

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Melvin Neufeld at 1:30 p.m. on January 13, 2010, in Room 346-S of the Capitol.

All members were present except:

Representative Elaine Bowers- excused  
Representative Don Hill- excused  
Representative Mitch Holmes- excused  
Representative Mike Peterson- excused

Committee staff present:

Mike Heim, Office of the Revisor of Statutes  
Jason Long, Office of the Revisor of Statutes  
Julian Efird, Kansas Legislative Research Department  
Dennis Hodgins, Kansas Legislative Research Department  
Nikki Feuerborn, Committee Assistant

Conferees appearing before the Committee:

Ed Van Petten, Executive Director, Kansas Lottery (Attachment 1)  
Keith Kocher, Director of Gaming Facilities, Kansas Lottery  
Steve Martino, Executive Director, Kansas Racing and Gaming Commission (Attachment 2)  
Richard Baldwin, Director of Enforcement and Compliance, Kansas State Gaming Agency (Attachment 3)  
Mike Deines, Director of Communications/Responsible Gaming, Kansas Racing and Gaming Commission

Others attending:

See attached list.

Representative O'Brien moved for the introduction of a bill which would authorize a planned partnership between the military and communities at the request of Representative Bethell. Motion was seconded by Representative Carlson. Motion carried.

Representative Olson moved for the introduction of a bill which would transfer the oversight of the State Fire Marshal's office to the Kansas Insurance Department at the request of Representative Bethell. Motion was seconded by Representative Brunk. Motion carried.

Ed Van Petten, Executive Director of the Kansas Lottery, reviewed the activities of the Kansas Lottery and upcoming plans for the expansion of the games (Attachment 1). He referred to the latest audit conducted for Legislative Post Audit, Delehanty Consulting LLC which reported the Kansas Lottery's security culture may set the standard for the U.S. lottery industry. In response to questions regarding sales tax on multi-state sales, Mr. Van Petten stated that the tax is absorbed in the cost of the ticket and not charged separately. Members expressed concern that cities and counties would benefit from such sales tax. Partnerships with Kansas businesses are constantly being developed and the use of Kansas-made merchandise for prizes has had success.

Keith Kocher, Director of Gaming Facilities, explained that an extension will be extended for the Southeast Gaming Zone to April 16, 2010 if a viable application is not received by January 15, 2010. At this time there are on-going negotiations with an applicant for a casino in the South Central Gaming Zone. Kansas Entertainment will begin construction on Hollywood Kansas in Kansas City, Kansas in May with a completion date of 14 months later. Ultimately there will be a hotel and meeting facilities with amenities. Phase I of the Dodge City facilities have been completed and opened for business on December 15, 2009 with net revenues of \$100,000 per day of which the state receives 22 percent. Phase II which will be completed in 13 months will include a hotel, conference center, spa, and ancillary facilities. An events center is being built adjacent to the Boot Hill Casino.

Steve Martino, Executive Director of the Kansas Racing and Gaming Commission, explained their role as being the regulator of the gaming activity (Attachment 2). He gave the history, organization, and responsibilities of their division. Even though the race tracks are dormant at this time, the tracks have been

CONTINUATION SHEET

Minutes of the House Federal and State Affairs Committee at 1:30 p.m. on January 13, 2010, in Room 346-S of the Capitol.

allowed to retain their parimutuel licenses as there is no cost to the state for this retention. Complaints filed with the Commission have been sorted according to topic and residents of counties filing the complaints. This list will be supplied to the committee members.

Mike Deines, Director of Communications/Responsible Gaming, discussed the gambling counselor training for gambling addiction. The Committee discussed the possibility of persons behind in their child support having such amounts deducted from their winnings. State taxes are automatically deducted but not federal taxes.

Richard Baldwin, Director of Enforcement and Compliance, explained that although the Native American casinos in Kansas are regulated by a Tribal Gaming Commission, they are monitored by the Kansas State Gaming Agency (Attachment 3). They conduct background investigations on all casino employees and vendors (over \$10,000 per year). At this point he had no information on land placed in trust for future Native American casinos. Such proposals would require a compact with the state

The next meeting is scheduled for January 19, 2010.

The meeting was adjourned at 3:00 p.m.

FEDERAL AND STATE AFFAIRS COMMITTEE GUEST LIST

DATE: 1-13-10

NAME	REPRESENTING
Bob Bethell	Self
Dave Heineman	SUFR
Rick Stotter	Hy-Vee, Inc
Tom Palace	Pmca of KS
Kendra Hanson	Intern, Hein Law Firm
STEPHEN MARTINO	KRGC
Mike Demes	KRGC
Jay Hall	KRGC
Sarah Gillooly	PPKM
THOMAS WETT	KS EQUALITY COALITION
RICH BARTON	CLG
Kevin Borne	S.C.E.D.
Rob Johnson	Federico Consulting



Ed Van Petten  
Executive Director

Mark Parkinson  
Governor

**Testimony Before The  
House Federal and State Affairs Committee  
Agency Update January 13, 2010**

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 is considering the possibility of proposing legislation permitting vending machines in Kansas. Technology has advanced to the point that age verification is included with the machines, thus eliminating the possibility of minors purchasing lottery products from the machines. All research has not yet been completed; therefore no proposal has been brought forth at this time.

**II. Sales**

Sales for FY 2009 totaled \$230,505,668. We are presently about 4.7% above last year's sales. Instant ticket sales are about even from last year, with increases of just over 10% on all three jackpot games. Both Keno and Kansas Hold'em, our monitor games, are showing a drop in sales. These games are played mostly in social environments and have been showing slight decreases the last few years.

Arkansas joined the Powerball game this fall bringing the total number of members to 33. In addition, the states in the Multistate Lottery Association have reached an agreement with the states in the MegaMillions consortium, to allow cross selling of each other's games. Starting January 31, 2010, the MegaMillions game will be available at all Kansas Lottery retailers.

Two years ago 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 third "Midwest Millions" ticket. Sales of that game have been strong, and continue to be. On January 15 the first of two drawings will be held in Topeka for \$500,000. The second drawing for \$500,000 will be in Des Moines, Iowa on April 16.

128 North Kansas Avenue - Topeka, Kansas 66603-31  
Phone: 785-296-5700 - Fax 785-296-5712 - www.kslotter

House Fed & State Affairs  
Date: 1-13-2010

Attachment 1

### **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 have 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 \$72 million. Since this change was made, transfers have increased from \$60.5 million in FY 2002, to approximately \$70 million the past few 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 the last 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."

Beginning last summer we initiated the Retailer Honesty Assurance Program, to make sure our players are treated fairly by retailers. Tickets appearing to be winning tickets were presented to a number of retailers. On six occasions the person working informed our undercover agent that the ticket was not a winner. Those persons are being prosecuted by the Office of the Attorney General for Attempted Theft and Computer Crimes. Both charges are felonies. Thus far there has been one conviction, and the other five are pending. Three of the people charged were owners of the businesses or a family member. Those contracts were immediately terminated. We allowed the other three retailers to continue selling, if the offending employee was terminated.

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 \$13,446,468, with total commissions paid through FY 09 of \$207,783,560.

## **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. We have also promoted tourism in our state with "Flint Hills Treasures," "The Great Santa Fe Trail Horse Race," "Sunflower State Games" and most recently "Painted Byways" a game featuring our nine scenic byways and artwork by Stan Herd. We enjoyed a great partnership with the Kansas Department of Transportation, Kansas Department of Commerce and the Kansas Arts Commission in promoting the byways of Kansas. Other partners include the Wichita Riverfest, the 3i Show, Garmin, Cougar Boats, Cabela's, Bass Pro Shops and Kansas Department of Wildlife and Parks. 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 over \$5 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**

FY 09 sales for the Veteran's Benefit Games were \$5,064,820, which resulted in a transfer for those programs of \$1,628,958. 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 are now being sold year round.

## **VII. New Games this Year**

We now have the capacity to conduct raffle style games after the completion of the system conversion and just completed the first raffle, called "The Holiday Millionaire Raffle." Veronica Mason of Wichita, won \$1 million. We also have five \$50,000 winners and five hundred \$500 winners in the game. We had 150,000 tickets in the game which launched on October 18. All tickets sold out on November 24, proving the game to be a huge success.

## **VIII. RFP's**

In the past year we awarded a new contract for the Lottery headquarters and warehouse. Our present landlord acquired the building to the south of our present building and is in the process of remodeling. We will occupy both buildings, allowing us to have all offices and storage together.

## **IX. EXPANDED GAMING**

### **A. SOUTHEAST GAMING ZONE (Crawford and Cherokee counties)**

Following the 2008 withdrawal of Penn National Gaming to become a lottery gaming facility manager applicant in the Southeast Gaming Zone, the application process was recommenced. Several deadlines for new applications had passed before one was received in October, 2009; however, that application was rejected in part because the applicant failed to demonstrate adequate Class III gaming experience and sufficient access to financial means to make the project viable. The current deadline to file applications in the Southeast Gaming Zone is January 15, 2010. If no applications are timely received the Kansas Lottery Commission has already voted to automatically extend the deadline to April 16, 2010.

### **B. SOUTH CENTRAL GAMING ZONE (Sumner County)**

In 2008 the Lottery successfully negotiated contracts with three manager applicants in this Zone. Of those, the Lottery Gaming Facility Review Board (Review Board) chose Sumner Gaming Joint Venture, which casino was to have been operated at the Mulvane exit of the Kansas Turnpike under the Harrah's name. Before that contract became binding they chose to withdraw citing the world-wide financial crisis.

Prior to the new deadline of April 1, 2009 the Lottery received applications from the following three entities: Lakes Development; Chisholm Creek (the Foxwoods, owned by the Mashantucket Pequot Tribe); and Prairie Sky (Peter Simon, John Ensign, and others). Prior to negotiating a final contract Prairie Sky withdrew and Lakes Development and Chisholm Creek combined their efforts under the Chisholm Creek application, thereby leaving one joint applicant in the Zone. In addition, the Foxwoods' component of the project was taken over by Och-Ziff Development and Clairvest, with ownership interests as follows: Lakes Development 17%; Och-Ziff 50%; and Clairvest 33%.

The Lottery Gaming Facility Review Board conducted a series of hearings regarding both the South Central and the Northeast Gaming Zone. Based upon a desire to firm up plans to build a hotel as part of the lottery gaming facility enterprise, as well as consider the impact of a potential tribal gaming facility in or near Wichita, Chisholm Creek requested the Review Board return the contract to the Lottery for further negotiation (to which request the Lottery acquiesced). Those revised contract negotiations are ongoing at this time.

**C. NORTHEAST GAMING ZONE (Wyandotte County)**

In 2008 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.

Bids were re-opened with a new deadline of April 1, 2009. Three applications were received, as follows: Penn National Gaming; Kansas Entertainment (The International Speedway Corporation and the Cordish Group, the same entity previously selected by the Review Board); and Golden Gaming. Golden Gaming dropped out of the process almost immediately but contract negotiations commenced with the two remaining applicants.

The Lottery had negotiated a final contract with Kansas Entertainment and was all but done with the Penn National contract when both applicants asked for the process to be suspended for a short period of time. At the end of that time the applicants announced that the Cordish Group was withdrawing from the Kansas Entertainment application and Penn National would be taking its place. Further, the "Hard Rock" name and theme of the casino would be changed to a "Hollywood Kansas."

As mentioned above, the Review Board conducted a series of hearings, which in December 2009 resulted in a unanimous decision to approve the Kansas Entertainment contract (now comprised of The International Speedway Corporation and Penn National Gaming). The Kansas Racing and Gaming Commission (KRGC) is now conducting its background and suitability investigation, which is expected to be completed sometime in February.

Assuming the contract is approved by the KRGC, Kansas Entertainment intends to commence construction of the "Hollywood Kansas" casino on the second turn of the Kansas Speedway in Kansas City, Kansas in May of this year. The target completion date is 14 months thereafter.

At opening the 100,000 square foot gaming floor will house 2,300 slot machines and 86 table games. Amenities include 28,000 square feet of restaurants, clubs, retail, and night-life attractions. The second phase of the project includes not only additional gaming floor space, but a hotel with a minimum of 250 rooms, which is to be completed within 24 months of the initial opening of the casino, along with additional meeting facilities, lobby bar, and other food and beverage amenities.

**D. SOUTHWEST GAMING ZONE (Ford County)**

In 2008 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 & 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.



A ground-breaking ceremony was conducted on December 22, 2008 and construction commenced immediately thereafter. Following various testing and controlled demonstrations, the Boot Hill Casino & Resort opened to the general public on December 15, 2009, with Governor Parkinson conducting the official ribbon cutting on December 16.

“Phase I” of the gaming facility includes approximately 585 slot machines and 12 table games. Amenities include a full-service restaurant, a snack bar, a “saloon”, and a retail shop. In the partial month of operations thus far, net gaming facility revenues have varied widely on a daily basis, but have averaged in excess of \$100,000 per day. “Net gaming facility revenues” are all amounts wagered less prizes paid, which net amount is then available for distribution to the State (22%), the manager (73%), the city and county (1.5% each), and the Problem Gambling and Addictions Grant Fund (2%).

“Phase II” of the project is to be completed no later than February 2011, which will include the final build-out of the 120-room hotel, conference center, spa, swimming pool, and other ancillary facilities and will bring the total number of slot machines to about 875 with additional table game positions as well. Furthermore, the independently funded “Events Center” being built by Dodge City and Ford County immediately adjacent to the Boot Hill Casino is presently underway with an anticipated completion date of February 2011.

#### **E. RACETRACK GAMING FACILITIES**

As reported last year, the Lottery previously 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 had 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 stated their intent to seek amendments to the KELA during the 2009 legislative session, but no such amendments materialized. We assume those efforts will continue during the 2010 session.

Kansas Racing and Gaming Commission

Carol Sader, Chairman, Prairie Village; Glenn Braun, Vice Chairman, Hays; William Falstad, Secretary, Independence; Kristine McKechnie, Commissioner, Arcadia; Barry Schwan, Commissioner, Wichita

The Pari-mutuel Racing Act established the Racing Commission in 1987. It was renamed the Racing and Gaming Commission when the tribal casinos in northeast Kansas opened in the mid-'90s. The day-to-day compliance activities of those facilities are done by the State Gaming Agency as set out in the compacts between the state and the tribes. The staff regulating the state-owned and operated casinos has no interaction with the tribal gaming facilities.

The Kansas Lottery Commission is the owner and operator of all casinos and race track gaming authorized by the Expanded Lottery Act. The KRGC is the regulator of the gaming activity.

The KRGC has five divisions:

- Executive division: Patrick Martin, assistant attorney general and chief counsel, and Mike Deines, director of communication and responsible gambling
- Security and licensing: Don Brownlee, deputy director
- Audit and electronic security: Charles LaBoy, deputy director
- Administration: Don Cawby, deputy director
- Racing: dormant

Regulating state-owned and operated casinos:

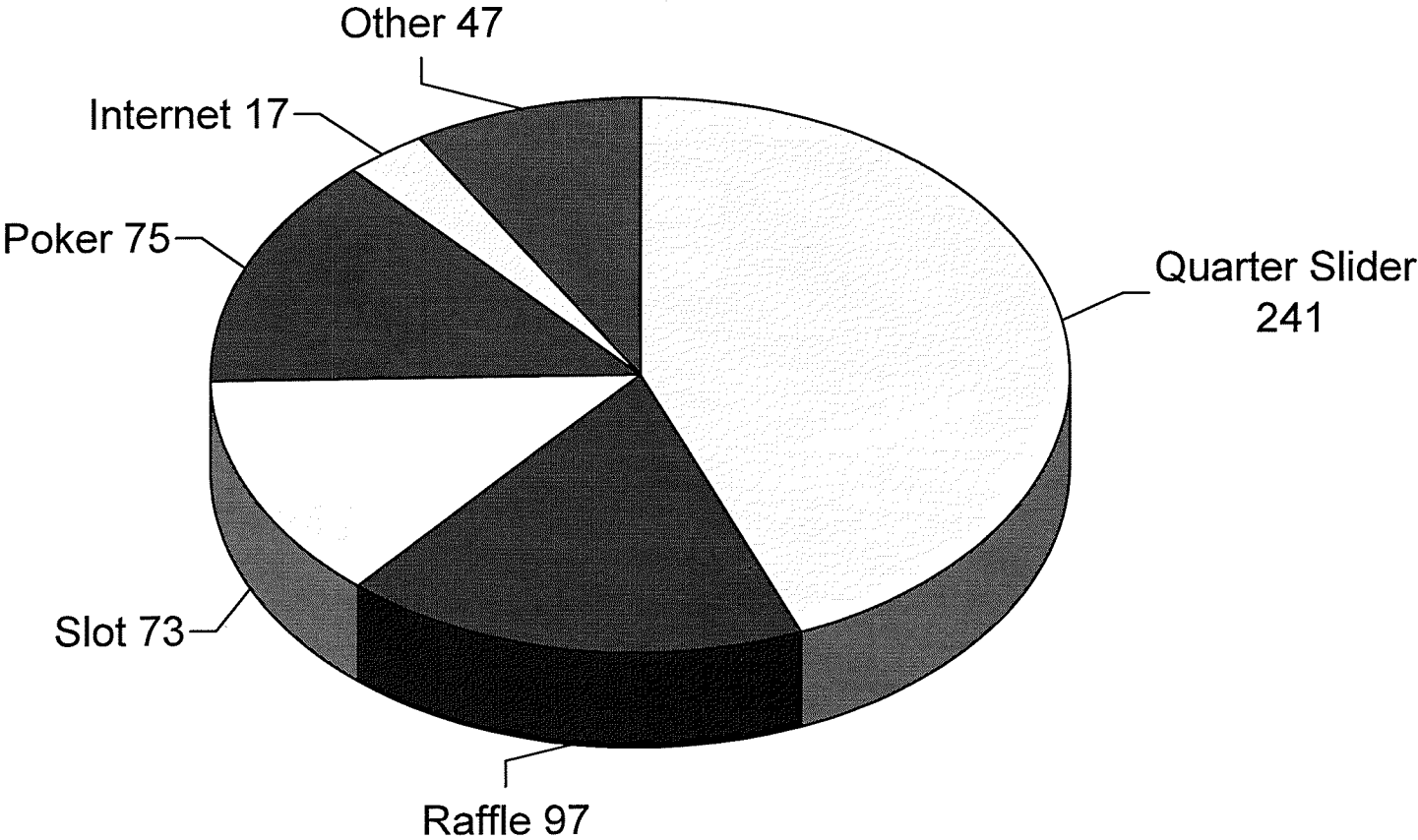
- Enforce Expanded Lottery Act and KRGC regulations and policies
- Require adherence to responsible gambling programs and problem gambling treatment, including managing the Kansas voluntary self-exclusion program
- KRGC founded and participates in the Kansas Responsible Gambling Alliance
- Provide 24-hour-a-day, seven-day-a-week law enforcement presence at the facility
- Require and monitor appropriate security and surveillance of facility
- Audit money collected at facility and ensure compliance with internal controls
- Mandate compliance of all electronic games consistent with technical standards, independent lab testing and ability to appropriately interface with central computer system
- Conduct background investigations and license all employees at facility
- Conduct background investigations and license suppliers and vendors
- Reconcile counted gaming revenue against reported income from computer systems
- Interface with and assist local law enforcement

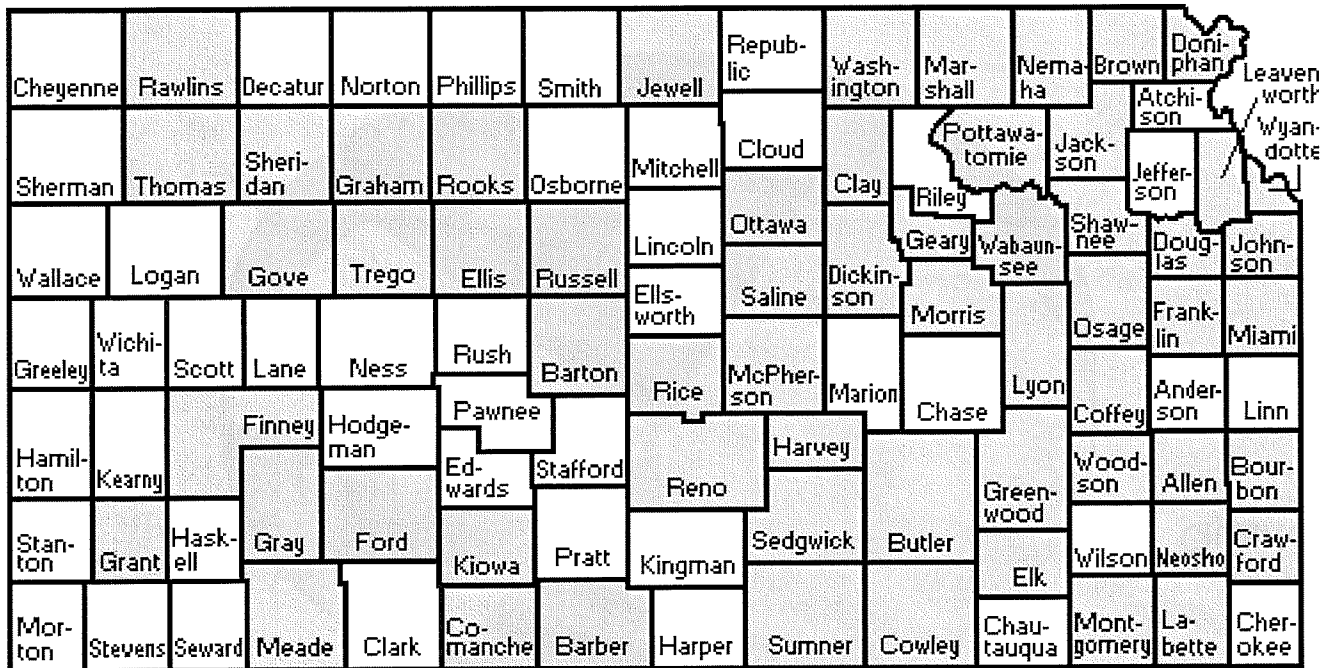
Find more information about the agency and our work at: [www.krgc.ks.gov](http://www.krgc.ks.gov)

## 2009 agency highlights

- Successfully monitored the opening of Boot Hill Casino and Resort in Dodge City, including:
  - Tested and approved central computer system provided by GTECH
  - Tested and approved 1,089 electronic gaming machines and related software
  - Required two controlled demonstrations to ensure regulatory compliance
  - Verified 421 audit checklist items during controlled demonstrations
  - Issued 302 temporary employee licenses, denied 35 temporary licenses
  - Commission has approved 18 permanent licenses and denied 5 license applications
  - Distributed responsible gambling brochures on: Kansas Voluntary Self-Exclusion Program, Responsible Gambling Guidelines for Patrons and Help Line
  - Kansas is the only state in the country to have a responsible gambling message delivered directly on the slot machine, including helpline number and website.
  
- Licenses and backgrounds:
  - Eureka Downs: 410; Anthony Downs: 167
  - Corporate gaming licenses issued: 28
  - Corporate gaming licensee employees investigated: 140
  - Total 2009 backgrounds completed: 207
  - Backgrounds in process:
    - Corporate: 32; Corporate employees: 324; Boot Hill Casino: 346
  
- Responsible gambling:
  - Together with Kansas Responsible Gambling Alliance, developed new problem gambling website [www.ksgamblinghelp.com](http://www.ksgamblinghelp.com)
  - With Alliance, endorsed and marketed new toll-free Problem Gambling Helpline, 800-522-4700.
  - Coordinated training for gambling counselors in the Dodge City area to assist them in identifying problems encountered by their clients.
  
- Illegal gambling enforcement
  - KRGC is state coordinating agency for illegal gambling enforcement and education, working with Highway Patrol, KBI, Kansas Lottery, Alcohol Beverage Control, Attorney General's office
  - Dec. 19, 2007-Dec. 30, 2009, KRGC has received 558 illegal gambling complaints.
  - Worked with AG's office to close illegal poker game, Kandu, in Wichita.
  - KRGC has emphasized illegal nature of "quarter pushers" in our education and outreach. KRGC has overseen the destruction of 61 quarter pushers and has more than 150 complaints closed upon the devices' removal from the state before destruction. Anecdotally, we know that countless other devices were not reported to the KRGC but have nonetheless been removed as a result of KRGC efforts.

### Complaints/Questions by Issue





**Map of Complaints Since January 2008  
(60 counties as of 1-11-09)**



# KANSAS

KANSAS STATE GAMING AGENCY  
JOHN McELROY, EXECUTIVE DIRECTOR

MARK PARKINSON, GOVERNOR

## **Testimony before the House Federal and State Affairs Committee Of Richard Baldwin, Director of Enforcement and Compliance Kansas State Gaming Agency January 12, 2010**

In 1995, the Iowa Tribe of Kansas and Nebraska, the Prairie Band Potawatomi Nation of Kansas, the Kickapoo Tribe, and the Sac and Fox Nation of Missouri in Kansas and Nebraska each signed a Tribal State Compact with the State of Kansas. By 1998, each had opened its own casino in Kansas. Each of the casinos continues to operate today. Each is regulated by a Tribal Gaming Commission. The gaming activities of each are monitored by the Kansas State Gaming Agency. The Agency has jurisdiction over gaming activities conducted pursuant to a Tribal State Compact. The Agency has jurisdiction over no other types of gambling, legal or illegal.

The Agency's organization is made up of three management positions; three support staff, seven Enforcement Agents and six Special Investigators.

The Kansas State Gaming Agency is responsible for conducting background investigations on all employees connected with the gaming operations at each casino. The Agency is also responsible for conducting background investigations on all vendors who sell more than \$10,000 per year in gaming equipment to a casino in Kansas. The Agency does original background investigations as well as addenda, upgrades and renewals of investigations which have been done in the past. In FY 2009, the Agency completed 523 individual employee background investigations and 36 vendor background investigations.

Licensing of gaming employees and vendors is done entirely by the Tribal Gaming Commissions. The Agency can and does occasionally object to particular applicants.

Key employee investigations, vendor, and tribal gaming inspector investigations are completed by enforcement agents. Frequently these investigations involve travel out of state. Vendors typically pay the expenses of the Agency for their background investigations. All other gaming employee investigations are completed by special investigators who are not sworn law enforcement officers. The Agency contributes varying amounts of background information on each, depending on whether they are key employees or not.

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PHONE (785) 368-6202 – FAX (785) 291-3798

House Fed & State Affairs

Date: 1-13-2010

Attachment 3

Enforcement Agents, sworn law enforcement officers, conduct inspections and monitor gaming activity at the four casinos. In addition Agents conduct criminal investigations when needed.

I am unable to share with the members of this committee any specific information about the activities of any particular casino. Such information is not public record and is considered confidential according to the terms of the State Tribal Compacts.

I am available for information at 785-368-6202 or at [richard.baldwin@ksgaming.org](mailto:richard.baldwin@ksgaming.org).