

## MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chair Sharon Schwartz at 9:00 A.M. on January 17, 2008, in Room 514-S of the Capitol.

All members were present except:

- Representative Tom Burroughs - excused
- Representative Pat George - excused
- Representative Tom Sawyer - excused

Committee staff present:

- Alan Conroy, Legislative Research Department
- Reed Holwegner, Legislative Research Department
- Cody Gorges, Legislative Research Department
- Heather O'Hara, Legislative Research Department
- Julian Efird, Legislative Research Department
- Nobuko Folmsbee, Revisor of Statutes
- Nikki Feuerborn, Chief of Staff
- Shirley Jepson, Committee Assistant

Conferees appearing before the committee:

- Steve Irsik, Chairman, Kansas Water Authority (KWA)
- Don Paxson, Chair, Kansas Water Authority Budget Committee
- Tracy Streeter, Secretary, Kansas Water Authority and Director, Kansas Water Office
- Ed Van Petten, Executive Director, Kansas Lottery

Others attending:

See attached list.

- Attachment 1 Overview of Kansas Water Authority
- Attachment 2 Update on the Kansas Lottery
- Attachment 3 Implementation of the Kansas Expanded Lottery Act (KELA) as Created by **SB 66**
- Attachment 4 Interim Study Recommendation from the Joint Committee on Information Technology

### Kansas Water Authority

Chairman Schwartz recognized Steve Irsik, Chair, Kansas Water Authority (KWA), who presented an overview of the Kansas Water Authority (Attachment 1). Because water has become a serious issue, Mr. Irsik stated that the Authority has undertaken a strategic planning initiative, designed to examine, reassess, and prioritize efforts to enhance Kansas' water resources. Mr. Irsik indicated that there are few appropriate sites for additional reservoirs within the State and dams are expensive to build. The need for water is a critical issue and needs to be addressed with long-term solutions.

Don Paxson, Chair, Kansas Water Authority Budget Committee, provided an overview of the budgeting process of the KWA (Attachment 1). Mr. Paxson noted that their FY 2009 requests closely reflect the priorities as addressed in the FY 2008 approved budget. Mr. Paxson indicated that water issues in the western part of the State are different than in the eastern part of the state. This fact is taken into consideration when addressing the disbursement of funding across the State. The FY 2009 budget request includes \$1 million from the State General Fund (SGF) to assist in funding the Aquifer Storage and Recovery (ASR) project near Wichita in south-central Kansas.

Tracy Streeter, Secretary, Kansas Water Authority and Director, Kansas Water Office, continued the overview of the agency (Attachment 1). The Kansas Water Authority 2008 Annual Report to the Governor and Legislature was distributed to the Committee (copy available from the Kansas Water Office, 901 S. Kansas Avenue, Topeka, KS 66612). Mr. Streeter stated that the sedimentation in the reservoirs across the State and surface water management are of major concern. At this time, the Neosho River Basin is of top priority. Due to sedimentation, possible continuation of drought conditions and the continued increase in the demand for water, it is anticipated that the water

## CONTINUATION SHEET

MINUTES OF THE House Appropriations Committee at 9:00 A.M. on January 17, 2008, in Room 514-S of the Capitol.

supply in the Neosho River Basin will be exhausted by 2012. Mr. Streeter indicated that the agency is working to address the issue before it becomes a critical situation.

With reference to the Conservation Reserve Enhancement Program (CREP) as authorized by the Legislature, Mr. Streeter indicated that the funding for this program was authorized for one year, resulting in the need for authorization on a yearly basis. A large number of applications of enrollees into the program were received; however, limitations set in statute state that 2 acres of Conservation Reserve Program (CRP) land must be retired for each acre approved for the CREP program. This limitation has resulted in a reduced amount of federal funding that can be secured for the participants in the program.

Mr. Streeter noted that the following items are being presented for legislative consideration during the 2008 Session:

- Re-appropriate all uncommitted FY 2008 CREP funds to FY 2009.
- Include authorization to implement CREP.
- Remove the limitation requiring 2 acres of existing CRP lands to expire from contract before enrolling 1 acre into CREP.
- Consider removing the provision limiting CREP enrollment in any one county to 25 percent of the total acreage in the CREP program.

### Kansas Lottery

Chair Schwartz recognized Ed Van Petten, Executive Director, Kansas Lottery, who presented an update on the Kansas Lottery (Attachment 2).

Mr. Van Petten explained that with the implementation of **SB 66**, the Kansas Lottery was charged with developing an application process within 30 days. The application was developed and published and contained a statement directing that the legislation requires an endorsement of the local government to be attached to the application or a statement of when endorsement would be available. However, when the policy for the implementation was developed and published, the endorsement requirement was omitted. The mistake caused some concern; however, it has been corrected at this time.

Keith Kocher, Director of Gaming Facilities, Kansas Lottery, reported on the Kansas Lottery Implementation of the Kansas Expanded Lottery Act (KELA) as Created by **SB 66** (Attachment 3). Mr. Kocher stated that 13 applications for casinos within the State have been received; however, only 1 casino can be approved in each of the four zones. Responding to a question from the Committee, Mr. Kocher stated that the statute stipulates, with respect to the Lottery, that endorsement by the local governing body is required but does not allow for local citizen input.

Julian Efird, Legislative Research Department, explained the recommendation adopted by the Joint Committee on Information Technology regarding the Kansas Lottery and implementation of the Expanded Lottery Act (Attachment 4).

The meeting was adjourned at 10:25 a.m. The next meeting of the Committee will be held on January 23, 2008.

  
Sharon Schwartz, Chair

# House Appropriations Committee

January 17, 2008

9:00 A.M.

NAME	REPRESENTING
Tom Brown	REAP
Patrick Hurley	CEA
CV Cotsaradi	KDA
Joe Ford	KWO
Alan Passer	KWA
Lisa French	KWA
Gary Baker	KW17
Steve Frisk	11
Dennis Schwartz	KWA
GREG FOLEY	SCC
Gordon Schmick	KWA
Vidalepin Kello Baly	Budget
Xian	
Kent Astren	Ks Fair Bureau
Mark Lynch	KDWP
Steve Aden	KDWP
Diane Simpson	KGFA - KAKA
Vesta Moyer	Prayer, Smith
MARIE RUDE	SW KS GMD #3
Chris Wilson	SW KS GMD 3
Leslie Kaufman	Ks Co-op Council
Emily Grier	HCIN Law

# ANSAS WATER AUTHORITY

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## **Steve Irsik, Chairman**

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### Kansas Water Authority Briefing To The House Appropriations Committee

**January 17, 2008**

Mr. Steve Irsik, Chair, Kansas Water Authority  
Mr. Don Paxson, Chair, Kansas Water Authority Budget Committee  
Mr. Tracy Streeter, Secretary, Kansas Water Authority and Director, Kansas Water Office

Representative Schwartz and members of the committee, we are pleased to appear before you today in support of the proposed budget for the Kansas Water Plan Fund and other budget recommendations of the Kansas Water Authority (KWA).

The KWA was established 1981 and authorized in K.S.A. 74-2606 *et seq.*, to assist the state in stewardship of water resources, now and for the future. The Authority consists of 24 members representing water issues interest throughout Kansas. 13 members of its members are private citizens, appointed to represent the public and various Kansas water interests; and the remaining 11 members are ex-officio members representing state agencies involved in water resource management. A map showing the citizen representatives and the ex-officio members is illustrated on the back cover of the Annual Report.

The Kansas Water Authority is statutorily responsible for providing this Annual Report to the Governor and Legislature. This report highlights state, federal and local agency cooperation and efforts to preserve and protect Kansas' water resources. A copy has been provided to each member. In addition, this document is posted on the Kansas Water Office webpage at [www.kwo.org](http://www.kwo.org).

The primary function of the KWA is to consider and approve policy recommendations for inclusion in *the Kansas Water Plan*. Once approved, the KWA submits these recommendations to the Governor and Legislature for their consideration. In addition to other functions, the Authority also makes recommendations on spending priorities for the State Water Plan Fund.

Great strides have been made over the past several years in revitalizing the Kansas water planning process. The KWA appreciates the previous support of the Legislature in restoring State Water Plan Fund and providing funding for new projects including:

- Conservation Reserve Enhancement Program
- Water Transition Assistance Program
- Watershed Protection and Restoration
- Small Lake Restoration

### **Strategic Planning**

In an effort to insure that Kansas has adequate water resources, now and in the future, the Authority has undertaken a strategic planning initiative, designed to examine, reassess and prioritize efforts to enhance Kansas' water resources. In the end, five issues were identified for further review and efforts:

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ATTACHMENT 1



ie identified strategic planning issues are:

- Surface Water Management
- Reservoir Sediment Management
- Demand Management for Public Water Supplies
- Reduced Water Consumption in Western Kansas through Diversification
- Impact of Climate Change on Water Supply

All of the identified issues, except climate change, have been addressed by the KWA in the past, in one form or another. Strategic planning will build on these past efforts. During the past year, the Authority has also collaborated with the Kansas, Inc. to incorporate key water planning goals into their strategic plan.

The Kansas Water Authority will continue to address all of the aforementioned water resource issues but has determined that the initial emphasis of the planning process should focus on reservoir sedimentation and surface water management.

### **The Budget**

The Kansas Water Authority process for the State Water Plan Fund budget begins in June with a meeting of its Budget Committee. The Committee met twice to review projected revenues and anticipated program and project needs. At the August meeting of the KWA, held in Independence, Kansas, the full KWA adopted the State Water Plan Fund recommendations for FY 2009.

The Authority's recommendations for the FY 2009 State Water Plan Fund closely mirror the FY 2008 appropriations approved last year by the Legislature. In order to fund the projects and programs at last year's level, it requires additional revenue into the Fund. As a result, the KWA recommended an added appropriation from the State General Fund of \$3.6 million to fully finance the FY 2009 SWPF. In addition, the Authority recommends that \$1 million in State General Funds be appropriated for the Equus Beds Aquifer Storage and Recovery project (ASR) located in the Lower Arkansas River Basin. The full KWA budget recommendations for the fiscal year 2009 State Water Plan Fund are summarized in the table contained on page 23 of the Annual Report.

### **Kansas Reservoirs**

Two thirds of Kansans get their water from the state's reservoirs. The reservoirs system in the state of Kansas is vital to the health and wellbeing of Kansas. However, when the reservoirs were built, one fact was acknowledged; siltation and sedimentation would be issues for the future storage capacity and life of these reservoirs. Because reservoirs have become such a valuable water resource, the Kansas Water Authority has been challenged to find ways to maximize the reservoirs, including efforts to restore the valuable water storage lost to the effects of sedimentation.

Reservoirs, however, are joint projects of federal and state government. The federal entity that built the reservoir has ultimate control over reservoir operations. In many cases, the federal rules that govern reservoir operations are antiquated. The Kansas Water Authority's strategic planning, recognized that any number of state and federal policy and programmatic changes would need to be identified and addressed.

### **Kansas Reservoir Summit**

The initial step in the strategic planning process was the Kansas Reservoir Summit, held on October 17, 2007. 115 federal, state and local stakeholders attended the Reservoir Summit. The Summit made it clear that Kansas has taken a number of well defined steps to decrease the impact of sedimentation and to reduce sedimentation rates. Watershed activities are in place above 22 reservoirs. Watershed activities decrease sediment flowing into the reservoirs, thus, reducing

sedimentation rates. Working relationships between local stakeholders and the state are strong. Kansas has also fostered healthy working relationships between the state and four federal partners. The Reservoir Summit brought all stakeholders together to receive presentations; hear discussions on current policy and necessary changes. Further, the Summit focused attention to the need to address sedimentation and for improved, flexible reservoir management.

In concert with this sedimentation issues, the Kansas Water Office has been reviewing, revising and renewing water resources supply and demand projections for each of the 12 river basins in Kansas. The task of identifying available water resources and their potential supply is not easy. However, understanding supply and demand is crucial to efficient planning of any natural resources.

The supply / demand studies meet a fairly simple objective: to identify problem areas in sufficient time to devote time, effort and resources to appropriate solutions. There are some limitations to any projection, including, but not limited to, the problems associated with using past data to project future actions and the inability to review peak demands at multiple site, among others. Identifying projected needs in advance allows Kansas the luxury of testing, searching and developing solutions geared toward the needs of the impacted basin solutions. Supply and demand studies use data on the current basin water supplies, including any reservoir storage and combine this data with the demand projections.

Supply and demand projections provide indicia of sufficiency of water resources in an area. Attachments 1, 2 and 3 highlight preliminary data from the Neosho River Basin, in Southeast Kansas. It is clear, however, that a focus on water resources should begin immediately. The Neosho projections show how vital it is to address reservoir sedimentation and to do so with urgency.

### **Clean Drinking Water Fee Fund**

The Clean Drinking Water Fee Fund, (CDWFF,) K.S.A. 82a-2101, was authorized by the legislature in 2001. The fees are to be divided between the highway fund and the state water plan fund. No less than 15 % of the CDWFF for technical assistance to public water supply systems and the remainder for renovation and protection of lakes capable of providing public water supply. Last year funds were appropriated for the restoration of Mission Lake at Horton as well as a low-head dam for Washington County Rural Water District No. 1. Estimated fund receipts for fiscal year 2009 are \$3.4 million.

### **Aquifer Resource Efforts**

*The Equus Beds: The Aquifer Storage and Recovery Initiative (ASR) Annual Report, Page 8*

The Equus Beds Aquifer, in south central Kansas, provides water to a significant portion of that population and has been a major source of water for Wichita since 1940. The City of Wichita has undertaken an ambitious project to stabilize and enhance south central Kansas' water supply. The plan, officially the Integrated Local Water Supply Plan, is intended to meet the Wichita's water supply needs through 2050, calls for using water from a variety of local resources, including the Equus Beds aquifer, Cheney Reservoir, and the Little Arkansas River.

The project will enhance both the quantity and quality of available water in the region. A key component of the plan is an Aquifer Storage and Recovery (ASR) Project in the Equus Beds Aquifer. Surplus water is captured when the Little Arkansas River is at high flow, treated, and injected into the aquifer. Wichita anticipates that they will be able, when the project is fully operational, to capture and recharge the Aquifer with up to 100 million gallons per day in high flow periods. The project's water supply benefits can be summarized in three areas:

- Maintain quality water supply for 500,000 citizens users through 2050
- Protect the water supply from saltwater contamination
- Provide a more dependable water supply for other users of the Equus Beds

Phase I of the ASR project, which has the capacity to capture and recharge up to 10 million gallons a day, has been completed at a cost of \$27 million. Work has begun on Phase II of the project, estimated to cost about \$125 million. The City of Wichita worked Kansas Congressional delegation to secure authorization for up to \$30 million during the 2006 Congress. A federal appropriation is being sought to help cost-share on the ASR Project. As previously mentioned, the KWA recommended \$1 million in State General Funds for the project.

*The Ogallala/High Plains Aquifer, Annual Report, Page 11*

The Ogallala/High Plains Aquifer provides water to much of the western half of Kansas. The Aquifer, which lays under 8 states, has been a valuable source of water for agricultural pursuits and has provided economic benefits for several decades. As you know, the water levels are declining and to extend the life of the aquifer and to sustain the resource in some areas, the KWA has prescribed voluntary, incentive-based tools to reduced water use. Through your efforts, several programs are now in place, including the Water Transition Assistance Program and the Conservation Reserve Enhancement Program, which is highlighted in this testimony.

*Conservation Reserve Enhancement Program*

Approved by the Legislature last year, the Upper Arkansas Conservation Reserve Enhancement Program (CREP) is a voluntary program that pays irrigators to put land into grass and other conservation practices to reduce stress on the aquifer and river along the upper Arkansas River valley. Participants volunteering for the program will retire water rights associated with the enrolled land, except for domestic uses, in exchange for 14 or 15 years of payments. Farmers also agree to maintain conservation practices on the land enrolled. This federal-state-local program provides water conservation and other benefits to water quality and wildlife habitat to the region.

Under last year's legislation, the Upper Arkansas River CREP was approved for an overall enrollment of 40,000 acres. With an a full enrollment at the 40,000 acre level, federal payments to participants will exceed \$45 million, and state upfront payments will add another \$2 million. Estimated water savings from an enrollment of 40,000 acres is estimated to exceed 50,000 acre-feet annually.

However, due to provisions contained in the 2006 legislation, we were only able to negotiate a 20,000 program with USDA. Last year's legislation provided two limitations; one affecting the overall CREP acreage and one affecting the current enrollment in two counties (Kearny and Gray). Under current state authority, the CREP program will end on June 30, 2008.

In order to continue the program and realize the maximum benefits authorized, we respectfully request your consideration of the following items as your Sub-Committee and full Committee deliberates the budget:

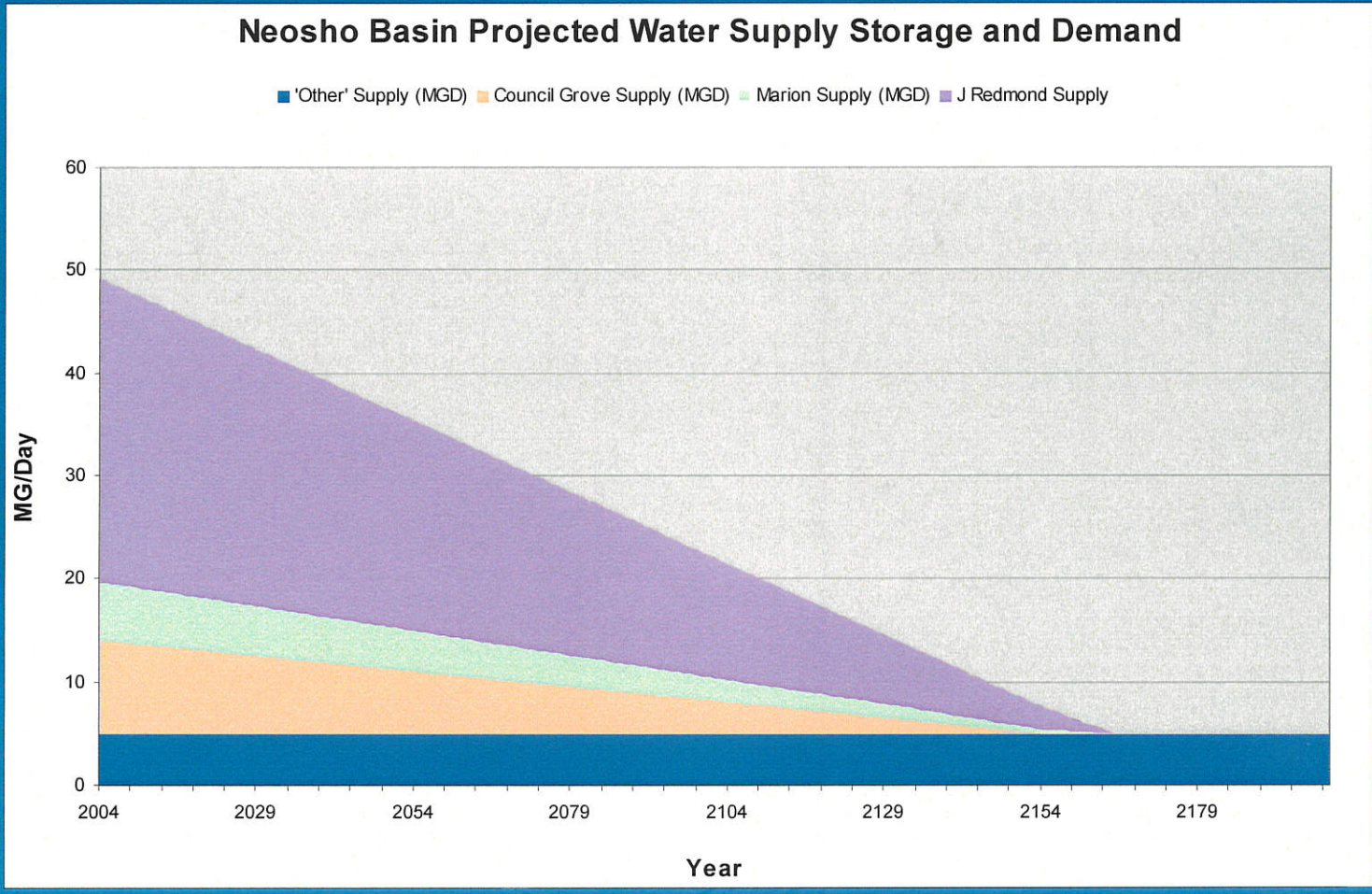
- Re-appropriate all uncommitted FY 2008 CREP funds to FY 2009.
- Include authorization to implement CREP.
- Remove the limitation requiring two acres of existing CRP lands to expire from contract before enrolling one acre into CREP
- Consider removing the provision limiting CREP enrollment in any one county to 25 percent of the total CREP program.

On behalf of the Kansas Water Authority, we appreciate your support of our efforts to address Kansas' most critical water resource issues. Thank you.



# Neosho Supply

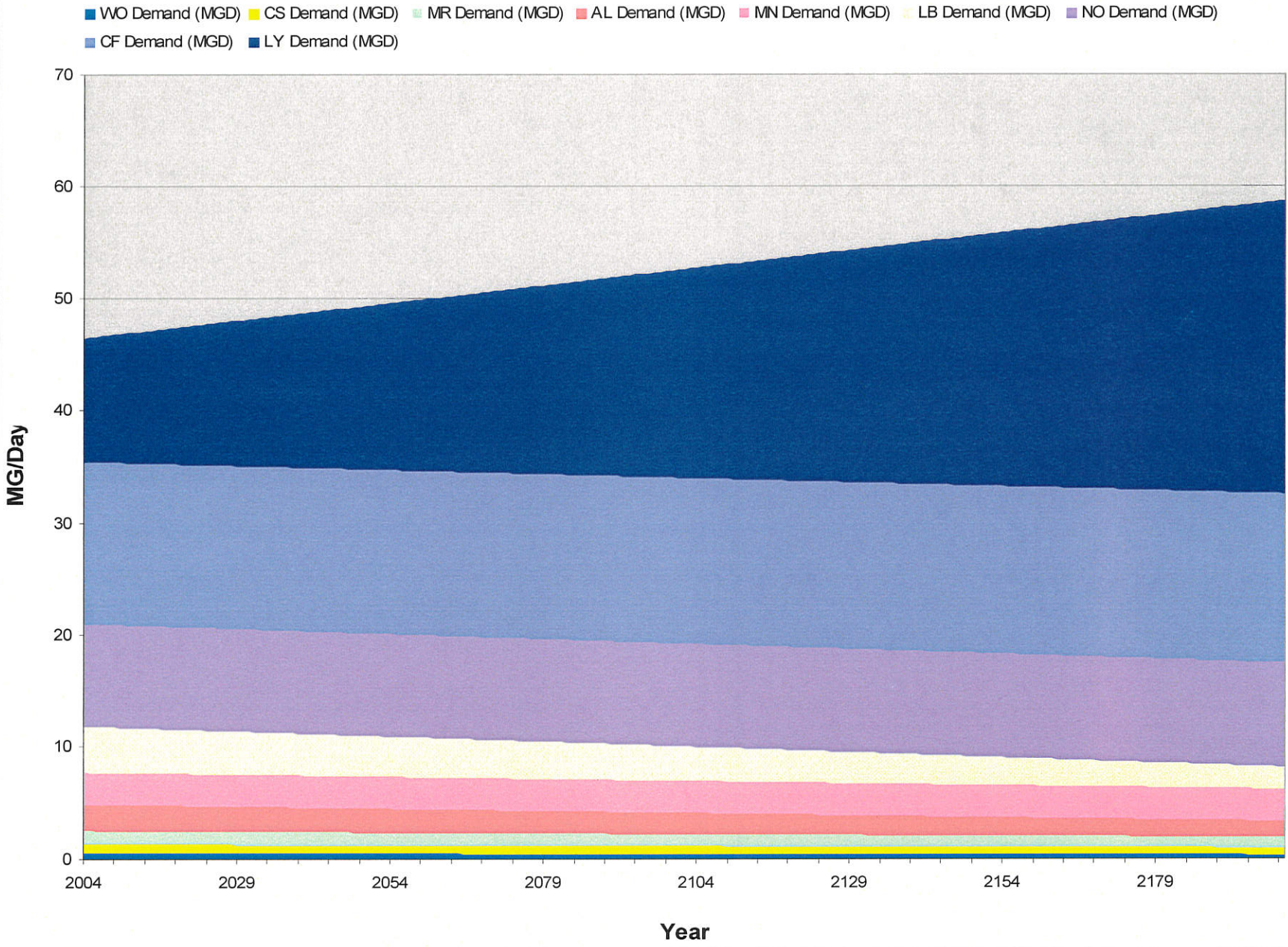
➤ Neosho Reservoir sedimentation rates are (relatively) high





9-1

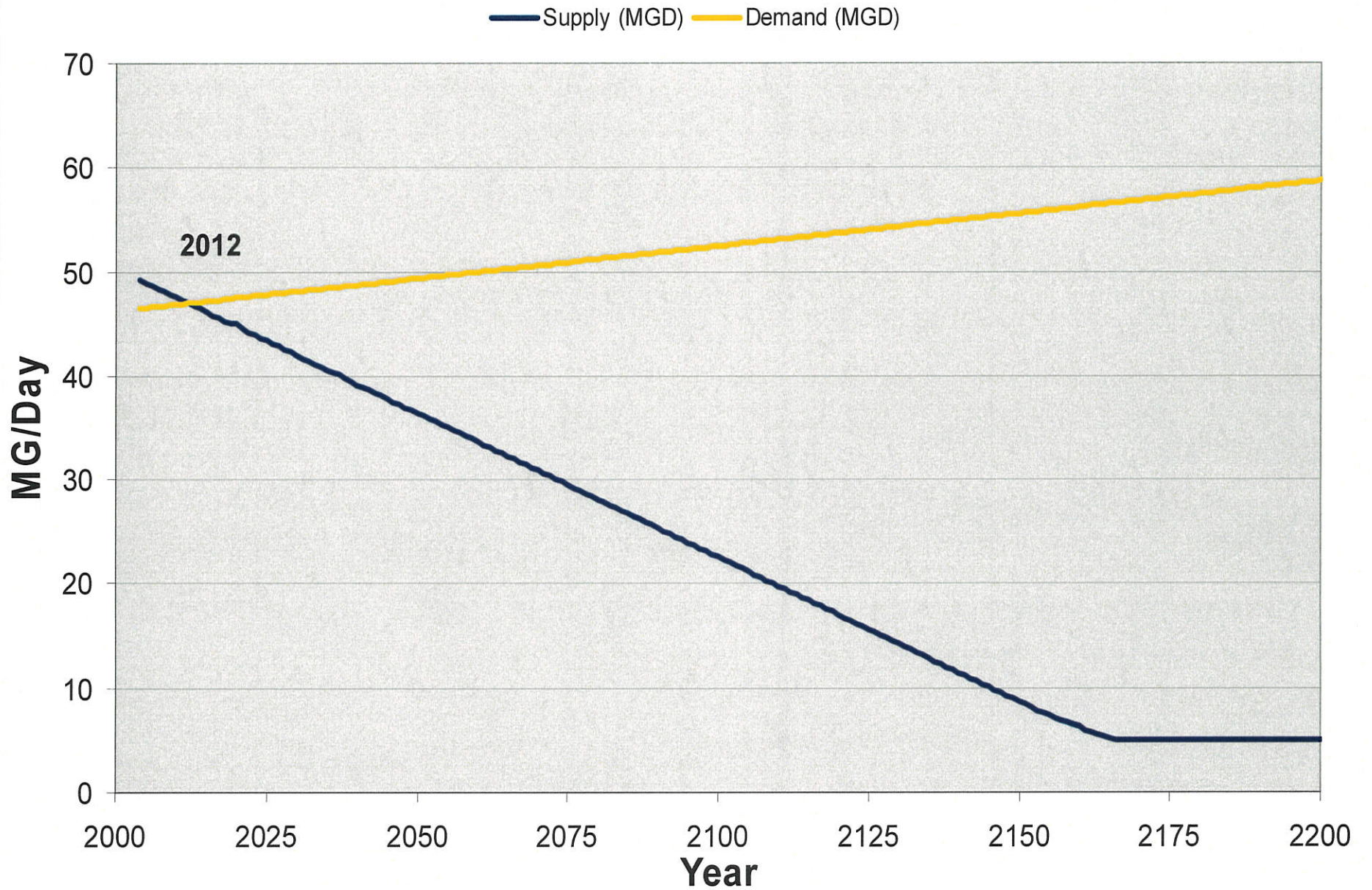
# Neosho Basin Projected County (SW) Demand





# Neosho Basin Projected Water Supply Storage and Demand

6-7





Ed Van Petten  
Executive Director

Kathleen Sebelius  
Governor

**Testimony Before The  
House Appropriations Committee  
Agency Update 1-16-08 for matters other than SB 66**

Presented By:  
Ed Van Petten, Executive Director  
Kansas Lottery

Mr. Chairman and members of the Committee:

**I. Legislative Issues**

The Kansas Lottery does not propose any additional legislation for this session.

**II. Sales**

Sales for FY 2007 totaled \$240 million, and we are presently 1.35% behind last year's sales. The jackpot games are not performing as well as in previous years, as those games are dependent on jackpots and we simply have not had many large jackpots thus far this year. We have taken the new game "Kansas Hold'em" statewide, after about a year in only 100 retail locations as a test. Although the game can be sold at all retailers we will have the monitors for the game at only 600 locations, due to the expense of installation of this equipment.

This year we launched the first multi-state instant game in the history of United States lotteries, with our partners at the Iowa Lottery. Sales of that game have been strong, and continue to be. On January 11, Secretary of Commerce David Kerr was the guest draw official for the first of two drawings in the game, for \$500,000. That drawing was held here at the Kansas Statehouse. The second drawing will be in Des Moines on April 18.



### **III. 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 make it possible to increase prize payouts to bolster sales. As a result of these changes, the lottery has been able to boost payouts on our instant products which has helped to boost our sales, and thus the overall amount of money transferred. This has been continued in the Omnibus bill each year since, with the target transfer for this fiscal year being \$73 million. With our November transfer, the lottery surpassed \$1 billion in transfers.

### **IV. 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. In a recent security audit conducted for Legislative Post Audit, Delehanty Consulting LLC reported, "The Kansas Lottery's security culture may set the standard for the U.S. lottery industry."

We continue 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." All draw information is also maintained paperless, and all investigation reports and work papers are stored electronically.

We are in the process of converting to a new gaming system, with our vendor GTECH. The new system will be wireless as we have operated for the past five years. The system will include the installation of all new terminals and related equipment statewide.

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. All surveys are conducted by our security division.

Last year we paid retailer commissions of \$13,936,849, with total commissions paid through FY 07 of \$180,568,409.

### **V. 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, Cabela's, Midwest Ford Dealers and General Motors. In further developing our "Made in Kansas" line of tickets we have formed partnerships and marketed tickets featuring the Land Pride "Treker," manufactured in Salina, custom golf cars from Swartz Motorsports, in Strong City, Cobalt Boats, in Neodesha, and presently we are featuring bass boats made by Cougar Custom Boats in Hill City, Kansas. We have also promoted tourism in our state with "Flint Hills Treasures," "The Great Santa Fe Trail Horse Race," and this spring will launch a ticket featuring the "Sunflower State Games."

Other partners include Big Dog Motorcycles in Wichita, the Wichita Riverfest, 3i Show, and Kansas Department of Wildlife and Parks. Our intent with these games is to increase the exposure of Kansas business, industry and tourism, as well as to generate enthusiasm in Kansas citizens for our games. Thus far with this project over the past few years, we have spent approximately \$3.4 million with Kansas businesses and tourism.

There are a number of businesses in the lottery industry that license certain products for use of logos and use 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 reduced cost, with no charges or minimal charges for the use of logos and names. This seems to be a good way to stimulate economic development in Kansas, while generating revenue for the state.

#### **VI. Veteran's Benefit Games**

Unaudited sales figures for the Veteran's Benefit Games are a little under \$3 million, which should result in a transfer for those programs of almost \$900,000 in fiscal year 2008. These funds are distributed one-half to the National Guard Scholarship fund and one-half to the Veteran's Commission to assist with maintenance of the Soldier's Homes and Veteran's Cemeteries.

#### **VII. 20<sup>th</sup> Anniversary**

The lottery celebrated 20 years of operation with a birthday event on November 9, 2007. Sale of the first lottery ticket was November 12, 1987.

#### **VIII. New Games this Year**

We are working with Scientific Games International in the development of a new game concept called an Electronic Scratch Ticket. This will have a paper ticket, similar to our present scratch tickets, but will display the play of the ticket on an electronic handheld monitor. Security on the tickets has been the biggest hurdle, but I believe that issue has been resolved. A test printing is scheduled for next week.

We have recently joined with the other Hot Lotto states in adding a game option called "Sizzler." This doubles the cost of each wager and triples the payout on all prizes but the jackpot. We will be joining the other states selling the 2by2 game, in adding a feature we call "2by2 Tuesday." The game will change from six draws a week to seven, and any player that has a multi-draw ticket in multiples of seven, will double all prizes, including the grand prize, on Tuesday's draw.

We will have the capacity to conduct raffle style games after the completion of the system conversion and anticipate doing so during FY 09.

**IX. Current RFP**

We presently have a Request for Proposal (RFP) issued for our advertising agency. We anticipate receiving bids from a number of agencies.

We will also soon be issuing a RFP for the printing of instant tickets. There are now just three printing companies, our incumbent Pollard Banknote Limited, GTECH and SGI.





## KANSAS LOTTERY

ED VAN PETTEN, EXECUTIVE DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

**KANSAS LOTTERY IMPLEMENTATION OF THE  
KANSAS EXPANDED LOTTERY ACT (KELA)  
AS CREATED BY SENATE BILL 66  
January 17, 2008**

**Chairperson Schwartz and members of the House Appropriations Committee: On behalf of the Kansas Lottery I am happy to report the Lottery's activities regarding implementation of the Kansas Expanded Lottery Act (SB 66). Following is a summary of our ongoing efforts.**

### IN GENERAL

1. Based upon the results of prior elections approving the expansion of gaming in their counties, the counties of Crawford and Sumner requested the Lottery Commission waive the requirement that a new county referendum vote be conducted (as provided in Sections 6(e) and/or 12(e) of the KELA). After public hearing both requests were approved.
2. County referendums votes were successful in Wyandotte County (for a casino and a racino), and Cherokee and Ford counties (casino only). The referendum votes in Sedgwick County failed on both the casino and racino initiatives.
3. The Kansas Lottery, the Kansas Racing and Gaming Commission (KRGCC), and the Chief Gaming Officer (Mr. Robert Krehbiel) continue to consult and cooperate on a number of issues related to implementation of the KELA.
4. All parties have worked with the Office of the Division of the Budget to arrive at consensus estimates of projected gaming income.
5. The Lottery issued a "Request for Information" pertaining to the central computer system and received five (5) replies from interested vendors. The KELA provides that the central system must be purchased or leased on behalf of the Lottery Commission by, and at the expense of, the gaming managers. The same system will be utilized for all racino and casino activities.
6. Central system vendors have conducted demonstrations for the Lottery and the KRGCC and provided information regarding their respective systems. The Lottery is currently in contract negotiations with these vendors in order to select the best

**HOUSE APPROPRIATIONS**

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DATE 1-17-2008  
ATTACHMENT 3

possible central system for the needs of the State. Per direction of the legislative Joint Committee on Information Technology, prior to award of a contract the plan for the central system will first be approved by the Executive Branch Chief Information Technology Officer.

7. Mr. Dan Biles of the law firm Gates, Biles, Shields and Ryan, P.A., of Overland Park, Kansas, has been hired by the Lottery to represent its interests in the lawsuit filed by the Kansas Attorney General (see below), to prepare and assist in the negotiation of contracts for all gaming facilities, to prepare applicable rules and regulations, and to act as a general consultant in other areas pertinent to implementation of the KELA.
8. The Lottery Commission has approved a total of 19 rules and regulations dealing with a variety of issues (see "Racinos," below). Other rules and regulations will be necessary to fully implement the KELA, most of which will be promulgated by the KRGC in their role as regulator.
9. The Assistant Attorney General assigned to the Lottery for the past eight (8) years, Mr. Keith Kocher, has been promoted to the position of the Director of Gaming Facilities where he will devote most of his time to implementation of the KELA.
10. Mr. Stephen Durrell, former Assistant Attorney General at the KRGC, has transferred to Assistant Attorney General position at the Kansas Lottery where he will take over all Lottery duties and assist with implementation and ongoing operations of the KELA.
11. The Lottery has transferred one individual from its Security Department to focus more attention on KELA matters. No additional personnel are expected to be added to the Lottery staff in the immediate future; however, as the racinos and casinos prepare to commence operations it is expected the Lottery will need to hire additional personnel in order to deal with the ongoing issues brought about by the KELA.
12. The Lottery and the KRGC have been in contact with individuals who may be retained as experts on various matters, including the gaming facility managers' financial ability to perform, market potential, and general review and recommendations regarding the manager contracts.

## CASINOS

1. Within 30 days of enactment of the KELA, the Lottery Commission approved the procedure for receiving, considering and approving proposed "lottery gaming facility" (casino) applications, which procedure was then timely published in the Kansas Register (as required by KELA Section 3(b)).
2. The deadline for submission of applications was set at 90 days after certification of the local county vote (or certification of the last such vote to occur in those Zones with two counties), subject to reasonable extension by the Lottery Commission at the request of a governing body in that Gaming Zone. All Gaming Zones requested and were granted extensions by the Commission.
3. All deadlines for Lottery Gaming Facility Manager applications have now expired, as follows:
  - a. December 6 – **Southeast** Zone (Crawford and Cherokee)
  - b. December 26 – **South Central** Zone (Sumner)
  - c. December 26 – **Southwest** (Ford)
  - d. December 31 – **Northeast** (Wyandotte)
4. A total of thirteen (13) applications have been timely received, as follows:
  - a. **Southeast** Gaming Zone:
    - i. Kansas Penn Gaming (Penn National; only applicant)
  - b. **South Central** Gaming Zone:
    - i. Sumner Gaming Ventures (MGM, Foxwoods, Chisholm)
    - ii. Sumner Gaming Joint Venture (Harrah's)
    - iii. Penn Sumner (Penn National)
    - iv. Marvel Gaming (Binion family)
  - c. **Southwest** Gaming Zone:
    - i. Butler National Service Corp. (Boot Hill Casino)
    - ii. Dodge City Resort and Gaming (Ingenus Management; Long Branch Gaming)
  - d. **Northeast** Gaming Zone:
    - i. Golden Heartland Casino (Sartini Family Trust)
    - ii. Kansas Entertainment (Hard Rock Hotel & Casino; Kansas Speedway)
    - iii. Pinnacle Entertainment (PNK-Kansas)
    - iv. Legends Sun (RED Leg Sun; Mohegan Tribal Gaming Authority)
    - v. Sands Kansas (**Edwardsville**; Las Vegas Sands)
    - vi. Sands Kansas (**Kansas City**; Las Vegas Sands)



5. Mr. Biles is currently working with Lottery staff and is in the process of preparing a draft casino manager contract.
6. The Lottery will have 90 days from the expiration of each application deadline to determine if an applicant meets the various KELA requirements to become a manager, and if so the Lottery will attempt to negotiate a contract with each manager that qualifies. This 90-day deadline may be extended by the Governor for up to 60 days.
7. Within 30 days of signing a contract with the Lottery each applicant must pay the statutory privilege fee of \$25 million (\$5.5 million in the Southwest Gaming Zone). All privilege fees will be held in a special fund until a management contract becomes binding in a Gaming Zone.
8. One or more proposed contracts in each Zone will be forwarded to the Kansas Lottery Gaming Facility Review Board ("Board"). The Board will conduct hearings and select a manager for each Zone, or the Board may return one or more contracts to the Lottery for further negotiations. Unless extended by the Governor the Board's selection must be made, or the proposed contract(s) returned to the Lottery, within 60 days of receipt from the Lottery.
9. Upon the Board's selection of a final applicant for each respective gaming zone, the KRGC will conduct a background and security investigation of the prospective manager. If the applicant fails to pass the investigation the entire selection process is begun again.
10. No Lottery Gaming Facility Manager contract may be awarded unless the manager has obtained a "resolution of endorsement" from the city or county commission in which the facility is proposed to be located. The endorsement process is being handled in a number of different ways by the various local governments. Some proposals submitted to the Lottery have not yet been endorsed by the city or county in which the facility is proposed to be located. The Lottery will process those applications, but will not be able to enter into a contract with any applicant that does not have the local endorsement in time to execute the contract.
11. Once a management contract becomes binding in a Gaming Zone, all unsuccessful applicants will be refunded their privilege fee (without interest). The privilege fee of the manager selected, along with the interest accrued on all privilege fees, will then be transferred to the SGF.

## RACINOS

1. Per the KELA, various rules and regulations were adopted by the Lottery Commission within 120 days of enactment of the KELA. There are 19 regulations covering items such as: certification of net electronic gaming machine income; advertising materials; kind, type and location of machines; accounting and reporting; floor plans; surveillance; security; and others (see KAR 111-101-1 through and including 111-101-19).
2. Per one of those regulations (KAR 111-101-2) the Executive Director of the Lottery made an initial allocation of gaming machines in each Zone, as follows:
  - a. Northeast Zone – 800
  - b. South Central Zone – 800
  - c. Southeast Zone – 600
3. Because the referendum vote was defeated in Sedgwick County (the county in which the parimutuel track was located in the South Central Zone), the Executive Director may reallocate the number of gaming machines available at the two remaining tracks.
4. Only existing parimutuel licensees may become Racetrack Gaming Facility (racino) managers, so no formal application process is required; however, each manager must still have the financial ability to fund the operation of the racino and be current in the payment of all taxes. If a current pari-mutuel licensee is unable or unwilling to come to an agreement with the State on how a racino is to be operated, then another pari-mutuel licensee may become eligible for a racino operation.
5. The only racinos currently authorized to offer games under the KELA are the Woodlands Racetrack in the Northeast Zone (in Kansas City) and Camptown Racetrack in the Southeast Zone (in Frontenac, near Pittsburg).
6. Mr. Biles has prepared a draft racino contract. It has been reviewed and modified by Lottery and KRGC personnel, and negotiations with both racetrack facilities are ongoing.

## LITIGATION

1. On behalf of the State of Kansas, the Kansas Attorney General filed a lawsuit challenging the KELA on constitutional grounds, primarily questioning whether the gaming contemplated under the KELA is actually “state-owned and operated.”

The Kansas Lottery and Executive Director of the Kansas Lottery, Ed Van Petten, were named as party defendants.

2. The case was filed as an "original action" with the Kansas Supreme Court, but the Supreme Court instead ruled the case should first be heard in the District Court of Shawnee County, Kansas.
3. Upon transfer of the case to Shawnee County it was assigned to the Honorable Charles Andrews.
4. The Prairie Band Pottawatomie Tribe filed a motion to intervene in the lawsuit, which motion was heard and denied by Judge Andrews.
5. Judge Andrews did, however, allow the Pottawatomie Tribe and the entity "Stand Up for Kansas" to file *amicus curie* ("friend of the court") briefs.
6. Briefs and reply briefs have been filed.
7. Oral arguments were conducted before Judge Andrews on December 4, 2007.
8. Judge Andrews hopes to render his opinion by February 1, 2008.
9. It is expected that no matter how Judge Andrews rules the case will be appealed. It is also likely the case will be certified directly to the Supreme Court rather than to the Court of Appeals. It is unknown when the Supreme Court will render its decision.

**NOTE:** A copy of the KELA, the application procedure, rules and regulations, and numerous other documents related to the KELA may be found on the Kansas Lottery's website at [www.kslottery.com](http://www.kslottery.com) (click on the "Kansas Expanded Lottery Act" link in the left-hand margin of the home page).

### CONCLUSION

Implementation of the Kansas Expanded Lottery Act continues to be a challenge for several agencies within the State of Kansas. As the owner and operator of the gaming operations the Kansas Lottery has diligently met the duties assigned to it under the terms of the KELA, and will continue to do so as the Act gets closer to full implementation.

Ed Van Petten  
Executive Director of the Kansas Lottery



**Interim Study Recommendation**

At its meeting of December 18-19, 2007, the Joint Committee on Information Technology adopted the following recommendation regarding the Kansas Lottery and implementation of the Expanded Lottery Act:

Pursuant to KSA 75-7209, the Executive Director of the Kansas Lottery shall develop and file an Information Technology Plan for the Expanded Gaming Central System with the Executive Chief Information Technology Officer. The plan and specifications shall be approved by the Executive Chief Information Technology Officer prior to award and execution of contracts. Copies of the approved plan shall be filed with the Division of the Budget, Legislative Chief Information Technology Officer, and all members of the Joint Committee and its staff.

**HOUSE APPROPRIATIONS**

DATE 1-17-2008  
ATTACHMENT 4