

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

The meeting was called to order by CHAIRMAN MILLER at \_\_\_\_\_  
Chairperson

1:30 a.m./p.m. on January 27, 1987 in room 526S of the Capitol.

All members were present except:

Rep. Peterson-E

Committee staff present:

- Lynda Hutfles, Secretary
- Mary Torrance, Revisor's Office
- Mary Galligan, Research
- Raney Gilliland, Research

Conferees appearing before the committee:

Phil Wilkes, Department of Revenue

The meeting was called to order by Chairman Miller.

A balloon copy of HB2043, lottery, was distributed by Mary Torrance of the Revisor's Office for the committee to peruse. See attachment A.

Representative Rolfs made a motion, seconded by Representative Aylward to approve the minutes of the January 26 meeting. The motion carried.

A revised agenda was distributed. Following action on the lottery on Tuesday, there will be a briefing on pari-mutuel by Phil Wilkes of Revenue. There will be continued briefings on pari-mutuel on Wednesday; followed by a hearing on HB2071, reporting of gifts received by state officers, employees or candidates. Thursday will bring further hearings for proponents of pari-mutuel.

HB2043 - Lottery

Representative Rolfs made a motion, seconded by Representative Sebelius, to strike G(1) on line 279. The motion carried.

Representative Rolfs made a motion, seconded by Representative Aylward, to report HB2043 favorable as amended. The motion carried.

HB2044 - Pari-mutuel

The Chairman stated that a Task Force had been appointed by Governor Carlin to begin work on the legislation for pari-mutuel last summer. The Federal & State Affairs Interim Committee was authorized to work on implementing legislation on pari-mutuel after the outcome of the November election. The Task Force used the Interim Committee report as a basis for HB2044.

Phil Wilkes, Department of Revenue, worked with the Task Force and was available to the Interim Committee. Mr. Wilkes explained the bill section by section. See attachment B.

There was committee discussion on the cost of the commission established in this bill and how they are to be paid.

Also discussed was the reason for having an attorney to assist in matters other than criminal enforcement. Mr. Wilkes informed the committee that in the first year or two the volume of work will be more than one assistant to the attorney general can handle.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

room 526S, Statehouse, at 1:30 a.m./p.m. on January 27, 1987.

There was concern with Sec. 13(7) dealing with stockholders, directors or officers of the applicant being addicted to alcohol or a controlled substance and how this was going to be dealt with.

Dr. Coffman, Dean of the Kansas State Univeristy College of Veterinary Medicine, gave testimony in support of the bill. He stated there are two differentials between horse and dog racing - accountability and economics. Accountability is addressed in the area of licensure. Dog and horse racing effect economics differently. When put head to head, dog racing would be the front runner.

Another area of concern for Dr. Coffman is animal health & welfare. The main issue in terms of welfare of racing animals lies in two provisions: medical testing program and pre-examination of animals by persons who have no conflict of interest.

The tax structure of dog versus horse racing was discussed. Also discussed was the question of dual tracks. Dr. Coffman said that the problem that arises is the differences in overhead of a dog track versus a horse track. The overhead for a horse track is much more which makes the dog track pay more than its share.

The meeting was adjourned.

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE 1/27/87

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
DICK TAYLOR	TOPEKA	LIFE AT BEST
J.P. SMALL	TOPEKA	KANSANS FOR PARIMUTUEL
A. PRICE	TOPEKA	KBA
Alan Steppat	TOPEKA	
Leslie H. Greenwood	Topoka	Washburn Student
Jim McBride	topoka	observer
Norman Rose	K.C.K.	Kansan Press, Mgr
John C. Bottankey	TOPEKA	McGill ASSO
John L. Moore	Topoka	Scientific Games
Dean Reynolds	Topoka	
Mark Stephenson	Topoka	Sen. Hoferer
Rebecca Crenshaw	Topoka	Synodical School
Harriet Lange	Topoka	Ks. Assn of Broadcasters
Fred Peligro	HAYS	Harris News Service
John D. Petty	Topoka	KC Times
Diane Silver	Wichita	Knob-Beacon
BILL SNEED	TOPEKA	GEN INST.
John Peterson	Topoka	Scientific Games

# HOUSE BILL No. 2043

By Special Committee on Federal and State Affairs

Re Proposal No. 14

1-8

0018 AN ACT establishing a state lottery; providing for the adminis-  
 0019 tration and regulation thereof; amending K.S.A. 21-4302, 41-  
 0020 308, 74-5602, 75-4706 and 79-32,109 and K.S.A. 1986 Supp.  
 0021 75-3732 and 79-3606 and repealing the existing sections.

74-2424,  
 , 79-3234

0022 *Be it enacted by the Legislature of the State of Kansas:*

21

0023 New Section 1. Sections 1 through 19 shall be known as and  
 0024 may be cited as the Kansas lottery act.

0025 New Sec. 2. As used in this act, unless the context otherwise  
 0026 requires:

0027 (a) "Commission" means the Kansas lottery commission.

0028 (b) "Executive director" means the executive director of the  
 0029 Kansas lottery.

0030 (c) "Kansas lottery" means the state agency created by this  
 0031 act to operate a lottery or lotteries pursuant to this act.

0032 (d) "Lottery retailer" means any person with whom the Kan-  
 0033 sas lottery has contracted to sell lottery tickets or shares, or both,  
 0034 to the public.

0035 (e) "Lottery" or "state lottery" means the lottery or lotteries  
 0036 operated pursuant to this act.

0037 (f) "Major procurement" means any gaming product or ser-  
 0038 vice, including but not limited to facilities, advertising and  
 0039 promotional services, annuity contracts, prize payment agree-  
 0040 ments, consulting services, equipment, tickets and other prod-  
 0041 ucts and services unique to the Kansas lottery, but not including  
 0042 materials, supplies, equipment and services common to the  
 0043 ordinary operations of state agencies.

0044 (g) "Person" means any natural person, association, corpora-  
 0045 tion or partnership.

Attachment A

0083 and implementation of the Kansas lottery.

0084 (e) For a period of 18 months after the effective date of this  
 0085 act, the state director of purchases, upon request of the executive  
 0086 director, shall ~~authorize emergency purchases~~ pursuant to sub-  
 0087 section (a)(5) of K.S.A. 75-3739 and amendments thereto when  
 0088 the timely implementation of the Kansas lottery requires the  
 0089 immediate delivery of supplies, materials or equipment or the  
 0090 immediate performance of services.

0091 New Sec. 4. The executive director shall have the power to:  
 0092 (a) Supervise and administer the operation of the state lottery  
 0093 in accordance with the provisions of this act and such rules and  
 0094 regulations as adopted hereunder.

0095 (b) Appoint, subject to the Kansas civil service act and within  
 0096 the limitations of appropriations therefor, all other employees of  
 0097 the Kansas lottery, which employees shall be in the classified  
 0098 service unless otherwise specifically provided by this act.

0099 (c) Enter into contracts for such promotional services; annui-  
 0100 ties or other methods deemed appropriate for the payment of  
 0101 prizes; data processing and other technical products, equipment  
 0102 and services; and facilities as needed to operate the Kansas  
 0103 lottery, including but not limited to gaming equipment, tickets  
 0104 and other services involved in major procurement contracts, in  
 0105 accordance with ~~the following procedures:~~

0106 (1) The executive director shall utilize an open and competi-  
 0107 tive bid process and weighted evaluation criteria which reflects  
 0108 the best interest of the state of Kansas, considering all relevant  
 0109 factors including security, competence, experience, timely per-  
 0110 formance and maximization of net revenues to the state.

0111 (2) Major procurement contracts entered into pursuant to this  
 0112 subsection (c) are subject to approval of the commission and shall  
 0113 not be subject to the provisions of K.S.A. 75-3738 through 75-  
 0114 3744, and amendments thereto.

0115 (3) Before a major procurement contract is awarded, the ex-  
 0116 ecutive director shall conduct a background investigation of (A)  
 0117 the vendor to whom the contract is to be awarded, (B) all officers  
 0118 and directors of such vendor, (C) all persons who own a 5% or  
 0119 more interest in such vendor, (D) all persons who own a con-

make emergency purchases, other than purchases of major procurements, on behalf of the Kansas lottery

The award of any contract for any such purchase shall be subject to the approval of the executive director.

0120 controlling interest in such vendor and (E) any subsidiary or other  
 0121 business in which such vendor owns a controlling interest. The  
 0122 vendor shall submit appropriate investigation authorizations to  
 0123 facilitate such investigation. The executive director may require,  
 0124 in accordance with rules and regulations of the commission, that  
 0125 a vendor submit any additional information considered appro-  
 0126 priate to preserve the integrity and security of the lottery. In  
 0127 addition, the executive director may conduct a background in-  
 0128 vestigation of any person having a beneficial interest in a vendor.  
 0129 The secretary of revenue, securities commissioner, attorney  
 0130 general and director of the Kansas bureau of investigation shall  
 0131 assist in any investigation pursuant to this subsection (c)(3) upon  
 0132 request of the executive director. Whenever the secretary of  
 0133 revenue, securities commissioner, attorney general or director of  
 0134 the Kansas bureau of investigation assists in such an investiga-  
 0135 tion and incurs costs in addition to those attributable to the  
 0136 operations of the office or bureau, such additional costs shall be  
 0137 paid by the Kansas lottery. The furnishing of assistance in such  
 0138 an investigation shall be a transaction between the Kansas lottery  
 0139 and the respective officer and shall be settled in accordance with  
 0140 ~~K.S.A. 75-5516 and amendments thereto.~~

0141 (d) ~~Contract~~ with persons for the sale of lottery tickets or  
 0142 shares to the public, as provided by this act and rules and  
 0143 regulations adopted pursuant to this act.

0144 (e) Enter into written agreements with one or more other  
 0145 states for the operation, marketing and promotion of a joint  
 0146 lottery or joint lottery games and which conform to the provisions  
 0147 of this act.

0148 (f) Require lottery retailers to furnish proof of financial sta-  
 0149 bility or furnish surety in an amount based upon the expected  
 0150 volume of sales of lottery tickets or shares.

0151 (g) Examine, or cause to be examined by any agent or repre-  
 0152 sentative designated by the executive director, any books,  
 0153 papers, records or memoranda of any lottery retailer for the  
 0154 purpose of ascertaining compliance with the provisions of this  
 0155 act or rules and regulations adopted hereunder.

0156 (h) Issue subpoenas to compel access to or for the production

section 5

Enter into contracts

, which contracts shall not be subject to the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto

, which agreements shall not be subject to the provisions of K.S.A. 75-2738 through 75-3744, and amendments thereto

0157 of any books, papers, records or memoranda in the custody or  
 0158 control of any lottery retailer, or to compel the appearance of any  
 0159 lottery retailer or employee of any lottery retailer, for the pur-  
 0160 pose of ascertaining compliance with the provisions of this act or  
 0161 rules and regulations adopted hereunder. Subpoenas issued  
 0162 under the provisions of this subsection may be served upon  
 0163 natural persons and corporations in the manner provided in  
 0164 K.S.A. 60-304 and amendments thereto for the service of process  
 0165 by any officer authorized to serve subpoenas in civil actions or by  
 0166 the executive director or an agent or representative designated  
 0167 by the executive director. In the case of the refusal of any person  
 0168 to comply with any such subpoena, the executive director may  
 0169 make application to the district court of any county where such  
 0170 books, papers, records, memoranda or person is located for an  
 0171 order to comply.

0172 (i) Administer oaths and take depositions to the same extent  
 0173 and subject to the same limitations as would apply if the deposi-  
 0174 tion were in aid of a civil action in the district court.

0175 ~~New Sec. 57. The executive director shall have the duty to:~~

0176 (a) Make and keep books and records which accurately and  
 0177 fairly reflect each day's transactions, including but not limited to:  
 0178 The distribution of tickets and shares to lottery retailers; receipt  
 0179 of funds, prize claims, prize disbursements or prizes liable to be  
 0180 paid; expenses and other financial transactions of the Kansas  
 0181 lottery necessary so as to permit daily accountability.

0182 (b) Make quarterly and annual financial reports to the com-  
 0183 mission, the governor, the state treasurer and the legislature.  
 0184 Such reports shall be based upon generally accepted accounting  
 0185 principles and include a full and complete statement of lottery  
 0186 revenues, prize disbursements, expenses, net revenues and  
 0187 other financial transactions for the reporting period.

0188 (c) Make available for inspection by the commission, upon  
 0189 request, all books, records, files and other information and doc-  
 0190 uments of the Kansas lottery.

0191 ~~(d) Engage an independent firm of certified public account-~~  
 0192 ~~ants to conduct an annual financial audit of the accounts and~~  
 0193 ~~transactions of the Kansas lottery, the report of which shall be~~

Insert § 5, attached

New Sec. 5. (a) Major procurement contracts shall be awarded in accordance with K.S.A. 75-3738 through 75-3744, and amendments thereto, or subsection (b), as determined by the director.

(b) The director may award any major procurement contract by use of a procurement negotiating committee. Such committee shall be composed of: (1) The executive director or a Kansas lottery employee designated by the executive director; (2) the chairperson of the commission or a commission member designated by the chairperson; and (3) the director of the division of purchases or an employee of such division designated by the director. Prior to negotiating a major procurement contract, the committee shall solicit bids or proposals thereon. The division of purchases shall provide staff support for the committee's solicitations. Upon receipt of bids or proposals, the committee may negotiate with one or more of the persons submitting such bids or proposals and select from among such persons the person to whom the contract is awarded. Such procurements shall be open and competitive and shall consider relevant factors, including security, competence, experience, timely performance and maximization of net revenues to the state. If a procurement negotiating committee is utilized, the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, shall not apply.

(c) Before a major procurement contract is awarded, the executive director shall conduct a background investigation of:



(1) The vendor to whom the contract is to be awarded; (2) all officers and directors of such vendor; (3) all persons who own a 5% or more interest in such vendor; (4) all persons who own a controlling interest in such vendor; and (5) any subsidiary or other business in which such vendor owns a controlling interest. The vendor shall submit appropriate investigation authorizations to facilitate such investigation. The executive director may require, in accordance with rules and regulations of the commission, that a vendor submit any additional information considered appropriate to preserve the integrity and security of the lottery. In addition, the executive director may conduct a background investigation of any person having a beneficial interest in a vendor. The secretary of revenue, securities commissioner, attorney general and director of the Kansas bureau of investigation shall assist in any investigation pursuant to this subsection upon request of the executive director. Whenever the secretary of revenue, securities commissioner, attorney general or director of the Kansas bureau of investigation assists in such an investigation and incurs costs in addition to those attributable to the operations of the office or bureau, such additional costs shall be paid by the Kansas lottery. The furnishing of assistance in such an investigation shall be a transaction between the Kansas lottery and the respective officer and shall be settled in accordance with K.S.A. 75-5516 and amendments thereto.

(d) All major procurement contracts shall be subject to approval of the commission.

0194 ~~presented to the commission, the governor, the state treasurer~~  
0195 ~~and the legislature.~~

(d)

0196 ~~(e) Engage an independent firm experienced in security~~  
0197 ~~procedures, including but not limited to computer security and~~  
0198 ~~systems security, to periodically conduct a comprehensive study~~  
0199 ~~and evaluation of all aspects of security in the operation of the~~  
0200 ~~Kansas lottery.~~

in accordance with section 5 .

0201 ~~(f) Engage an independent firm experienced in marketing~~  
0202 ~~research and analysis to periodically conduct an evaluation to~~  
0203 ~~determine the effectiveness of marketing, promotion and public~~  
0204 ~~information programs used by the Kansas lottery and make~~  
0205 ~~recommendations which will enhance such programs.~~

(e)

in accordance with section 5

0206 ~~(g) Prepare and submit budgets and proposals for the opera-~~  
0207 ~~tion of the Kansas lottery.~~

(f)

0208 ~~(h) Operate the Kansas lottery in such a manner that, after the~~  
0209 ~~initial state appropriation, it is self-sustaining and self-funded.~~

(g)

0210 ~~(i) Include in printed promotional materials and information~~  
0211 ~~published for each lottery game, a list of the odds of winning~~  
0212 ~~such game, based upon the number of tickets or shares projected~~  
0213 ~~to be sold.~~

(h) Make available at the point of sale of any lottery tickets or shares

0214 ~~(j) Make provision for the timely and efficient transfer of~~  
0215 ~~funds due from lottery retailers to the lottery operating fund,~~  
0216 ~~including the use of electronic funds transfers whenever possi-~~  
0217 ~~ble.~~

(i)

New Sec. 7

0219 New Sec. 6. 8 (a) The executive director shall select as lottery  
0220 retailers such persons as deemed best able to serve the public  
0221 convenience and promote the sale of tickets or shares in accord-  
0222 ance with marketing plans developed by the Kansas lottery. In  
0223 the selection of lottery retailers, the executive director shall  
0224 consider factors such as financial responsibility, security of the  
0225 applicant's place of business or activity, accessibility of the  
0226 applicant's place of business or activity, integrity, reputation,  
0227 volume of expected sales and such other factors as the executive  
0228 director may deem appropriate. Persons lawfully engaged in  
0229 nongovernmental business on state property may be selected as  
lottery retailers.

0230 (b) The executive director may charge an application fee to

The accounts and transactions of the Kansas lottery and the Kansas lottery commission shall be subject to an annual post audit under the legislative post audit act. The audit shall be conducted as soon after the close of the fiscal year as practicable. The post auditor shall annually compute the reasonably anticipated cost of providing such audit, subject to review and approval by the contract audit committee established by K.S.A. 46-1120 and amendments thereto. Upon such approval, the Kansas lottery shall reimburse the division of post audit for the amount approved by the contract audit committee. The furnishing of audit services pursuant to this section shall be a transaction between the post auditor and the Kansas lottery and shall be settled in accordance with the provisions of K.S.A. 75-5516 and amendments thereto.

0231 persons applying to become lottery retailers.

0232 (c) All lottery retailer contracts awarded by the Kansas lottery  
0233 under this act shall be renewable annually after issuance unless  
0234 sooner canceled or terminated.

0235 (d) No lottery retailer contract awarded under this act shall  
0236 be transferred or assignable.

0237 (e) Each lottery retailer shall be issued a lottery retailer  
0238 certificate which shall be conspicuously displayed at the place  
0239 where the lottery retailer is authorized to sell lottery tickets or  
0240 shares.

0241 (f) Lottery tickets or shares shall only be sold by the lottery  
0242 retailer at the location stated on the lottery retailer certificate.

0243 (g) To be selected as a lottery retailer, a natural person acting  
0244 as a sole proprietor must:

0245 (1) Be at least 18 years of age;

0246 ~~(2) be of good character and reputation in such person's~~  
0247 ~~community;~~

0248 ~~(3) have sufficient financial resources to support the activi-~~ (2)  
0249 ~~ties required to sell lottery tickets or shares;~~

0250 ~~(4) be current in payment of all taxes, interest and penalties~~ (3)  
0251 ~~owed to the state of Kansas, excluding items under formal dis-~~  
0252 ~~pute or appeal pursuant to applicable statutes; and~~

0253 (5) not be engaged exclusively in the sale of lottery tickets  
0254 and shares.

0255 (h) No natural person shall be selected as a lottery retailer  
0256 who:

0257 (1) Has been convicted of a felony in this or any other  
0258 jurisdiction, unless at least 10 years have passed since satisfac-  
0259 tory completion of the sentence or probation imposed by the  
0260 court for each such felony;

0261 (2) has been convicted of an illegal gambling activity in this  
0262 or any other jurisdiction;

0263 (3) has been found to have violated the provisions of this act  
0264 or any rule and regulation adopted hereunder;

0265 (4) is a vendor or an employee or agent of any vendor doing  
0266 business with the Kansas lottery;

0267 (5) resides in the same household of an employee of the

in payment of all taxes, interest and penalties  
owed to any taxing subdivision where the lottery  
retailer will sell lottery tickets or shares;  
(4) be current in filing all applicable tax  
returns and

0268 Kansas lottery or of a member of the commission; or  
0269 (6) has made a statement of material fact to the Kansas lottery,  
0270 knowing such statement to be false.

0271 (i) For a partnership to be selected as a lottery retailer, the  
0272 partnership must meet the requirements of subsections (g)(3)  
0273 and (g)(4) and each partner must meet the requirements of  
0274 subsections (g)(1), (g)(2) and (h)(1) through (h)(6). , (g) (4)

0275 (j) For a corporation to be selected as a lottery retailer, the  
0276 corporation must meet the requirements of subsections (g)(3) and  
0277 (g)(4) and each officer or director and each stockholder who owns  
0278 % or more of the stock of such corporation must meet the  
0279 requirements of subsections (g)(1), (g)(2) and (h)(1) through  
0280 (h)(6). , (g) (4)

0281 (k) For an unincorporated association to be selected as a  
0282 lottery retailer, the association must meet the requirements of  
0283 subsections (g)(3) and (g)(4) and each officer or director must  
0284 meet the requirements of subsections (g)(1), (g)(2) and (h)(1)  
0285 through (h)(6). , (g) (4)

0286 (l) If a lottery retailer's rental payments for the business  
0287 premises are contractually computed, in whole or in part, on the  
0288 basis of a percentage of retail sales, and such computation of  
0289 retail sales is not explicitly defined to include sale of tickets or  
0290 shares in a state-operated lottery, the compensation received by  
0291 the lottery retailer from the lottery shall be considered the  
0292 amount of the retail sale for purposes of computing the rental  
0293 payment.

0294 New Sec. 7. (a) There is hereby created the Kansas lottery  
0295 commission, which shall be composed of five members who  
0296 shall be appointed by the governor, subject to confirmation by  
0297 the senate as provided by K.S.A. 75-4315b and amendments  
0298 thereto. All members of the commission shall be citizens of the  
0299 United States and residents of this state. Not more than three of  
0300 the five members shall be members of the same political party. A  
0301 chairperson of the commission shall be chosen annually from the  
0302 membership of the commission by a majority of its members at  
0303 the first meeting of the commission each fiscal year.

0304 (b) The members of the commission shall serve for terms of

0342 ing the establishment and operation of a state lottery as neces-  
0343 sary to carry out the purposes of this act. Temporary rules and  
0344 regulations may be adopted by the commission without being  
0345 subject to the provisions and requirements of K.S.A. 77-415  
0346 through 77-438, and amendments thereto, but shall be subject to  
0347 approval by the attorney general as to legality and shall be filed  
0348 with the revisor of statutes and published in the Kansas register.  
0349 Temporary and permanent rules and regulations may include  
0350 but shall not be limited to:

0351 (a) The types of lottery games to be conducted, including but  
0352 not limited to instant lottery, on-line and traditional games.

0353 (b) The manner of selecting the winning tickets or shares,  
0354 except that, if a lottery game utilizes a drawing of winning  
0355 numbers, a drawing among entries or a drawing among finalists,  
0356 such drawings shall always be open to the public and shall be  
0357 recorded on both video and audio tape.

0358 (c) The manner of payment of prizes to the holders of win-  
0359 ning tickets or shares.

0360 (d) The frequency of the drawings or selections of winning  
0361 tickets or shares.

0362 (e) The type or types of locations at which tickets or shares  
0363 may be sold.

0364 (f) The method or methods to be used in selling tickets or  
0365 shares.

0366 (g) Additional qualifications for the selection of lottery re-  
0367 tailers and the amount of application fees to be paid by each.

0368 (h) The amount and method of compensation to be paid to  
0369 lottery retailers, including special bonuses and incentives.

0370 (i) Deadlines for claims for prizes by winners of each lottery  
0371 game.

0372 (j) Provisions for confidentiality of information submitted by  
0373 vendors pursuant to ~~subsection (c) of section 4.~~

0374 (k) Information required to be submitted by vendors, in ad-  
0375 dition to that required by ~~subsection (c) of section 4.~~

-section 5

0376 New Sec. 9. (a) There is hereby established in the state  
0377 treasury the lottery operating fund.

0378 (b) The executive director shall remit at least weekly to the

0379 state treasurer all moneys collected from the sale of lottery  
0380 tickets and shares and any other moneys received by or on behalf  
0381 of the Kansas lottery. Upon receipt of any such remittance, the  
0382 state treasurer shall deposit the entire amount thereof in the state  
0383 treasury and credit it to the lottery operating fund. Moneys  
0384 credited to the fund shall be expended or transferred only as  
0385 provided by this act. Expenditures from such fund shall be made  
0386 in accordance with appropriations acts upon warrants of the  
0387 director of accounts and reports issued pursuant to vouchers  
0388 approved by the executive director or by a person designated by  
0389 the executive director.

~~0390 (c) The pooled money investment board may invest and  
0391 reinvest moneys credited to the lottery operating fund in obliga-  
0392 tions of the United States of America or obligations the principal  
0393 and interest of which are guaranteed by the United States of  
0394 America or in interest bearing time deposits in any commercial  
0395 bank or trust company located in Kansas. If the board determines  
0396 that it is impossible to deposit the moneys in time deposits, it  
0397 shall enter into repurchase agreements of less than 30 days'  
0398 duration with a Kansas bank for direct obligations of, or obliga-  
0399 tions that are insured as to principal and interest by the United  
0400 States government or any agency thereof. Any income or interest  
0401 earned by the investments shall be credited to the lottery  
0402 operating fund.~~

0403 (d) Moneys in the lottery operating fund shall be used for:  
0404 (1) The payment of expenses of the lottery, which shall  
0405 include all costs incurred in the operation and administration of  
0406 the Kansas lottery; all costs resulting from contracts entered into  
0407 for the purchase or lease of goods and services needed for  
0408 operation of the lottery, including but not limited to supplies,  
0409 materials, tickets, independent studies and surveys, data trans-  
0410 mission, advertising, printing, promotion, incentives, public re-  
0411 lations, communications, and distribution of tickets and shares;  
0412 and reimbursement of costs of facilities and services provided by  
0413 other state agencies;  
0414 (2) the payment of compensation to lottery retailers;  
0415 (3) transfers of moneys to the lottery prize payment fund

(c)

0416 pursuant to section ~~10~~; \_\_\_\_\_ 12

0417 (4) transfers to the state general fund pursuant to section ~~11~~; \_\_\_\_\_ 12

0418 (5) transfers to the state gaming revenues fund pursuant to \_\_\_\_\_ 13

0419 subsection (e).

0420 (e) The state treasurer shall transfer moneys in the lottery  
0421 operating fund to the state gaming revenues fund created by  
0422 K.S.A. 1986 Supp. 79-4801 and amendments thereto at least  
0423 quarterly as follows:

0424 (1) For the fiscal year commencing July 1, 1987, in an amount  
0425 equal to the moneys in such fund in excess of those needed for  
0426 the purposes described in subsection (d)(1) through (d)(4), as  
0427 certified by the executive director; and

0428 (2) for fiscal years commencing on or after July 1, 1988, in an  
0429 amount equal to the amount specified by subsection (e)(1) or an  
0430 amount equal to not less than 30% of total revenues from the  
0431 sales of lottery tickets and shares during the fiscal year, which-  
0432 ever is greater.

0433 New Sec. ~~10~~. (a) There is hereby established in the state \_\_\_\_\_ 12  
0434 treasury the lottery prize payment fund.

0435 (b) The executive director shall certify periodically to the  
0436 director of accounts and reports such amounts as the executive  
0437 director determines necessary to pay prizes to the holders of  
0438 valid winning lottery tickets or shares. Upon receipt of such  
0439 certification, the director of accounts and reports shall promptly  
0440 transfer the amount certified from the lottery operating fund to  
0441 the lottery prize payment fund. Moneys credited to the fund  
0442 shall be expended only for the payment of prizes to the holders  
0443 of valid winning lottery tickets or shares. Expenditures from  
0444 such fund shall be made in accordance with appropriations acts  
0445 upon warrants of the director of accounts and reports, or a person  
0446 designated by the director of accounts and reports pursuant to  
0447 K.S.A. 75-3732 and amendments thereto, issued pursuant to  
0448 vouchers approved by the executive director, or a person desig-  
0449 nated by the executive director.

0450 ~~(c) The pooled money investment board may invest and~~  
0451 ~~reinvest moneys credited to the lottery prize payment fund in~~  
0452 ~~obligations of the United States of America or obligations the~~

0453 principal and interest of which are guaranteed by the United  
0454 States of America or in interest-bearing time deposits in any  
0455 commercial bank or trust company located in Kansas. If the board  
0456 determines that it is impossible to deposit the moneys in time  
0457 deposits, it shall enter into repurchase agreements of less than 30  
0458 days' duration with a Kansas bank for direct obligations of, or  
0459 obligations that are insured as to principal and interest by the  
0460 United States government or any agency thereof. Any income or  
0461 interest earned by the investments shall be credited to the  
0462 ~~lottery prize payment fund.~~

0463 New Sec. 11. (a) Any appropriation of state general fund  
0464 moneys for the operation of the Kansas lottery and other ex-  
0465 penses incurred in connection with the conduct of lotteries  
0466 pursuant to this act shall be considered a loan and shall be repaid  
0467 with interest to the state general fund as excess moneys are  
0468 available in the lottery operating fund, but in no case later than  
0469 24 months from the effective date of the appropriation of such  
0470 general fund moneys. Such loan shall not be considered an  
0471 indebtedness or debt of the state within the meaning of section 6  
0472 of article 11 of the constitution of the state of Kansas. The interest  
0473 shall be based upon the principal amount outstanding each  
0474 month until repaid and the average interest rate on time deposit,  
0475 open accounts for each such month as determined under K.S.A.  
0476 75-4212 and amendments thereto.

0477 (b) The executive director shall certify periodically to the  
0478 director of accounts and reports such amounts as are available in  
0479 the lottery operating fund for repayment of any moneys consid-  
0480 ered a loan pursuant to subsection (a) and payment of any  
0481 interest thereon. Upon receipt of such certification, the director  
0482 of accounts and reports shall promptly transfer the amount cer-  
0483 tified from the lottery operating fund to the state general fund.

0484 (c) Except as provided by subsection (a), moneys credited to  
0485 the state general fund shall not be used or obligated to pay the  
0486 expenses of the Kansas lottery or prizes of the lottery and no  
0487 claim for the payment of an expense of the lottery or the payment  
0488 of a lottery prize shall be made against any moneys other than  
0489 moneys credited to the lottery operation fund, moneys credited



0490 to the lottery prize payment fund or moneys collected from the  
0491 sale of lottery tickets or shares.

0492 New Sec. ~~12~~ (a) Employees of the Kansas lottery designated  
0493 by the executive director are hereby vested with the power and  
0494 authority of law enforcement officers in the execution of the  
0495 duties imposed upon the executive director by this act and in  
0496 enforcing the provisions of this act.

0497 (b) Employees designated by the executive director pursuant  
0498 to subsection (a) shall have the authority to:

0499 (1) Make arrests, conduct searches and seizures and carry  
0500 firearms while investigating violations of this act and during  
0501 routine conduct of their duties as determined by the executive  
0502 director or designee of the executive director;

0503 (2) make arrests, conduct searches and seizures and generally  
0504 to enforce all the criminal laws of the state as violations of those  
0505 laws are encountered by such employees during the routine  
0506 performance of their duties; and

0507 (3) issue notices to appear pursuant to K.S.A. 22-2408 and  
0508 amendments thereto.

0509 (c) No employee of the Kansas lottery shall be certified to  
0510 carry firearms under the provisions of this section without having  
0511 first successfully completed the firearm training course or  
0512 courses prescribed for law enforcement officers under subsec-  
0513 tion (a) of K.S.A. 74-5604a and amendments thereto.

0514 (d) The commission may adopt rules and regulations pre-  
0515 scribing other training required for such employees.

0516 New Sec. ~~13~~. The attorney general shall appoint, with the  
0517 approval of the executive director, an assistant attorney general  
0518 who shall be assigned exclusively to assist the Kansas lottery in  
0519 the enforcement of the criminal and civil provisions of this act.  
0520 Such attorney shall receive an annual salary fixed by the attorney  
0521 general with the approval of the executive director.

0522 New Sec. ~~14~~. (a) It is unlawful for the executive director, a  
0523 member of the commission or any employee of the Kansas  
0524 lottery, or any person residing in the household thereof to:

0525 (1) Have, either directly or indirectly, an interest in a busi-  
0526 ness knowing that such business contracts with the Kansas lot-

14

15

Such salary shall be paid by the Kansas lottery.

16

0527 tery for a major procurement, whether such interest is as a  
0528 natural person, partner, member of an association, stockholder or  
0529 director or officer of a corporation; or

0530 (2) accept or agree to accept any economic opportunity, gift,  
0531 loan, gratuity, special discount, favor, ~~hospitality~~ or service ~~hav-~~ \_\_\_\_\_, or hospitality other than food and beverages,  
0532 ing an aggregate value of ~~\$100~~ or more in any calendar year from \_\_\_\_\_ \$10  
0533 a person knowing that such person (A) contracts or seeks to  
0534 contract with the state to supply gaming equipment, materials,  
0535 tickets or consulting services for use in the lottery or (B) is a  
0536 lottery retailer or an applicant for lottery retailer.

(b) It is unlawful for a lottery retailer, an applicant for lottery  
0538 retailer or a person who contracts or seeks to contract with the  
0539 state to supply gaming equipment, materials, tickets or consult-  
0540 ing services for use in the lottery to offer, pay, give or make any  
0541 economic opportunity, gift, loan, gratuity, special discount, favor, \_\_\_\_\_, or hospitality other than food and beverages,  
0542 ~~hospitality~~ or service ~~having an aggregate value of \$100~~ or more \_\_\_\_\_ \$10  
0543 in any calendar year to a person, knowing such person is the  
0544 executive director, a member of the commission or an employee  
0545 of the Kansas lottery, or a person residing in the household  
0546 thereof.

0547 (c) Violation of this section is a class A misdemeanor.

0548 (d) If the executive director, a member of the commission or  
0549 an employee of the Kansas lottery, or any person residing in the  
0550 household thereof, is convicted of an act described by this  
0551 section, such executive director, member or employee shall be  
0552 removed from office or employment with the Kansas lottery.

0553 (e) In addition to the provisions of this section, all other  
0554 provisions of law relating to conflicts of interest of state employ-  
0555 ees shall apply to the members of the commission and employ-  
0556 ees of the Kansas lottery.

0557 New Sec. ~~15~~ (a) It is unlawful to falsely make, alter, forge, \_\_\_\_\_ 17  
0558 pass or counterfeit, with intent to defraud, a lottery ticket or  
0559 share, or receipt for the purchase thereof, issued or purported to  
0560 have been issued by the Kansas lottery under this act.

0561 (b) Violation of this section is a class D felony.

0562 New Sec. ~~16~~ (a) It is unlawful for: \_\_\_\_\_ 18

0563 (1) Any person to sell a lottery ticket or share at a price other

0601 New Sec. 18. (a) As nearly as practical, an amount equal to  
 0602 not less than 45% of the total sales of lottery tickets or shares,  
 0603 computed on an annual basis, shall be allocated for payment of  
 0604 lottery prizes.

0605 (b) The prize to be paid or awarded for each winning ticket or  
 0606 share shall be paid to one natural person who is adjudged by the  
 0607 executive director or the director's designee to be the holder of  
 0608 such winning ticket or share, except that the prize of a deceased  
 0609 winner shall be paid to the duly appointed representative of the  
 0610 estate of such winner or to such other person or persons appear-  
 0611 ing to be legally entitled thereto.

0612 (c) The executive director shall award the designated prize to  
 0613 the holder of the ticket or share upon the validation of a claim or  
 0614 confirmation of a winning share. The executive director shall  
 0615 have the authority to make payment for prizes by any means  
 0616 deemed appropriate upon the validation of winning tickets or  
 0617 shares.

0618 (d) The right of a person to a prize drawn or awarded is not  
 0619 assignable.

0620 (e) All prizes awarded shall be taxed as Kansas source income  
 0621 and shall be subject to all state and federal income tax laws and  
 0622 rules and regulations.

0623 (f) Unclaimed prize money not payable directly by lottery  
 0624 retailers shall be retained for the period established by rules and  
 0625 regulations and if no claim is made within such period, then such  
 0626 unclaimed prize money shall be added to the prize pools of  
 0627 subsequent lottery games.

0628 (g) The state of Kansas, members of the commission and  
 0629 employees of the Kansas lottery shall be discharged of all further  
 0630 liability upon payment of a prize pursuant to this section.

0631 New Sec. 19. All sales of lottery tickets and shares shall be  
 0632 exempt from retailers' sales taxes imposed pursuant to K.S.A.  
 0633 12-187 *et seq.*, and amendments thereto, and from the tax im-  
 0634 posed by the Kansas retailers' sales tax act.

0635 Sec. 20. K.S.A. 21-4302 is hereby amended to read as fol-  
 0636 lows: 21-4302. (1) A "bet" is a bargain in which the parties agree  
 0637 that, dependent upon chance, one stands to win or lose some-

State income taxes shall be withheld from prizes paid in accordance with the provisions of K.S.A. 79-3294 *et seq.*, and amendments thereto, whenever federal income taxes are required to be withheld under current federal law.

0712 and away from the premises specified in such license, but not for  
 0713 resale in any form except to a club licensed pursuant to article 26  
 0714 of chapter 41 of the Kansas Statutes Annotated. *Except as au-*  
 0715 *thorized by subsection (c),* the holder of a retailer's license shall  
 0716 not sell, offer for sale, or give away or permit to be sold, offered  
 0717 for sale, or given away in or from the premises as specified in  
 0718 such license any service, or thing of value whatsoever except  
 0719 alcoholic liquor in the original package, nor shall ~~he or she~~ a  
 0720 *holder of such license* furnish any entertainment in such prem-  
 0721 ises or permit any pinball machine or game of skill or chance to  
 0722 be located in or on such premises.

3 (b) A retailer's license shall allow the licensee to store wine  
 0724 in refrigerators, cold storage units, ice boxes or other cooling  
 0725 devices, and the licensee may sell such wine to consumers in a  
 0726 chilled condition.

0727 (c) *A holder of a retailer's license who is selected as a lottery*  
 0728 *retailer may sell lottery tickets and shares to the public in*  
 0729 *accordance with the provisions of the Kansas lottery act.*

0730 Sec. ~~22~~ K.S.A. 74-5602 is hereby amended to read as fol-  
 0731 lows: 74-5602. As used in the Kansas law enforcement training  
 0732 act, unless the context otherwise requires:

0733 (a) "Training center" means the law enforcement training  
 0734 center within the division of continuing education of the uni-  
 0735 versity of Kansas, created by K.S.A. 74-5603 and amendments  
 0736 thereto.

0737 (b) "Commission" means the Kansas law enforcement train-  
 0738 ing commission, created by K.S.A. 74-5606 and amendments  
 0739 thereto.

0740 (c) "Director" means the dean of the division of continuing  
 0741 education of the university of Kansas.

0742 (d) "Associate director," as created in K.S.A. 74-5603, and  
 0743 amendments thereto, means the associate director of the division  
 0744 of continuing education of the university of Kansas who shall  
 0745 serve as the director of police training at the law enforcement  
 0746 training center.

0747 (e) "Police officer" or "law enforcement officer" means a  
 0748 full-time or part-time salaried officer or employee of the state, a

Insert section 24, attached

25

Sec. 24. K.S.A. 74-2424 is hereby amended to read as follows: 74-2424. (a) The secretary of revenue may make available or furnish to the taxing officials of any other state or the commissioner of internal revenue of the United States or other taxing officials of the federal government, or their authorized representatives, or the director of property valuation, information contained in tax reports, renditions or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the tax laws. Such information shall not be used for any other purpose than that of the administration of the tax laws of this or another state or of the United States, except that the post auditor shall have access to all such information in accordance with and subject to the provisions of subsection (g) of K.S.A. 46-1106 and amendments thereto.

(b) Notwithstanding the provisions of this section, the secretary of revenue may communicate to the executive director of the Kansas lottery information as to whether a person, partnership or corporation is current in the filing of all applicable tax returns and in the payment of all taxes, interest and penalties to the state of Kansas, excluding items under formal appeal, for the purpose of determining whether such person, partnership or corporation is eligible to be selected as a lottery retailer.

0786 payroll period, but in any case requiring less than 1,000 hours of  
0787 work per year.

0788 Sec. ~~23~~. K.S.A. 1986 Supp. 75-3732 is hereby amended to  
0789 read as follows: 75-3732. (a) Upon determining the amount  
0790 legally due claimants in accordance with the provisions of K.S.A.  
0791 75-3731 and amendments thereto, the director of accounts and  
0792 reports shall provide for the payment thereof by issuing warrants  
0793 drawn on the state treasurer or as an alternative, permissive  
0794 method, in the case of claims for salaries or wages, by utilizing  
0795 procedures authorized by K.S.A. 75-3733 and amendments  
0796 thereto. *Except as authorized by subsection (c)*, the director of  
0797 accounts and reports shall sign and the state treasurer shall  
0798 cosign all such warrants for money before their delivery by the  
0799 director of accounts and reports to the persons entitled thereto.  
0800 Forms for such warrants shall be prescribed by the director of  
0801 accounts and reports. The director of accounts and reports shall  
0802 transmit to the state treasurer a duplicate copy of the director's  
0803 record of all warrants issued by the director.

0804 (b) When the claim as shown to be due any individual payee  
0805 on any voucher submitted by an agency is less than \$5, no  
0806 warrant shall be issued by the director of accounts and reports.  
0807 Claims for amounts less than \$5 shall be paid by an agency from  
0808 the agency's imprest fund or petty cash fund under procedures  
0809 prescribed by the director of accounts and reports or as otherwise  
10 prescribed by the director.

0811 (c) the director of accounts and reports may designate one or  
0812 more persons to sign, on behalf of the director of accounts and  
0813 reports, warrants for the payment of prizes to the holders of  
0814 valid winning lottery tickets or shares pursuant to section 10.

0815 Sec. ~~21~~. K.S.A. 75-4706 is hereby amended to read as fol-  
0816 lows: 75-4706. (a) No state agency, as defined in K.S.A. 75-3701  
0817 and amendments thereto, shall lease ~~or~~, cause to be leased,  
0818 purchase, contract for, issue a letter of intent to contract for, or  
0819 cause to be installed, any data processing equipment, including  
0820 auxiliary equipment, or any data processing programs or systems,  
0821 without the prior approval of the secretary of administration or  
0822 specific legislative authorization. The director of accounts and

26

which do not exceed \$5,000

12

27

0823 reports shall not issue any warrant in payment for any lease or  
 0824 purchase contract for any data processing equipment, programs  
 0825 and systems acquired without such prior approval or authoriza-  
 0826 tion.

0827 (b) All specifications for bids for acquisition of the data proc-  
 0828 essing equipment, including auxiliary equipment and data proc-  
 0829 essing programs and systems, shall be prepared by the director of  
 0830 information systems and communications, under the supervision  
 0831 of the secretary of administration. This subsection shall not apply  
 0832 to universities under the jurisdiction and control of the state  
 0833 board of regents *or to the Kansas lottery.*

0834 Sec. 25. K.S.A. 79-32,109 is hereby amended to read as fol-  
 0835 lows: 79-32,109. As used in this act, unless the context otherwise  
 0836 requires:

0837 (a) Any term used in this act shall have the same meaning as  
 0838 when used in a comparable context in the federal internal reve-  
 0839 nue code of 1954, and amendments thereto. Any reference in this  
 0840 act to the "internal revenue code" shall mean the provisions of  
 0841 the internal revenue code of 1954, and amendments thereto, and  
 0842 other provisions of the laws of the United States relating to  
 0843 federal income taxes, as the same may be or become effective at  
 0844 any time, or from time to time, for the taxable year.

0845 (b) "Resident individual" means a natural person who is  
 0846 domiciled in this state. A natural person who spends in the  
 0847 aggregate more than six months of the taxable year within this  
 0848 state shall be presumed to be a resident for purposes of this act in  
 0849 absence of proof to the contrary. A nonresident individual means  
 0850 an individual other than a resident individual.

0851 (c) "Resident estate" means the estate of a deceased person  
 0852 whose domicile was in this state at the time of such person's  
 0853 death. "Nonresident estate" means an estate other than a resi-  
 0854 dent estate.

0855 (d) "Resident trust" means a trust which is administered in  
 0856 this state. A trust shall not be deemed to be administered in this  
 0857 state solely because it is subject to the jurisdiction of a district  
 0858 court within this state. "Nonresident trust" means a trust other  
 0859 than a resident trust.

insert section 28, attached

29

Sec. 28 K.S.A. 79-3234 is hereby amended to read as follows: 79-3234. (a) All reports and returns required by this act shall be preserved for three years and thereafter until the director orders them to be destroyed.

(b) Except in accordance with proper judicial order, or as provided in subsection (c) ~~of this section~~, or in K.S.A. 17-7511, ~~and amendments thereto~~, or subsection (g) of K.S.A. 46-1106, ~~and amendments thereto~~, or K.S.A. 46-1114, and amendments thereto, it shall be unlawful for the director, any deputy, agent, clerk or other officer, employee or former employee of the department of revenue or any other state officer or employee or former state officer or employee to divulge, or to make known in any way, the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information required under this act; and it shall be unlawful for the director, any deputy, agent, clerk or other officer or employee engaged in the administration of this act to engage in the business or profession of tax accounting or to accept employment, with or without consideration, from any person, firm or corporation for the purpose, directly or indirectly, of preparing tax returns or reports required by the laws of the state of Kansas, by any other state or by the United States government, or to accept any employment for the purpose of advising, preparing material or data, or the auditing of books or records to be used in an effort to defeat or cancel any tax or part thereof that has



been assessed by the state of Kansas, any other state or by the United States government.

(c) Nothing herein shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection of returns by the attorney general or other legal representatives of the state. Nothing in this section shall prohibit the post auditor from access to all income tax reports or returns in accordance with and subject to the provisions of subsection (g) of K.S.A. 46-1106~~7~~--and--amendments thereto~~7~~, or K.S.A. 46-1114, and amendments thereto. Nothing in this section shall be construed to prohibit the disclosure of the taxpayer's name, social security number, last known address and total tax liability, including penalty and interest, from income tax returns to a debt collection agency contracting with the secretary of revenue pursuant to K.S.A. 75-5140 ~~to-75-5143~~, inclusive through 75-5143, and amendments thereto. Any person receiving any information under the provisions of this subsection shall be subject to the confidentiality provisions of subsection (b) ~~of-this-section~~ and to the penalty provisions of subsection (d) ~~of-this-section~~.

(d) Any violation of subsections (b) or (c) ~~of-this-section~~ shall--be is a class B misdemeanor~~7~~, and, if the offender is an officer or employee of the state, such officer or employee shall be dismissed from office.

(e) Notwithstanding the provisions of this section, the

secretary of revenue may permit the commissioner of internal revenue of the United States, or the proper official of any state imposing an income tax, or the authorized representative of either, to inspect the income tax returns made under this act and the secretary of revenue may make available or furnish to the taxing officials of any other state or the commissioner of internal revenue of the United States or other taxing officials of the federal government, or their authorized representatives, information contained in income tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the income tax laws, as the secretary may consider proper, but such information shall not be used for any other purpose than that of the administration of tax laws of such state, the state of Kansas or of the United States.

(f) Notwithstanding the provisions of this section, the secretary of revenue may communicate to the executive director of the Kansas lottery information as to whether a person, partnership or corporation is current in the filing of all applicable tax returns and in the payment of all taxes, interest and penalties to the state of Kansas, excluding items under formal appeal, for the purpose of determining whether such person, partnership or corporation is eligible to be selected as a lottery retailer.

0269 service designated by the private nonprofit organization;

0270 (x) all sales of natural gas, electricity, heat and water deliv-  
0271 ered through mains, lines or pipes to residential premises for  
0272 noncommercial use by the occupant of such premises and all  
0273 sales of natural gas, electricity, heat and water delivered through  
0274 mains, lines or pipes for agricultural use;

0275 (y) all sales of propane gas, LP-gas, coal, wood and other fuel  
0276 sources for the production of heat or lighting for noncommercial  
0277 use of an occupant of residential premises;

0278 (z) all sales of intrastate telephone and telegraph services for  
0279 noncommercial use except noncommercial intrastate long dis-  
0280 tance telephone service;

0281 (aa) all sales of materials and services used in the repairing,  
0282 servicing, altering, maintaining, manufacturing, remanufactur-  
0283 ing, or modification of railroad rolling stock for use in interstate  
0284 or foreign commerce under authority of the laws of the United  
0285 States;

0286 (bb) all sales of tangible personal property and services pur-  
0287 chased directly by a port authority or by a contractor therefor as  
0288 provided by the provisions of K.S.A. 12-3418 and amendments  
0289 thereto;

0290 (cc) all sales of materials and services applied to equipment  
0291 which is transported into the state from without the state for  
0292 repair, service, alteration, maintenance, remanufacture or modi-  
0293 fication and which is subsequently transported outside the state  
0294 for use in the transmission of liquids or natural gas by means of  
0295 pipeline in interstate or foreign commerce under authority of the  
0296 laws of the United States;

0297 (dd) all sales of used mobile homes. As used in this subsec-  
0298 tion: (1) "Mobile homes" shall have the meaning ascribed  
0299 thereto by K.S.A. 75-1226, and amendments thereto; and (2)  
0300 "sales of used mobile homes" ~~shall mean~~ means sales other than  
0301 the original retail sale of such mobile homes;

0302 (ee) ~~on and after January 1, 1987,~~ all sales of tangible per-  
0303 sonal property or services purchased for the purpose of and in  
0304 conjunction with constructing, reconstructing, enlarging or re-  
0305 modeling a qualified business facility located within an enter-

0306 prise zone, which will qualify for an income tax credit under  
 0307 K.S.A. 79-32,153, and amendments thereto, and the sale and  
 0308 installation of machinery and equipment purchased and in-  
 0309 stalled in conjunction with the original establishment of such a  
 0310 facility. When a person shall contract for the construction, re-  
 0311 construction, enlargement or remodeling of any such facility,  
 0312 such person shall obtain from the state and furnish to the con-  
 0313 tractor an exemption certificate for the project involved, and the  
 0314 contractor may purchase materials, machinery and equipment for  
 0315 incorporation in such project. The contractor shall furnish the  
 0316 number of such certificates to all suppliers from whom such  
 0317 purchases are made, and such suppliers shall execute invoices  
 0318 covering the same bearing the number of such certificate. Upon  
 0319 completion of the project the contractor shall furnish to the  
 0320 owner of the qualified business facility a sworn statement, on a  
 0321 form to be provided by the director of taxation, that all purchases  
 0322 so made were entitled to exemption under this subsection. All  
 0323 invoices shall be held by the contractor for a period of five years  
 0324 and shall be subject to audit by the director of taxation. Any  
 0325 contractor or any agent, employee or subcontractor thereof, who  
 0326 shall use or otherwise dispose of any materials, machinery or  
 0327 equipment purchased under such a certificate for any purpose  
 0328 other than that for which such a certificate is issued without the  
 0329 payment of the sales or compensating tax otherwise imposed  
 0330 thereon, shall be guilty of a misdemeanor and, upon conviction  
 0331 therefor, shall be subject to the penalties provided for in sub-  
 0332 section (g) of K.S.A. 79-3615, and amendments thereto; ~~and~~  
 0333 (ff) ~~on and after October 1, 1986,~~ all sales of tangible personal  
 0334 property purchased with food stamps issued by the United States  
 0335 department of agriculture; *and*  
 0336 (gg) *all sales of lottery tickets and shares made as part of a*  
 0337 *lottery operated by the state of Kansas.*  
 0338 Sec. ~~27.~~ K.S.A. 21-4302, 41-308, ~~74-5602, 75-4706, and 79-~~  
 0339 ~~32,109 and K.S.A. 1986 Supp. 75-3732 and 79-3606~~ are hereby  
 0340 repealed.  
 0341 Sec. ~~28.~~ This act shall take effect and be in force from and  
 0342 after its publication in the Kansas register.

31 74-2424,  
 , 79-3224  
 32

House Bill No. 2044 - Kansas Parimutuel Racing Act

Summary

**Section 1 - Title and scope**

**Section 2 - Definitions**

**Section 3 - Creation of the commission**

(a) The commission is composed of five members appointed by the Governor with the consent of the Senate. Of the 13 states reviewed, the number of commissioners varied from 3 to 9, with an average of 5.4 commissioners.

(b) The commissioners must be U.S. citizens, residents of Kansas, and free of felony criminal convictions.

(c) No more than three commissioners may belong to the same political party and no more than two may reside in the same congressional district. One commissioner must be experienced in the horse racing and breeding industry and one commissioner must be experienced in the Greyhound racing and breeding industry.

(d) Commissioners shall be appointed initially to staggered terms and thereafter for three year terms.

(e) Commission vacancies are filled in the same manner as regular appointments.

(f) The commission shall determine the frequency with which it meets.

(g) The commission shall annually elect its own chairman, vice-chairman and secretary.

(h) Commission compensation shall be determined by the Governor. This flexibility is important in order to get qualified people who may be expected to spend almost full-time on commission business during the first six to twelve months of operation. Mileage and per diem will be paid in accordance with existing state law.

**Section 4 - Powers and duties of commission**

- (a) Inspect all racetrack facilities.
- (b) Administer oaths and take depositions.
- (c) Examine records of licensees.
- (d) Issue subpoenas for persons and records.

- (e) Allocate race meeting dates.
- (f) Exclude undesirable persons from racetrack facilities.
- (g) Review and approve all proposed construction and major renovation of racetrack facilities.
- (h) Suspend horses and Greyhounds from racing if found to have violated laws or regulations.
- (i) Consider appeals from rulings of stewards and racing judges.
- (j) Adopt rules and regulations as necessary to carry out their statutory duties.

### **Section 5 - Employees of the commission**

- (a) The commission appoints an executive director to serve in the unclassified service at a salary determined by the commission within the appropriation limitations. The executive director hires the other members of the staff subject to approval of the commission and appropriation limitations.
  
- (b) The commission appoints an inspector of parimutuels to serve in the unclassified service at a salary determined by the commission within the appropriation limitations. The inspector of parimutuels inspects and audits the parimutuel wagering operations of the licensees and supervises auditors hired to assist in these functions.
  
- (c) The commission appoints a director of security to serve in the unclassified service at a salary determined by the commission within the appropriation limitations. The director of security must have a law enforcement background and conducts investigations of licensees and recommends security measures to the commission and to licensees.
  
- (d) The commission may employ an attorney to assist in matters other than criminal enforcement, to serve in the unclassified service at a salary determined by the commission within the appropriation limitations. It is anticipated that a substantial amount of legal work may be required during the first year or two of commission operation while proposals for the construction of major racetrack facilities are being considered and the rules and regulations are being drafted and refined. The Assistant Attorney General will probably be tied up with assisting the security staff with background investigations of licensees and establishing security requirements for racetrack facilities.
  
- (e) The commission may appoint an advisory committee of industry experts to serve without compensation.
  
- (f) All commission employees not specified as unclassified will serve in the classified service.

## **Section 6 - Animal health officer and assistants**

(a) The commission shall appoint an animal health officer and assistants as needed. The animal health officer shall be a veterinarian and serve as a full-time employee in the unclassified service at a salary determined by the commission within the appropriation limitation. The assistant animal health officers shall also be veterinarians but will be seasonal employees in the unclassified service with compensation to be determined by the commission within the appropriation limitation.

(b) The animal health officer will supervise the assistants and provide advise to the commission on animal health matters.

(c) The assistants will do examinations of animals at the racetracks and conduct tests for drugs as directed by the animal health officer.

(d) The commission may require licensees to reimburse the state for the compensation paid to the assistants for their work at the racetracks. This is a common practice in the racing industry and it is expected that Kansas will do the same.

(e) The commission may contract for additional medical services if needed with any state institution which teaches animal health science. This provision permits the commission to conduct research into specific problem areas when desireable.

(f) The commission shall contract for the analysis of samples for drug testing with any laboratory facility in Kansas.

## **Section 7 - Law enforcement authority**

(a) Employees designated by the commission have law enforcement authority. These will be the director of security and agents employed to perform investigations and inspect racetrack security measures.

(b) Such employees will have the power to enforce the provisions of the racing statutes and their law enforcement authority will only exist while performing their regular duties as assigned.

(c) All such employees who will be authorized to carry firearms must complete the state firearms training course as currently required of other law enforcement personnel.

(d) The commission may specify other training required for such personnel.

## **Section 8 - Bonds for commission members and employees**

This section provides for bonding of commission members, employees and appointees. Most if not all of these bonds will be handled in the same manner as for other state agencies through the state committee on surety bonds and insurance.

## **Section 9 - Assignment of Assistant Attorney General**

This section provides for the appointment of an Assistant Attorney General to assist with the enforcement of the criminal provisions of the act. The relationship will be similar to that existing within the A.B.C. Division of the Department of Revenue.

## **Section 10 - Prohibited acts and criminal penalties**

(a) Prohibits commission members from having a financial interest in any racetrack facility in Kansas during or for two years after serving on the racing commission.

(b) Prohibits certain "conflict of interest" activities by commission members, employees and appointees.

(c) Prohibits certain "conflict of interest" activities by commission members, employees and appointees and certain relatives thereof.

(d) Prohibited acts of the general public which are Class A misdemeanors.

(e) Prohibited acts of the general public which are Class C felonies.

(f) Prohibits minors from parimutuel wagering. This prohibition has also been reflected in amendments to existing juvenile statutes as set forth in Sections 31 and 32.

## **Section 11 - Drugs and medication prohibited**

This section prohibits detectable levels of depressants, stimulants or other drugs or medication in the blood or urine of horses and Greyhounds when tested just prior to or immediately after racing. Animals found in violation are disqualified from any race entered on the day that the positive test was done. Persons involved are subject to criminal penalties under Section 10 of this act.

## **Section 12 - Eligibility for racing**

This section sets a minimum age for racing for horses and Greyhounds and authorizes the racing commission to prescribe eligibility for Kansas-bred horse races.



**Section 13 - Procedures, qualifications, fees and other matters relating to racing licenses**

(a) Application process and application fees.

(b) Qualifications of applicants. Applicants must be Kansas non-profit corporations. The corporate form is required in order to clearly establish each applicant's identity and non-profit status and the responsibilities of the individuals involved. Licenses may only be granted for racing in those counties which approved the constitutional amendment or which subsequently vote to permit racing. Subsection (6) prohibits licensing when certain persons involved have been involved in certain activities or have certain types of criminal convictions or charges pending.

(c) Places a 30-day limit on the commission in processing license applications and permits the commission to allow applicants to "cure" problems with qualification. Permits license terms of up to 25 years and requires licensees to be bonded. Licenses are non-transferable.

(d) Enumerates factors for commission to consider in the granting of licenses and racing days. This permits the commission to implement a comprehensive state-wide strategy to promote the success of the racetrack ventures and, consequently, the maximization of tax revenues and economic benefit to the local areas.

(e) Sets the license fee at \$200 per day of racing.

(f) Provides a procedure for changing race days.

(g) Provides for annual review of licenses.

(h) Provides for suspension or revocation of licenses or imposition of fines up to \$5,000 for certain specified violations.

(i) Provides for a "30-day cure" period prior to suspension or revocation.

(j) Provides for renewal of licences.

(k) Prohibits changes in ownership or control of licensed organizations without commission approval.

(l) Requires approval by the commission of certain types of contracts by licensees. This provision prevents involvement by unknown or unqualified persons or business entities.

(m) This paragraph prohibits the licensees from "farming out" the conduct of

the races or operation of the parimutuel wagering. However, the licensees are still permitted to lease certain facilities, equipment and services.

(n) Authorizes payment for the leasing of facilities and services in certain situations if approved by the commission. This provision is designed to prevent "skimming" of profits through overpayment for goods or services.

#### **Section 14 - Reduced license fees for certain organizations**

This section permits the commission to set lower application and license fees for certain organizations:

(a) Any fair association, other than the Greenwood County and Anthony fair associations, and the National Greyhound Association, if they conduct no more than two race meetings per year with a total of not more than 21 racing days in the county where the organization is located.

(b) The Greenwood County and Anthony fair associations, if races are conducted at their current locations and if the number of race meetings and racing days are within the limits specified by the commission.

#### **Section 15 - Facility owner and facility manager licenses**

Provides procedures and qualifications for the issuance of licenses to own or manage racetrack facilities. This permits the construction and/or operation of facilities by for-profit entities and the leasing of such facilities to licensed, non-profit organizations. Racetracks may also be owned by state or political subdivisions. While the state and political subdivisions do not qualify directly for racing licenses, they would be able to either lease their racetrack facilities to licensed organizations or create separate, non-profit corporations which could qualify for racing licenses. Licenses may be issued for up to 25 years and a \$5,000 application fee is required to cover the cost of review and investigation.

#### **Section 16 - Occupational licenses**

This section provides procedures and qualifications for the issuance of licenses for persons in occupations involved in racing and for the owners of racing animals. This is one of the essential elements in controlling who is involved in the racing activities in order to keep out known criminals and persons who have committed serious violations of racing laws and regulations in this and other states. All applicants will be fingerprinted for positive identification and criminal record checks done at the state and national levels. Fingerprinting is essential in this situation because of the high percentage of such persons who are transient and therefore not known to local law enforcement personnel. Each licensee will be required to wear a badge with photo ID while present within the racetrack facility. This will permit track and commission security personnel to identify the presence of

unauthorized persons in areas where the racing animals are located. License fees will be set by the commission and licenses may be issued for up to three years. The commission may require licensees to reimburse the cost of processing the fingerprints. Almost all states currently require such reimbursement, which could be as high as \$24 per person.

### **Section 17 - Concessionaire licenses**

This section requires that all concessions businesses which operate within a racetrack facility be licensed by the commission. The procedures and qualifications are similar to those for occupational licenses. Licenses may be issued for up to 25 years and the fee is set by the commission based upon the type and size of business. The longer license period is provided to permit recovery of investment in equipment and leasehold improvements where applicable and coincides with the maximum license term for facilities owners and managers. This provision is another element needed for the identification and control of persons working within the racetrack facilities. The licensing procedure provides for investigation of each concessions business and its owners and employees to assure that a concessions lease is not used by an organization licensee to skim off profits to another person or business.

### **Section 18 - Stewards and racing judges**

This section provides for the qualification, appointment and compensation of stewards for horse races and racing judges for Greyhound races. The stewards and racing judges will be seasonal, contract labor and will be accountable to and paid by the commission. The commission may require that the organization licensees reimburse the commission for the compensation paid to the stewards and racing judges. In some states, only one or two of these individuals are actually responsible to the commission and the other one or two are hired and paid directly by the track or organization licensee. All states contacted agree that it is better to have all three stewards or racing judges responsible to and paid by the commission with the track or organization licensee reimbursing the commission for the expense. This avoids potential conflicts in loyalty.

### **Section 19 - Parimutuel wagering permitted**

This section permits parimutuel wagering on horse and Greyhound races approved by the commission. The wagering must take place within the racetrack facility. The organization licensee may retain up to 18% of each parimutuel pool from which it must pay purses in accordance with Section 20 and taxes in accordance with Section 23. The remainder of the 18% is the gross profit belonging to the organization licensee. The commission may authorize a higher "take-out" of up to 22% of each parimutuel pool involving multiple or exotic bets. Licensees may not permit wagers to be made on credit. All parimutuel tellers and clerks must be employees of the

organization licensee and must be approved by the commission. Typically, commission approval is in the form of occupational licensing of the tellers and clerks.

### **Section 20 - Payment of purses**

This section specifies the minimum purses that must be paid to winners in each race. The amounts are specified in terms of a fraction of the "take-out" rather than a percentage of the entire pool so that the purses will share proportionally when larger take-outs are approved for multiple or exotic pools. The minimum amounts specified of 6/18ths for horses and 4/18ths for Greyhounds are representative of those provided in other states. The purses for Greyhounds are typically lower because of the substantially lower cost of raising and maintaining Greyhounds compared to horses.

### **Section 21 - Breakage**

This section provides for the disposition of the breakage from parimutuel pools. The breakage from horse racing is remitted by the organization licensee to the state and credited to the Kansas horse breeding development fund (see Section 27). The breakage from Greyhound racing is disbursed by the organization licensee under the direction of the commission as follows: 50% to supplement purses for open stakes races at the racetrack facility where produced; and 50% to purses for breeders of Kansas-whelped Greyhounds.

### **Section 22 - Unclaimed winning tickets**

This section provides a procedure for the holders of winning tickets to collect within 60 days after the applicable race meeting. Winnings not claimed within the 60 days are remitted to the commission and placed in the corresponding breeding development fund.

### **Section 23 - Tax on parimutuel wagering**

This section imposes a tax on all parimutuel wagering. The tax is specified as a fraction of the take-out, so that the tax rate is proportionally higher when a take-out larger than 18% is authorized by the commission for multiple and exotic wagering. The tax is 3/18ths of the take-out for horse races and 5/18ths of the take-out for Greyhound races. The difference in rates reflects the difference in purses provided for in Section 20. The total of the purses and the tax are half of the take-out for both horse racing and Greyhound racing, leaving the organization licensee with the other half of the take-out in both cases. Attached is a table showing the effective tax rates as a percentage of the entire parimutuel pool for each type of racing and for various percentages of take-outs. The tax is to be remitted to the commission on the day after the wagers take place. Although the bill currently calls for the tax to be placed directly in the state gaming fund, consideration should be given to placing this tax in the state racing fund to

assure sufficient cash to cover the appropriated budget for the racing commission during the initial years of development of the racing industry when the revenues will be relatively small.

**Section 24 - Tax on admission charges**

This section provides for a 10% tax on charges for admission to racetrack facilities. The tax is to be remitted the next day to the commission and placed in the state racing fund.

**Section 25 - State preemption**

This section prohibits the imposition of any special tax or fee on licensees by any political subdivision of the state.

**Section 26 - State racing fund**

This section creates a state racing fund, into which is placed all admissions taxes, license application fees, license fees, fees for fingerprinting, fines, and reimbursements paid by organization licensees for assistant health officers, stewards and racing judges. Funds not needed to pay commission operating expenses appropriated by the Legislature are transferred to the state gaming revenues fund on July 15 of each year and at other times as may be statutorily provided.

**Section 27 - Kansas horse breeding development fund**

This section provides for the creation of a special fund to promote the horse breeding industry in Kansas. See the attached chart of funds flow for the sources and distribution of money in this fund.

**Section 28 - Registration of horses**

This section provides for registration of horses for the purpose of determining qualification for special purses and awards to be paid from the Kansas horse breeding development fund.

**Section 29 - Kansas Greyhound breeding development fund**

This section provides for the creation of a special fund to promote the Greyhound breeding industry in Kansas. See the attached chart of funds flow for the sources and distribution of money in this fund.

**Section 30 - Amendment to the criminal gambling statute**

This section amends the existing criminal gambling statute to exempt parimutuel wagering conducted in accordance with this act.

**Section 31 - Amendment to the Kansas code for care of children**

This is a technical amendment to the Kansas code for care of children relating to the prohibition on wagering by minors.

**Section 32 - Amendment to the Kansas juvenile offenders code**

This is a technical amendment to the Kansas juvenile offenders code relating to the prohibition on wagering by minors.

**Section 33 - Amendment to Kansas law enforcement training act**

This is a technical amendment to provide for the training of racing commission security personnel at the Kansas law enforcement training center.

**Section 34 - Repealer**

**Section 35 - Effective date**

This act takes effect upon its publication in the Kansas register.

# House Bill 2044 - Kansas Parimutuel Racing Act

## Proposed Amendments

Prepared By:  
D. Philip Wilkes, Staff Attorney  
Kansas Department of Revenue

### Proposal No. 1.

Add new paragraph to Section 4 to meet F.B.I. requirement for statutory authority to submit fingerprints for criminal records searches:

(k) The commission shall have authority to require fingerprinting of all persons necessary to verify qualification for all licenses issued pursuant to this act. The commission shall submit such fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation for the purposes of verifying the identity of such persons and obtaining records of criminal arrests and convictions.

### Proposal No. 2.

To provide for the disclosure of information regarding state income taxes for applicants for facility owner licenses and facility manager licenses, amend the Kansas Income Tax Act, K.S.A. 79-3234 to add the following new paragraph:

(f) Notwithstanding the provisions of this section, the secretary of revenue may communicate to the executive director of the Kansas racing commission information as to whether a person has failed to meet any tax obligation to the state of Kansas for the purposes of determining whether such person is eligible for a facility owner license or facility manager license pursuant to the Kansas parimutuel racing act.

### Proposal No. 3.

To provide for disclosure of information regarding taxes other than income tax for applicants for facility owner licenses and facility manager licenses, amend K.S.A. 74-2424 to add the following paragraph:

(b) Notwithstanding the provisions of this section, the secretary of revenue may communicate to the executive director of the Kansas racing commission information as to whether a person has failed to meet any tax obligation to the state of Kansas for the purposes of determining whether such person is eligible for a facility owner license or facility manager license pursuant to the Kansas parimutuel racing act.

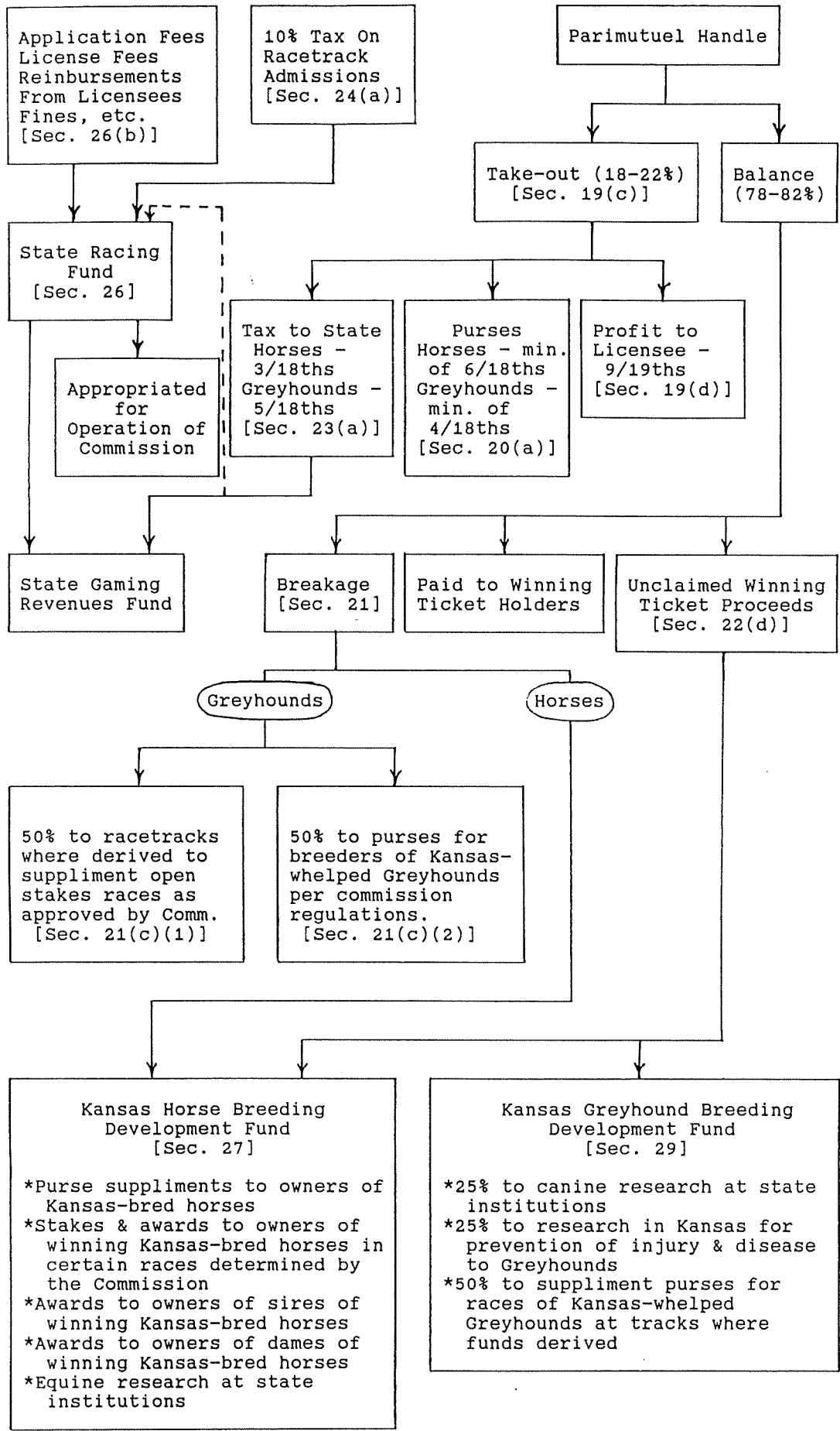
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Disposition of Funds



House Bill 2044 - Kansas Parimutuel Racing Act

Tax and Other Distributions From Parimutuel Wagering Pools

Horse Racing

Take-out varies between 18 and 22% of pool [Sec. 19(c)]  
 Parimutuel tax is 3/18ths of the total daily take-out  
 [Sec. 23(a)]  
 Purses are a minimum of 6/18ths of the total weekly take-out  
 [Sec. 20(a)]  
 Licensee's commission is the balance of the take-out, which is  
 approximately 9/18ths [Sec. 19(d)]

<u>Take-out</u>	<u>Distribution of Take-out</u>			<u>Approximate Amount Returned to Winners Including Breakage</u>
	<u>Effective Tax Rate*</u>	<u>Purses*</u>	<u>Approx. Amount Retained By Licensee*</u>	
18%	3.00%	6.00%	9.00%	82%
19%	3.17%	6.33%	9.50%	81%
20%	3.33%	6.67%	10.00%	80%
21%	3.50%	7.00%	10.50%	79%
22%	3.67%	7.33%	11.00%	78%

\*Computed as a percent of each pool

Greyhound Racing

Take-out varies between 18 and 22% of pool [Sec. 19(c)]  
 Parimutuel tax is 5/18ths of the total daily take-out  
 [Sec. 23(a)]  
 Purses are a minimum of 4/18ths of the total weekly take-out  
 [Sec. 20(a)]  
 Licensee's commission is the balance of the take-out, which is  
 approximately 9/18ths [Sec. 19(d)]

<u>Take-out</u>	<u>Distribution of Take-out</u>			<u>Approximate Amount Returned to Winners Including Breakage</u>
	<u>Effective Tax Rate*</u>	<u>Purses*</u>	<u>Approx. Amount Retained By Licensees*</u>	
18%	5.00%	4.00%	9.00%	82%
19%	5.28%	4.22%	9.50%	81%
20%	5.55%	4.44%	10.00%	80%
21%	5.83%	4.67%	10.50%	79%
22%	6.00%**	4.89%	11.00%	78%

\*Computed as a percent of each pool

\*\*Would be 6.11% except for the 6% constitutional limitation

Kansas Racing Commission

Preliminary Organization Chart

