

The Kansas Expanded Lottery Act

State-Owned and Operated
Racinos and Casinos

A Brief Historical Perspective

- 1. “Lotteries and the sale of lottery tickets are forever prohibited.”
Kansas Constitution, 1855
- 2. Long line of cases defining “lottery” as any enterprise involving **prize, chance** and **consideration**.
- 3. **Charitable Bingo** was authorized by a Constitutional Amendment in 1974, followed by **Parimutuel Wagering** in 1986, both subject to typical **regulation, licensing, and taxation**.
- 4. In 1986 the Kansas Constitution was amended to allow a lottery; however, rather than giving the state the power to regulate, license and tax, it was required the Lottery be “**state-owned and operated**.” First ticket sold November, 1987.

Expansion of Gaming

Annual efforts for at least 15 years:

- 1. Slots at the existing tracks, bars, bowling alleys, fraternal organizations, “gambling train,” etc.
- 2. Full-fledged casinos
- 3. Efforts failed for a variety of reasons
 - A. House and Senate disagreed
 - B. Governor opposed
 - C. Stake holders at odds (dogs, horses, owners, etc.)
 - D. Conservative state in general
- 4. Governor’s Gaming Committee in 2003 concluded the majority of Kansas citizens wanted a controlled expansion of gaming and were tired of money leaving the state
- 5. Christiansen Capital Advisors study in 2004, 2006 (2) (commissioned by the Lottery)

- 6. 2007 Session
 - A. House clearly pro; Senate 1-2 vote margin either way
 - B. Governor pro-expansion
 - C. Stake holders were playing nice.
 - D. Consortium of interests put a bill together
- 7. Gaming Bill introduced on House floor April 2007
 - A. Bill never worked in Committee
 - B. House debated, but passed easily
 - C. Over 12-hour filibuster on Senate side
 - D. Narrowly passed in the Senate
 - E. Governor signed bill into law

Kansas Expanded Lottery Act

- Major Components of KELA (SB 66)
 - 1. All gaming to be “state-owned and operated”
 - A. Lottery Director and Commission (the “State”) owns the **gaming** itself and have ultimate control over all aspects of gaming operations
 - B. Kansas Racing and Gaming Commission to **regulate**
 - C. Contract with independent managers
 - D. Constitutional challenge lawsuit now pending, but Kansas Supreme Court will have to rule
 - 2. Four “Gaming Zones” Created
 - A. Two Zones within **one county** in each (counties in which Kansas City and Dodge City are located)
 - B. Two Zones with **two contiguous counties** in each (Wichita and Pittsburg are in or near these counties)

- 3. Subject to county referendum (with grandfather clause for zones in which prior votes had already been taken, if approved by Lottery Commission)
 - A. Two counties grandfathered in
 - B. Three counties had successful county votes
 - C. Sedgwick County (Wichita) **defeated casino AND racino** (leaving only Sumner County in that Gaming Zone)
- 4. Three Gaming Zones with **Pari-mutuel** Tracks
 - A. Kansas City – Woodlands
 - B. Pittsburg (Frontenac) – Camptown Greyhound Park
 - C. Wichita – Wichita Greyhound Park (**vote failed**)
 - D. No application procedure (just certain minimum threshold qualifications for existing pari-mutuel licensees, including financial ability and being current on taxes)

- E. Slot machines only (no table games)
- F. 2,200 slots available initially
 - (1) Allocated by Executive Director
 - (2) 600 Minimum for each Racino
 - (3) An additional 600 available after all Casinos operating, subject to bidding process (for potential total of 2,800)
- G. Privilege fee of \$2,500 per machine.
- H. Present allocation:
 - (1) Woodlands – 967 machines
 - (2) Camptown – 800 machines
- I. Woodlands plans to open a temporary facility, with permanent location to be constructed
- J. Camptown making renovations for permanent facility.

5. All four Zones to have one **Casino** each

- A. Competitive application process with threshold requirements:
 - (1) Manager to have at least 3 consecutive years Class III **gaming experience**
 - (2) Sufficient access to money/**finances** to conduct gaming activities
 - (3) Current in the payment of all **taxes** (not applicable to Resident Kansas American Indian Tribe applicants)
- B. “**Enterprise**” to include the casino itself, along with ancillary operations (hotel, restaurants, gift shops, etc.)
- C. Slots and table games permitted, with no statutory limit on numbers of machines or games

- D. Minimum **\$225million investment** in Enterprise infrastructure (except in Dodge City where is **\$50million**) in hopes of assuring a true “destination casino” to attract tourists.
- E. Privilege fee of **\$25million** for each casino (except in Dodge City where is **\$5.5million**)
- F. Application deadlines the month of December (first one December 6)

Contract and Approval Process

■ Racinos:

- 1. Contract negotiated by Lottery and approved by Lottery Commission
- 2. Background and security clearances by KRGC

■ Casinos:

- 1. Contract negotiated by Lottery and approved by Lottery Commission within 90 days of submission deadline
- 2. Actual selection by **Lottery Gaming Facility Review Board** (7 members; political appointees) after public hearings, and within 60 days of submission to them by Lottery
- 3. Background/security clearance by KRGC within 10 days
- 4. No contract unless have a “**resolution of endorsement**” by the local governing body in which facility is to be located

Distribution of Net Machine Income

- 1. Racinos:
 - A. Manager – 25%
 - B. “Gaming Expenses” – up to 15% (subject to contract)
 - C. Horse Racing Purse Supplement Fund – 7%*
 - D. Dog Racing Purse Supplement Fund – 7%*
 - E. City and/or County – 3% total
 - F. Problem Gambling Fund – 2%
 - G. Kansas Horse Fair Racing Benefit Fund – 1%
 - H. State of Kansas – No less than 40%

(*Capped at \$3,750 per machine per year)

■ 2. Casinos:

- A. State of Kansas – No less than 22% (may by mutual agreement contract for more)
- B. City and/or County – 3% total
- C. Problem Gambling Fund – 2%
- D. Manager – Balance (73%, or less if State receives more than 22%)
- E. Lottery Facility Gaming Expenses paid out of Manager's share, but subject to contract
- F. Managers also pay costs of oversight and regulation by the KRGC, as established by contract

■ 3. State's Share of all Income to only be used for:

- A. Reduction of state debt
- B. State infrastructure improvements
- C. Reduction of local ad valorem taxes

Miscellaneous

- 1. Term – Maximum of **15 years**, with potential for renewals
- 2. **25-year Moratorium** on further expansion of gaming (penalties include refund of privilege fees, with interest)
- 3. Managers lease or purchase at their expense a **central computer system** on behalf of the Lottery
- 4. All machines must be **directly linked, on-line, and in constant communications** with the central system for auditing and monitoring, and be able to deactivate any/all gaming machines
- 5. The Lottery has the right to select all machines, which machines must be purchased or leased by the Managers on behalf of the Lottery (progressives are allowed)

- 6. Contracts with Managers, for central system, and for machines not subject to typical state procurement laws
- 7. Background and security clearances pertain to those holding as little as .5% (1/2 of one percent) interest
- 8. Can't manage a racino and casino in the same zone, but no prohibition against managing multiple locations otherwise
- 9. Lottery has “full, complete and ultimate ownership and operational control of the gaming operation” of the gaming facilities
- 10. Must be at least 21 years of age to play
- 11. Rules must be in place regarding problem gaming, including signage and a self-exclusion program

- 12. Extensive rules regarding conflicts of interest, ownership, representation, and gifts (re: state officials and affiliates)
- 13. Machines not certified are considered “gray machines” subject to confiscation
- 14. An American Indian Tribe manager must waive sovereign immunity regarding gaming activities and contract
- 15. Slots have a minimum average of at least 87% over the theoretical life of the machine
- 16. Problem gambling funds may also be used to treat alcoholism, drug abuse and “other addictive behavior”