

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Stephen Morris at 10:35 a.m. on January 20, 2004, in Room 123-S of the Capitol.

All members were present except:

Senator Nick Jordan- excused

Committee staff present:

Alan Conroy, Director, Kansas Legislative Research Department
J. G. Scott, Chief Fiscal Analyst, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Susan Kannarr, Kansas Legislative Research Department
Julian Efird, Kansas Legislative Research Department
Carolyn Rampey, Kansas Legislative Research Department
Norman Furse, Revisor of Statutes
Jill Wolters, Assistant Revisor, Revisor of Statutes
Judy Bromich, Administrative Analyst
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Phill Kline, Attorney General, State of Kansas
Ed Van Petten, Executive Director, Kansas Lottery
Tracy Diel, Executive Director, Kansas Racing and Gaming Commission
John McElroy, Executive Director, Kansas Racing and Gaming Commission

Others attending:

See Attached List.

Chairman Morris welcomed Phill Kline, Attorney General, State of Kansas, who provided an update on the Colorado and Nebraska Water Litigation and the Tobacco Settlement funds. (No written testimony was submitted.) Attorney General Kline provided a background on the water litigation which is a vital issue to the state. He explained that later this week exceptions will be filed to the Order of the Special Master seeking oral argument before the United States Supreme Court on three issues and one sub-issue regarding Colorado Water Litigation:

1. Calculation of pre-judgement interest.
2. Whether the Court will appoint a River Master to oversee compliance with the Court's order.
3. A formula in determining compliance, which is a hydrological model, and to see that enforcement occurs on an annual basis.
 - a. Sub-issue as to whether Colorado violated the compact in 1997-1999.

Regarding the Nebraska Water Litigation, the Attorney General explained that settlement was reached in November 2002 and the computer model was completed in July 2003 as it relates to the Republican River. The computer model has been updated to 2002 and now will be updated annually. There will be some ongoing costs as it relates to updating the computer model and assuring that it is applied correctly to that particular basin.

Attorney General Kline explained, regarding the Tobacco Settlement funds, there are some issues as it relates to diminishment of receipts that will be brought before the Legislature. He cautioned that this money is no way definitive and certain in future years. The settlement itself is very payment-based upon market share and complex calculations so it will always deviate. The Attorney General explained that one of the biggest impacts on the settlement was something at the time they did not perceive which was the dramatic rise in market share of non-participating manufacturers. Attorney General Kline mentioned that there is some legislation that will be placed before the Legislature. That legislation will re-calculate the essential payments of the non-participating manufacturers. Passing this legislation would protect the state receipts in the future.

CONTINUATION SHEET

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The Attorney General mentioned that there is a challenge to all of this that is growing more serious. The Second Circuit of Appeals has remanded the case finding that the issue of whether the states, in negotiation with the tobacco companies, violated the Sherman Anti-Trust Act. That case is going to be heard and there is serious concern about that case, and if Kansas would lose in that case, then it would strike down all of the laws, most likely, as it relates to non-participating manufacturers and then jeopardize the entire settlement agreement. Committee questions and discussion followed.

The Chairman welcomed Ed Van Petten, Executive Director, Kansas Lottery, who presented an update on the operation of the Kansas Lottery (Attachment 1). Mr. Van Petten discussed the following information:

- I. Lottery Sales. Sales have shown an increase in the last two fiscal years and mentioned that they felt that increases are a result of changes made in game development and marketing practices.
- II. Transfers. That the 2002 legislature allowed the Lottery to modify the method of calculating transfers made each month.
- III. Operations. Security continues to be the primary concern both in their gaming system and field operations.
- IV. Partnerships. Marketing partnerships are continuing to be developed with Kansas businesses and industries.
- V. Veteran's Benefit Games. A total transfer of approximately \$640,000 is anticipated.

Mr. Van Petten explained that the Kansas Lottery has joined the Kansas Attorney General's Office, the Kansas Bureau of Investigation, Kansas Highway Patrol, the Kansas Association of Broadcasters and other organizations to participate in the Kansas AMBER Plan. Committee questions and discussion followed. Senator Helgerson requested information regarding demographics in out-of-state and in-state lottery sales.

Chairman Morris welcomed Tracy Diel, Executive Director, Kansas Racing and Gaming Commission, who presented an overview of the commission (Attachment 2). Mr. Diel explained that the Kansas Racing and Gaming Commission has regulatory jurisdiction over the parimutuel racing industry in the State of Kansas. The Kansas Racing and Gaming Commission does not receive any State General Fund money, but is funded through a tax on parimutuel wagering, fees charged for licensing, an admission tax where applicable, and fines levied by the Commission.

Mr. Diel mentioned that there are two functioning parimutuel racetracks in Kansas at the current time:

- The Woodlands, located in Kansas City, Kansas, and
- Wichita Greyhound Park (WGP), located in Valley Center.

The Chairman welcomed John McElroy, Executive Director, Kansas Racing and Gaming Commission, who presented information on the Kansas State Gaming Commission (Attachment 3). Mr. McElroy explained that K.S.A. 74-9805 limits the jurisdiction of the Agency to oversight and investigations concerning tribal gaming operations in Kansas carried out in connection with Tribal State Contracts. He noted that the Agency is entirely funded by contributions from the four recognized Kansas tribes. Mr. McElroy mentioned that all of the Tribes are current in paying their assessments. Committee questions and discussion followed.

The meeting adjourned at 12:00 p.m. The next meeting is scheduled for January 21, 2004.