

Approved 4-29-91  
Date

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs

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

2:00 ~~xx~~ a.m./p.m. on April 13, 1991 in room 254-E of the Capitol.

All members were present ~~except~~:

Committee staff present:

Emalene Correll, Legislative Research Department  
Mary Galligan, Legislative Research Department  
Mary Torrence, Office of Revisor of Statutes  
Deanna Willard, Committee Secretary

Conferees appearing before the committee:

Sen. Gerald Karr  
Carl Anderson, Assistant Attorney General, Kansas Lottery

Senator Karr requested introduction of a bill concerning certain benefit districts; relating to the governing bodies thereof, Draft 1 RS 1582, to correct a problem that has arisen regarding a rural school board who also makes up the board of the local fire district.

A motion was made by Senator Bond and seconded by Senator McClure to introduce the bill and recommend it favorably to the committee of the whole. The motion carried.

Senator McClure requested introduction of a bill relating to agriculture; authorizing interest rate reductions on state inactive accounts for certain loans made to eligible agricultural borrowers, Draft 1 RS 1611.

A motion was made by Senator Bond and seconded by Senator Ehrlich to introduce the bill. The motion carried.

Discussion on: SB 388 - General law enforcement powers of securities act investigators.

Staff distributed copies of current statute pertaining to law enforcement powers of the ABC, Kansas lottery, and Kansas racing commission. (Attachment 1)

Concern was expressed about the firearms training that securities officers would have and whether the bill should limit enforcement powers to felonies.

Discussion on: SB 408 - Unlawful acts of licensees under the club and drinking establishment act.

A memo was distributed from Senator Francisco in response to testimony given April 2 in opposition to the bill. (Attachment 2)

Action on: HB 2320 - Establishment of demonstration child care and supportive services for families.

A motion was made by Senator Walker and seconded by Senator McClure to recommend the bill favorably. The motion carried.

Hearing on: SB 449 - Operation of video lottery machine games by the Kansas lottery.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs,  
room 254-E, Statehouse, at 2:00 ~~am~~/p.m. on April 13, 1991

The chairman read a memo prepared by staff. (Attachment 3)

Carl Anderson, Kansas Lottery, stood for questions on the bill.

He was asked if restaurant owners could purchase a CMB license even though they didn't plan to sell the beverage. He would think so.

It was requested that the lottery provide language to exclude pacman type games from the bill. There was concern about the language "immediately destroy" on P. 15, Ln. 26-27, that it should be modified. Mr. Anderson said these machines could be in Pizza Huts if they wanted them, though he doesn't expect that.

The net revenue is usually split 50-50 by the operator and retailer after the state gets its share, though one state leaves it up to the operator and retailer.

He was asked to have the Lottery or staff come up with some position on gray machines. He said some of the current machines could be converted, though not all of them.

The minutes of the April 12 meeting were approved.

The meeting was adjourned at 2:55 p.m.



41-201

holic beverage control by this act and in enforcing the provisions of this act.

(b) The director and each agent and employee designated by the director under subsection (a), with the approval of the secretary of revenue, shall have the authority to make arrests, conduct searches and seizures and carry firearms while investigating violations of this act and during the routine conduct of their duties as determined by the director or designee. In addition to the above, the director and such agents and employees shall have the authority to make arrests, conduct searches and seizures and generally to enforce all the criminal laws of the state as violations of those laws are encountered by such employees or agents during the routine performance of their duties. In addition to or in lieu of the above, the director and the director's agents and employees shall have the authority to issue notices to appear pursuant to K.S.A. 22-2408 and amendments thereto. No agent or employee of the director shall be certified to carry firearms under the provisions of this section without having first successfully completed the firearm training course or courses prescribed for law enforcement officers under subsection (a) of K.S.A. 74-5604a and amendments thereto. The director may adopt rules and regulations prescribing other training required for such agents or employees.

(c) The attorney general shall appoint, with the approval of the secretary of revenue, an assistant attorney general who shall be the attorney for the director of alcoholic beverage control and the division of alcoholic beverage control, and who shall receive an annual salary fixed by the attorney general with the approval of the director of alcoholic beverage control and the state finance council.

**History:** L. 1949, ch. 242, § 6; L. 1953, ch. 239, § 1; L. 1961, ch. 409, § 1; L. 1965, ch. 458, § 2; L. 1967, ch. 443, § 2; L. 1972, ch. 342, § 57; L. 1985, ch. 169, § 1; April 25.

**Research and Practice Aids:**  
Intoxicating Liquors § 129.  
C.J.S. Intoxicating Liquors § 212.

**41-202. Office of director; branch offices.** The office of the director of alcoholic beverage control shall be in Topeka, but the director may, with the approval of the secretary of revenue, establish and maintain

branch offices at places other than the seat of government.

**History:** L. 1949, ch. 242, § 7; L. 1972, ch. 342, § 58; July 1.

**41-203. Alcoholic beverage control board of review; appointment; terms; chairperson; vacancies; qualifications; removal; compensation and expenses; meetings; secretary; records.** (a) There is hereby created a state alcoholic beverage control board of review which shall consist of three members who shall be appointed by the governor. Persons appointed to the board on or after July 1, 1982, shall be appointed subject to confirmation by the senate as provided in K.S.A. 75-4315b. The governor shall designate the chairperson of the board. The members of the board shall hold their respective offices for terms of four years. Any vacancy on the board shall be filled by appointment by the governor for the unexpired term.

(b) All members of the board shall be selected from among the members of the two political parties casting the highest and second highest number of votes respectively for secretary of state at the general election in 1948, but not more than two members of the board shall be members of either one of such political parties. No two members of the board shall be residents of the same congressional district. No person shall be appointed to the board, or continue to hold that office after appointment, while holding any other office or position under any laws of this state, any other state or the United States. Any member of the board may be removed by the governor, after an opportunity to be heard, for malfeasance, misfeasance or neglect in office.

(c) Members of the state alcoholic beverage control board of review attending meetings of the board, or attending a subcommittee meeting thereof authorized by the board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto.

(d) The board shall hold regular monthly meetings and such other meetings as the chairperson determines advisable. The director of alcoholic beverage control may call the board into special session whenever the director determines it necessary. All regular monthly meetings shall be

Senate F&SA  
4-13-91  
Att. 1

**History:** L. 1987, ch. 292, § 11; L. 1988, ch. 392, § 1; L. 1989, ch. 25, § 8; L. 1989, ch. 244, § 2; May 18.

**Attorney General's Opinions:**

State boards, commissions and authorities; Kansas lottery commission; restrictions on participating in lottery. 37-178.

**74-8712. Lottery prize payment fund.** (a) There is hereby established in the state treasury the lottery prize payment fund.

(b) The executive director shall certify periodically to the director of accounts and reports such amounts as the executive director determines necessary to pay prizes to the holders of valid winning lottery tickets or shares. Upon receipt of such certification, the director of accounts and reports shall promptly transfer the amount certified from the lottery operating fund to the lottery prize payment fund. Moneys credited to the fund shall be expended only for the payment of prizes to the holders of valid winning lottery tickets or shares, for the reimbursement of retailers who have paid holders of winning tickets or shares or as otherwise authorized by law. Prior to making any expenditure for reimbursement of a retailer or payment of a prize of \$50 or more, the executive director shall cause all proposed prize payments to be matched against the state debtor files maintained by the director of accounts and reports and shall certify and pay or deliver any matched prize or the cash amount thereof to the director of accounts and reports for setoff as prescribed under K.S.A. 75-6201 *et seq.* and amendments thereto. Expenditures from such fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports, or a person designated by the director of accounts and reports pursuant to K.S.A. 75-3732 and amendments thereto, issued pursuant to vouchers approved by the executive director, or a person designated by the executive director.

**History:** L. 1987, ch. 292, § 12; L. 1988, ch. 314, § 5; July 1.

**74-8713. Loans to lottery from state general fund.** (a) Any appropriation or transfer of state general fund moneys for the operation of the Kansas lottery and other expenses incurred in connection with the conduct of lotteries pursuant to this act shall be considered a loan and shall be repaid with interest to the state general fund in one payment not later than 24 months from the effective date of the appropriation or transfer of such general fund

moneys. Such loan shall not be considered an indebtedness or debt of the state within the meaning of section 6 of article 11 of the constitution of the state of Kansas. Such loan shall bear interest at a rate equal to the rate prescribed by K.S.A. 75-4210 and amendments thereto for inactive accounts of the state effective on the first day of the month during which the appropriation or transfer takes effect.

(b) At the time of repayment of a loan pursuant to subsection (a), the executive director shall certify to the director of accounts and reports the amount to be repaid and any interest due thereon. Upon receipt of such certification, the director of accounts and reports shall promptly transfer the amount certified from the lottery operating fund to the state general fund.

(c) Except as provided by subsection (a), moneys credited to the state general fund shall not be used or obligated to pay the expenses of the Kansas lottery or prizes of the lottery and no claim for the payment of an expense of the lottery or the payment of a lottery prize shall be made against any moneys other than moneys credited to the lottery operation fund, moneys credited to the lottery prize payment fund or moneys collected from the sale of lottery tickets or shares.

**History:** L. 1987, ch. 292, § 13; March 19.

**74-8714. Law enforcement powers, certain employees.** (a) Employees of the Kansas lottery designated by the executive director are hereby vested with the power and authority of law enforcement officers in the execution of the duties imposed upon the executive director by this act and in enforcing the provisions of this act.

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

- (1) Make arrests, conduct searches and seizures and carry firearms while investigating violations of this act and during routine conduct of their duties as determined by the executive director or designee of the executive director;
- (2) make arrests, conduct searches and seizures and generally to enforce all the criminal laws of the state as violations of those laws are encountered by such employees during the routine performance of their duties; and
- (3) issue notices to appear pursuant to K.S.A. 22-2408 and amendments thereto.

(c) No employee of the Kansas lottery shall be certified to carry firearms under the pro-

ector shall appoint  
ve at the pleasure

ity shall: (A) Be in  
er the Kansas civil  
ime to the security

(C) receive such  
d by the executive  
nitations of appro-  
a citizen of Kansas  
resident of Kansas  
ctor of security; (E)  
a felony under the  
United States prior  
y the commission;  
w enforcement of-  
e years' experience  
ent and at least a  
enforcement admin-  
r a related science  
mum of 10 years'  
w enforcement.

ity shall: (A) Con-  
to compliance with  
id rules and regu-  
, (B) recommend  
organization licen-  
such personnel as  
director to assist  
perform such other  
xecutive director.  
ector may appoint  
ns to serve at the  
irector.

g operations shall:  
service under the  
s; (C) receive such  
d by the executive  
nitations of appro-  
a citizen of the  
resident of Kansas  
ctor of racing op-  
convicted of a fe-  
y state or of the  
uring employment  
have a minimum  
acing operations.

g operations shall:  
ations, including  
(B) be responsible  
stewards and rac-  
ommission on nec-  
ges in rules and  
duct of races; (D)  
personnel as em-

ployed by the executive director to assist with such duties; and (E) perform such other duties as directed by the executive director.

(e) The commission may appoint an advisory committee of persons knowledgeable in the horse and greyhound breeding and racing industries to provide information and recommendations to the commission regarding the administration of this act. Members of such advisory committee shall serve without compensation or reimbursement of expenses.

(f) Except as otherwise provided by this act, all employees of the commission shall be in the classified service under the Kansas civil service act.

**History:** L. 1987, ch. 112, § 5; L. 1990, ch. 293, § 2; July 1.

**74-8806. Animal health officers and assistants.** (a) The commission shall employ an animal health officer and such assistant animal health officers as needed to serve at the pleasure of the commission. Such officers shall:

- (1) Be doctors of veterinary medicine;
- (2) be in the unclassified service under the Kansas civil service act;
- (3) receive such compensation as determined by the commission, subject to the limitations of appropriations therefor; and
- (4) while employed by the commission, devote full time to the duties of the office.

(b) The animal health officer shall:

- (1) Supervise the formulation, administration and evaluation of all medical tests the commission's rules and regulations require or authorize;
- (2) advise the commission on all aspects of veterinary medicine relating to its powers and duties;
- (3) supervise all personnel involved in conducting physical examinations and medical testing of racing animals, as directed by the executive director; and
- (4) perform such other duties as directed by the commission.

(c) The assistant animal health officers shall:

- (1) Conduct physical examinations and medical tests of racing animals as prescribed by the commission;
- (2) administer emergency treatment of racing animals at race meetings as authorized by the owners of such animals or their agents; and
- (3) perform such other duties as directed by the commission.

(d) The animal health officer or an assistant animal health officer may possess and admin-

ister drugs and medications to horses and greyhounds within a racetrack facility as authorized by rules and regulations of the commission.

(e) The commission may require an organization licensee to reimburse the commission for services performed by assistant animal health officers at race meetings conducted by the organization licensee.

(f) The commission may obtain medical services as required by contract with an institution which teaches animal health sciences within the state.

(g) The commission shall contract with one or more laboratory facilities for the analysis of samples taken for the purpose of enforcing compliance with K.S.A. 1987 Supp. 74-8811 and amendments thereto. In entering into any contract under this subsection, the commission shall give preference to laboratory facilities located in this state.

**History:** L. 1987, ch. 112, § 6; L. 1988, ch. 316, § 1; April 21.

**74-8807. Law enforcement powers, certain employees.** (a) Employees of the Kansas racing commission designated by the executive director, with the approval of the commission, are hereby vested with the power and authority of law enforcement officers in the execution of the duties imposed upon the commission by the provisions of this act.

(b) Employees designated pursuant to subsection (a) shall have the authority to:

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

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

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

(c) No employee of the commission shall be certified to carry firearms under the provisions of this section without having first successfully completed the firearms training course or courses prescribed for law enforcement officers under subsection (a) of K.S.A. 74-5604a and amendments thereto.

(d) The commission may adopt rules and regulations prescribing other training required for such employees.

**History:** L. 1987, ch. 112, § 7; May 28.

KENNETH D. FRANCISCO  
STATE SENATOR, 26TH DISTRICT  
SEDGWICK AND SUMNER COUNTIES  
BOX 488  
MAIZE, KS 67101



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS  
MEMBER: AGRICULTURE  
ECONOMIC DEVELOPMENT  
FINANCIAL INSTITUTIONS &  
INSURANCE  
GOVERNMENTAL ORGANIZATION  
LEGISLATIVE AND CONGRESSIONAL  
APPORTIONMENT  
JOINT COMMITTEE ON  
ADMIN. RULES & REGS.

DATE: April 9, 1991  
TO: Senator Edward Reilly and members of  
Federal & State Affairs Committee  
FROM: Senator Ken Francisco  
RE: Senate Bill 408

The Kansas Liquor lobbyist stated on April 2nd, in committee, that if Senate Bill 408 were passed, children would not be able to attend the circus because state arenas would be affected by the law which would mandate at least 50% food sales as opposed to alcoholic beverage sales. Upon hearing this, I did some research that proves this statement false. Here are the results of my research:

Percentage of profit made from liquor and beer sales (as opposed to food sales):

Kansas Coliseum . . . . .	15% Beer sales
Kansas Expocentre . . . . .	18% Beer sales
Topeka Country Club . . . . .	25% All beverages including non-alcoholic

As you can see, none of these locations come anywhere near the 50% mark. I feel that 50% is a good dividing line for this bill. The bill will target those drinking establishments that are licensed as Class B clubs.

RESEARCH PREPARED BY KELLEY BENDER, INTERN

Senate F&SA  
4-13-91  
Att. 2

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

Room 545-N -- Statehouse

Phone 296-3181

April 12, 1991

TO: Senator Edward F. Reilly, Jr.

Office No. 255-E

RE: Video Lottery

As you requested, I contacted the Missouri Lottery to ask whether they currently conduct or plan to conduct video lottery games. I spoke to Mike Morris, the Director of the Lottery.

According to Mr. Morris, they have not yet implemented video lottery, but the Legislature has included an anticipated \$50 million in video lottery proceeds for expenditure in FY 1992. Lottery proceeds in Missouri, unlike in Kansas, go to the State General Fund.

Mr. Morris is of the opinion that the Lottery's existing statute contains sufficient authority to implement video lottery games. He did say that video lottery machines may have to produce a ticket for both winners and losers in order to be operated under the existing statute. He said he bases his opinion on the fact that a video machine is simply a means of playing a lottery game.

You also asked me to talk to persons at the Kansas Bureau of Investigation (KBI) and the Division of Alcoholic Beverage Control (ABC) regarding the presence of video gambling machines in Kansas. I spoke to Gary Pettijohn at KBI and Jack West at ABC. I also spoke to Bob Clester, Director of Security at the Kansas Lottery regarding this question.

According to Mr. Pettijohn, KBI has not done anything like a survey to determine the number of these machines located in the State. They have worked on illegal gambling cases in Johnson, Wyandotte, and Shawnee counties, but they have no accurate picture of the number of such machines that might be operating across the state.

According to Mr. West of ABC, the machines have been seen in almost all areas of the state, but he can only formulate a wild guess about how many may be in operation. He says ABC is aware of the machines in clubs, restaurants, truck stops, and beer bars, not all of which are under ABC regulation.

Senate F&SA  
4-13-91  
Att. 3




In regard to local regulation of the machines, he said they are amusement machines and that in a city or county that has an occupational tax, some sort of license or permit would be required, but that would not cover all of the machines in the state.

He said he is not aware that any of the machines actually pay out like a slot machine does, but that in some cases you can win extra games for which you may be able to get cash from the proprietor of the establishment. He said that feature, plus a feature called "build-up," which results in better odds for larger wagers, cause the machines to be gambling machines even if money is not dispensed from them.

Mr. Clester, from the Kansas Lottery uses anecdotal information based on observations of Lottery staff to estimate that there are 3,500 to 4,000 video machines in Kansas. He notes, however that figure should not be considered anything other than a guess. He is not aware of any source for an accurate estimate of the number of machines.

I hope this information is useful to you. If you have any additional questions, please feel free to call.



Mary K. Galligan  
Principal Analyst

91-397/MKG/aem