Mary Ann Torrence, Senior Assistant, Revisor of Statutes Office, who presented an overview of the revised proposed bill (5rs9066). There was Committee discussion and the Revisor indicated that "racing" will be added to the conflict clauses regarding the members of the Kansas Lottery Commission and other technical corrections will be made prior to the bill being introduced in the Senate.

Chairman Umbarger suggested withdrawing the benefit development districts from the proposal in order to attempt to pass the bill in the Senate, and discussion followed. Senator Morris suggested adding approximately \$160 million from the Senate Education Committee proposal. Chairman Umbarger acknowledged Julian Efird, Principal Analyst, who distributed the following information regarding administrative start-up costs:

- A memorandum addressed to the Senate Committee on Ways and Means from Julian Efird, Principal Analyst, Kansas Legislative Research Department, regarding the Initial Implementation Costs of Gambling Legislation (Attachment 3).
- A memorandum addressed to the Senate Committee on Ways and Means from Julian Efird, Principal Analyst, Kansas Legislative Research Department, regarding the Fiscal Impact of Gaming Legislation on Kansas Racing and Gaming Commission (Attachment 4)

Discussion followed concerning two subject matters cannot be in one appropriation bill. Alan Conroy, Director, Kansas Legislative Research Department, explained that, following discussion with his staff and the Revisor, the following items would be in the current bill discussed by the Committee:

- It would be best to have one appropriation bill that would include the appropriation for the Attorney General for the Supreme Court litigation.
- The appropriation for the Adjutant General in terms of paying the death benefit for military service personnel.
- The expenditures related to the enforcement activity of lottery, racing and gambling based on the gambling bill currently before the Committee now .
- There would be a loan mechanism for Education Opportunity Trust Fund which is created by the bill currently before the Committee which would be an appropriation authorized out of that special revenue fund of \$160.9 million dollars that has been recommended by the Senate Education Committee.
- There would be the loan mechanism in effect for the State General Fund to advance the \$160.9 million dollars to the Education Opportunity Trust Fund so the expenditure authority would be there to go out to the school districts.
- The appropriations bill would also require that the gambling activity would reimburse the State General Fund with the \$160.9 million dollars and be paid by the end of FY 2006.

Committee discussion continued. Chairman Umbarger called the Committee's attention to discussion regarding the developers that take the initiative to offer a quality casino. The Revisor explained the enhancement language of the gambling bill by Senator Barone and explained an amendment was offered regarding that language to replace the language in paragraph (2) on page 13, proposed by Senator Barone (Attachment 5). Regarding the infrastructure in gambling bill, the Committee concurred to bump it up to 20 percent and \$30 million dollars and concurred with the amendment offered by Senator Barone in his

## CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 9:20 A.M. on June 21, 2005, in Room 123-S of the Capitol.

gambling bill.

The Committee came to a consensus to adopt the appropriations bill to be introduced in the 2005 Special Session. The Committee came to a consensus to adopt the gambling bill (5rs9066) as tweaked to be introduced in the 2005 Special Session. Staff was given the authority regarding the Adjutant General bill to make the substantive language to be on-going.

The Chairman expressed his thanks and appreciation, both to the Committee and Staff, for all of the good work during the days prior to the special session.

The meeting adjourned at 6:00 p.m. The next meeting was scheduled for June 23, 2005.

SENATE WAYS AND MEANS  
GUEST LIST

Date June 21, 2005

NAME	REPRESENTING
Heather Morgan	DOB
Cheri Froetschner	"
Dan Kerr	Pinegar-Smith
Tom Burger	River Falls Group
Paul Waldrop	River Falls Group
Keith Kocher	KS Lottery
Ed VAN PETTEN	KS LOTTERY
Kim Fowler	Judicial Branch
Kim Mason	KTEC
George Wenzert	Ruffin Companies
Dan Montfort-Laird	KCC
Marsha Strahm	CWA
Randy Shaw	K+A
Daniel Welles Johnson	Pat Hurley Co.
Ed May	LITTLE BOY. Relate
RONALD RICHEY	ME
Doug Nephle	AG
ERIC RYDER	AG
Mike Huttles	KCC
Mike Hammond	Assoc. of CMAA of KS
JARED HOLPOVA	Medicaid
RUSSELL MILLS	GACHES
Juni Ross	KACCT





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OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

June 13, 2005

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ANTICIPATED COSTS  
UNITED STATES SUPREME COURT

*KANSAS v. MARSH*, 04-1170  
*RICHARDS v. PRAIRIE BAND POTAWATOMI NATION*, 04-631

In FY 2005, two certiorari petitions were granted by the United States Supreme Court which, in the opinion of this Office, will require funding not to exceed \$200,000.00. The following are estimated costs associated with the litigation of these two matters before the United States Supreme Court.

*Kansas v. Marsh*, 04-1170

Briefs – Merits Brief (to include Joint Appendix) = \$16,000.00.  
Reply Brief = \$8,500.00.

Litigation Costs/Travel – Attorney / Paralegal Compensation = \$115,000.00

Moot Courts – Attorney Compensation = \$15,000.00

**TOTAL = \$154,500.00**

*Richards v. Prairie Band Potawatomi Nation*, 04-631

Briefs – Reply Brief = \$8,500.00

Litigation Costs/Travel – Attorney / Paralegal Compensation = \$27,500.00

Moot Courts – Attorney Compensation = \$7,500.00

**TOTAL = \$43,500.00**

**ESTIMATED TOTAL = \$198,000.00**

Senate Ways and Means  
2005 Special Session  
6-21-05  
Attachment 1

## Gaming Proposal for Education

- Slots at all five tracks, limited to 5,500 video lottery terminals
- Two zones - Wyandotte and Southeast Kansas (Cherokee and Crawford)
- Severability clause for the other sections of the bill to stand if one is found unconstitutional
- Problem gambler program (individual can request to be put on the list)
- Horse and dog purse supplementals
- Education Opportunity Trust Fund dedicated to funding preschool, kindergarten, elementary, secondary, and postsecondary education. No supplanting of existing appropriations for education.
- In a lawsuit the prevailing party could be awarded damages and attorney's fees
- Site selection committee, members could not be on the State Gaming Commission and not have any gaming interests
- Other counties would need to have an advisory vote, before the Legislature could add additional sites:
  - a. Three additional zone sites or
  - b. Any county in the state

Senate Ways and Means  
2005 Special Session  
6-21-05  
Attachment 2



- Benefit District - Four percent maximum
  - a. 2.5 percent to the home county and 0.5 percent to the other counties or
  - b. 2.0 percent to the home county and 2.0 percent to the other counties
  
- Anthony and Eureka Downs language included

# KANSAS LEGISLATIVE RESEARCH DEPARTMENT

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June 21, 2005

**To:** Senate Committee on Ways and Means  
**From:** Julian Efird, Principal Analyst  
**Re:** Initial Implementation Costs of Gaming Legislation

Administrative costs for gaming legislation, if recommended by Ways and Means, will need to be financed prior to the receipt of new revenues anticipated from expanded gaming.

The gaming bills being considered would authorize the Kansas Lottery to implement additional gaming in certain specified locations and facilities within the state under provisions of the Kansas Expanded Lottery Act. The Kansas Lottery would be the licensee and owner of all software programs used for gaming, with each electronic gaming machine or terminal, and each individual lottery game, to be approved by the Kansas Lottery. The bills would define two types of electronic gaming machines, video lottery machines and video lottery terminals, depending upon what type of facility uses the technology. The Kansas Lottery's Executive Director would be responsible for reviewing and authorizing the startup of new gaming operations, with prescribed duties associated with the implementation of the new legislation.

The Executive Director of the Kansas Lottery indicates that the startup costs to implement provisions of the bills would require the following resources that would be in addition to the staff and expenditures in the approved FY 2006 budget:

Enforcement Agents (5.0 new FTE positions)	\$	281,502
Accountant (1.0 new FTE position)		48,177
Programmer (1.0 new FTE position)		59,471
Deputy Director (existing vacant, unfunded FTE)		105,992
Subtotal salaries and benefits (8.0 FTE positions)	\$	495,142
Vehicles, operational costs for 5.0 enforcement agents	\$	93,937
Office space, new equipment		50,000
Subtotal other operating expenses	\$	143,937
<b>Total</b>	<b>\$</b>	<b>639,079</b>

Financing of these startup costs to implement gaming provisions will require either an appropriation from the State General Fund, to be repaid after sufficient receipts are received in the new fee funds for administrative costs, or by a loan from the Pooled Money Investment Board, also to be repaid after sufficient receipts are received in the new fee funds for administrative costs. Without this startup financing, there may be insufficient revenues to pay for the initial implementation and administrative costs associated with the legislation.

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June 21, 2005

**To:** Senate Committee on Ways and Means  
**From:** Julian Efird, Principal Analyst  
**Re:** Fiscal Impact of Gaming Legislation on Kansas Racing and Gaming Commission

The Kansas Racing and Gaming Commission assumes passage of any gaming legislation could lead to increased wagering at current racetracks as well as the reopening of the Camptown Greyhound Park at Frontenac, since the operation of video lottery terminals at racetracks could increase the amount of activity in that industry.

The fiscal note from the Division of Budget states that parimutuel wagering taxes collected by the Commission from Camptown would cover operating costs related to the reopening of the facility. The Commission estimates that the legislation could increase its annual operating expenditures by \$2,056,779 in FY 2006. These costs include salaries of \$1,608,729 for 20.00 FTE positions and \$448,050 for other operating expenditures. Any parimutuel wagering taxes collected would be in addition to revenue generated from the operation of electronic gaming machines. If the expanded gaming legislation is implemented by January 1, 2006, then the budget impact would be for six months rather than 12 months in the fiscal note. The adjustments in the FY 2006 budget would be:

Staffing (20.0 new FTE positions for Racing) .....	\$ 804,365
Other Operating Expenses .....	<u>224,025</u>
<b>Total – State Racing Fund .....</b>	<b>\$1,028,389</b>

The bill also would require the Woodlands Racetrack to run a 65-day horse meet. Currently, the facility runs a 30-day horse meet. The extension of the horse meet would increase the agency's operating expenditures and increase the parimutuel wagering taxes collected from the facility. It is assumed that the additional revenue would cover the agency's increased costs. Horse racing takes place in the fall and this impact would be in FY 2007 rather than FY 2006.

Amendment to replace language in paragraph (2) on page 13:

(2) specify the percentage of residual lottery gaming facility revenues to be paid to the manager, subject to the following: (A) For a lottery gaming facility located in the northeast or south central development zone, the manager shall be paid (i) a base amount equal to not more than 22% of residual lottery gaming facility revenues; plus (ii) an additional amount equal to not more than 1% of residual lottery gaming facility revenues for each additional \$25,000,000 of infrastructure investment in ancillary lottery gaming facility operations above the amount required by subsection (f); and (B) for a lottery gaming facility located in any other development zone, the manager be paid (i) a base amount equal to not more than 22% of residual lottery gaming facility revenues; plus (ii) an additional amount equal to not more than 1% of residual lottery gaming facility revenues for each additional \$5,000,000 of infrastructure investment in ancillary lottery gaming facility operations above the amount required by subsection (f);

Senate Ways and Means  
2005 Special Session  
6-21-05  
Attachment 5