

# **PERFORMANCE AUDIT REPORT**

## **Bingo Tax Laws: Reviewing the Department of Revenue's Implementation and Enforcement of Those Laws**

**A Report to the Legislative Post Audit Committee  
By the Legislative Division of Post Audit  
State of Kansas  
November 2001**

# ***Legislative Post Audit Committee***

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## ***Legislative Division of Post Audit***

**THE LEGISLATIVE POST** Audit Committee and its audit agency, the Legislative Division of Post Audit, are the audit arm of Kansas government. The programs and activities of State government now cost about \$9 billion a year. As legislators and administrators try increasingly to allocate tax dollars effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by Legislative Post Audit helps provide that information.

We conduct our audit work in accordance with applicable government auditing standards set forth by the U.S. General Accounting Office. These standards pertain to the auditor's professional qualifications, the quality of the audit work, and the characteristics of professional and meaningful reports. The standards also have been endorsed by the American Institute of Certified Public Accountants and adopted by the Legislative Post Audit Committee.

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Audits are performed at the direction of the Legislative Post Audit Committee. Legisla-

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October 25, 2001

To: Members, Legislative Post Audit Committee

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This report contains the findings, conclusions, and recommendations from our completed performance audit, *Bingo Tax Laws: Reviewing the Department of Revenue's Implementation and Enforcement of Those Laws*.

The report includes recommendations for the Department of Revenue and for the Senate and House Committees on Federal and State Affairs.

We would be happy to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other State officials.

  
Barbara J. Hinton  
Legislative Post Auditor



# EXECUTIVE SUMMARY

LEGISLATIVE DIVISION OF POST AUDIT

## **Question 1: Has the Department of Revenue Effectively Enforced The Bingo Act Provisions Related to Bingo Tax Collection?**

**To date, the Department of Revenue has focused its efforts on setting up new automated systems for handling bingo tax payments and information.** ..... page 6  
*It created new tax return forms for bingo game operators and distributors, and officials held workshops across the State to inform them of the statutory changes. In addition, the Department created a database that automates the licensing and registration processes.*

**The Department hasn't done the audits or "cross-checks" necessary to determine whether all bingo taxes are paid.** ..... page 7  
*To ensure that bingo taxes are being paid in full, the Department could use on-site audits of the records of registered distributors, or it could implement a cross-check of the information required to be reported by operators and distributors under new provisions in the Bingo Act. In doing a cross-check, if the number of instant bingo tickets and bingo faces distributors report selling during a month matches the number the bingo game operators report buying, the Department can be reasonably sure that the correct amount of bingo tax is being paid.*

**Even if the Department were doing cross-checks of reported bingo sales against reported bingo purchases, it wouldn't be able to determine whether all bingo taxes are being paid with the information currently reported.** ..... page 7  
*We attempted to match the number of instant bingo tickets and bingo faces distributors reported selling with what bingo game operators reported buying, but found we couldn't easily or accurately. None of the instant ticket sales matched, and the sales of regular bingo faces matched only about 45% of the time. In one instance, the discrepancy was more than 244,000 bingo faces.*

Some reasons why we couldn't make accurate matches include:

- *Bingo game operators report the date they open boxes of instant bingo tickets, not the date they buy those tickets. Because distributors report the dates they sell instant tickets, the 2 sets of data don't match.*
- *Bingo game operators don't report an invoice number for the bingo faces they purchase or a date of purchase. The Department requires distributors to report this information, but without corresponding information from game operators the Department can't make an accurate match.*

- *Neither distributors nor game operators report information about bingo face purchases sent back to the distributor. Without comparable information, the Department has no way to match up these transactions and verify that they actually occurred.*

**Bingo tax revenues continued to decline in the last fiscal year because of a variety of factors.** *Over the last 5 years, Kansas has experienced a decline in both bingo tax revenues and in the number of bingo game operators. Revenues have dropped 26%, while the number of bingo game operators has dropped 22% in the same time period. The steeper-than-usual drop in bingo tax receipts during fiscal year 2001 also may have been caused by the tax on call bingo being set too low when the Bingo Act was amended.* ..... page 8

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This audit was conducted by Robin Kempf, Lisa Hoopes, and Katrin Osterhaus. Leo Hafner was the audit manager. If you need any additional information about the audit's findings, please contact Ms. Kempf at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call us at (785) 296-3792, or contact us via the Internet at [LPA@lpa.state.ks.us](mailto:LPA@lpa.state.ks.us).

## **Bingo Tax Laws: Reviewing the Department of Revenue's Implementation and Enforcement of Those Laws**

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In March 1998, Legislative Post Audit conducted an audit of the Department of Revenue's Division of Alcoholic Beverage Control, which at the time was responsible for enforcing the State's bingo laws. That audit pointed out that a general lack of records and the way bingo tax was paid made it difficult to know if the State was receiving all the bingo tax revenue it should have been receiving.

A bill was introduced at the end of the 1998 interim to address the problems noted in the audit. The new legislation, enacted during the 2000 legislative session, required a performance audit of the Department of Revenue's implementation and enforcement of the Bingo Act in the Act's first year. The Legislative Post Audit Committee was to determine the scope of the audit, which was to include but not be limited to the Department's efficiency and effectiveness with regard to the Act. The Committee approved this audit to meet the statutory requirement.

This performance audit addresses the following question:

### **Has the Department of Revenue effectively enforced the Bingo Act provisions related to bingo tax collection?**

To answer this question, we reviewed the provisions of the Act related to the payment and collection of bingo taxes. We interviewed Department staff to learn about the procedures they have established, and we reviewed a sample of tax returns filed with the Department. Also, we collected and analyzed 5 years of data on bingo tax revenue and on the number of licensed not-for-profit organizations holding bingo games. Finally, we interviewed officials from 5 other states, 7 licensed bingo game operators, and 3 registered distributors of bingo supplies.

In conducting this audit, we followed all applicable government auditing standards set forth by the U.S. General Accounting Office. A copy of the scope statement for this audit approved by the Legislative Post Audit Committee is included in Appendix A.

Our findings begin on page 6, following a brief overview.

## Overview of Recent Bingo Act Amendments

*The Legislature Amended the State's Bingo Laws Because the Department of Revenue Wasn't Able To Determine Whether All Bingo Taxes Were Collected*

Kansas law allows 2 types of bingo to be played in the State:

**Call bingo:** This game is the traditional bingo game where balls with letters and numbers are drawn randomly from a drum, and players cover up the corresponding spaces on their bingo cards. A player wins by covering the designated spaces in a variety of ways, including vertical, horizontal, or diagonal patterns. Call bingo may be played on disposable paper "faces" or on reusable plastic or cardboard cards, known as "hard cards." A bingo face is depicted to the left.

**Instant bingo:** For this game, a person buys a card similar to an instant lottery ticket. The ticket looks like a slot machine game on a card, with 5 sets of numbers or symbols under a series of pull-tabs. To win, the symbols the player uncovers must match a set of winning symbols shown on the front of the card. A picture of an instant bingo ticket is shown on page 3.

Bingo is regulated in Kansas by the Department of Revenue. The Department **licenses the not-for-profit or charitable entities** that run the games, like the Veterans of Foreign Wars or the Fraternal Order of Eagles. (We call these licensees "bingo game operators" in this report.) As of June 2001, 397 bingo game operators were licensed to hold bingo games in Kansas.

The Department also **registers all businesses that distribute instant bingo tickets, faces, and hard cards** to bingo game operators. (We call these registered businesses "distributors" in this report.) As of June 2001, 17 distributors were registered to do business in Kansas.

The Term "Bingo Face" is Defined in State Law

B	I	N	G	O
13	27	31	50	61
5	23	45	56	67
11	19	FREE	60	73
9	16	42	48	65
2	21	37	53	75

A bingo face consists of 25 squares arranged in 5 rows and 5 columns under the heading of B-I-N-G-O. A disposable bingo card may have 1 or more bingo faces on it.

**Call bingo and instant bingo sales are subject to both a bingo tax and the State's sales tax.** Like our earlier audit, this audit focuses only on the bingo tax imposed on bingo card sales. Bingo game operators and distributors must pay these taxes to the Department of Revenue and keep other information the Department requires for audit purposes.

Until recently, bingo game operators were responsible for paying the bingo tax on *call bingo games*, which was based on a percentage of their gross bingo receipts. The bingo



taxes they paid generally accounted for about 87% of all the bingo taxes remitted to the State.

Distributors were responsible for paying the bingo tax on *instant bingo games*. That tax was based on a percentage of their total sales of instant bingo cards to game operators.

**Our March 1998 audit found that the way the tax was imposed and a lack of good records made it difficult for the Department of Revenue to know whether the appropriate amounts of tax were being paid.** The major findings in the audit were as follows:

- Although the tax on *call bingo* was based on a percentage of the receipts bingo game operators collected, operators weren't required to keep the kinds of records that would allow Department auditors to determine whether they were paying the right amount of tax.
- Although the tax on *instant bingo* was based on the total sales of instant bingo tickets to bingo game operators, which could have been audited, Department officials didn't audit distributors to ensure the amount of tax they paid corresponded to the amount instant bingo tickets they sold.
- Kansas' method of collecting most of its bingo taxes from game operators was more cumbersome than methods used in nearby states. Unlike Kansas, other states had imposed their bingo tax on distributors, rather than on bingo game operators, which meant they had fewer entities to deal with and better records to audit to make sure all the taxes were being paid.

Our 1998 audit recommended that the Legislature consider requiring bingo distributors be responsible for paying the bingo tax

for all types of bingo games, rather than bingo game operators. This would reduce the number of entities the tax would have to be collected from and make it easier and less costly to audit bingo taxes.

**The 2000 Legislature amended the bingo laws to fix these problems and to encourage the growth of bingo in Kansas.** The primary change was requiring that distributors rather than bingo game operators be responsible for most bingo taxes. This change means that the Department can focus on



An instant bingo ticket.

collecting the tax from 17 licensed bingo card distributors rather than approximately 400 bingo game operators. Game operators still are responsible for paying tax on any reusable plastic or cardboard bingo hard cards they sell, but the use of hard cards will be prohibited after July 2003. (Hard card sales generated 15% of bingo tax revenues in fiscal year 2001.) The accompanying chart summarizes how bingo taxes have been assessed under both the old and new laws.

<b>Amendments to the Bingo Act Shifted Responsibility for Most Call Bingo Taxes From Bingo Game Operators to Distributors</b>			
Who Pays the Bingo Tax	Type of Game	Bingo tax assessed <u>BEFORE</u> July 1, 2000	Bingo tax assessed <u>AFTER</u> July 1, 2000
Bingo Game Operator	Call Bingo	3% tax on gross receipts from <u>all</u> call bingo games, whether hard cards or paper faces were used	Receipts from <u>most</u> call bingo games aren't taxed. Only receipts from games played with hard cards are taxed at 3%.
	Instant Bingo	No tax paid by game operator	No tax paid by game operator
Distributor	Call Bingo	No tax paid by distributor	\$.002 per <u>paper bingo face</u> sold to bingo game operators
	Install Bingo	1% tax on retail price of instant tickets sold to operators	1% tax on retail price of instant tickets sold to operators
Source: Kansas Statutes			

Other key changes the Legislature made in the bingo laws include the following:

- Operators and distributors are required to file information with the Department of Revenue that would allow the Department to check to see if all taxes were being paid. In particular, distributors must report all the bingo faces they sell to each game operator, and the game operators must file monthly informational returns reporting how many faces they've purchased from each distributor.
- The new staff position of Administrator of Charitable Gaming within the Department of Revenue is responsible for administering the State's bingo laws. Previously, the Department's Consumer Relations Core handled bingo licensing and the Compliance Field Personnel oversaw tax and regulatory compliance.
- New types of call and instant bingo games, such as mini bingo, were authorized to encourage growth of bingo in Kansas.
- Gross receipts from bingo games will be exempt from the State's sales tax after July 2002.

## Bingo Taxation AT A GLANCE

**Governing Statutes:** The Bingo Act, K.S.A. 79-4701, et seq.

**Staffing:** The Administrator of Charitable Gaming, within the Department of Revenue, is charged with administering and enforcing the provisions of the Bingo Act.

**Bingo Games:** The law allows 2 types of bingo to be played in Kansas:

- Call bingo using disposable paper faces and reusable plastic or wooden ("hard") bingo cards.
- Instant bingo in which the player pulls tabs on a card similar to an instant lottery ticket and wins by matching the uncovered set of symbols to the symbols shown on the front of the card.

**Bingo Taxes:** In addition, 2 groups pay 3 types of bingo taxes:

- Bingo game operators (licensed not-for-profit or charitable organizations that hold bingo games) pay 3% of their gross receipts on call bingo games that use hard bingo cards. The use of reusable bingo cards will be generally phased out by 2003, which will eliminate this tax.
- Distributors (registered businesses that sell bingo supplies to bingo game operators) pay 2 types of taxes. First, they pay .2 cents per *paper* bingo "face" sold to game operators for call bingo games. Second, they pay 1% of the retail price of instant tickets sold to bingo game operators.

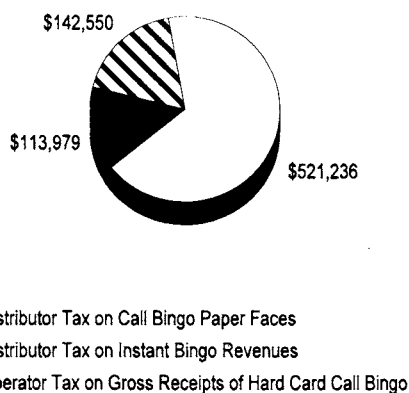
The chart below shows the amounts of the 3 types of taxes paid in fiscal year 2001.

### Bingo Tax

**Expenditures:** State law designates 3 uses for bingo tax revenues:

- 1/3 of the revenue is to be used by the Department of Revenue to enforce the Bingo Act
- 2/3 of the revenue is deposited in the State General Fund for State operations
- At the beginning of each fiscal year, \$20,000 is transferred from the Department of Revenue to the Problem Gambling Grant Fund administered by the Department of Social and Rehabilitation Services

### FY 2001 Bingo Taxes



### Bingo Tax Revenue History

Fiscal Year	Total Tax	% change	# of operators	% change
1997	\$1,054,795	—	511	—
1998	957,619	-9%	454	-11%
1999	978,870	2%	522	15%
2000	908,196	-7%	450	-14%
2001	777,765	-14%	397	-12%
<u>% change 1997-2001</u>		-26%		-22%

**Total Bingo Tax: \$777,765**

Sources: Department of Revenue  
Kansas Statutes

## Has the Department of Revenue Effectively Enforced The Bingo Act Provisions Related to Bingo Tax Collection?

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Since the Bingo Act was amended, the Department of Revenue has focused its efforts on setting up new automated systems for handling bingo tax payments and information. While the Department could audit bingo card distributors, or it could use provisions in the Bingo laws that would allow it to cost-effectively determine whether the number of bingo faces distributors report selling agrees with the number of bingo faces bingo game operators report purchasing, it hasn't done either. When we tried to match up the reported information, we found we often couldn't because the Department isn't requiring distributors and bingo game operators to provide all the information needed.

Like other nearby states, bingo tax revenues in Kansas continued to decline in fiscal year 2001. Bingo distributors and game operators tell us the overall decline is primarily caused by competition from other gaming activities and fewer people playing bingo. A particularly steep drop in bingo tax receipts could have been attributable to setting the tax rate on call bingo too low when the Bingo Act was amended. These and other related findings are discussed in more detail in the sections below.

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***To Date, the Department of Revenue Has Focused Its Efforts On Setting up New Automated Systems for Handling Bingo Tax Payments and Information***

Since the Bingo Act was amended in 2000, the Department has done several things to carry out those changes. It created new tax return forms for bingo game operators and distributors, and officials held workshops across the State to inform them of the statutory changes. In addition, the Department created a database that automates the licensing and registration processes. This database also contains some tax information from game operators' and distributors' monthly tax returns, such as the total amount of bingo faces sold per month and how much tax was paid.

We noted the Department has developed a good system of processing returns and recording the moneys sent in. However, it has done little to find out whether the correct amount of tax is being paid.

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***The Department Hasn't  
Yet Done The Audits or  
"Cross-Checks"  
Necessary to Determine  
Whether All Taxes  
Have Been Collected***

The Department generally has 2 tools it could use to ensure that bingo taxes are being paid in full:

1. On-site audits of the records of the 17 registered distributors. Even though there only a few distributors to visit, this approach may not be a cost-effective use of Department resources, given the relatively small amount of revenue that bingo taxes generate.
2. A cross-check of the information required to be reported by operators and distributors under new provisions in the Bingo Act. Specifically, the Department could match the number of bingo faces and instant tickets that **bingo game operators report buying** with the number of bingo faces and instant tickets that **distributors report selling**. Such a cross-check would verify whether distributors are reporting all their sales and paying all the taxes owed. This cross-check would be a cost-effective approach because it could be completed in-house.

The Department hasn't tried either approach to determine whether all bingo taxes have been paid. Department staff had visited one distributor's place of business, but they told us it was more of an educational review of the distributor's records rather than a full audit.

Department officials also told us they hadn't made any attempt to match bingo tax returns. Again, a cross-check of returns would be an efficient and cost-effective way for the Department to try to ensure accurate tax collections. Department officials indicated bingo game operators and distributors had a difficult time adjusting to the new tax returns, and much of the Administrator of Charitable Gaming's time had been taken up working with people to submit their information correctly.

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***Even if the Department  
Were Doing Cross-Checks,  
It Wouldn't Be Able to  
Determine Whether All  
Bingo Taxes Are Being  
Paid with the Information  
Currently Reported***

To determine whether the State was collecting all the bingo taxes due, we selected tax returns for a sample of 3 bingo distributors for the month of March 2001. We tried to compare the number of call bingo faces and instant bingo tickets they reported selling to 115 game operators, with the number of faces and instant tickets those 115 game operators reported buying from those distributors.

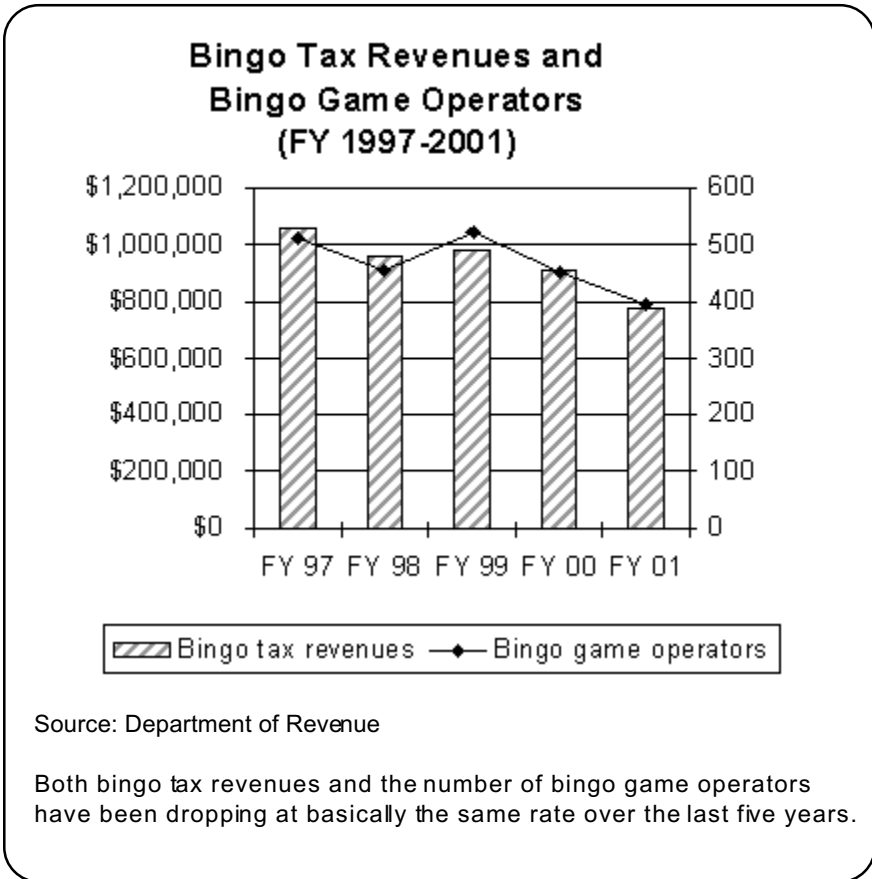
We weren't able to match any instant bingo ticket sales, which made up 18% of the bingo revenues in fiscal year 2001. For call bingo faces, we could only match about 45% of the reported sales and purchases. For the other 55% of reported sales, we found discrepancies in the information reported by distributors and game operators. In one instance, the discrepancy was as high as 244,800 faces. Reasons why we were unable to make accurate matches are as follows:

- **Bingo game operators report the date they open boxes of instant bingo tickets, not the date they buy those tickets.** Department officials said they allowed the operators to report this information because the operators are already tracking the date boxes of instant bingo tickets were opened for sales tax purposes. However, because distributors report the dates they sell instant tickets, the 2 sets of data don't match.
- **Bingo game operators don't report an invoice number for the bingo faces they purchase or a date of purchase.** The Department already requires distributors to report the invoice numbers for each of their sales, but it doesn't require the bingo game operators to report those same invoice numbers for their purchases. Without this information from game operators, the Department can't make an accurate match.
- **Neither distributors nor bingo game operators report information about bingo face purchases sent back to the distributor.** In our review, 2 distributors reported that 16 bingo game operators returned unused bingo faces to them. However, the game operator's tax return doesn't ask for instances when they sell faces back. Without comparable information about returned faces, the Department has no way to match up these transactions and verify that they actually occurred. One risk: Distributors could report that they received returned faces when they really didn't, which would lower their total sales and could artificially reduce the amount of tax owed to the State.
- **Not all bingo game operators had filed their monthly tax returns.** While Department officials verify that the 17 distributors have sent in their monthly tax returns and act on late returns, they don't systematically check to see whether the approximately 400 bingo game operators have filed their monthly returns. Our review showed that 9 of 115 (8%) game operators' returns we needed weren't on file with the Department. We also noted instances where bingo game operators filed several months of returns in one month, instead of filing monthly as required by law.
- **Several returns were missing information or were filled out inaccurately.** Some game operator returns were missing basic information we needed to cross-check sales and purchases, such as the name of the distributor. Other examples: One distributor's tax return listed dates instead of the requested invoice numbers, and another reported sales from February on the March return.

Small changes in the existing process the Department already has established could be made, which would greatly improve the Department's ability to know if the State is getting all the taxes it should. Only few additional pieces of information from bingo game operators, such as the date bingo faces and instant tickets are purchased or sold, the distributor's invoice number for each sale, and information about faces sold back to the distributor for a refund would be needed.

***Bingo Tax Revenues Continued to Decline In the Last Fiscal Year Because of a Variety of Factors***

Over the last 5 years, Kansas has experienced a decline in both bingo tax revenues and in the number of bingo game operators. Revenues have dropped 26%, while the number of bingo game operators has dropped 22% in the same time period. As the graph on below illustrates, the downward trends have essentially paralleled each other.



**While the trend over time had been downward, revenues dropped even more sharply in the last fiscal year.** Bingo tax revenues took a sharp drop in fiscal year 2001, falling to \$777,765 from \$908,196 the previous year, a 14% drop.

To help understand the reasons for this decline, we interviewed Department staff and a sample of licensed bingo game operators and registered distributors. We also spoke to officials in 5 other states, and we analyzed bingo tax revenue data.

**Many people we talked with identified competition from other gaming opportunities and fewer people playing bingo as the primary contributors to the general decline in bingo tax revenues.** Department staff and officials from a sample of licensed bingo game operators and registered distributors cited the following primary reasons for declining bingo tax revenues:

- Competition from Indian casinos in Kansas and from the river boat casinos in Missouri
- Younger generations of people not having been attracted to playing bingo, and therefore, the bingo player population aging and dying out
- Decreasing membership in the not-for-profit and charitable organizations that usually hold bingo games

When we spoke with officials from Nebraska, Missouri, Oklahoma, Colorado, and Iowa, they told us they'd experienced similar trends in declining bingo tax revenues and numbers of bingo game operators.

**We found that tax revenues from call bingo games had dropped much more than in previous years, which could suggest the new bingo tax rates were set too low.** As the table below shows, in fiscal year 2001 tax receipts from call bingo games dropped by nearly \$156,000. That compares with an average change of only about \$28,000 a year during the previous 7 years. We also noted that tax revenues for call bingo games dropped in 2001 to only 82% of total bingo tax revenues, down from a normal range of 86-87% in previous years.

**Bingo Revenues Decreased by More than \$130,000**

Type of Bingo Game	Actual revenues in FY 2000	Actual revenues in FY 2001	Change in actual revenues from FY 2000 to FY 2001
Call	\$791,063	\$635,215	(\$155,848)
Instant	\$117,134	\$142,550	\$25,416
<b>Total</b>	<b>\$908,197</b>	<b>\$777,765</b>	<b>(\$130,432)</b>

Source: Department of Revenue

Even though tax revenues on instant bingo sales increased from the past year, the State suffered a significant decrease in revenues from call bingo.

Even though the general downward trend in the bingo economy likely accounts for some of this drop, it's also possible that, when the law was amended in 2000, the new bingo tax rates were set too low to generate the same level of revenues as in the previous year. Because the Department had no information about the number of bingo faces sold in previous years, which was the basis for the new taxing method, it had to estimate that figure in coming up with a new tax rate.

Now that the number of bingo faces actually sold in fiscal year 2001 is known, we calculated that the tax rate would have to have been set at .25 cents, instead of .2 cents, to generate the same amount of revenue as the previous fiscal year, assuming all other variables held constant.



**CONCLUSION** Bingo tax represents less than \$1 million in annual revenues for the State, and that amount continues to decline each year. Therefore, it is important that any efforts to ensure that all bingo taxes are being paid don't cost more than the additional revenue they generate. The statutory requirements that went into effect in July 2000 set up a system that would allow the Department to match bingo face sales with bingo face purchases and identify discrepancies to follow up on. Our work showed that the Department isn't matching tax returns, and it doesn't collect all the information it would need to do so. Small changes in the existing process the Department already has established could be made, which would greatly improve the Department's ability to know if the State is getting all the taxes it should. However, even with improved enforcement, it is likely that bingo taxes will continue to decline because of outside factors that are causing the pool of bingo players to decline.

- RECOMMENDATIONS**
1. To ensure that all bingo taxes owed to the State are paid, the Department of Revenue should do the following:
    - a. collect information needed to do the cross checks envisioned by law and enter it into its bingo database. Only few additional pieces of information from bingo game operators, such as the date bingo faces and instant tickets are purchased or sold, the distributor's invoice number for each sale, and information about faces sold back to the distributor for a refund would be needed.
    - b. ensure that the information it receives is accurate
    - c. perform the cross checks and follow up with distributors on any significant discrepancies that are noted
  2. Now that better information is available about the number of bingo faces actually being sold in Kansas, the Senate and House Committees on Federal and State Affairs should consider reviewing the bingo tax rate to determine whether it is set at the appropriate level.



## **APPENDIX A**

### **Scope Statement**

On May 31, 2001, the Legislative Post Audit Committee authorized a statutorily required audit on the Department of Revenues's implementation and enforcement of the Bingo Act during the first year the 2000 amendments were in effect. This appendix contains the scope statement that was approved by the Committee to satisfy this requirement.

## SCOPE STATEMENT

### **Bingo Tax Laws: Reviewing the Department of Revenue's Implementation and Enforcement of Those Laws**

In March 1998, Legislative Post Audit conducted an audit of the Department of Revenue's Division of Alcoholic Beverage Control which, at the time, was responsible for enforcing the State's bingo laws. That audit pointed out that a general lack of records and the way the tax was being paid made it difficult to know if the State was receiving all the bingo tax revenue it should be receiving.

Legislation was introduced at the end of the 1998 interim to address the problems noted in the audit. That legislation was amended during the 1999 and 2000 legislative sessions and the final version that passed included such changes as:

- requiring bingo distributors, rather than nonprofit licensees, to remit the State bingo tax
- making the bingo tax .2 cents per bingo face instead of 3% of gross bingo income
- requiring distributors and licensees to keep certain records

The new law created a position of Administrator of Charitable Gaming within the Department of Revenue to administer the Act. The Administrator's duties include such things as making sure that all bingo licensees have met the requirements to be licensed, that distributors of bingo faces are licensed and maintain the proper records, that bingo games conform to certain limits, that those who lease premises to bingo licensees are properly registered, and that all the appropriate taxes are being collected.

The law also requires a performance audit of the Department of Revenue's enforcement of the Act in its first year of implementation. The scope of the audit is to be determined by the Legislative Post Audit Committee and is to include, but not be limited to, the efficiency and effectiveness of the Department's implementation and enforcement of the Act. The audit results are to be reported to the Legislative Post Audit Committee and the Legislature before the first day of the 2002 Session. The audit may be conducted by the Legislative Division of Post Audit or by a private firm under contract with the Division.

The scope of a performance audit of this topic would address the following question:

- 1. Has the Department effectively enforced the provisions of the Bingo Act related to the collection of bingo taxes?** To answer this question, we would review the provisions of the Act related to the payment and collection of bingo taxes. By interviewing Department staff, we would determine what reviews they conduct or audits they perform to ensure that the appropriate

amount of taxes are collected. By comparing what they do with what the law requires, we would assess whether the procedures the Department has adopted are likely to ensure that the law is complied with. On a test basis, we would review the Department's work to determine whether it is thorough, accurate, and being conducted as described. We'd also compare bingo tax collections in the first year of implementation to the amounts collected over the past several years to determine whether collections have gone up or down since the new law has been in effect. We would review other records and conduct additional work as needed.

**Estimated time to complete: 5 - 6 weeks**

## **APPENDIX B**

### **Agency Response**

On September 14, 2001, we provided copies of the draft audit report to the Department of Revenue. The Department's response is included in this Appendix.

**STATE OF KANSAS**

*Bill Graves, Governor*

**DEPARTMENT OF REVENUE**

*Stephen S. Richards, Secretary*

Office of the Secretary  
Kansas Department of Revenue  
915 SW Harrison St.  
Topeka, KS 66612-1588

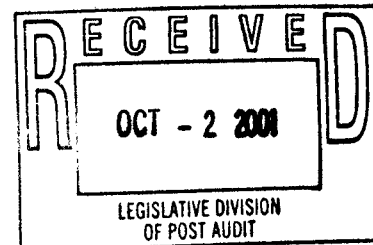


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**Office of the Secretary**

October 1, 2001

Ms. Barbara Hinton  
Legislative Post Auditor  
Legislative Division of Post Audit  
800 SW Jackson, Suite 1300  
Topeka, Kansas 66612



RE: Agency response to the audit, Bingo Tax Laws: Reviewing the Department of Revenue's Implementation and Enforcement of those Laws.

Dear Ms. Hinton:

Thank you for the opportunity to respond to the aforementioned report.

As noted in the audit report, Bingo taxes were shifted to the distributors of bingo gaming materials, beginning July 1, 2001. The Kansas Department of Revenue (KDOR) was in support of this change. Since that time, we have been working to adapt our processes, assist the taxpayers, and redesign our compliance program.

Our goals for administering the bingo laws are as follows:

- Protect the public from unfair or fraudulent gaming operations.
- Ensure the correct amount of bingo tax is collected.
- Provide assistance to Bingo game operators and distributors, to help ensure the accurate filing of tax returns and informational reports.

We think our existing program is successful in achieving these goals. KDOR field agents routinely conduct on-site inspections to ensure that games are played in accordance with the law. They also conducted audit testwork for a substantial number of licensee operators to assure the accuracy of the inventory figures for a one-time face tax as of June 30, 2000, and the taxes paid on sales of hard cards.

While there is little indication to suggest underpayment of Bingo Tax, the audit report recommends we need to solidify and expand our desk audit and on-site audit processes to provide greater assurance of tax compliance. We understand the need for tax compliance and plan to incorporate the report recommendations into a revised compliance strategy. However, providing added cross matching of data may not result in increased revenue and must be monitored for it's cost effectiveness.

The Department of Revenue's responses to the specific recommendations are as follows:

- 1a. We have begun to revise the Organization's Monthly Bingo Report, to gather all the data elements required for a cross-match with the Distributor's tax return. In implementing these changes, we will develop instructional materials to help the Organizations understand the requirements for completing the new form.
- 1b. Ensuring the information is accurate will involve a combination of cross-checking, customer education, and on-site audit presence.
- 1c. There is little indication, thus far, that Bingo Organizations have paid taxes that have not been reported and remitted by the Distributors. KDOR would certainly follow up on any discrepancies revealed by an expanded cross-checking process.

Recommendation #2, concerning the bingo tax rate is addressed to the Kansas Legislature. KDOR will provide any information required should Legislative committees elect to reopen consideration of the tax rate.

Sincerely,



Stephen S. Richards