

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on January 13, 2009 in Room 136-N of the Capitol.

All members were present except:

Senator Steve Abrams- excused
Senator Dennis Pyle- excused

Committee staff present:

Connie Burns, Administrative Assistant
Julian Efird, Kansas Legislative Research
Dennis Hodgins, Kansas Legislative Research
Jason Long, Kansas Legislative Revisor
Theresa Kiernan, Kansas Legislative Revisor

Conferees appearing before the committee:

Ed Van Petten, Kansas Lottery
Keith Kocher, Kansas Lottery

Others attending:

See attached list.

Chairman opened the meeting and welcomed committee members and staff. A list of subject matter which is dealt with by the committee was provided. (Attachment 1)

George Barbee, Board of Technical Professions, requested a bill introduction concerning the State Board of Technical Professions relating to licensure.

Senator Reitz made the motion that this request should be introduced as a committee bill. Senator Owens seconded the motion. The motion carried.

Ed Van Petten, Executive Director, Kansas Lottery provided an update on the Kansas Lottery. (Attachment 2) The sales for FY 2008 totaled nearly \$237 million, the second highest in Lottery history. Currently sales are about 4.18% behind last year's sales. Florida joined the Powerball games this month bringing the total number of members to 32. In response to adding the large number of Florida players, and in an effort to boost overall Powerball sales, the multi-State Lottery Association also modified the Powerball game this month, whereby the jackpot odds go up, but overall odds are better for players to win a prize.

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. The request was made to give more flexibility in operations and make it possible to increase prize payout to bolster sales.

The primary concern continues to be security, both in the gaming system and field operations; the Lottery has 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; and continued to increase the audit functions, or oversight, on the gaming system. In last year's 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."

The Lottery continues to develop marketing partnership with Kansas businesses and industries; and have promoted tourism in the state with "Flint Hills Treasures," "The Great Santa Fe Trail Horse Race" and the "Sunflower State Games"; other partners include the Wichita Riverfest, the 3i Show, Garmin, Cougar Boats, Cabela's and Kansas Department of Wildlife and Parks. The intent with these "made in Kansas" games is to increase the exposure of Kansas business, industry and tourism, and to generate enthusiasm in Kansas citizens for their games. 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.

CONTINUATION SHEET

MINUTES OF THE Senate Federal And State Affairs at 10:30 a.m. on January 13, 2009, in Room 136-N of the Capitol.

The Veteran's Benefit Games tickets are showing an increase in sales, the 2008 Legislature changed the distribution of funds: 30% goes to the National Guard Museum fund (through June 2010) and 40% to Kansas National Guard education Assistance Act scholarships, and 30% will benefit the Kansas Veterans' Home in Winfield, the Kansas Soldiers' Home at Fort Dodge, and the Veterans Cemetery System. Also, games will be sold year round instead of May through November.

In the last year the Lottery has awarded a new contract for advertising; has issued an RFP for the printing of instant tickets and for facilities to house the Lottery headquarters and warehouse. Several proposals were received and the Lottery is currently considering bids and otherwise negotiating with the bidders.

Keith Kocher, Director of Gaming Facilities, Kansas Lottery, provided an update on expanded gaming. The Southeast, South Central, and Northeast gaming zones have re-let bids with application deadlines of January 21, 2009 for South East, April 1, 2009 for South Central and North East gaming zones. The Southwest gaming zone chose Butler National Service Corporation as manager of the "Boot Hill Casino and Resort" to be located on the outskirts of Dodge City, Kansas. The KRGC approved the applicant and their contract became binding on December 4, 2008. The \$5.5 million privilege fee deposited by the applicant has been transferred to the Expanded Lottery Act Revenues Fund, as provided by the KELA.

Racetrack gaming facilities are the other side of the Expanded Lottery Act. The Lottery negotiated extensively with the Woodlands Racetrack in Kansas City but was unable to reach a final contract. Both parimutuel licenses have stated their intent to seek amendments to the KELA during the 2009 Legislative session.

The KELA specifically requires that all electronic gaming machines be connected to a central computer system chosen and controlled by the Lottery for the purposes of security, auditing, monitoring, and deactivation if necessary. The gaming managers must pay for the system.

Bob Krehbiel, Chief Gaming Officer, has retired and the Governor's Chief Counsel, Sally Howard, has assumed those duties on an acting basis. Dan Biles of the law firm Gates, Biles, Shields and Ryan was hired to assist the Lottery in all aspects of the application and approval process for all gaming facilities and on January 7, Governor Sebelius appointed him to the Kansas Supreme Court. At this time the Lottery is anticipating remaining with Mr. Biles' law firm for outside legal counsel needs.

The next meeting is scheduled for January 14, 2009. The meeting was adjourned at 11:30 am

Norm: se - Re: Committee Description

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From: Theresa Kiernan
To: Norman Furse
Date: 2/15/03 10:17AM
Subject: Re: Committee Description

Sen. Education:

All matters relating to K-12 (School finance, powers of boards of education of school districts, teacher issues)
Technical Colleges
Vocational Education
State Board of Education
Higher Education (State Board of Regents, Colleges and Universities, Washburn)

Senate Fed and State:

(Anything and Everything)
Gambling or Gaming (parimutuel racing, lottery, casino, bingo)
Liquor/CMB/DUI/Underage drinking/ABC
Abortion
Native Americans/State-Tribal Relations/Gaming Compacts
Open meetings/records
Certain licensing and regulatory issues (plumbers, electricians, hvac, private investigators and security guards and some others)
Realtors and Real Estate
Law Enforcement Officers/Training/Jurisdiction
Fire Marshal
National Guard/Adjutant General/Emergency management
Cigarette and Tobacco Products
Firearms/Weapons
Legislative pay issues (sometimes)

>>> Norman Furse 02/14/03 04:40PM >>>

I have been asked for a description of the subject matter which is dealt with by each Senate committee. If you staff a Senate committee please provide to me in the near future a two or three sentence description of the subject matter(s) which are referred to that committee. Monday (17) will be soon enough for this. Thanks!!

Sen Fed & State

Attachment 1
1-13-09



Ed Van Petten
Executive Director

Kathleen Sebelius
Governor

**Testimony Before The
Senate Federal and State Affairs Committee
Agency Update January 13, 2009**

Presented By:
Ed Van Petten, Executive Director
and
Keith Kocher, Director of Gaming Facilities
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 2008 totaled nearly \$237 million, the second highest in Lottery history. We are presently about 4.18% 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. The exception is the Hot Lotto multistate game that has shown an increase of almost 25%, some of which can be attributed to the addition of a "Sizzler" option (similar to the "Power Play" in the Powerball game). After taking the new game "Kansas Hold'em" statewide, sales have increased over 60% per week and are presently up 33% over a year ago. Instant tickets have seen a modest decrease of about 1.22%. Likewise, the multistate "2 by 2" game has seen an increase in sales of about 8.5%. Much of that increase may be attributed to changes made in the game last year, including a change to conducting drawings seven days a week, increase in the amount of the top prize, and addition of the "2 by 2 Tuesday" feature.

Florida joined the Powerball game this month bringing the total number of members to 32. In response to adding the large number of Florida players, and in an effort to boost overall Powerball sales, the Multi-State Lottery Association also modified the Powerball game this month, whereby the jackpot odds go up, but overall odds are better for players to win a prize.

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Sen Fed & State

Attachment 2
1-13-09

Last year we launched the first multi-state instant game in the history of United States lotteries, with our partners at the Iowa Lottery. We are now on our second "Midwest Millions" ticket. Sales of that game have been strong, and continue to be. On January 9 the first of two drawings in the game was held in Topeka for \$500,000, with a Kansas winner, Sandra Vines, from Wichita. We also had two of the five \$10,000 winners. The second \$500,000 drawing will be in Des Moines, Iowa on April 17.

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 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 \$74 million. We were \$2 million short of the target set for last year however, and will ask that this year's figure be reduced. Since this change was made, transfers have increased from \$60.4 million in FY 2002, to over \$70 million the past two years.

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 continued to increase the audit functions, or oversight, on the gaming system. In last year's 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 electronically. All draw information is also maintained paperless, and all investigation reports and work papers are stored electronically.

We are required to survey retailers to ensure compliance with the Americans with Disabilities Act, which is a continuing responsibility. We continue to enjoy 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 \$13,768,683, with total commissions paid through FY 07 of \$194,337,092.

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, Midwest Ford Dealers and General Motors. Presently we have a ticket featuring a motorcycle from Big Dog Motorcycles in Wichita and we will launch our annual State Fair instant ticket in April featuring a boat made by Cobalt Boats in Neodesha. We have also promoted tourism in our state with "Flint Hills Treasures," "The Great Santa Fe Trail Horse Race," and the "Sunflower State Games." Other partners include the Wichita Riverfest, the 3i Show, Garmin, Cougar Boats, Cabela's and Kansas Department of Wildlife and Parks. Although still under development, we are working on a ticket with the Bass Pro Shops in conjunction with the Kansas Department of Wildlife and Parks. Also under development is an instant ticket featuring the work of renowned Kansas artist Stan Herd. Mr. Herd is creating a number of "Kansas Scenic Byway" paintings. The paintings will be featured on the tickets and awarded as second chance prizes. Our intent with these "Made in Kansas" 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 \$4.8 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.

We do still use some licensed games, as they do generate excitement with players and sometimes attract new and lapsed players.

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 \$880,000 in fiscal year 2009. New Veteran's Benefit tickets launched last year included Betty Boop and one featuring six mascots of the various branches of the United States military. These tickets are showing an increase in sales. The 2008 Legislature changed the distribution of funds. Net funds are now distributed 30% to the National Guard Museum fund (through June 2010), 40% to Kansas National Guard Education Assistance Act Scholarships, and 30% will benefit the Kansas Veterans' Home in Winfield, the Kansas Soldiers' Home at Fort Dodge, and the Veterans Cemetery System. The games will also now be sold all year, instead of May through November, as was done previously.

VII. New Games this Year

We have continued to work 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 and our Security Department has been working with Scientific Games on this project.

We now have the capacity to conduct raffle style games after the completion of the system conversion and anticipate doing so during this calendar year.

VIII. RFP's

In the past year we awarded a new contract for advertising. The Lottery received a number of applications, including one from the incumbent vendor. A new agency was selected, JNA Advertising, Kansas City.

We also issued an RFP for the printing of instant tickets. There are now only three printing companies serving state lotteries: Pollard Banknote Limited, GTECH and SGI (Scientific Games International). Pollard Banknote was selected as the Kansas Lottery's primary ticket vendor and the other two companies were given contracts as secondary printers.

In light of the expansion of gaming and the potential need for additional space, in 2008 the Lottery also issued an RFP for facilities to house the Lottery headquarters and warehouse. Several proposals were received and the Lottery is currently considering bids and otherwise negotiating with the bidders.

IX. EXPANDED GAMING

A. SOUTHEAST GAMING ZONE (Crawford and Cherokee counties)

The Lottery successfully negotiated a contract with the only lottery gaming facility manager applicant in the Southeast Gaming Zone, Penn National Gaming, LLC. Before the contract became binding, however, Penn National withdrew citing worsening world-wide economic conditions and competition from the tribal gaming facility located less than one mile away in Oklahoma. The \$25 million privilege fee was scheduled to be refunded to Penn National but pursuant to intervening litigation filed by the Cherokee County Commission the fee has been attached awaiting further court order. All interest earned on privilege fees while on deposit with the State of Kansas was retained by the State (as was the case in all Gaming Zones; however, interest earned on the Penn National funds that were attached will be paid to the successful party in that litigation, not the State).

The application process was recommenced with a present deadline of January 21, 2009. If no applications are received we will recommend that the Kansas Lottery Commission extend the deadline.

B. SOUTH CENTRAL GAMING ZONE (Sumner County)

The Lottery received four applications to become a lottery gaming facility manager in this Zone. One applicant withdrew prior to contracting with the Lottery, but the Lottery successfully entered into contracts with the remaining three. Of those, the Lottery Gaming Facility Review Board (Review Board) chose Sumner Gaming Joint Venture, which casino was to have been operated in Mulvane under the Harrah's name. Before this contract became binding they chose to withdraw, again citing the world-wide financial crisis. The \$25 million privilege fee deposited by Sumner Gaming Joint Venture, as well as the privilege fees paid by all other applicants in this Zone, have been refunded.

The Lottery has reopened the bidding process in this Zone. Applications are due no later than April 1, 2009.

C. NORTHEAST GAMING ZONE (Wyandotte County)

Contracts were signed by a total of five applicants but two withdrew before getting to the Review Board stage. The Review Board selected Kansas Entertainment, LLC, which was comprised of The Cordish Company and The International Speedway Corporation/Kansas Speedway. Once again, immediately prior to their contract becoming binding they withdrew based upon financial stresses being experienced around the world, which have hit gaming interests particularly hard. All privilege fees in this Zone have been refunded.

We have re-let bids in the Northeast Gaming Zone. The application deadline is April 1, 2009.

D. SOUTHWEST GAMING ZONE (Ford County)

The Lottery contracted with both of the entities submitting applications in the Southwest Gaming Zone. The Review Board chose Butler National Service Corporation as manager of the "Boot Hill Casino and Resort" to be located on the outskirts of Dodge City, Kansas. The KRGC approved the applicant and their contract became binding on December 4, 2008. The \$5.5 million privilege fee deposited by applicant has been transferred to the Expanded Lottery Act Revenues Fund, as provided by the KELA.

A groundbreaking ceremony was held on December 22. The initial "Phase I" of the gaming facility with certain amenities (such as a buffet restaurant) with about 575 slot machines and 75 table game positions, is to be opened no later than December 4, 2009. "Phase II" of the project is to be completed no later than February 4, 2011, which will include the final build-out of the hotel, conference center, spa, swimming pool, and other ancillary facilities and will bring the total number of slot machines to about 875 with 155 table game positions.

Per state consultants' projections, the first full year of gaming may generate approximately \$50 million of net gaming income. The state will receive 22% of the net gaming income, with a potential increase in that percentage if the manager reaches certain threshold income amounts (which "incentive payment" is unlikely in the early years). Ford County and Dodge City will each receive 1.5% of the net income, with 2% allocated to the Problem Gambling and Addictions Grant Fund.

E. RACETRACK GAMING FACILITIES

The Lottery negotiated extensively with the Woodlands Racetrack in Kansas City but was unable to reach a final contract. The Lottery agreed the Woodlands would receive virtually every dollar of net machine income they possibly could receive under the provisions of the KELA, but the manager still found that unfeasible. The owner of the Camptown Racetrack in Frontenac has for the most part relied upon the manager of the Woodlands Racetrack to conduct initial negotiations with the Lottery, but he has also publicly stated his opinion that the percentages allocated by statute are insufficient to create an acceptable return on investment.

Because there is very little (if anything) more the Lottery could offer them, both parimutuel licensees have stated their intent to seek amendments to the KELA during the 2009 legislative session. In order to realize what they deem a reasonable return on their investment they both feel they must receive a larger share of the net machine income. One or both have suggested that perhaps that rate should be equal to that allocated under the KELA to lottery gaming facility managers (casinos), which is 73% of net gaming income (a minimum of 22% goes to the State, 3% to local governments, and 2% to the Problem Gambling and Addictions Grant Fund). As the KELA is currently written the maximum a racetrack gaming facility may receive is about 40% (25% plus a maximum of an additional 15% for "gaming expenses," along with the relatively insignificant potential to share in any amount that is left over if the 7% allocated to each of the two breed purse funds reaches the annual statutory cap of \$3,750 per machine average).

F. CENTRAL COMPUTER SYSTEM

The KELA specifically requires that all electronic gaming machines be connected to a central computer system chosen and controlled by the Lottery for purposes of security, auditing, monitoring, and deactivation if necessary. The gaming managers must pay for the system. The Lottery issued a request for information, which resulted in extensive negotiations with two vendors to supply and operate the system: Scientific Games International and Spielo (a subsidiary of GTECH Corporation). Both vendors were found to be quite capable of providing the services required, but based upon pricing and technical specifications Spielo/GTECH was awarded the contract. Payment will be based upon annual aggregate net electronic gaming machine income across the state (including all lottery gaming facilities and racetrack gaming facilities, if any). For all amounts up to \$80 million per year the vendor will receive 1.2%, then .8% for amounts over \$80 million and up to \$160 million, and .3% for all amounts in excess of \$160 million.

G. MISCELLANEOUS EXPANDED GAMING MATTERS

Bob Krehbiel, Chief Gaming Officer, has retired. The Governor's Chief Counsel, Sally Howard, has assumed those duties on an acting basis.

Dan Biles of the law firm Gates, Biles, Shields and Ryan was hired to assist the Lottery in all aspects of the application and approval process for all gaming facilities. On January 7

Governor Sebelius appointed Mr. Biles to the Kansas Supreme Court. At this time we anticipate remaining with Mr. Biles' law firm for our outside legal counsel needs.

Although the KELA specifically provides that the gaming facility managers pay all expenses of regulation and oversight incurred by the KRGC, it is silent regarding the expenses of the Kansas Lottery. Therefore, all contracts executed to date have included provisions requiring each manager to pay a pro-rata share of all expenses the Kansas Lottery incurs under the KELA.