

Approved \_\_\_\_\_

Date

4/8/87

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Senator Edward F. Reilly, Jr. at  
Chairperson

11:00 a.m./~~p.m.~~ on February 20, 1987 in room 254-E of the Capitol.

All members were present, ~~except~~ except:

Senator Arasmith was excused.

Committee staff present:

Mary Galligan, Legislative Research  
Emalene Correll, Legislative Research  
Mary Torrence, Assistant Revisor of Statutes  
June Windscheffel, Secretary to the Committee

Conferees appearing before the committee:

Mr. Don Stumbaugh, Crime Victims Reparations Board was a conferee.  
The Chairman called the Committee's attention to HB 2043, concerning the state lottery. There was a handout before the Committee concerning fingerprinting requirements, dated February 20, 1987, from the Secretary of Revenue. Senator Bond moved that the amendment in Sec. 4. New (j) be adopted. (Attachment #1) Seconded by Senator Martin. The amendment was adopted.

The Committee then referred to the handout from Director Thomas E. Kelly, K.B.I. Director, which had been requested at the Meeting of February 16, 1987, when Director Kelly had appeared before the Committee. (Attachment #2) He had said his concerns concerning HB 2043 were primarily technical and needed to be considered in light of security aspects. Senator Morris moved that the Committee include the necessary language to accomplish what the Director desires to do. Seconded by Senator Bond. The motion carried.

The Chairman then referred to an amendment proposed by Kansans for Life at Its Best, also heard at an earlier meeting (Attachment #3) There was Committee discussion.

Suggested amendments from Secretary of Revenue, Harley Duncan, were in front of the Committee, and had been presented a week ago. (Attachment #4) These dealt with an amendment on p. 6 of the bill, on line 212. Senator Martin moved to accept the language that procurement negotiating committee meetings shall be exempt from the open meetings law. Seconded by Senator Strick. The motion carried.

Senator Morris moved to accept the proposed amendment suggested on p. 10 of the handout. Seconded by Senator Hoferer. The motion carried.

Senator Morris moved to strike lines 340 and 341 and that there be a new (e) on p. 19. This was conceptual and staff to do this. Seconded by Senator Hoferer. The motion carried.

Senator Daniels moved that the language concerning "knowing" referred to in the proposed amendments by Mr. Charles Wright dated February 16, 1987. (Attachment #5 at this meeting) be corrected. Seconded by Senator Martin. The motion carried.

Senator Anderson had proposed amendment to HB 2043 before the Committee. (Attachment #6). This amendment would set a minimum percentage in the bill for minority participation in the issuing of lottery procurement contracts. There was Committee discussion. Senator Martin moved to accept this amendment, but to change the 20% to 10%. The motion failed.

Mr. Don Stumbaugh, of the Crime Victims Reparations Board appeared to request a bill for victims of violent crimes to increase the funeral award limit from \$750 to \$1,500. Senator Vidricksen moved that the bill be introduced. Seconded by Senator Martin. The motion carried. (Attachment #7)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,  
room 254-E, Statehouse, at 11:00 a.m. ~~xxx~~ on February 20, 1987.

The Chairman appointed a subcommittee to study the raffle: Senator Morris, Chairman; Senastor Bond and Senator Martin.

The Chairman announced that the Committee would hear proponents and opponents on HB 2062, concerning capital punishment, on Thursday, Friday, and the following Monday and Tuesday.

The meeting was adjourned at noon.

MEMORANDUM

2/20/87  
Attachment #1

TO: THE HONORABLE EDWARD F. REILLY, CHAIRMAN  
SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

FROM: HARLEY T. DUNCAN, SECRETARY  
KANSAS DEPARTMENT OF REVENUE *HTD*

DATE: FEBRUARY 20, 1987

RE: FINGERPRINTING REQUIREMENTS

In drafting the enabling legislation for the lottery, the Department of Revenue has relied heavily on advice and suggestions received from experienced lottery officials in other states. While we have not found a state that has a specific statutory requirement for fingerprinting lottery employees, lottery vendors or lottery retailers in their enabling legislation, lottery security personnel in other states are perceived as law enforcement entities and exercise the authority to fingerprint through other state statutes.

A background investigation normally consists of personal history summaries, criminal history checks, face-to-face personal interviews, credit checks, contacts with former employers, interviews with neighbors, personal friends and family, and military service checks where applicable.

To address the testimony regarding the F.B.I. requirement for statutory authority to submit fingerprints for criminal record searches, the following amendment is offered:

**Sec. 4. New (j) Require fingerprinting of employees and other such persons as deemed appropriate by the director who work in sensitive areas within the lottery. The director may 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.**

It is the opinion of the department that fingerprinting retailers is neither necessary nor desirable. Such a requirement would:

1. Be costly with a potential fiscal impact of \$100,000.
2. Add a 4-6 week delay in processing retailer applications.
3. Not apply to the individuals actually selling the tickets.
4. Require the participation of local law enforcement agencies to guarantee that prints submitted are authentic.

Extensive security precautions are taken in the production, delivery, accounting and validation of winning tickets to address concerns over ticket tampering and misappropriation of funds.

*Attachment #1  
FSA 2/20/87*

0159 thereto.

0160 (f) Require lottery retailers to furnish proof of financial sta-  
0161 bility or furnish surety in an amount based upon the expected  
0162 volume of sales of lottery tickets or shares.

0163 (g) Examine, or cause to be examined by any agent or repre-  
0164 sentative designated by the executive director, any books,  
0165 papers, records or memoranda of any lottery retailer for the  
0166 purpose of ascertaining compliance with the provisions of this  
0167 act or rules and regulations adopted hereunder.

0168 (h) Issue subpoenas to compel access to or for the production  
0169 of any books, papers, records or memoranda in the custody or  
0170 control of any lottery retailer, or to compel the appearance of any  
0171 lottery retailer or employee of any lottery retailer, for the pur-  
0172 pose of ascertaining compliance with the provisions of this act or  
0173 rules and regulations adopted hereunder. Subpoenas issued  
0174 under the provisions of this subsection may be served upon  
0175 natural persons and corporations in the manner provided in  
0176 K.S.A. 60-304 and amendments thereto for the service of process  
0177 by any officer authorized to serve subpoenas in civil actions or by  
0178 the executive director or an agent or representative designated  
0179 by the executive director. In the case of the refusal of any person  
0180 to comply with any such subpoena, the executive director may  
0181 make application to the district court of any county where such  
0182 books, papers, records, memoranda or person is located for an  
0183 order to comply.

0184 (i) Administer oaths and take depositions to the same extent  
0185 and subject to the same limitations as would apply if the deposi-  
0186 tion were in aid of a civil action in the district court.

0187 New Sec. 5. (a) Major procurement contracts shall be  
0188 awarded in accordance with K.S.A. 75-3738 through 75-3744, and  
0189 amendments thereto, or subsection (b), as determined by the  
0190 director[, except that the commission shall designate certain  
0191 major procurement contracts or portions thereof to be awarded,  
0192 in accordance with rules and regulations of the commission,  
0193 solely to minority business enterprises].

0194 (b) The director may award any major procurement contract  
0195 by use of a procurement negotiating committee. Such committee

(j) Require fingerprinting of employees and other such persons as deemed appropriate by the director who work in sensitive areas within the lottery. The director may 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.



THOMAS E. KELLY  
DIRECTOR

# KANSAS BUREAU OF INVESTIGATION

DIVISION OF THE OFFICE OF ATTORNEY GENERAL  
STATE OF KANSAS  
1620 TYLER  
TOPEKA, KANSAS 66612  
(913) 232-6000



ROBERT T. STEPHAN  
ATTORNEY GENERAL

TESTIMONY BY THOMAS E. KELLY  
DIRECTOR, KANSAS BUREAU OF INVESTIGATION  
ON HOUSE BILL 2043

FEBRUARY 16, 1987

*2/16/87  
Attachment #2*

My concerns regarding the bill are primarily technical and need to be considered in the light of security aspects of the Kansas Lottery.

Throughout the bill there is emphasis placed on security in regard to vendors, lottery retailers and the actions of certain employees of the state; however, there is no restriction in regard to the hiring of employees for any position in the Kansas Lottery or the Kansas Lottery Commission. It would be possible to hire employees with a record of a felony conviction in any position unless the bill clearly states that no person may be employed who has a past record of felony conviction. If such a restriction is desirable, it should be set forth in the bill as a bar to consideration for employment.

If the bill is amended to restrict the employment of persons with a past record of felony conviction, a requirement should be made to check the state and federal criminal history repositories through the use of fingerprint cards. I will further explain this process later in this report.

In addition, it is necessary to amend the current expungement statutes, KSA 21-4619, and 21-4619A, for an exception to allow any pertinent expunged records to be made known to the proper authority in the Kansas Lottery.

In regard to restrictions concerning who may be certified as lottery retailers, Section 8 (h)(1) restricts anyone who has been convicted of a felony "in this or any other jurisdiction" unless at least 10 years have passed since satisfactory completion of the sentence or probation imposed by the court for each such felony.

Section 8 (h)(2) restricts anyone being certified who has been convicted of illegal gambling activity "in this or any other jurisdiction."

The above restrictions also apply to partnerships, corporations, and unincorporated associations. Section 8 (h)(1) and (h)(2) both use the language "in this or any other jurisdiction" when referring to the location of any conviction of a felony or illegal gambling activity respectively. This may logically be interpreted to mean the State of Kansas or any other state as well as the Federal Court system.

*Attachment #2  
2/20/87*

In order to conduct an accurate criminal history record check on an individual it is necessary to use fingerprint cards bearing the known fingerprint impressions as well as other identifying data of the person. In Kansas, the Kansas Bureau of Investigation maintains the state criminal history record repository which includes the fingerprint cards for persons arrested in the state on felony charges. The fingerprint cards for persons arrested in other states and by law enforcement units of the federal government are maintained by the Identification Division of the Federal Bureau of Investigation (FBI).

In previous contacts with the Identification Division of the FBI, they have advised due to the standards imposed by Public Law 92-544, they are restricted as follows: "The only non-federal applicant fingerprints which we are authorized to process are those submitted in connection with law enforcement and in instances where fingerprinting is required by state statute for licensing or employment." (emphasis added)

In addition to the above requirement the FBI charges a fee of \$14.00 per card for fingerprints submitted for licensing or employment. For the purpose of security, the licensing may be synonymous with certifying.

In the event it is determined fingerprints are required of all the persons to be employed or licensed under the Kansas Lottery Act, the act should be amended to so read. The amendment should clearly show that two sets of fingerprints are to be collected from each employee and lottery retailer and forwarded to the Kansas Bureau of Investigation who will, in turn, forward one copy of the fingerprints to the Federal Bureau of Investigation for the purpose of determining whether the person has a criminal record. These cards must be submitted to the FBI by the KBI and the response is received by the KBI. In addition the KBI charges \$10.00 per card for a fingerprint search of the state criminal history repository, for all non-criminal justice agencies.

It is also necessary to be certain the expungement statutes are amended to add an exception to allow any expunged records material to the requirements in Section 8 (h)(1) and (h)(2) in regard to licensees, be made available to the proper authority in the Kansas Lottery.

House Bill 2043 as amended by House Committee of the Whole  
February 13, Friday, 1987 Hearing  
Senate Federal & State Affairs Committee

2/20/87  
Attachment #3  
2/13/87  
Attachment  
Richard Taylor  
KANSANS FOR LIFE AT ITS BEST!

The House Federal & State Affairs Committee was told many times that HB 2043 was everything that lottery vendors wanted. We hope you will include some provisions wanted by concerned Kansans.

For the first time in our 125 year history, the state of Kansas will be competing for consumer dollars with every merchant on main street.

Amendments suggested are aimed at reducing fraud and deception.

Page 3, Line 0106 Add

"All employees shall be notified in writing that the 1990 legislature may terminate their jobs."

Page 4

Strike all of section (e). The people voted "for a state-owned and operated lottery." They did not vote "for the operation of a joint lottery."

Page 8, line 0280

Make it read "a list of the high and low odds." Average odds or low odds are usually advertised.

Page 8, the following added on line 305:

"tery. All marketing plans shall require this statement included in newspapers, on radio and TV, and in all promotional material, 'IF YOU CAN'T AFFORD TO LOSE, DON'T PLAY.'" Because Lottery gambling promoters claim discretionary dollars are spent for tickets, they should not object to this requirement.

Page 12, line 0446 Add

"If the prize is advertised as one million dollars or some other fixed amount, it shall be paid exactly as advertised and not paid in the form of an annuity."

Page 14, line 0522

Change 30% to 45%. That is the percentage used in Missouri. Kansas would receive the same amount of revenue with fewer consumer dollars taken from Kansans.

We are told over and over how lotteries were used early in our nation's history. But those lotteries did not permit gambling promoters to skim off 25% of all money received.

Fewer dollars gambled away on the Kansas lottery means more consumer dollars for merchants on main street, more grocery money for the poor, and fewer people becoming compulsive gamblers.

More dollars gambled away on the lottery means more millions for those running the operation.

Will you vote for special interest lobbyists and their clients or will you vote for the public good?

Attachment #3  
FSA 2/20/87

(Every Chamber of Commerce member should have this information)

Is 22¢ enough to pay lottery gambling promoters for each \$1.00 revenue? Or should they receive 83¢ and more for each \$1.00 raised for Kansas?

Lottery gambling promoters won last November because they convinced voters this is a voluntary and painless way to raise taxes. They said we should follow the lead of Missouri. But like all swindlers, you can not trust them. Now lottery promoters do not want to be like Missouri.

Money received from lottery sales in Missouri is to be divided this way:

45% Player prizes

45% Taxes for the state

10% Salaries and expenses for lottery promoters.

House Bill 2043 to implement a Kansas lottery divide lottery sales this way:

45% Player prizes "as nearly as practical"

30% Taxes for the state

25% For lottery promoters

If 45% is used for player prizes, and if \$100 million consumer dollars are spent by Kansans for lottery tickets, this would be the result:

\$45 million player prizes

\$30 million for the state

\$25 million into pockets of lottery promoters

For each \$1.00 received by Kansas, 83¢ would go to gambling promoters.

But "as nearly as practical" gives gambling promoters a blank check with no limit on how much money may go into their pockets. Less for player prizes means more for their salaries and promotional hype. Each \$1.00 received by Kansas could cost more than \$1.00 to collect!

If Kansas used Missouri percentages, only \$66.7 million consumer dollars would be needed to raise the same revenue for the state:

45% of \$66.7 million equals \$30 million for player prizes

45% of \$66.7 million equals \$30 million for the state

10% of \$66.7 million equals \$6.7 million into pockets of lottery promoters. For each \$1.00 received by Kansas, only 22¢ would go to gambling promoters. Because only \$66.7 million, not \$100 million, would be gambled away on lottery tickets, the public will have the other \$33.3 million consumer dollars in their pockets to spend on main street.

Do merchants receive 22¢ to collect \$1.00 sales tax for Kansas?

Seventeen hundredths of a cent sales tax in Kansas will bring in \$30 million revenue. That is an additional penny tax on a \$6 purchase. Such tax would take \$30 million consumer dollars and the state would receive all of it. Lottery will take \$100 million consumer dollars and the state will receive \$30 million. The sales tax would leave \$70 million consumer dollars in the pockets of Kansans for merchants on main street!

No matter how you cut it, fewer dollars gambled away on lottery tickets means more consumer dollars for merchants on main street! That is economic development at its best.

Concerned Chamber of Commerce members will want to ask lawmakers to require Missouri percentages in Kansas law.

Fewer dollars for gambling hype promotion means less pressure on Kansas poor people to spend grocery and rent money for lottery tickets.

Thousands of Kansans voted for NO lottery. A majority voted to permit a lottery. None voted to spend 83¢ or more promoting lottery gambling for each \$1.00 revenue received.



0196 shall be composed of: (1) The executive director or a Kansas  
 0197 lottery employee designated by the executive director; (2) the  
 0198 chairperson of the commission or a commission member desig-  
 0199 nated by the chairperson; and (3) the director of the division of  
 0200 purchases or an employee of such division designated by the  
 0201 director. Prior to negotiating a major procurement contract, the  
 0202 committee shall solicit bids or proposals thereon. The division of  
 0203 purchases shall provide staff support for the committee's solici-  
 0204 tations. Upon receipt of bids or proposals, the committee may  
 0205 negotiate with one or more of the persons submitting such bids  
 0206 or proposals and select from among such persons the person to  
 0207 whom the contract is awarded. Such procurements shall be open  
 0208 and competitive and shall consider relevant factors, including  
 0209 security, competence, experience, timely performance and max-  
 0210 imization of net revenues to the state. If a procurement nego-  
 0211 tiating committee is utilized, the provisions of K.S.A. 75-3738  
 0212 through 75-3744, and amendments thereto, shall not apply.

0213 (c) Before a major procurement contract is awarded, the ex-  
 0214 ecutive director shall conduct a background investigation of: (1)  
 0215 The vendor to whom the contract is to be awarded; (2) all officers  
 0216 and directors of such vendor; (3) all persons who own a 5% or  
 0217 more interest in such vendor; (4) all persons who own a control-  
 0218 ling interest in such vendor; and (5) any subsidiary or other  
 0219 business in which such vendor owns a controlling interest. The  
 0220 vendor shall submit appropriate investigation authorizations to  
 0221 facilitate such investigation. The executive director may require,  
 0222 in accordance with rules and regulations of the commission, that  
 0223 a vendor submit any additional information considered appro-  
 0224 priate to preserve the integrity and security of the lottery. In  
 0225 addition, the executive director may conduct a background in-  
 0226 vestigation of any person having a beneficial interest in a vendor.  
 0227 The secretary of revenue, securities commissioner, attorney  
 0228 general and director of the Kansas bureau of investigation shall  
 0229 assist in any investigation pursuant to this subsection upon  
 0230 request of the executive director. Whenever the secretary of  
 0231 revenue, securities commissioner, attorney general or director of  
 0232 the Kansas bureau of investigation assists in such an investiga-

Attachment #4  
 FSA 2/20/87

2/13/87  
 Attachment #7

2/20/87  
 Attachment #4

Martin  
 Strick

Meetings conducted by the procurement negotiating committee shall be exempt from the provisions of the Kansas open meeting act, K.S.A. 75-4317 through 75-4320a, and amendments thereto.

0344 (1) Has been convicted of a felony in this or any other  
0345 jurisdiction, unless at least 10 years have passed since satisfac-  
0346 tory completion of the sentence or probation imposed by the  
0347 court for each such felony;

0348 (2) has been convicted of an illegal gambling activity in this  
0349 or any other jurisdiction;

0350 (3) has been found to have violated the provisions of this act  
0351 or any rule and regulation adopted hereunder;

0352 (4) is a vendor or an employee or agent of any vendor doing  
0353 business with the Kansas lottery;

0354 (5) resides in the same household of an employee of the  
0355 Kansas lottery or of a member of the commission; or

0356 (6) has made a statement of material fact to the Kansas lottery,  
0357 knowing such statement to be false.

0358 (i) For a partnership to be selected as a lottery retailer, the  
0359 partnership must meet the requirements of subsections (g)(2),  
0360 (g)(3) and (g)(4) and each partner must meet the requirements of  
0361 subsections (g)(1), (g)(2)(3), (g)(4) and (h)(1) through (h)(6).

and (g) 5

0362 (j) For a corporation to be selected as a lottery retailer, the  
0363 corporation must meet the requirements of subsections (g)(2),  
0364 (g)(3) and (g)(4) and each officer or director and each stockholder  
0365 who owns 5% or more of the stock of such corporation must meet  
0366 the requirements of subsections (g)(1), (g)(2) (3), (g)(4) and (h)(1)  
0367 through (h)(6).

and (g) 5

0368 (k) For an unincorporated association to be selected as a  
0369 lottery retailer, the association must meet the requirements of  
0370 subsections (g)(2), (g)(3), and (g)(4) and each officer or director  
0371 must meet the requirements of subsections (g)(1), (g)(2)(3), (g)(4)  
0372 and (h)(1) through (h)(6).

and (g) 5

0373 (l) If a lottery retailer's rental payments for the business  
0374 premises are contractually computed, in whole or in part, on the  
0375 basis of a percentage of retail sales, and such computation of  
0376 retail sales is not explicitly defined to include sale of tickets or  
0377 shares in a state-operated lottery, the compensation received by  
0378 the lottery retailer from the lottery shall be considered the  
0379 amount of the retail sale for purposes of computing the rental  
0380 payment.

Sen. Morris  
Sen. Hoferer

0677 (3) a spouse, child, stepchild, brother, stepbrother, sister,  
 0678 stepsister, parent or stepparent of a person described by subsec-  
 0679 tion (a)(1) or (2); or

0680 (4) a person who resides in the same household as any person  
 0681 described by subsection (a)(1) or (2).

0682 (b) Violation of this section is a class A misdemeanor upon  
 0683 conviction of the first offense and a class D felony upon convic-  
 0684 tion of a second or subsequent offense.

0685 (c) Notwithstanding subsection (a), the executive director  
 0686 may authorize in writing any employee of the Kansas lottery and  
 0687 any employee of a lottery vendor to purchase a lottery ticket for  
 0688 the purposes of verifying the proper operation of the state lottery  
 0689 with respect to security, systems operation and lottery retailer  
 0690 contract compliance. Any prize awarded as a result of such ticket  
 0691 purchase shall become the property of the Kansas lottery and be  
 0692 added to the prize pools of subsequent lottery games.

0693 (d) Nothing in this section shall prohibit lottery retailers or  
 0694 their employees from purchasing lottery tickets and shares or  
 0695 from being paid a prize of a winning ticket or share.

0696 ~~18 20.~~ New Sec. 18 20. (a) As nearly as practical, an amount equal to  
 0697 not less than 45% of the total sales of lottery tickets or shares,  
 0698 computed on an annual basis, shall be allocated for payment of  
 0699 lottery prizes.

0700 (b) The prize to be paid or awarded for each winning ticket or  
 0701 share shall be paid to one natural person who is adjudged by the  
 0702 executive director or the director's designee to be the holder of  
 0703 such winning ticket or share, except that the prize of a deceased  
 0704 winner shall be paid to the duly appointed representative of the  
 0705 estate of such winner or to such other person or persons appear-  
 0706 ing to be legally entitled thereto.

0707 (c) The executive director shall award the designated prize to  
 0708 the holder of the ticket or share upon the validation of a claim or  
 0709 confirmation of a winning share. The executive director shall  
 0710 have the authority to make payment for prizes by any means  
 0711 deemed appropriate upon the validation of winning tickets or  
 0712 shares.

0713 (d) The right of a person to a prize drawn or awarded is not

New (e) Each person who purchases a lottery ticket or share agrees to be bound by rules and regulations adopted by the commission and by the provisions of this act.

House Bill 2043

2/20/87  
Attachment #5  
2/16/87  
Attachment #1  
Charles Wright  
I LOVE KANSAS! Inc.

Page 13, line 0456

Strike "including special bonuses and incentives." See attached two pages from PUBLIC GAMING MAGAZINE to understand how high pressure tactics are used to separate poor people from their consumer dollars.

Page 14, Between line 0508 and 0509 add

"(5) treatment of compulsive gamblers. Insurance companies shall not include treatment for compulsive gamblers in their coverage."

Page 14, line 0509

Change (5) to (6)

Page 17, lines 0624 - 0638

Remove House Committee amendments, restore bill to original, and delete "knowing" in lines 0619, 0627, and 0638. "Knowing" makes the law unenforceable. The House Committee amendment gives a blank check for unlimited food and beverage from lottery vendors seeking favors from lottery personnel. Governor Hayden told the press he wanted this legislation "squeaky clean." Unless these changes are made, the legislation is wide open for lottery gambling suppliers to buy favors with liquor and meals. Did the people of Kansas vote to give lottery gambling personnel unlimited wining and dining? I asked the House Committee to reduce the \$100 to \$25, but they opened wide the door for liquor and meals.

Page 18, line 0664

Strike "knowing such person to be." Knowing makes the law unenforceable and not squeaky clean.

Page 20, line 0720

Add "In addition to deducting back taxes and delinquent child support payments, the amount of welfare payments paid by the state shall be deducted before any prize is paid."

Page 20, line 0730

Change "exempt from" to "subject to." Lottery promoters claim they are selling recreation, therefore it should be subject to sales tax.

Attachment #5  
FSA 2/20/87

Today's lotteries are noted for maximizing sales through the use of sophisticated marketing techniques, targeted at the customers who buy the tickets. However, regardless of how strong product marketing may be, lottery sales growth depends to a large degree on the cooperation of those actually doing the selling: the lottery's retail agents.

The agent is perhaps the most important link between a lottery and its players. Agents are the "middlemen;" they are in contact with players on a day-to-day basis. Lottery-to-player marketing programs, the effectiveness of point-of-purchase materials, and player awareness all hinge on the retailer doing his or her job.

Marketing officials at the nation's lotteries have recently been reemphasizing the importance of giving retailers added incentive to effectively assume the role of the state lottery's agent. Many lotteries have recently initiated measurable agent incentive programs, some with astounding results in the form of increased sales volume.

**"Ask For The Sale"**

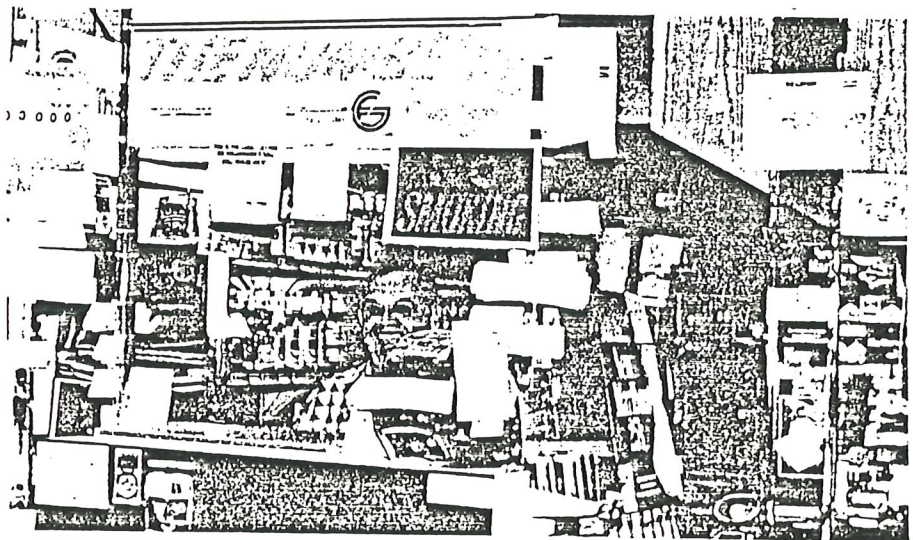
One agent marketing method currently sweeping the country is the "Ask For The Sale" program. Arizona was the first state to initiate such a program, according to Ben Novoa, director of marketing for the Arizona Lottery.

Novoa said the lottery selects a group of retailers with less-than-average sales volume to implement the concept. At the beginning of four weeks with predictably slow sales—the last weeks of an instant game, for example—the lottery will give these agents a quantity of tickets outright (the number depending on how much of a surplus is yielded by a particular game; the total giveaway has numbered as high as 20,000). A retailer will be given around 100 tickets, along with a sign for the counter saying, "If I don't ask you to buy a lottery ticket, I'll give you one free."

Lottery representatives will give clerks in the agent locations lines to say at the end of a transaction plugging the lottery, Novoa said; e.g. "Would you like your change in lottery tickets?" or "Have you played the latest lottery game yet?" If the retailers maintain

# Agent Incentives Maximize Lottery Sales

*Vitalized marketing at the point of sale demands agent support.*



Massachusetts Lottery sales agents are periodically polled by surveys regarding suggestions, customer preferences.

their supplies of tickets throughout the entire four-week period by asking customers to play the lottery, the tickets left are theirs to keep, including any winning tickets that might be included in the giveaway supply.

The incentive also works in the reverse; if participating retailers forget to ask for the sale and give away all their free tickets during the first week or two, the sign remains standing for the entire four weeks. Any giveaways after an agent's complimentary tickets are gone comes out of his or her own pocket (Novoa said this is a rare occurrence).

In every "Ask For The Sale" program so far in Arizona, says Novoa, sales

have increased dramatically, the lowest increase approximating 35 percent and a few retailers showing as much as a 300-500 percent jump in lottery sales.

The idea, in various forms, has been periodically used by other lotteries. The Massachusetts lottery occasionally runs contests which involve sending representatives into retail locations to purchase items other than lottery tickets, according to District Marketing Manager Frank Marugo. If the clerk asks the official to purchase a lottery ticket, says Marugo, he or she is awarded a cash prize on the spot. If the clerks fail to plug the lottery, they are told what they missed.

Other states which either have in

## Agent Incentives

the past initiated or are currently planning "Ask For The Sale" programs include Michigan, Washington, New Jersey and Ohio.

### Contests

Many lotteries motivate their retail agents by sweetening the pot with various contests. One popular contest consists of a drawing for agents at the end of instant games.

The procedures are similar in the various states offering the drawings. After selling all the instant tickets in a book, the agent sends the empty book, identified with the retail address, into the lottery. At the end of an instant game, the lottery will hold a drawing for the agents, the winner receiving cash and/or prizes. Obviously, the agent who sends in the most empty books has the best shot at winning the drawing, so the contests typically give instant game sales a shot in the arm.

The agent contests generally offer prizes large enough to generate substantial participation, which translates into increased sales. Illinois' current retailer contest offers the winner the vacation of his or her choice, according to Assistant Marketing Director Van Johnson. Prizes in Massachusetts for agent drawings include three \$1,000 winners and 180 winners of lower amounts. New Jersey's lottery awards retailers as much as \$15,000 for winning a drawing, and Ohio's agent bonus game pays up to \$10,000. According to Ohio Lottery Marketing and Advertising Manager William M. Bailey, agent bonus drawings amounted to one of the factors making instant games the second-fastest growing game in the state's mix, right behind lotto.

### Incentive Bonus Plans

Most states offer some type of bonus as incentive for retailers to maximize sales. These include bonuses both for selling and for cashing winning tickets, as well as extra commission for sales exceeding a certain amount.

Several lotteries, including Illinois, Maine, Massachusetts, Ohio, Rhode Island and Pennsylvania, award agents one percent of prizes exceeding a set amount for winning tickets sold. The amount varies: Pennsylvania pays the

agents one percent of the prize amount for selling tickets valued at \$1,000 or more; Rhode Island pays the extra commission on any sale of a winner of \$100 or more.

Sales increase because of bonuses, lottery officials say, because at times the extra commission can be lucrative for the retailer. In New Hampshire recently, a retailer sold *himself* a \$25,000-winning ticket. According to lottery Games Manager Jim Wimsatt, that agent received \$500 for selling himself the ticket, in addition to the \$25,000 prize. Wimsatt adds that the extra commission alone—two percent—is a "big incentive" for agents to sell more tickets.

According to Ohio's Bailey, an agent in that state can earn as much as \$20,000 for selling one instant ticket if that ticket happens to be the million-dollar grand prize winner. The lottery awards one percent of the prize, or \$10,000, for selling the ticket and another one percent for redeeming it, he said.

Some lotteries offer unique bonus plans to their retailers. Arizona's retailers work on a quota system. The agents begin making six percent of gross sales. If they reach a set sales quota, the lottery adds another one percent commission across the board, resulting in a seven-percent commission on all ticket sales, winners and losers alike. The Michigan lottery hands out extra tickets to agents that prominently display point-of-purchase materials, as well as offering an extra two percent commission (total: eight percent) on sales of lotto subscriptions.

An increasing number of lotteries now offer commissions for cashing as well as selling winning tickets, partly because of reports of agents refusing to pay large winners. Although the problem has not been extensive, lottery officials in many states have deemed it necessary to offer added incentive to pay the larger prizes (normally up to \$600).

Lotteries have always imposed penalties ranging from a warning to removal of an agent's terminal for refusing to pay on winning tickets. But in 1982, officials at the Maryland State Lottery decided enforcement and discipline

of this nature was counterproductive, and initiated a plan by which the lottery lowered the standard sales commission from five to four percent, but added a three-percent commission for cashing tickets. Since roughly half of gross sales are returned to the players in prizes, the lottery was actually taking away one percent and adding one-and-a-half percent: a net increase for the agents of one-half percent, provided they cash the winning tickets (see "Lottery Agent Compensation: Getting Retailers To Do Their Job" by Robert Laird, PG, November 1984).

Since Maryland's bold move worked well, additional lotteries have initiated bonuses for cashing winning tickets.

On December 11, the Michigan lottery initiated a fat two-percent bonus to retailers for cashing winning tickets, without reducing the standard commission, according to Marketing Director Bruce McComb. Many other lotteries have offered a percentage of prizes for cashing winning tickets from the start.

Other lotteries in the U.S. that currently offer bonuses to retailers for cashing winning tickets include: Connecticut, \$1 per claim (larger agents in the state double as claim centers); Massachusetts, one percent of claim; New Jersey, one percent of claim; Ohio, 1.5 percent with at least 50-percent cashing ratio (one percent with 40 to 49-percent cashing ratio; .5 percent with 30 to 39-percent ratio); District of Columbia, three percent (for cashing daily numbers tickets).

These cashing and selling incentives are all in addition to the overall amount agents earn selling lottery tickets. According to lottery officials, agents earn, depending upon the size of the state and the sales volume, anywhere from \$8-\$10,000 to over \$90,000 annually from selling lottery tickets. Ray Shaffer, marketing director for the Pennsylvania State Lottery, says the leading lottery agents in his state earn over \$91,000 per year from selling tickets. According to Marugo, top Massachusetts retailers earn as much as \$85,000 from annual lottery sales.

### Agent Input

Officials of all state lotteries maintain efforts to keep retail sales agents moti-

# Studies estimate women comprise a third of compulsive gamblers

New York Times

New York, N.Y.

About a third of the nation's 12 million compulsive gamblers are women, according to Arnold Wexler, vice president of the National Council on Compulsive Gambling. Studies published recently indicate that by the year 2000, women may account for half of the Americans with the affliction.

The studies were published by Dr. Robert Custer, a Veterans Administration psychiatrist and the founder of the National Foundation for the Study and Treatment of Pathological Gambling, a research and treatment

center in Baltimore.

Custer said 600 male and female gamblers were studied over 13 years and the results were published in his recent book, "When Luck Runs Out."

Although only 1 percent of those seeking treatment and joining Gamblers Anonymous five years ago were women, Wexler said, the proportion has risen to 20 percent now.

"We used to see nothing but middle-aged, middle-class white businessmen," said Valerie Lorenz, a psychologist at the foundation in Baltimore. "But the compulsive gambler no longer fits into a nice, neat category. Since the lotteries started, we are seeing more women, blacks and teen-agers. Now gambling is truly democratic."

Lorenz said women with gambling problems were from all social classes, vocations and age groups.

One member of Gamblers Anonymous, Joy, can still remember when, as a young woman in New Orleans, she lost entire paychecks.

"I was working 40 hours a week and making \$35 after taxes," said Joy, 47 years old and now a resident of Connecticut. "I was gambling once a week, and when I lost my entire paycheck I would take a streetcar or bus instead of a taxi. I would buy one chicken and cut it up into four parts or eat hot dogs for the week."

What started as a social pastime soon turned into a 30-year compulsion that cost Joy thousands of dollars.

Experts cited several reasons for the surge in the proportion of gamblers who are women, including greater accessibility of gambling, the chang-

ing social role of women and the increasing availability of credit.

"There has been a change in the amount of risk-taking by women," said Carol Nagy Jackline, a professor of psychology at the University of Southern California and chairman of the Program for Study of Women and Men. "It has to do with having higher status."

While gambling is very visible nationwide — in casinos, off-track betting parlors and lottery games — compulsive gambling is dubbed the invisible disease.

"You are a junkie, but there are no signs," said Carol, another member of Gamblers Anonymous, who lost more than \$200,000, her business and her children's trust funds at Atlantic City casinos. "With an alcoholic you can tell, but with gambling there are no telltale signs. When my straight friends found out, they couldn't believe it. I am a rational person when it comes to money, but when I walked into the casinos money didn't mean anything. It was the thrill of playing."

Many gamblers cite the excitement of making a bet, not the potential windfall, as their driving force. "The feeling that comes with gambling is better than love, sex, your husband and children," Joy said.

In 1980, the American Psychiatric Association designated compulsive gambling a psychiatric disorder. The group defines a compulsive gambler as one who is "chronically and progressively unable to resist impulses to gamble" and for whom "gambling compromises, disrupts or damages family, vocation and personal pursuits."

Proposed Amendment to H.B. 2043

*JW*  
*2/20/87*  
*Attachment #6*

Line 190:

After the word "designate" add the words "a minimum of at least 20% of".

Line 190:

Strike the word "certain".

Line 191:

After the word "awarded" strike the words "in accordance with rules and regulations of the commission".

Language would therefore read as follows:

Starting at line 184:

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, except that the commission shall designate a minimum of at least 20% of major procurement contracts or portions thereof to be awarded solely to minority business enterprises.

2/11/87

*Attachment #6*  
*FSA 2/20/87*



2/20/87  
Attachment #7

CRIME VICTIMS REPARATIONS BOARD

BILL BRIEF

I. Summary:

The Crime Victims Reparations Board is statutorily authorized to award victims of violent crime financial compensation for medical expenses, funeral expenses, and wage loss. The current per award limit is \$10,000, with a \$750 limit set on awards for funeral expenses. The limit set on the other award categories is \$10,000. This bill proposes to increase the funeral award limit from \$750 to \$1,500.

II. Supplemental Information:

A. Information obtained from claim files indicates that funeral costs to victims awarded claims by the Crime Victims Reparations Board range from \$2,500 to \$3,500 per funeral.

B. Information obtained from local funeral homes indicates that minimum costs for a funeral, including cemetery expenses, total approximately \$2,800.

C. The Federal General Assistance program limit for funeral reimbursement is \$1,250.

III. Fiscal Impact:

Based on a projection of 28 funeral awards for FY 88, the total fiscal impact would be \$21,000.

Attachment #7  
FSA 2/20/87

CRIME VICTIMS REPARATIONS BOARD

Funeral Awards

FY 83		FY 84		FY 85		FY 86 (6 mo.)		FY 87 (To Date)	
<u>Awards</u>	<u>Total Amt.</u>	<u>Awards</u>	<u>Total Amt.</u>	<u>Awards</u>	<u>Total Amt.</u>	<u>Awards</u>	<u>Total Amt.</u>	<u>Awards</u>	<u>Total Amt.</u>
5	\$3,750.00	9	\$5,877.30	25	\$18,601.63	14	\$8,964.58	16	\$12,056.49

CRIME VICTIMS REPARATIONS BOARD  
STATE OF KANSAS

LEGISLATIVE PROPOSAL NO. \_\_\_\_\_

Revisor of Statutes No. \_\_\_\_\_

\_\_\_\_\_BILL NO.\_\_\_\_\_

=====

AN ACT CONCERNING: crime victims; providing for increasing the award limitation on reparations for expenses in any way related to funeral, cremation or burial; amending K.S.A. 74-7301 and repealing the existing section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

1 Section 1. K.S.A. 74-7301 is hereby amended to read as follows:

2 74-7301. Definitions. As used in this act, the following words and  
3 phrases shall have the meanings respectively ascribed to them herein:

4 (a) "Allowance expense" means reasonable charges incurred for  
5 reasonably needed products, services and accommodations, including those for  
6 medical care, rehabilitation, rehabilitative occupational training and  
7 other remedial treatment and care. Such term includes a total charge not  
8 in excess of ~~\$750~~ \$1,500 for expenses in any way related to funeral,  
9 cremation or burial; but such term shall not include that portion of a  
10 charge for a room in a hospital, clinic, convalescent or nursing home  
11 or any other institution engaged in providing nursing care and related  
12 services, in excess of a reasonable and customary charge for semi-private  
13 accommodations, unless other accommodations are medically required.

14 (b) "Board" means the crime victims reparations board established under  
15 K.S.A. 1978 Supp. 74-7303.

16 (c) "Claimant" means any of the following persons claiming reparations  
17 under this act: A victim; a dependent of a deceased victim; a third person  
18 other than a collateral source, or an authorized person acting on behalf of  
19 any of them.

20 (d) "Collateral source" means a source of benefits or advantages for  
21 economic loss otherwise reparable under this act which the victim or  
22 claimant has received, or which is readily available to the victim or  
23 claimant, from:

24 (1) The offender;

25 (2) the government of the United States or any agency thereof, a state  
26 or any of its political subdivisions or an instrumentality or two (2) or  
27 more states, unless the law providing for the benefits or advantages makes  
28 them excess or secondary to benefits under this act;

- 1 (3) social security, medicare and medicaid;  
2 (4) state-required temporary non-occupational disability insurance;  
3 (5) workmen's compensation;  
4 (6) wage continuation programs of any employer;  
5 (7) proceeds of a contract of insurance payable to the victim for loss  
6 which the victim sustained because of the criminally injurious conduct; or  
7 (8) a contract providing prepaid hospital and other health care  
8 services or benefits for disability.

9 (e) "Criminally injurious conduct" means conduct that (1) occurs or is  
10 attempted in this state, (2) poses a substantial threat or personal injury  
11 or death and (3) either is punishable by fine, imprisonment or death or  
12 would be so punishable but for the fact that the person engaging in the  
13 conduct lacked capacity to commit the crime under the laws of this state;  
14 but such term shall not include conduct arising out of the ownership,  
15 maintenance or use of a motor vehicle, except for violations of K.S.A.  
16 8-1567 or when such conduct was intended to cause personal injury or death.

17 (f) "Dependent" means a natural person wholly or partially dependent  
18 upon the victim for care or support, and includes a child of the victim  
19 born after the victim's death.

20 (g) "Dependent's economic loss" means loss after decedent's death of  
21 contribution of things of economic value to the decedent's dependents, not  
22 including services they would have received from the decedent if he or she  
23 had not suffered the fatal injury, less expenses of the dependents avoided  
24 by reason of decedent's death.

25 (h) "Dependent's replacement services loss" means loss reasonably  
26 incurred by dependents after decedent's death in obtaining ordinary and  
27 necessary services in lieu of those the decedent would have performed for  
28 their benefit if the decedent had not suffered the fatal injury, less  
29 expenses of the dependents avoided by reason of decedent's death and not  
30 subtracted in calculating dependent's economic loss.

31 (i) "Economic loss" means economic detriment consisting only of  
32 allowable expense, work loss, replacement services loss and, if injury  
33 causes death, dependent's economic loss and dependent's replacement service  
34 loss. Noneconomic detriment is loss although caused by pain and suffering  
35 or physical impairment.

1 (j) "Noneconomic detriment" means pain, suffering, inconvenience,  
2 physical impairment and non-pecuniary damage.

3 (k) "Replacement services loss" means expenses reasonably incurred in  
4 obtaining ordinary and necessary services in lieu of those the injured  
5 person would have performed, not for income, but for the benefit of self or  
6 family, if such person had not been injured.

7 (l) "Work loss" means loss of income from work the injured person would  
8 have performed if such person had not been injured, and expenses reasonably  
9 incurred by such person in obtaining services in lieu of those he or she  
10 would have performed for income, reduced by any income from substitute work  
11 actually performed by such person or by income such person would have  
12 earned in available appropriate substitute work that he or she was capable  
13 of performing but unreasonably failed to undertake.

14 (m) "Victim" means a person who suffers personal injury or death as a  
15 result of (1) criminally injurious conduct, (2) the good faith effort of  
16 any person to prevent criminally injurious conduct or (3) the good faith  
17 effort of any person to apprehend a person suspected of engaging in  
18 criminally injurious conduct.

19

20 Section 2. K.S.A. 74-7301 is hereby repealed.

21 Section 3. This act shall take effect and be in force from and after its  
22 publication in the statute book.