

Approved: 2-7-06
Date

MINUTES OF THE SENATE FEDERAL & STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 am on January 10, 2006 in Room 231-N of the Capitol.

All members were present except:
Senator O'Connorn- excused

Committee staff present:
Athena Andaya, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Connie Burns, Committee Secretary

Conferees appearing before the committee:
Ed Van Petten, Executive Director, Kansas Lottery
Tom Groneman, Director, Alcoholic Beverage Control

Others attending:
See attached list.

Chairman Brungardt opened the meeting by welcoming committee members and staff. The Chairman introduced the new committee member, Senator Dennis Wilson, the staff members and Connie Burns as interim committee secretary.

Ed Van Petten, Director Lottery Commission, provided the committee with an overview of the Kansas Lottery. (Attachment 1) Mr. Van Petten talked about new programs, games, and sales. The decrease in sales for 2005 was due in large to lack of high jackpots in the Powerball and super Kansas Cash games. The increase experienced with instant tickets sales is a result of changes made in game development, distribution, and marketing practices.

The lottery continues to develop marketing partnerships with Kansas businesses and industries. There are a number of businesses in the lottery industry that license certain products for use of logos and their merchandise for prizes in conjunction with lottery games and is a good way to stimulate economic development in Kansas without the use of additional public funds.

The Oklahoma Lottery began selling instant tickets October 12, 2005, and the Kansas Lottery has not detected any loss of sales since that time. Powerball games commence in Oklahoma later this week (January 12, 2006) and as reported last year, some reduction in sales at retail locations on the southern border of Kansas is anticipated, but the total impact is unknown.

The definition class of gaming was covered in Appendix A, the elements of "Lottery and Gaming" in Appendix B, Comparison of "Video Lottery Terminal" to "Slot Machine" in Appendix C.

Mr. Van Petten explained the defect that stemmed from a hardware failure on the Lottery's Pick 3 games picking the same numbers three days in a row.

Tom Groneman, Director Alcoholic Beverage Control, (ABC) provided the committee with an overview of the division. (Attachment 2) The number one priority of the Alcoholic Beverage Control Division is to fairly administer and enforce the liquor laws in Kansas to ensure compliance and to maintain a level playing field among all licensees. It is the duty to see that all applicable liquor taxes due and owing are collected. There are three organizational units: licensing, administration and enforcement. Licensing is functionally part of the Customer Relations Bureau with the Division of Tax Operations, but under the authority of the director of ABC for issues related to liquor licenses.

In December 2004, ABC received a grant from Kansas Department of Transportation to address underage drinking problems in the State. The grant funds a statewide enforcement coordinator who works with

local law enforcement and community groups to provide heightened awareness of underage drinking problems and assist in addressing these issues. The grant is funded through May 2007.

The 2005 Legislature passed **SB 298**, the bill allows for the issuance of retail liquor licenses within all cities in the state after November 15, 2005, unless the city passes an ordinance prohibiting such sales prior to February 15, 2006. **SB 298** also nullified all previous charter ordinances passed by cities and counties opting out of certain provisions of the liquor control act, mainly days and hours of sales. ABC is currently compiling a complete list of cities/counties that have adopted expanded hours. Included is what has been compiled to date.

The meeting adjourned at 11:30 am. The next scheduled meeting is January 11, 2006.

Sn Fed & State

COMMITTEE GUEST LIST

DATE: 1/10/06

NAME	REPRESENTING
Phil BRADLEY	KLBA
Ron Hein	Hein Law Firm, Ltd
RYAN DYER	PRAIRIE BAND POTAWATOMI NATION
David Kensingor	Kensingor & ASSOC.
Stuart Little	Little Government Relations
Charles E. MCBREBB	WINE INSTITUTE
Andy S. Law	Isle of Capri
Lindsey Douglas	Hein Law Firm
Rebecca Rice	Ks Beer Wholesalers Assn
Whitney Damron	Kickapoo Tribe in KS
Karen Ann Power	Capitol Strategies
Phil Wilkes	ABC
Jackson ARMSTRONG	ABC
Brad Burke	ABC
Tona Groneman	ABC
W. R. Ruff	Retired Senator ✓
Glenn Thompson	Stand Up For KS.
Keith Kocher	KS Lottery
Sally Sunford	KS Lottery

TESTIMONY ON THE KANSAS LOTTERY

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

January 10, 2006

Committee Members:

You have been provided with additional information along with a written copy of my testimony. Attached appendices contain information prepared by Kansas Lottery staff on request of the Chair. Please feel free to contact me with any questions you have at any time regarding this information or any other questions you may have about the operation of the Kansas Lottery. I have prepared these remarks to show you a present picture, as well as to let you know the direction that the Kansas Lottery is going.

I. Sales

Sales in Fiscal Year 2005 were \$206,720,771, second only to FY04, which posted record sales of \$224,457,166. This decrease was primarily due to the lack of high jackpots in the Powerball and Super Kansas Cash games. Our bright spot continues to be our instant games, both scratch and pull tab games, that continue to show increases, with an increase of 7.2% or \$6,431,758 last fiscal year

Sales projections developed for budget preparation, for this fiscal year and next, are as follows:

	<u>FY06</u>	<u>FY07</u>
Instant Games	*\$95,000,000	*\$95,500,000
Keno	37,000,000	37,000,000
Super Kansas Cash	24,000,000	25,000,000
Pick 3	5,000,000	5,000,000
Powerball	53,500,000	53,500,000
2by2	2,000,000	2,000,000
Pull tabs	4,500,000	4,500,000
eScratch	<u>2,000,000</u>	<u>2,000,000</u>
Total projected sales	\$223,000,000	\$224,500,000

* Includes \$2,500,000 estimated sales for Veterans' Benefit instant games.

Net sales for the first half of FY06 are:

Instant Games	\$49,691,368
Keno	17,684,564
Super Kansas Cash	10,932,489
Pick 3	2,684,785
Powerball	27,830,284
2by2	939,521
Pull tabs	2,815,341
eScratch	<u>1,114,391</u>
Total sales	\$113,692,742

Although all reports are generated based on fiscal year results, I have requested calendar year sales for 2005, which are as follows:

Instant Games	\$100,765,974
Keno	36,079,375
Super Kansas Cash	20,875,360
Pick 3	5,311,242
Powerball	48,314,289
2by2	2,079,108
Pull tabs	5,139,189
eScratch	<u>1,534,789</u>
Total sales	\$220,099,326

We feel that the increases we have experienced with instant ticket sales are a result of changes we have made in game development, distribution, and marketing practices. We are printing smaller quantities of most of our instant games, but introducing more games to the market each week. This results in higher printing cost per ticket on the games affected; however, most games substantially sell out, which means fewer tickets are destroyed after a game is ended. We have seen a dramatic increase in total sales of our instant games since initiating this practice. Overall printing costs have not increased substantially, as we are printing more tickets of our staple games, such as Crossword and Bingo, and printing more games at a time, which gives us a cost savings from our printer.

At this time last year we were exploring the viability of shipping all instant tickets to the retail locations to eliminate the need for 3/4 ton delivery vans and weekly visits to retailers. That plan was in fact implemented in 2005, and is known as "Autoship." Autoship consists of a sophisticated computer program developed by Kansas Lottery personnel that monitors the inventory of instant and pull tab tickets at each Lottery retailer, as well as the new games being introduced into the market. Each week, the system determines the number of tickets that should be delivered to retailers, and the orders are filled by the Lottery's warehouse personnel and shipped out via commercial carrier (presently UPS). Although the system is automated, human intervention is still possible. Autoship has benefited the Lottery in a number of ways, including allowing our sales people to concentrate on selling and promoting our products, as well as recruiting

new retailers. It has made ticket shipments more uniform and consistent, and has given the Lottery more control over the mix of games on the market. Instant and pull tab ticket sales have increased significantly, in large part because of the Autoshop program.

Last year the Lottery had just begun the sale of a game called eScratch, available at all lottery retailers. This is a totally new concept in lottery games, where a player is given a PIN number when a ticket is purchased. The player then logs onto the given web site, escratchks.com, and is instructed on playing a number of games on the site, currently 25. The winning status of the tickets is determined at the time of purchase, thus not violating the prohibition for gambling on the Internet. We learned a lot after the initial launch of this game, and based upon concerns brought forward by retailers and players, the game was refined and re-launched in 2005. The eScratch game seems to have found its audience, with sales during FY06 exceeding \$1 million, thus far.

Sales of our lotto games, Powerball and Super Kansas Cash, are up substantially from this time one year ago, for the fiscal year. In FY04, both of those games had some high jackpots, but there were few jackpots at a high level in FY05. Fortunately, so far in FY06 we have seen a return to a more typical pattern of periodic high jackpots, which has fueled sales for both games.

The reluctance of players to buy tickets until the jackpot is high was part of the reason for recent significant changes to the Powerball game, which is played in 29 jurisdictions. Beginning on August 28, 2005 the matrix was changed to add two numbers to the first field of numbers. Although this increased the odds of winning the jackpot, jackpots will grow larger more often to satisfy those who only buy for the high jackpot draws. Other enhancements of the game, however, benefited those players who don't wait for the high jackpots to play. Those improvements included increasing the starting jackpot from \$10 million to \$15 million, graduating the jackpot annuity prize to increase the payments yearly, increasing the second prize from \$100,000 to \$200,000, which means that with the Power Play multiplier a winner of the second prize could win up to \$1 million, and a few other minor changes. In the face of ever increasing competition from all sorts of gaming opportunities, the Powerball group makes every effort to improve the game and keep players interested.

New product development also continues to be a priority for the Kansas Lottery. During 2005 the Lottery negotiated with MDI, a division of Scientific Games, to market an electronic game card ("EGC"). The EGC is an electronic device about the size of a credit card that contains three liquid crystal windows. Each card has a set number of "plays," which are displayed in the windows, and based upon the combination of numbers in the windows prizes may be won. EGC games have the same type of prize structure as an instant ticket, but rather than scratching latex off to see what may have been won, the prizes are displayed electronically. Just as with an instant ticket, all prizes are pre-determined and the player need not play out the game in order to claim any prize won. This card was successfully marketed by the Iowa Lottery, and it appears it may be equally popular in Kansas. Due to battery problems with the first shipment (as

discovered by MDI before actual delivery to the Lottery), those EGC's could not be sold, but a new shipment should be received sometime this spring.

The Lottery has also been approved by the Multi-State Lottery Association (MUSL) to join the "Hot Lotto" game. We plan to begin offering the game for sale here in Kansas in March of this year. Hot Lotto is currently offered in eight other states. It is a lotto-type game, similar to Powerball and Super Kansas Cash, except that there are only 39 numbers in the first field of numbers (from which five numbers are chosen) and a second set of 19 numbers from which the "Hot Ball" is selected. The progressive jackpot begins at \$1 million, with a second prize of \$10,000. As with Powerball, drawings are held every Wednesday and Saturday. The Kansas Lottery will continue to offer the Powerball and Super Kansas Cash games.

Also presently under development is a poker-style game that would be displayed on television monitors at participating Lottery retailers (much like the Lottery's Keno game). The game play is similar to the "Texas Hold 'Em" poker game. Prizes would then be awarded based upon the number of pseudo players' hands that are beaten by the player's hand. The game logic itself consists of nothing more than a lotto-style drawing, but utilizing playing cards rather than numbers, and a player does not have to "play" anything in order to claim any prize that may be won on a ticket.

We do advertise our products, mostly by radio advertisements and point of sale materials. Quarterly costs for media advertising usually run about \$300,000. We usually advertise only featured or specialty games, such as the "Made in Kansas" games, with some periodic support for the lotto-style games on radio and television. We do have extensive advertising also in the form of retail point of sale and promotional material.

II. Transfers

The 2002 legislature allowed the Lottery to modify the method of calculating transfers made each month. Rather than the statutory provision of transferring 30% of gross sales each month, the Omnibus bill allowed for minimum monthly transfers of \$4.5 million, and a minimum annual total of \$59 million. This request was made to give us more flexibility in operations and the possibility of increasing prize payouts to bolster sales. As a result of these changes, the Lottery has on occasion transferred less than 30% of sales in a given month; however our average transfers have been running closer to 32%. This method was also adopted in 2003, 2004, and 2005, although increasing the minimum yearly total.

Our first year operating under the new plan resulted in \$62.5 million transferred. Since implementation of the modified plan, transfers have been as high as \$70.2 million (in record year FY04). As you can see in your materials, in FY05 we transferred \$65.4 million, which was almost 32% of sales. By allowing the Lottery more flexibility in operations, we have been able to market higher price point games with higher prize payouts, and shown incremental increases in our sales.

III. Operations

Our primary concern continues to be security, both in our gaming system and field operations. We have eliminated the ability of programmers to access the gaming system unaudited, by adding a test system, detached from the gaming system, for developing new programs. We have also increased the audit functions, or oversight, on the gaming system. Last year we concluded a Security Audit through Legislative Post Audit, which resulted in no major findings and limited recommendations, which were implemented.

All divisions are required to reduce the use of paper to the greatest degree possible. Daily and weekly sales reports, which formerly were distributed on paper, are now paperless and maintained "on line" on our internal server. All draw information is also maintained paperless; however some reports and records must be maintained in paper form. Working papers and other game-related documents are also now being scanned and archived in a databank.

Our gaming system in the field now operates on a wireless communications system statewide. We utilize both satellite and radio technology, and have increased operations with approximately 99.9% up time. When operating on the telecommunications system, uptime ran approximately 98.5%. Total savings per year have run approximately \$1.6 million since implementation.

We are required to survey retailers to ensure compliance with the Americans with Disabilities Act, which is a continuing responsibility. We have enjoyed a good working relationship with Anthony Fadale, State ADA Coordinator, and with the Disability Rights Center of Kansas (DRC), formerly Kansas Advocacy and Protective Services, Inc. (KAPS). We currently conduct the surveys of retailers with staff from the Security Division. We felt that the prior system of surveys conducted by field sales staff had weaknesses inherent in it. We feel that now our surveys show more consistency.

Recently the Lottery's Pick 3 game made the news when the same three numbers were chosen three days in a row. Although the computer that selects the numbers was tested immediately and initially found to be working properly, based upon further testing ordered by the Lottery, a problem was found. This defect stemmed from a hardware failure. The computers used for the Pick 3 daily drawings are maintained by the Lottery, with software developed and supplied by GTECH. This same software has been in use at the Kansas Lottery since 1992, and is the same software installed at various other lotteries across the nation. The deficiency was cured, this particular problem cannot recur, and upon investigation it never occurred prior to this incident. The Lottery honored all tickets that were purchased for the repeat numbers, and in addition will replace all non-winning tickets for the two days in question with a Pick 3 coupon of equal value to play a future game (only two days' numbers were repeated, with the first day operating correctly).

IV. Partnerships

We continue to develop marketing partnerships with Kansas businesses and industries. As you are aware we market games with Kansas Speedway, the Kansas State Fair, the beef industry, the 3i Show, Cabela's, Cobalt Boats, and various automobile dealers. We have continued to introduce various "made in Kansas" themed instant ticket games to promote Kansas business and industry and to generate enthusiasm for our games among Kansas citizens. Some of our latest partnerships include the GM plant in Kansas City, Kansas where the Chevrolet Malibu is manufactured, the Big Dog Motorcycles Company in Wichita, and TerraTrack all-terrain vehicles of Clay Center.

In June 2004, the Lottery sponsored its first ARCA race at the Kansas Speedway, calling the race the "Kansas Lottery \$200 Grand". This resulted in the most successful race on the ARCA circuit that year, and was followed up by an equally successful ARCA race in 2005. This relationship, as well as a presence at all other Kansas Speedway events, has proven so successful that we are presently in negotiations to extend that partnership even further to include the Indy Racing League races that are run the same weekend as the ARCA race.

There are a number of businesses in the lottery industry that license certain products for use of logos and their merchandise for prizes in conjunction with lottery games. These licenses are quite often very expensive, so we have tried to generate the same effect of "brand" or name recognition, and hopefully help a Kansas business in the process. Instead of costing the Lottery extra, the merchandise has been provided at no cost, or reduced cost, with no charges for the use of logos and names. This seems to be a good way to stimulate economic development in Kansas without the use of additional public funds to do so. In fact, we are generating additional public funding in the process.

V. Veterans' Benefit Games

Each January \$500,000 is transferred from the sale of our Veterans' Benefit Games, with the remainder transferred at the end of the fiscal year. All expenses relating to the game are to be deducted from gross sales to determine the amount transferred. The total transfer for **calendar** year 2005 was \$701,164. In addition to the \$500,000 transfer that will be made this month, based upon unaudited sales we expect to make another transfer of approximately \$225,000 at the end of June to bring the total **calendar** year 2006 transfer to an estimated \$725,000.

VI. Oklahoma

The Oklahoma Lottery began selling instant tickets October 12, 2005. Although the Kansas Lottery has not detected any loss of sales since that time, Powerball sales commence in Oklahoma later this week (January 12, 2006). As reported last year, we do expect some reduction in sales at retail locations located on the southern border of Kansas, but as yet the total impact is unknown. We have closely monitored our instant ticket sales since Oklahoma began operations in October, and have posted increases every week over the same week a year ago, last week exceeding 30%.

APPENDIX A

CLASS I, II AND III GAMING

The Indian Gaming Regulatory Act (25 U.S.C. §2701, *et seq.*) establishes the jurisdictional framework that presently governs Indian gaming. The Act defines **Class I gaming** as traditional Indian gaming and social gaming for minimal prizes. Regulatory authority over class I gaming is vested exclusively in tribal governments.

Class II gaming is defined as the game of chance commonly known as bingo (whether or not electronic, computer, or other technological aids are used in connection therewith) and if played in the same location as the bingo, pull tabs, punch board, tip jars, instant bingo, and other games similar to bingo. Class II gaming also includes non-banked card games, that is, games that are played exclusively against other players rather than against the house or a player acting as a bank. The Act specifically excludes slot machines or electronic facsimiles of any game of chance from the definition of class II games. Tribes retain their authority to conduct, license, and regulate class II gaming so long as the state in which the Tribe is located permits such gaming for any purpose and the Tribal government adopts a gaming ordinance approved by the Commission, Tribal governments are responsible for regulating class II gaming with Commission oversight. **Note, however**, in recent years many gaming machines that from all outward appearances look like slot machines have been produced and approved as "Class II" games. In basic terms, these machines technically operate as electronic bingo machines wherein two or more people play against one another.

The definition of **Class III gaming** is broad. It includes all forms of gaming that are neither class I nor class II. Games commonly played at casinos, such as slot machines, black jack, poker, craps, and roulette, would clearly fall in the class III category, as well as other wagering games and electronic facsimiles of any game of chance. Generally, class III is often referred to a casino-style gaming.

(Source: National Indian Gaming Commission Web site,
<http://www.nigc.gov/nigc/laws/igra/overview.jsp>)

APPENDIX B

ELEMENTS OF "LOTTERY" AND "GAMBLING"

In Kansas (and most states) a "lottery" requires three elements: a **prize**; winning by **chance**; and, **consideration** (the payment of money, making a qualified purchase, etc.). Historically, conducting lotteries and the sale of lottery tickets were prohibited by the Kansas Constitution (**Article 15, Section 3**); however, in 1986 the Kansas Constitution was amended to allow a "state-owned and operated lottery" (**Article 15, Section 3c**). All other lotteries are still prohibited.

Based upon this Constitutional amendment, the Kansas Legislature passed the "Kansas Lottery Act" in 1987 (**K.S.A. 74-8701, et seq.**). These enabling statutes established the Kansas Lottery, a state-owned and operated lottery

Again, the Kansas Lottery is the only entity in Kansas authorized to conduct a true lottery; however, each year numerous "raffles" and other similar drawings are conducted by fraternal, church, civic, and other organizations. Such drawings are legal only if at least one of the three elements of a "lottery" (**prize, chance, and consideration**) is absent. If the entrant is not required to purchase an entry or make a qualifying purchase to gain entry, then the "**consideration**" element is removed. For obvious reasons, removing consideration from the equation is the most common way to legitimize an otherwise illegal activity (e.g., contests or drawings stating "no purchase necessary," which includes everything from promotions at fast food chains to machines that otherwise look like slot machines, yet no purchase is required to win a prize because a person may receive a free playing piece or chance to win just for the asking, by sending in a self-addressed/stamped envelope, or so on). Likewise, a contest that requires bona-fide skill, speed, strength, endurance, or knowledge and does not rely upon mere **chance** is not a "lottery." This would include various "carnival"-style games. Lastly, if no **prize** is to be awarded, then the contest does not fall within the definition of a "lottery."

The illegal operation of, or participation in, a lottery is prohibited under Kansas statutes, and is a criminal offense punishable by law (**K.S.A. 21-4302 et seq.**). These criminal statutes, as well as a plethora of case law, basically equate the terms "lottery," "wager," "bet," and "gambling," thus prohibiting lotteries and other games of chance, such as poker (and other card games) and slot machines. Lastly, also included in the Kansas Criminal Code are prohibitions against owning/possessing gambling devices, dealing in gambling devices, permitting a premises to be used for gambling, and so forth.

APPENDIX C

COMPARISON OF "VIDEO LOTTERY TERMINAL" TO "SLOT MACHINE"

Traditionally, a "**slot machine**" was a purely mechanical device containing reels or drums that spin until they stop, and if certain symbols line up a corresponding prize is won. Traditional slot machines accept coins for play, and automatically pay out prizes in coins.

The **modern slot machine** is either electro-mechanical or purely electronic. In **both** of these types of machines, a computer chip (called an "EPROM") actually determines whether a play on the machine wins a prize. The moment the button is pushed or the handle is pulled, the EPROM determines what, if any, prize has been won. The mechanical display on the reels (on electro-mechanical machines), or the video display (on purely electronic machines) is nothing more than a visual representation of the result of that play. In reality, the reels and/or video display serve no purpose other than to allow the player to "see" the prize won – the reels and/or video display have no role in determining actual wins or losses (that is solely a function of the EPROM).

So far as the determination of wins and losses is concerned, "**video lottery terminals**" (VLT's) work exactly the same way as modern slot machines (they also use EPROM chips). By definition, however, VLT's cannot be electro-mechanical, but instead may only employ electronic displays (similar to a television or computer monitor screen).

All games that can be played on a traditional or a modern "slot machine" can also be played or simulated on a VLT. Rather than reels physically spinning around, the video display shows the results. Of course there are numerous games that can now be played on VLT's and modern slot machines that were not practical to play on a traditional slot machine, including poker, blackjack, keno, and other more complex games (games that require something more than simply lining up a few symbols, and games that are often "interactive" in nature – that is, games that require a player to choose numbers, choose which cards to keep, and so forth).

The second major difference is the way money is put into the machines, and/or the method of paying prizes. Again, traditional slot machines were simply "coin-in/coin-out." Today, both modern slot machines and VLT's may be configured in a variety of ways to accept payment for play via coins, currency, tokens, paper vouchers, bar-coded paper slips, and even "e-cards" with magnetic strips (much like a credit or debit card). In turn, these machines can be programmed to pay out winnings in coins or tokens just like a traditional slot machine, they may be set up to print paper vouchers or bar-coded slips (most of which may then be inserted in another VLT for play), or winnings may simply be credited to the e-card.

A third distinction between modern slot machines and VLT's relates to the central computer system. Despite the fact the EPROM in each machine independently determines wins and losses, most slots and VLT's are also connected to a central computer system for

auditing and monitoring purposes. In most instances, if a central VLT system is inoperable, then the VLT's will not operate. On the other hand, most **slot machines** are configured to keep running even if the central system is down. The information is saved within the slot machine itself, which is then downloaded to the central system once the system is again operational.

Jurisdictions that allow machine gaming vary on the type of games allowed, as well as the method of payment into and out of the machines. Some allow the full gamut of games, while others restrict the games to video poker, blackjack, or variations thereon. Some states only permit purely electronic machines (no spinning reels or similar mechanical devices even though the video screen may simulate spinning reels). States may allow cash to be inserted into a machine, but only tokens or vouchers are dispensed (which must then be redeemed from a cashier at the gaming establishment). And so forth.

In conclusion, the definitional line between a modern "slot machine" and a "video lottery terminal" is rather blurry. There really are very few practical differences between the two, and many of those differences are subject to change depending upon the definitional parameters given the gaming machine by the legislature of that state. Each state that approves electronic gaming machines must establish the type of machines it wishes to allow in the state and create a statutory or regulatory definition that will fit. The machines may then be technologically designed to fit those standards and it matters very little (if at all) whether they are called "slot machines" or "video lottery terminals."

KANSAS LOTTERY
To Date Activity 10/31/05

Net Sales	\$2,824,606,535	Game Prizes	\$1,480,224,032
FY 88	\$65,804,532	FY 88	\$30,123,006
FY 89	68,188,022	FY 89	33,755,427
FY 90	64,530,640	FY 90	28,941,942
FY 91	70,206,003	FY 91	32,800,224
FY 92	77,147,506	FY 92	37,304,320
FY 93	114,499,165	FY 93	58,865,299
FY 94	152,292,802	FY 94	79,390,419
FY 95	177,074,245	FY 95	92,074,812
FY 96	182,113,628	FY 96	96,088,069
FY 97	185,356,681	FY 97	99,351,785
FY 98	192,017,310	FY 98	101,688,863
FY 99	198,920,985	FY 99	107,079,089
FY 2000	192,560,800	FY 2000	104,377,074
FY 2001	184,727,159	FY 2001	97,938,088
FY 2002	190,083,880	FY 2002	98,963,631
FY 2003	202,942,874	FY 2003	107,660,534
FY 2004	224,457,166	FY 2004	120,775,874
FY 2005	206,982,907	FY 2005	112,408,441
FY 2006	74,700,230	FY 2006	40,637,135
Retailer Commissions	\$157,284,122	Transfers To State	\$865,735,814
FY 88	\$3,618,110	FY 88 *	\$11,343,321
FY 89	3,602,985	FY 89	24,500,950
FY 90	3,318,244	FY 90	19,259,917
FY 91	3,657,131	FY 91	19,453,470
FY 92	4,071,319	FY 92	27,147,019
FY 93	5,819,600	FY 93	32,629,372
FY 94	7,845,162	FY 94	47,888,013
FY 95	9,145,434	FY 95	53,246,818
FY 96	9,949,228	FY 96	58,114,547
FY 97	10,409,462	FY 97	56,658,134
FY 98	10,935,736	FY 98	60,304,388
FY 99	11,133,848	FY 99	59,333,464
FY 2000	11,086,788	FY 2000	59,646,911
FY 2001	10,657,155	FY 2001	56,535,258
FY 2002	10,970,973	FY 2002 **	60,494,603
FY 2003	11,743,157	FY 2003	62,500,000
FY 2004	12,926,131	FY 2004 ***	70,217,944
FY 2005	12,099,419	FY 2005 ****	65,409,441
FY 2006	4,294,240	FY 2006 *****	21,052,244

* Includes \$2,843,321 Loan & Interest Payback

** Includes \$4,000,000 payment on July 15, 2002

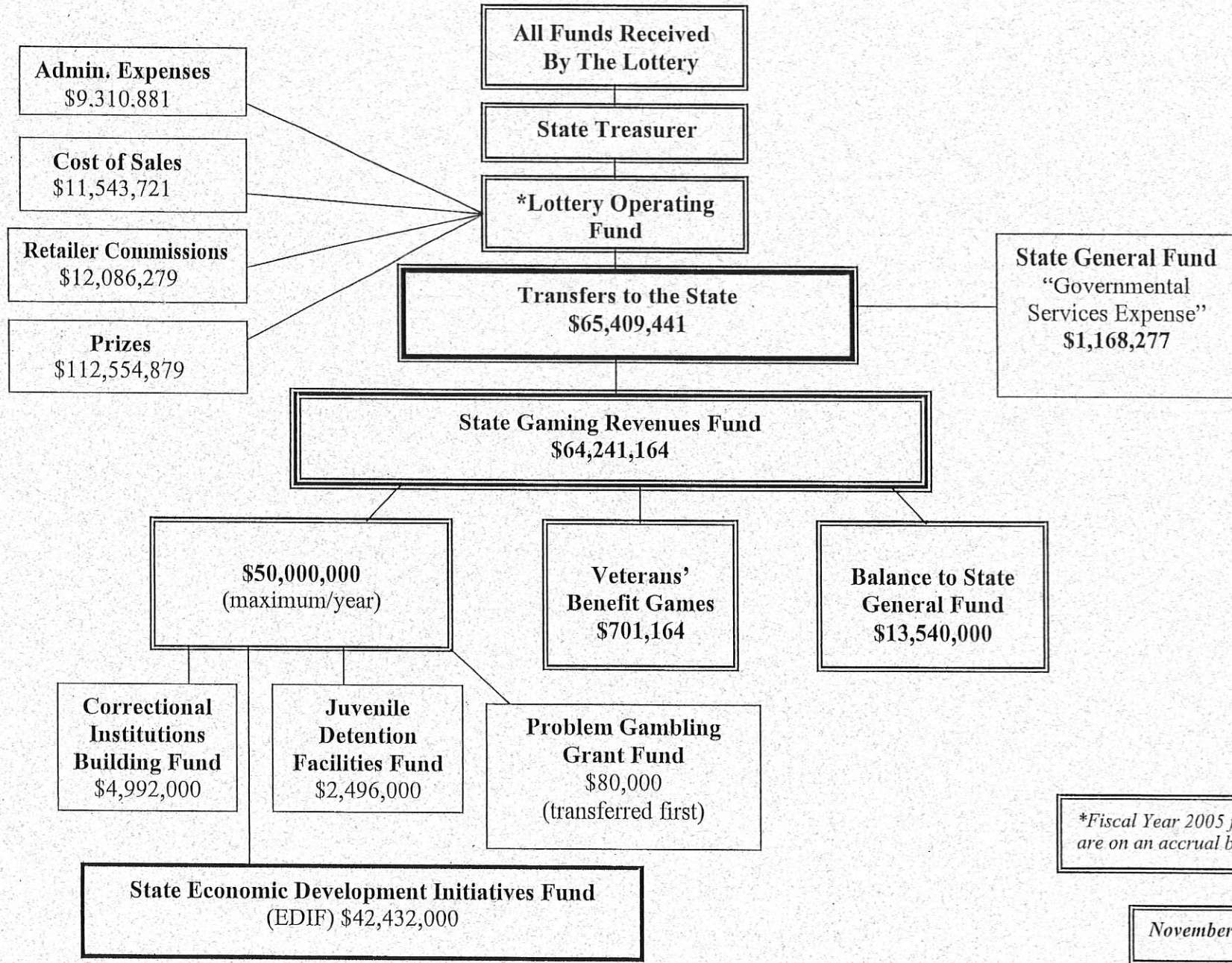
*** Includes: extra \$835,250 transfer; \$632,694 veteran's transfer; \$2,000,000 aviation program

**** Includes: extra \$1,168,277 transfer and \$701,164 veteran's transfer

***** Includes \$52,244 transfer to general fund

**KANSAS LOTTERY FUNDS TRANSFER
FY 2005**

1-12



**Fiscal Year 2005 figures are on an accrual basis.*

November 1, 2005



K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL

KATHLEEN SEBELIUS, GOVERNOR

To: Senate Federal and State Affairs Committee
Honorable Pete Brungardt, Chairman

From: Tom Groneman, Director
Alcoholic Beverage Control

Date: January 10, 2006

Subject: Kansas Department of Revenue
Alcoholic Beverage Control Division Overview

Mr. Chairman, Members of the Committee, it is my pleasure to appear before you today to present a brief overview of the Alcoholic Beverage Control Division (ABC).

The number one priority of the Alcoholic Beverage Control Division is to fairly administer and enforce the liquor laws in Kansas to ensure compliance and to maintain a level playing field among all licensees. Also, as part of the Department of Revenue, it is our duty to see that all applicable liquor taxes due and owing are collected.

The division is divided into three organizational units: licensing, administration and enforcement. Licensing is functionally part of the Customer Relations Bureau within the Division of Tax Operations, but under the authority of the Director of ABC for issues related to liquor licenses.

In 2005, licensing processed in excess of 3,800 renewal and new license applications for retail liquor stores, distributors, manufacturers, farm wineries, microbreweries, on-premise establishments (class "A" clubs, class "B" clubs and Drinking Establishments), caterers, suppliers and temporary permit holders.

Licenses are issued and renewed on an annual basis. Following is a breakdown of licenses by license type for 2004 and 2005

	2004	2005
Retail liquor stores	717	724
Class "A" clubs	317	315
Class "B" clubs	158	155
Drinking Establishments	1,509	1,565
Caterers	111	117
Beer Distributors	44	44
Spirits Distributors	7	7
Wine Distributors	10	11
Microbreweries	9	12
Farm Wineries/Outlets	19	22
Manufacturers	5	6
Temporary Permits	338	309
Supplier Permits	556	547
Total	3,807	3,841

In addition, licensing collects gallonage taxes, liquor drink taxes, liquor excise taxes, sales taxes and withholding taxes. The following liquor related taxes were collected during fy2003-fy2005

	2003	2004	2005
Gallonage*	\$15,487,785.91	\$16,614,792.35	\$18,572,138.80
Liquor Enforcement	\$38,833,089.51	\$40,256,465.86	\$41,903,994.57
Liquor Excise**	\$27,387,241.14	\$28,614,009.98	\$29,770,339.35

*10% of gallonage tax goes to SRS Community Alcoholism and Intoxication Program and the remainder to the state general fund.

** 70% of Liquor Excise Tax goes to Local Alcoholic Liquor fund, 5% goes to the SRS Community Intoxication Program and 25% to the state general fund.

The ABC administrative unit performs general staff support for the Director and Chief Enforcement Officer and related work such as budget preparation, personnel record keeping, property management, records management and coordination of the divisions activities. ABC has 39 slotted positions. Currently four positions, consisting of two agent positions and two administrative staff positions are vacant and waiting to be filled. The FY2006 budget for ABC was approved at \$2,119,764 comprised of \$1,852,396 salary and wages and \$267,368 other operating expenses. This compares to FY2004 and FY2005 as follows:

	2004	2005	2006
Salaries and Wages	\$1,635,543	\$1,746,014	\$1,852,396
Other Operating Expenses	194,234	268,368	267,368
Total	\$1,829,777	\$2,014,382	\$2,119,764

The Enforcement unit provides investigative support for the ABC Director and Chief Enforcement Officer. Enforcement agents are certified law enforcement officers. They conduct criminal and administrative investigations to determine compliance with liquor laws. Agents provide training to licensees and local law enforcement officers; conduct controlled buy operations and bar checks; investigate complaints and hidden ownerships; and perform routine compliance checks. Enforcement works closely with local, state and federal law enforcement agencies as well as the Division of Taxation in carrying out these activities. Investigations resulting in violations are presented to the County or District Attorney for criminal prosecution, and/or the ABC Assistant Attorney General (AAG) for administrative action.

The Licensee Administrative Action (LAA) section is staffed by the Assistant Attorney General (AAG) assigned to the ABC, a paralegal and two support staff. The AAG administratively prosecutes violations of the liquor laws before the Director or his designee. The Director and the AAG are responsible for the disposition of all liquor related administrative citations brought forth by the investigative activities of the Enforcement section and other law enforcement agencies. Citations or Summary Orders are issued for violations such as: sale of liquor to a minor, minor in possession, furnishing alcohol to a minor, open after hours, failure to timely file and pay liquor taxes and numerous other violations of state statutes, rules and regulations. During FY2005 there were 628 citations or summary orders issued, of which 112 requested a hearing, resulting in total fines collected of \$271,388.

Over the years the ABC has been assigned other programs to administer, including conducting the compliance checks for the Master Tobacco Settlement Agreement (SYNAR). Under SYNAR a state must maintain a minimum compliance rate of 80% or risk losing a portion of the monies allocated to the state under the agreement. ABC conducts the controlled buys to determine the compliance rate. The compliance rate for FFY 2004 was 68%, which resulted in the state being penalized approximately \$2M. During FFY2005 ABC agents and Underage Cooperating Individuals (UCI's) performed 551 random buy attempts of which 106 sold resulting in a compliance rate of 80.8 % which brought the state back into compliance. Also, during fy2005 agents made 313 drug tax assessments totaling \$4,068,574 resulting in collections of \$923,040.

In December 2004, ABC received a grant from the KDOT to address underage drinking problems in the State. The grant funds a statewide enforcement coordinator who works with local law enforcement and community groups to provide heightened awareness of underage drinking problems and assist in addressing these issues. The coordinator travels around the state making contacts with local law enforcement and other interested public and private organizations encouraging the formation of community coalitions to increase the focus of the local effort. In addition, there are some funds available for mini-grants to local law enforcement agencies to fund overtime for specific enforcement activities and training. The grant is funded through May 2007.

Senate Bill 298 was passed in 2005. The bill allows for the issuance of retail liquor licenses within all cities in the state after November 15, 2005, unless the city passes an ordinance prohibiting such sales prior to February 15, 2006. The possibility exists that a license could be issued and subsequently a city pass an ordinance prohibiting retail sales, in which case the license would be good for 90 days. The city is to promptly transmit a copy of the ordinance opting out of retail sales to the director. To date we have received notification from one city that has opted out of retail sales. Senate Bill 298 also nullified all previous charter ordinances passed by cities and counties opting out of certain provisions of the liquor control act, mainly days and hours of sale. The bill sets the basic hours for retail sale from 9:00 a.m. to 11:00 p.m., Monday through Saturday. The bill also allows for cities and counties to adopt expanded hours of sale to include Sundays, except Easter, from 12 noon to 8:00 p.m. and basic hours for Memorial Day, Independence Day and Labor Day. Cities and counties can adopt expanded hours by ordinance or resolution passed by the governing body, subject to a protest petition. The filing of a valid protest petition would require an election be held on the proposition. Cities and counties adopting an ordinance or resolution providing for expanded hours were not required to notify the ABC. The only notification required for expanded hours was for the county election officer to transmit to the director a copy of the results of an election. We are attempting to create a complete list of the cities/counties that have adopted expanded hours. The attached list is what we have verified to date.

ATTACHMENTS

Attachment 1	Cities adopting expanded hours (partial list)
Attachment 2	Map showing status of liquor by the drink
Attachment 3	Map showing Kansas on-premise licenses
Attachment 4	Map showing Kansas off-premise licenses

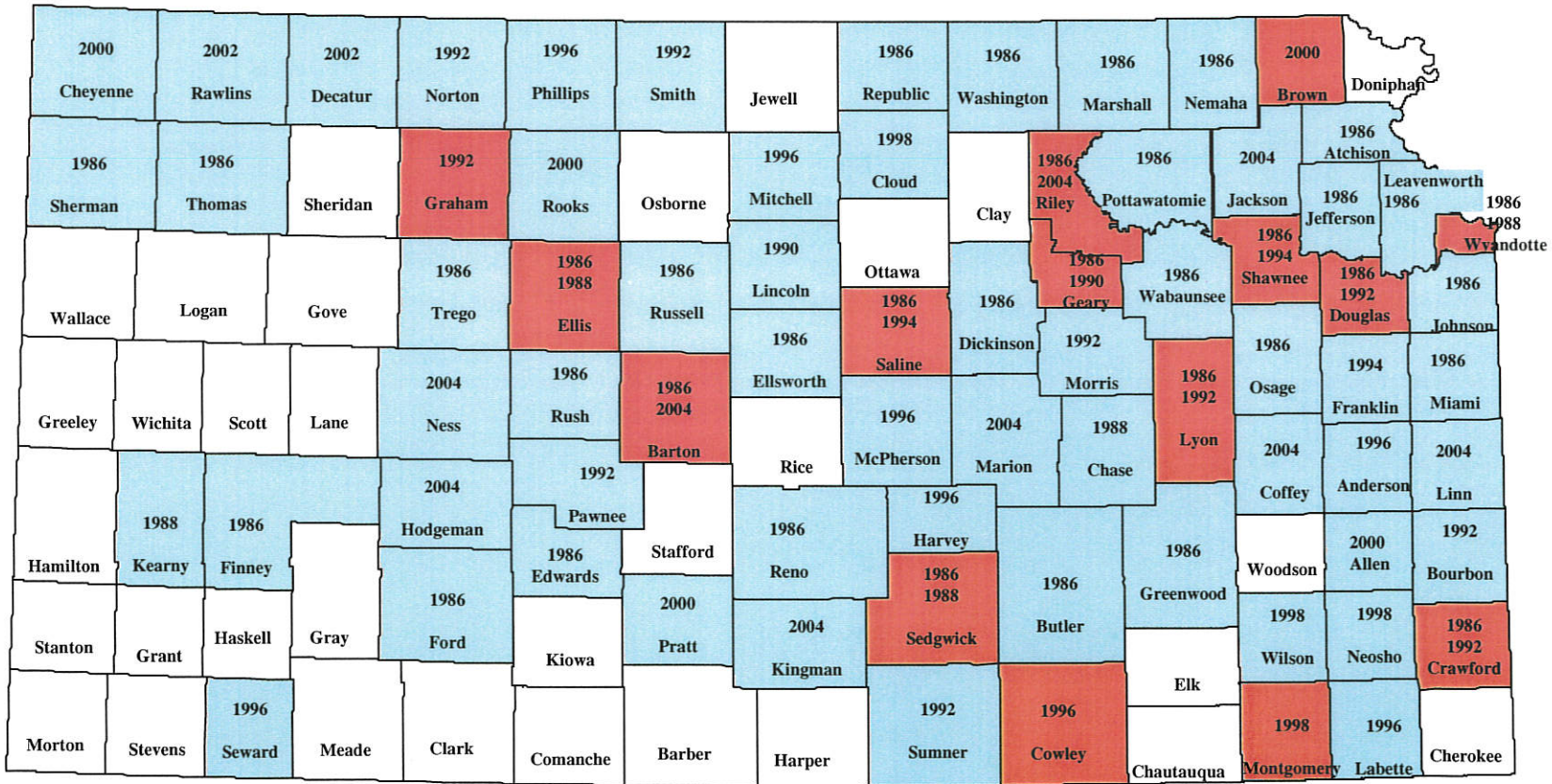
1

11/15/5	3	Wet	Expanded	Arma	Crawford
11/15/5	3	Wet	Expanded	Auburn	Shawnee
11/15/5	3	Wet	Expanded	Baldwin	Douglas
11/15/5	3	Wet	Expanded	Buffalo	Wilson
11/15/5	3	Wet	Expanded	Chapman	Dickinson
11/15/5	3	Wet	Expanded	Cheney	Sedgwick
11/15/5	2	Wet	Expanded	Columbus	Cherokee
11/15/5	2	Wet	Expanded	Council Grov	Morris
11/15/5	3	Wet	Expanded	De Soto	Johnson
11/15/5	3	Wet	Expanded	Erie	Neosho
11/15/5	3	Wet	Expanded	Eudora	Douglas
11/15/5	2	Wet	Expanded	Frontenac	Crawford
11/15/5	2	Wet	Expanded	Girard	Crawford
11/15/5	3	Wet	Expanded	Grandview P	Geary
11/15/5	2	Wet	Expanded	Herington	Dickinson
11/15/5	1	Wet	Expanded	Kansas City	Wyandotte
11/15/5	3	Wet	Expanded	Kiowa	Barber
11/15/5	1	Wet	Expanded	Lenexa	Johnson
11/15/5	3	Wet	Expanded	Oberlin	Decatur
		Wet	Expanded	Ozawkie	Jefferson
11/15/5	2	Wet	Expanded	Paola	Miami
11/15/5	3	Wet	Expanded	Park	Gove
11/15/5	2	Wet	Expanded	Park City	Sedgwick
11/15/5	2	Wet	Expanded	Phillipsburg	Phillips
11/15/5	1	Wet	Expanded	Pittsburg	Crawford
11/15/5	3	Wet	Expanded	Princeton	Franklin
11/15/5	2	Wet	Expanded	Scammon	Cherokee
11/15/5	1	Wet	Expanded	Shawnee	Johnson
11/15/5	3	Wet	Expanded	Solomon	Dickinson
11/15/5	3	Wet	Expanded	St. Paul	Neosho
11/15/5	3	Wet	Expanded	Strong City	Chase
11/15/5	3	Wet	Expanded	Victoria	Ellis
11/15/5	2	Wet	Expanded	Weir	Cherokee

Kansas Liquor-by-the-Drink

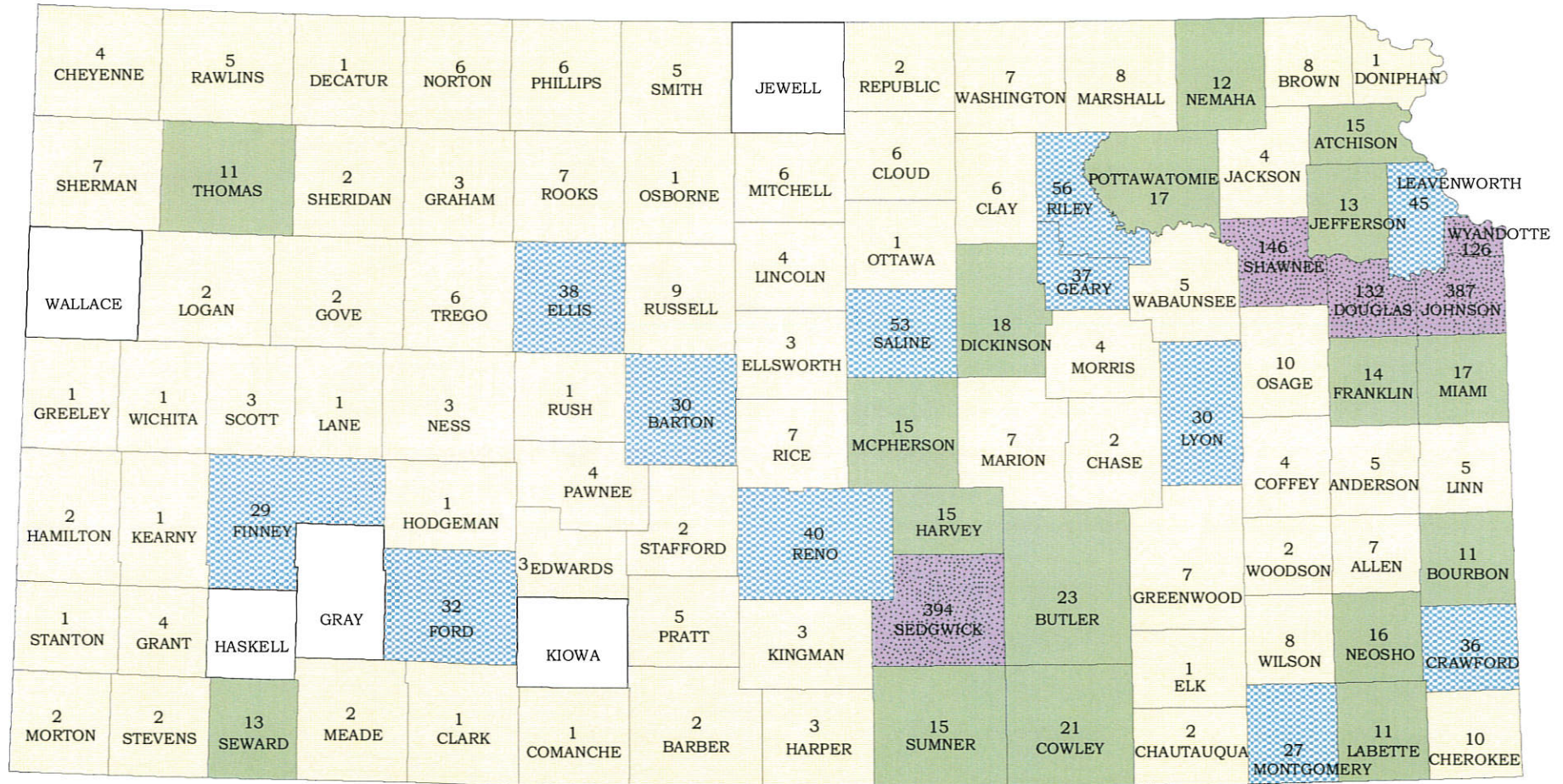
November 2004

No liquor-by-the-drink
 Liquor-by-the-drink allowed with 30% food requirement
 Liquor-by-the-drink allowed with no food requirement



This map identifies the status of liquor by the drink in all Kansas counties. It includes the year the county voted for liquor-by-the-drink, and where applicable, the year the county removed the 30% food requirement.

Active Kansas On-Premise Licenses



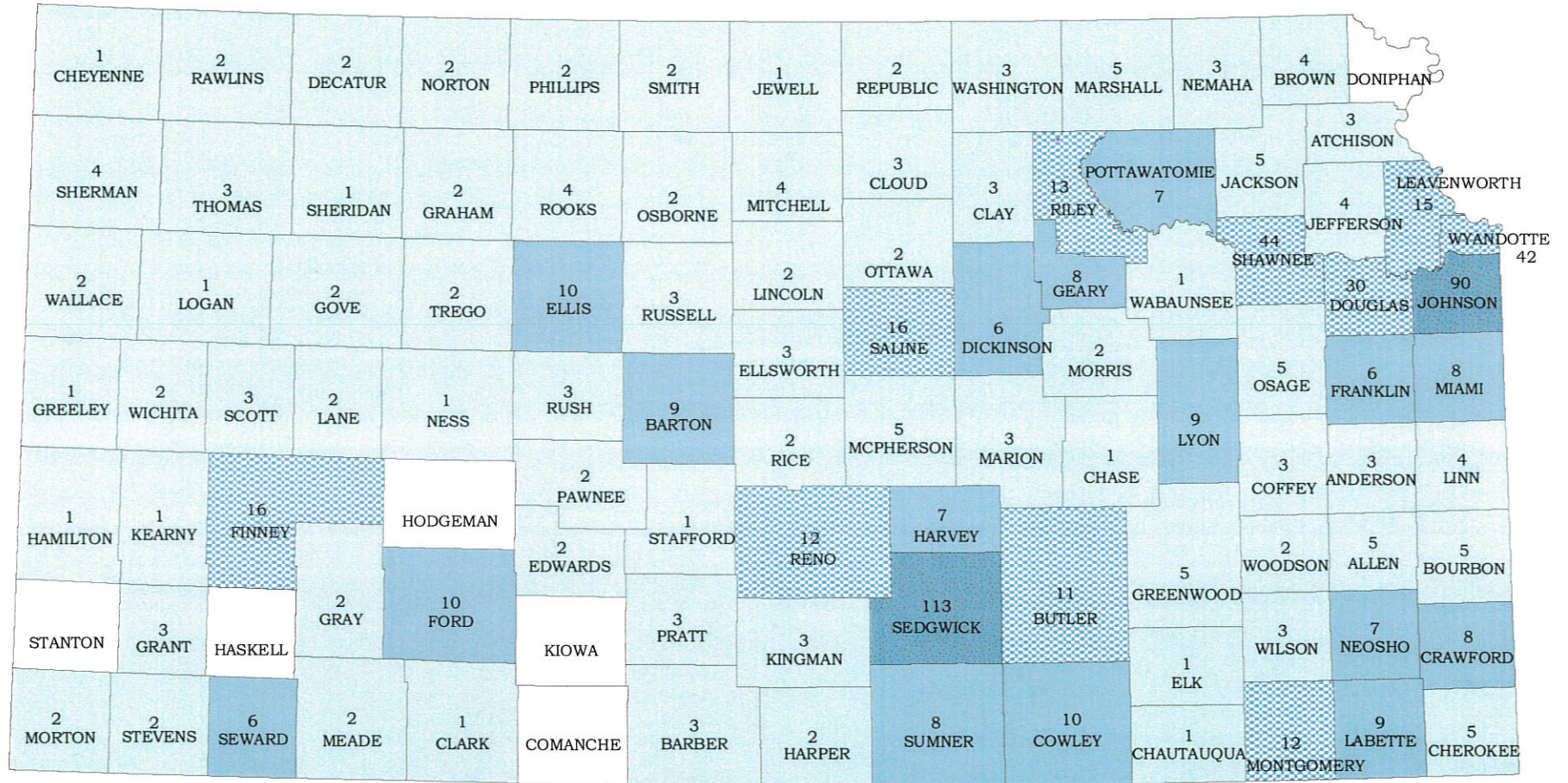
# of Counties	# of Licenses Per County
(5)	0
(66)	1 - 10
(17)	11 - 25
(12)	26 - 100
(5)	101 - 394

January 6, 2006
Map #AC06-001

The data used for this map was derived from the Kansas Department of Revenue, Alcoholic Beverage Control Division, Liquor Licensing Database for January 2006

Total: 2,152 Active On-Premise Licenses

Active Kansas Off-Premise Licenses



January 6, 2006
Map #AC06-002

# of Counties	# of Licenses Per County
(6)	0
(71)	1 - 5
(16)	6 - 10
(10)	11 - 50
(2)	51 - 113

The data used for this map was derived from the Kansas Department of Revenue, Alcoholic Beverage Control Division, Liquor Licensing Database for January 2006

Total: 724 Active Off-Premise Licenses