

NATIONAL COUNCIL OF LEGISLATORS FROM GAMING STATES
COMMITTEE ON LOTTERIES
LAS VEGAS, NEVADA
FRIDAY, JUNE 8, 2007
DRAFT MINUTES

The Committee on Lotteries of the National Council of Legislators from Gaming States (NCLGS) met at the Rio All-Suite Hotel & Casino in Las Vegas, Nevada, on Friday, June 8, 2007, at 8:30 a.m.

Representative James Buskey from Alabama, Chair of the Committee, presided.

Other members of the Committee present were:

Sen. Tom Harman, CA
Rep. Kevin Ryan, CT
Rep. Pamela Thornburg, DE
Rep. Nancy Wagner, DE
Sen. Steven Geller, FL
Sen. Richard Lerblance, OK
Rep. Christopher Sainato, PA
Rep. Tim Solobay, PA

Other legislators present were:

Rep. Charles Ormond, AR
Rep. Vincent Lofink, DE
Rep. Bill Oberle, DE
Rep. John Viola, DE
Rep. Trent Van Haaften, IN
Rep. Michael Peterson, KS
Rep. Arlen Siegfried, KS
Rep. Tom Burch, KY
Rep. J.P. Compretta, MS
Rep. Hank Zuber, MS
Sen. Edward Jones, NC
Rep. Lois Delmore, ND
Sen. Ben Altamirano, NM
Sen. John Arthur Smith, NM
Rep. Harold James, PA
Rep. Daylin Leach, PA
Rep. Ronald Waters, PA

Others present were:

Susan Nolan, Nolan Associates, NCLGS Executive Director
Nicholas Brozean, Nolan Associates, NCLGS Assistant Legislative Coordinator

MINUTES

The Committee voted unanimously to accept, as submitted, the minutes of its January 12, 2007, meeting in Duck Key, Florida.

LOTTERY INITIATIVES IN THE STATES, I.E., KANSAS EXPANDED LOTTERY ACT

Ed Van Petten, executive director of the Kansas Lottery, said the lottery in Kansas, as defined by the state's court, includes all types of gambling, such as pari-mutuel and casino wagering. He said a Kansas constitutional amendment provides that any lottery in Kansas must be state-owned and operated. He said for years people interpreted the amendment to mean that the Kansas Lottery must own and operate all gaming operations, which is not true.

Mr. Van Petten said the Kansas Expanded Lottery Act (SB 66), adopted in 2007, establishes the Kansas Lottery as owner and operator of all gaming operations permitted by law at racetracks and destination casinos. He said the Kansas Lottery includes three racinos and four destination casinos.

Mr. Van Petten said the Kansas Racing and Gaming Commission has authority to regulate and oversee the Lottery. He said the legislation requires the two state agencies to work together on a number of issues, including security and auditing functions.

RACINOS

Mr. Van Petten said the Lottery requires racino facilities to have a minimum of 600 electronic gaming machines at each facility and a total initial distribution of 2,200 machines. He said after casino contracts have been negotiated for all of the facilities, the lottery is allowed to authorize 600 additional machines. Mr. Van Petten said the additional machines are subject to bidding and privilege fees. He said privilege fees on the initial 2,200 machines are \$2,500 per machine, payable to the state of Kansas, and non-refundable.

Mr. Van Petten said destination casinos are also allowed to bid and pay privilege fees in order to prevent additional machines from inclusion at racinos. He said destination casinos can only pay a privilege fee to prevent additional machines and cannot implement the machines themselves.

DESTINATION CASINOS

Mr. Van Petten said the destination casinos include three major ones, which each have a minimum investment of \$225 million, and smaller one required to invest at least \$50 million.

Mr. Van Petten said, as the executive director of the Lottery, he is in charge of negotiating the casino facility contracts with potential bidders, which he will determine if the contract will benefit the state. He said Kansas statute is interpreted at this time to allow potential bidders who meet the minimum requirements to negotiate a contract. He said then a contract is ratified by the lottery commission and then sent to the gaming facilities review board.

Mr. Van Petten said the review board is in charge of analyzing the contracts approved by the lottery commission in order to determine if destination casinos benefit the state of Kansas and the economy of the surrounding areas. He said the review board is made up of seven individuals;

three appointed by the governor, two by the president of the Senate, and two by the speaker of the House.

Mr. Van Petten said after a contract has been approved by the review board, the contract and the company information will be sent to the Racing and Gaming Commission. He said the Commission is in charge of making sure the statute is upheld, as well as other criteria in the rules and regulations set by the state lottery and racing commissions. He said if the contract is approved by the gaming commission, the contract becomes final. He added that if not, the process restarts.

Mr. Van Petten said after the contract is approved by the state lottery commission, each of the bidders are required to submit a \$25 million privilege fee to be held by the state of Kansas. He said any unsuccessful bidder will receive the fee back without interest. He said the fees for the successful bidders are paid into the state's general fund.

Mr. Van Petten said rules and regulations are being developed and he anticipates they will be promulgated and sent to the Attorney General by mid to late July. He said constitutional litigation is expected to start regarding the legality of SB 66 after the rules and regulations are complete. He said the Kansas Lottery is trying to hold off on any litigation regarding questions of statute until the rules and regulations are finished in order to minimize litigation procedures.

In response to a question received from Alan Archuleta of the Mooretown Rancheria, Mr. Van Petten said Kansas has four tribal casinos, which are not included in the legislation. He said Kansas tribes are permitted to place bids on the contracts and have lesser restrictions.

In response to a question from Rep. Oberle regarding privilege fees, Mr. Van Petten said privilege fees are one-time fees.

In regard to a follow-up question by Rep. Oberle, Mr. Van Petten said on an ongoing basis the state will continue to receive funding acquired from destination casino revenue. He said destination casinos will provide 22 percent of revenue to the state, two percent to problem gambling and other gambling addiction programs, such as those for alcohol addiction. He said local, city, and county government will receive between one and three percent funding, depending on the location of the destination casino within designated county gaming zones.

Mr. Van Petten said racinos will provide Kansas with 40 percent of their revenue. He said gambling addiction programs and local governments will receive the same funding as from destination casinos. He said racinos will also provide seven percent to the Live Horse Racing Supplement Fund and the Greyhound Racing Supplement Fund. He said these funds will be capped at \$3,750 per machine, per year, and combines for a maximum total of \$10 million. He said one percent will go to the Kansas Horse Fair Racing Fund, will be capped at \$2 million, and will be distributed to fair events throughout the state. Mr. Van Petten said 25 percent will go to the gaming racetrack facility manager and the remaining 15 percent will go to further gaming expenses. He said the remaining 15 percent is subject to negotiation depending on the type of model that is used.

In response to a question asked by Rep. Siegfried of Kansas, Mr. Van Petten said the Kansas Lottery will provide security and auditing for each gaming facility, which will be monitored 24 hours a day, and will have employees on site daily. He also said the State Racing and Gaming Commission will be in charge of oversight and will provide security and auditing personnel onsite 24 hours a day.

Mr. Van Petten said the Kansas Lottery plans to work in conjunction with the racing and gaming commission on an auditing basis, but plans to avoid duplicative services.

MATURE LOTTERIES AND PRODUCT DEVELOPMENT

Mr. Van Petten said after becoming executive director of the Kansas Lottery he started looking at ways to benefit Kansas companies. He said a study in 2001 found that a Cabela retail store, which had only been open for five months, was the number one tourist attraction in the state of Kansas.

Mr. Van Petten said the study established that Kansans want to support Kansas businesses, which spurred the Kansas Lottery to negotiate a shopping spree with Cabela at their store. He said the lottery and Cabela put together a \$10,000 shopping spree. He said previously the lottery had given away vehicles including a Ford F150, Thunderbird, and a Mustang GT. He said Cabela Cash (the Cabela lottery ticket) more than doubled the vehicle give-away lottery ticket sales.

Mr. Van Petten said another lottery ticket that showed interest was called Beef and Bucks. He said the lottery ticket included \$1000 worth of meat processed in Kansas and added to a prize package valued under \$4000. He said the ticket concluded to be the second most popular lottery game in the state at the time.

Mr. Van Petten said the Cabela and the Beef and Bucks tickets evidence the support that Kansas citizens show for local businesses.

Mr. Van Petten said the Kansas Lottery has a partnership with the Kansas state fair, offering free fair admittance to lottery players. He also said the Lottery gives away a vehicle every year at the fair through a lottery drawing.

Mr. Van Petten said the Kansas Lottery has a partnership with the Kansas speedway. He said the lottery paid \$6 million for initial setup at the speedway. He said the Lottery continues to pay approximately \$600,000 annually to maintain sponsorship and rights. He said the Lottery gives away 100 free tickets every year to the grandstands. He said the lottery's return on investment for speedway games is about three to one.

Mr. Van Petten said the Lottery has put out licensed games that tend to show more appeal than in-state promotional games. He said the lottery produced a Betty Boop ticket, which gave away nothing and still had a great response. He said licensed games work well, however lotteries should also develop in-state promotional games, such as Beef and Bucks.

Mr. Van Petten said the Kansas Lottery provides second chance tickets.

Mr. Van Petten said tickets promoting Kansas business have increased sales for those businesses by as much as 30 percent after advertising. He said development of tickets involved with Kansas business partners are conducted by the lottery. He said the Lottery usually has a “name the ticket contest,” which is either distributed to the employees of the lottery or their partners. He said the winners of the contest receive promotional items, such as speedway tickets.

Mr. Van Petten said all marketing is agreed on by the partners of the lottery ticket prior to its launch. He said the governor of Kansas, Kathleen Sebelius, contributes a lot of time to the lottery to help promote and market Kansas Lottery tickets. He said the lottery usually prints 600,000 to 900,000 tickets for each of the in-state promotional games and provides a link for their partners on the lotteries Web site. He said the Kansas Lottery pays for the development and the broadcasting for all of the partners involved in promotional games.

Mr. Van Petten said in fiscal year 2006 the Kansas Lottery’s instant sales were up over 15 percent, which was one of the largest growth rates in the nation that year. He said this year instant sales are up almost ten percent. He said Cabela Cash continues to be the largest second chance game in the history of the Kansas Lottery.

Mr. Van Petten said the Lottery usually takes on two to three business partners at a time for in-state promotional games and places requests on a waiting list that can take a few years. He said partnerships are good for the state, lottery, and businesses.

In response to a question from the audience, Mr. Van Petten said tickets for new games are usually on the market about six months and sell between 400,000 and 450,000 thousand tickets for about two dollars a piece.

STATE LOTTERY PRIVATIZATION EFFORTS

Rob Kohler, CEO and general manager of The Lottery Group of Texas, said the idea to privatize the Texas Lottery, brought up early in the 2007 legislative session, was proposed as a way to expand gambling in Texas. He said under the proposal, having a private company operate lottery games would still require a negotiated contract and lottery regulation under statutory guidelines.

Mr. Kohler said privatizing the lottery will affect the overall game and statutory. He said instant scratch tickets will change the price of games and the point of sale with respect to the Internet.

Mr. Kohler said companies that contract lotteries for a given length of time will be less likely to go beyond the terms of governmental contracts.

Mr. Kohler said lottery privatization will minimize public accountability, as the public will not be able to make complaints and suggestions to a legislative body. He said states should consider other aspects when thinking about privatizing their lottery, open records and contracts or licenses with retailers.

Mr. Kohler said to a large extent, lotteries are already privatized. He said retailers will benefit most from privatizing the lottery.

Mr. Kohler said citizens originally approved the lottery within their state constitution because they felt lotteries needed oversight. He said privatizing lotteries will expand gaming, which will cause consumer objections and call for increased government oversight. He said government oversight will become more difficult due to the negotiated contracts and statute restrictions.

Mr. Kohler said money obtained from the lottery comes from individuals that can least afford it. He said Houston legislative district data concludes that the most money received by the Texas lottery within the Houston area comes from districts where the percentage of people on unemployment or public assistance, or living in poverty is substantially higher. He said the data also shows that uneducated minorities within the Houston districts play the lottery more than other individuals.

Mr. Kohler summarized that privatizing state lotteries will change the landscape of the lottery industry and decrease the amount of influence state legislatures have on the lottery in effect decreasing consumer protections.

In response to a question from Rep. James of Pennsylvania, Mr. Van Petten said federal law permits subscription sales of lotteries. He said three states participate in subscription sales, i.e., New Hampshire, New York, and Virginia.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:30 a.m.

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