

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

1:00 ~~xx~~ a.m./p.m. on April 23, 1991 in room 254-E of the Capitol.

All members were present except:

Senators Anderson, Daniels, and Morris

Committee staff present:

Mary Galligan, Legislative Research Department
Mary Torrence, Office of Revisor of Statutes

Conferees appearing before the committee:

Carl Anderson, Assistant Attorney General, Kansas Lottery
Gene Miller, Games West, Concordia, Kansas
William T. Terrell, Wichita State University
Stan Chilton, Chilton Vending Company, Wichita, Kansas

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

Carl Anderson, Kansas Lottery, led the committee through the balloon version of the bill. (Attachment 1)

Gene Miller, Games West, gave some background information on Games West and some suggestions for the proposed legislation. (Attachment 2)

Testimony was presented by William Terrell, Wichita State University, giving projected state incomes and various charts comparing Kansas and South Dakota. (Attachment 3)

Stan Chilton, Chilton Vending Company, gave testimony in favor of SB 449 and discussed results of video lottery in Montana and South Dakota. (Attachment 4)

The meeting was adjourned at 4:00 p.m.

SENATE BILL No. 449

By Committee on Federal and State Affairs

4-12

8 AN ACT amending and supplementing the Kansas lottery act; con-
9 cerning video lottery games; relating to disposition of certain pro-
10 ceeds therefrom; amending K.S.A. 1990 Supp. 38-1602, 74-8701,
11 74-8702, 74-8704, 74-8706, 74-8708, 74-8710, 74-8711, 74-8712,
12 74-8717, 74-8718, 74-8719, 74-8720 and 74-8721 and repealing the
13 existing sections; also repealing K.S.A. 1990 Supp. 74-8720a.
14

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

16 Section 1. K.S.A. 1990 Supp. 74-8701 is hereby amended to read
17 as follows: 74-8701. K.S.A. ~~1987~~ 1990 Supp. 74-8701 through 74-
18 8721 *and sections 13 through 22, and amendments thereto*, shall be
19 known as and may be cited as the Kansas lottery act.

20 Sec. 2. K.S.A. 1990 Supp. 74-8702 is hereby amended to read
21 as follows: 74-8702. As used in ~~this~~ *the Kansas lottery act*, unless
22 the context otherwise requires:

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

24 (b) "Associated equipment" means any proprietary device, ma-
25 chine or part used in the manufacture or maintenance of a video
26 lottery machine, including but not limited to integrated circuit chips,
27 printed wired assembly, printed wired boards, printing mechanisms,
28 video display monitors and metering devices.

29 (c) "Credit" means \$.25.

30 ~~(b)~~ (d) "Executive director" means the executive director of the
31 Kansas lottery.

32 ~~(e)~~ (e) "Gaming equipment" means any electric, electronic or
33 mechanical device or other equipment unique to the Kansas lottery
34 used directly in the operation of any lottery and in the determination
35 of winners pursuant to this act.

36 ~~(e)~~ (f) "Kansas lottery" means the state agency created by this
37 act to operate a lottery or lotteries pursuant to this act.

38 ~~(g) "Licensed premises" means premises licensed as a club or~~
39 ~~drinking establishment pursuant to the club and drinking establish-~~
40 ~~ment act or licensed pursuant to article 27 of chapter 41 of the~~
41 ~~Kansas Statutes Annotated for sales of cereal malt beverage for~~
42 ~~consumption on the licensed premises.~~

43 (e) (h) "Lottery retailer" means any person with whom the Kan-

"Licensed establishment" means any establishment holding a license to sell cereal malt beverages or alcoholic beverages for consumption upon the premises where sold and a certificate from the Kansas lottery authorizing the sale of video lottery games.

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Att. 1

1 sas lottery has contracted to:

2 (1) Sell lottery tickets or shares, or both, to the public; or

3 (2) be a video lottery retailer.

4 ~~(f)~~ (i) "Lottery" or "state lottery" means the lottery or lotteries
5 operated pursuant to this act.

6 ~~(g)~~ (j) "Major procurement" means any gaming product or serv-
7 ice, including but not limited to facilities, advertising and promo-
8 tional services, annuity contracts, prize payment agreements,
9 consulting services, equipment, tickets and other products and serv-
10 ices unique to the Kansas lottery, but not including materials, sup-
11 plies, equipment and services common to the ordinary operations of
12 state agencies.

13 (k) "Net video machine income" means cash put into a video
14 lottery machine minus credits redeemed for cash.

15 ~~(h)~~ (l) "Person" means any natural person, association, corpo-
16 ration or partnership.

17 ~~(i)~~ (m) "Prize" means any prize paid directly by the Kansas lot-
18 tery pursuant to its rules and regulations.

19 ~~(j)~~ (n) "Share" means any intangible manifestation authorized by
20 the Kansas lottery to prove participation in a lottery game.

21 ~~(k)~~ (o) "Ticket" means any tangible evidence issued by the Kansas
22 lottery to prove participation in a lottery game.

23 ~~(l)~~ (p) "Vendor" means any person who has entered into a major
24 procurement contract with the Kansas lottery.

25 (q) "Video lottery machine" means any electronic video game
26 machine that, upon insertion of cash, is available to play or simulate
27 the play of a video game authorized by the commission, including
28 but not limited to bingo, poker, black jack and keno, and which
29 uses a video display and microprocessors in which, by chance, the
30 player may receive free games or credits that can be redeemed for
31 cash. The term does not include a machine that directly dispenses
32 coins, cash or tokens.

33 ~~(r)~~ "Video lottery machine distributor" means any individual,
34 partnership, corporation or association that distributes, sells or
35 leases video lottery machines or associated equipment for public use
36 in this state.

37 ~~(s)~~ "Video lottery retailer" means the owner of licensed premises
38 with whom the Kansas lottery has contracted for the placement of
39 video lottery machines on such premises.

40 ~~(m)~~ ~~(t)~~ "Returned ticket" means any ticket which was transferred
41 to a lottery retailer, which was not sold by the lottery retailer and
42 which was returned to the Kansas lottery for refund by issuance of
43 a credit or otherwise.

(r) "Video lottery machine manufacturer" means any individual, partnership,
corporation or association that assembles or produces video lottery machines
or associated equipment for sale or use in this state.

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(s)

(t) "Video lottery machine operator" means any individual, partnership,
corporation or association that places video lottery machines or associated
equipment for public use in this state.

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(u)

(v)

Sec. 3. K.S.A. 1990 Supp. 74-8704 is hereby amended to read as follows: 74-8704. The executive director shall have the power to:

3 (a) Supervise and administer the operation of the state lottery in
4 accordance with the provisions of this act and such rules and reg-
5 ulations as adopted hereunder.

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

10 (c) Enter into contracts for such promotional services; annuities
11 or other methods deemed appropriate for the payment of prizes;
12 data processing and other technical-products, equipment and serv-
14 ices; and facilities as needed to operate the Kansas lottery, including
15 but not limited to gaming equipment, tickets and other services
16 involved in major procurement contracts, in accordance with K.S.A.
17 ~~1987~~ 1990 Supp. 74-8705 and amendments thereto.

18 (d) Enter into contracts with persons for the sale of lottery tickets
19 or shares to the public or the placement of video lottery machines
20 on licensed premises, or both, as provided by this act and rules and
21 regulations adopted pursuant to this act, which contracts shall not
22 be subject to the provisions of K.S.A. 75-3738 through 75-3744, and
23 amendments thereto.

24 (e) Require lottery retailers to furnish proof of financial stability
25 or furnish surety in an amount based upon the expected volume of
26 sales of lottery tickets or shares.

27 (f) Examine, or cause to be examined by any agent or repre-
28 sentative designated by the executive director, any books, papers,
29 records or memoranda of any lottery retailer for the purpose of
30 ascertaining compliance with the provisions of this act or rules and
31 regulations adopted hereunder.

32 (g) Issue subpoenas to compel access to or for the production of
33 any books, papers, records or memoranda in the custody or control
34 of any lottery retailer, or to compel the appearance of any lottery
35 retailer or employee of any lottery retailer, for the purpose of as-
36 certaining compliance with the provisions of this act or rules and
37 regulations adopted hereunder. Subpoenas issued under the provi-
38 sions of this subsection may be served upon natural persons and
39 corporations in the manner provided in K.S.A. 60-304 and amend-
40 ments thereto for the service of process by any officer authorized
41 to serve subpoenas in civil actions or by the executive director or
an agent or representative designated by the executive director. In
the case of the refusal of any person to comply with any such sub-
poena, the executive director may make application to the district

1 court of any county where such books, papers, records, memoranda
2 or person is located for an order to comply.

3 (h) Administer oaths and take depositions to the same extent and
4 subject to the same limitations as would apply if the deposition were
5 in aid of a civil action in the district court.

6 (i) Require fingerprinting of employees and such other persons
7 who work in sensitive areas within the lottery as deemed appropriate
8 by the director. The director may submit such fingerprints to the
9 Kansas bureau of investigation and to the federal bureau of inves-
10 tigation for the purposes of verifying the identity of such employees
11 and persons and obtaining records of their criminal arrests and
12 convictions.

13 Sec. 4. K.S.A. 1990 Supp. 74-8706 is hereby amended to read
14 as follows: 74-8706. The executive director shall have the duty to:

15 (a) Make and keep books and records which accurately and fairly
16 reflect each day's transactions, including but not limited to: The
17 distribution of tickets and shares to lottery retailers; receipt of funds,
18 prize claims, prize disbursements made by the Kansas lottery or
19 otherwise or prizes liable to be paid by the Kansas lottery; expenses
20 and other financial transactions of the Kansas lottery necessary so as
21 to permit daily accountability.

22 (b) Make quarterly and annual financial reports to the commis-
23 sion, the governor, the state treasurer and the legislature. Such
24 reports shall be based upon generally accepted accounting principles
25 and include a full and complete statement of lottery revenues, prize
26 disbursements, expenses, net revenues and other financial transac-
27 tions for the reporting period.

28 (c) Make available for inspection by the commission, upon re-
29 quest, all books, records, files and other information and documents
30 of the Kansas lottery.

31 (d) Engage, in accordance with K.S.A. ~~1987~~ 1990 Supp. 74-8705
32 and amendments thereto, an independent firm experienced in se-
33 curity procedures, including but not limited to computer security
34 and systems security, to periodically conduct a comprehensive study
35 and evaluation of all aspects of security in the operation of the Kansas
36 lottery.

37 (e) Engage, in accordance with K.S.A. ~~1987~~ 1990 Supp. 74-8705
38 and amendments thereto, an independent firm experienced in mar-
39 keting research and analysis to periodically conduct an evaluation to
40 determine the effectiveness of marketing, promotion and public in-
41 formation programs used by the Kansas lottery and make recom-
42 mendations which will enhance such programs.

3 (f) Prepare and submit budgets and proposals for the operation

1 of the Kansas lottery.

2 (g) Operate the Kansas lottery in such a manner that, after the
3 initial state appropriation, it is self-sustaining and self-funded.

4 (h) Make available at the point of sale of any lottery tickets or
5 shares *and at the location of any video lottery machine* a list of the
6 odds of winning such game, based upon the number of tickets ~~or~~ or
7 shares *or games* projected to be sold.

8 (i) Make provision for the timely and efficient transfer of funds
9 due from lottery retailers to the lottery operating fund, including
10 the use of electronic funds transfers whenever possible.

11 Sec. 5. K.S.A. 1990 Supp. 74-8708 is hereby amended to read
12 as follows: 74-8708. (a) *Subject to the limitations of this act*, the
13 executive director shall select as lottery retailers such persons as
14 deemed best able to serve the public convenience and promote the
15 sale of tickets ~~or shares or video lottery games~~ in accordance with or
16 marketing plans developed by the Kansas lottery. In the selection
17 of lottery retailers, the executive director shall consider factors such
18 as financial responsibility, security of the applicant's place of business
19 or activity, accessibility of the applicant's place of business or activity,
20 integrity, reputation, volume of expected sales and such other factors
21 as the executive director may deem appropriate. The executive di-
22 rector may select the state fair board as a lottery retailer to sell
23 lottery tickets or shares *or to have video lottery machines on licensed*
24 *premises, but the state fair board shall be authorized to sell such*
25 *tickets or shares or have such machines in operation only on the*
26 *state fairgrounds and only during the time of the annual state fair.*
27 Other persons lawfully engaged in nongovernmental business on state
property may be selected as lottery retailers.

29 (b) The executive director may charge an application fee to per-
30 sons applying to become lottery retailers.

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

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

36 (e) Each lottery retailer shall be issued a lottery retailer certificate
37 which shall be conspicuously displayed at the place where the lottery
38 retailer is authorized to sell lottery tickets or shares *or is authorized*
39 *to have a video lottery machine.*

40 (f) Lottery tickets or shares shall only be sold by the lottery
retailer at the location stated on the lottery retailer certificate. ~~Video
lottery machines shall be placed only at the location stated on the
lottery retailer certificate and only on licensed premises.~~ ~~of the licensed establishment~~ stated on the lottery retailer's certificate.

1 lottery machine shall be placed at any location in a county where
2 the registered voters have voted pursuant to section 22 to prohibit
3 such machines in the county.

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

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

7 (2) have sufficient financial resources to support the activities
8 required to sell lottery tickets or shares;

9 (3) be current in payment of all taxes, interest and penalties owed
10 to any taxing subdivision where the lottery retailer will sell lottery
11 tickets or shares;

12 (4) be current in filing all applicable tax returns and in payment
13 of all taxes, interest and penalties owed to the state of Kansas,
14 excluding items under formal appeal pursuant to applicable statutes;
15 and

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

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

19 (1) Has been convicted of a felony in this or any other jurisdic-
20 tion, unless at least 10 years have passed since satisfactory completion
21 of the sentence or probation imposed by the court for each such
22 felony;

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

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

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

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

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

33 (i) For a partnership to be selected as a lottery retailer, the
34 partnership must meet the requirements of subsections (g)(2), (g)(3),
35 (g)(4) and (g)(5) and each partner must meet the requirements of
36 subsections (g)(1), (g)(3), (g)(4) and (h)(1) through (h)(6).

37 (j) For a corporation to be selected as a lottery retailer, the
38 corporation must meet the requirements of subsections (g)(2), (g)(3),
39 (g)(4) and (g)(5) and each officer or director and each stockholder
40 who owns 5% or more of the stock of such corporation must meet
41 the requirements of subsections (g)(3), (g)(4) and (h)(1) through (h)(6).

42 (k) For an unincorporated association to be selected as a lottery
43 retailer, the association must meet the requirements of subsections

(g)(2), (g)(3), (g)(4) and (g)(5) and each officer or director must meet the requirements of subsections (g)(1), (g)(3), (g)(4) and (h)(1) through (h)(6).

(l) The executive director may terminate the certificate of any lottery retailer who fails to meet any of the applicable qualifying standards for selection as a retailer provided in this section or on the grounds for termination provided in the contract pursuant to rules and regulations adopted by the commission.

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

Sec. 6. K.S.A. 1990 Supp. 74-8710 is hereby amended to read as follows: 74-8710. The commission, upon the recommendation of the executive director, shall adopt rules and regulations governing the establishment and operation of a state lottery as necessary to carry out the purposes of this act. Temporary rules and regulations may be adopted by the commission without being subject to the provisions and requirements of K.S.A. 77-415 through 77-438, and amendments thereto, but shall be subject to approval by the attorney general as to legality and shall be filed with the secretary of state and published in the Kansas register. Temporary and permanent rules and regulations may include but shall not be limited to:

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

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

(c) The manner of payment of prizes to the holders of winning tickets or shares.

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

(e) The type or types of locations at which tickets or shares may be sold *or at which video lottery machines may be placed, subject to the limitations of subsection (f) of K.S.A. 1990 Supp. 74-8708 and amendments thereto.*

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

1 or video lottery games.

2 (g) Additional qualifications for the selection of lottery retailers
3 and the amount of application fees to be paid by each.

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

6 (i) Deadlines for claims for prizes by winners of each lottery
7 game.

8 (j) Provisions for confidentiality of information submitted by ven-
9 dors pursuant to K.S.A. ~~1987~~ 1990 Supp. 74-8705, and amendments
10 thereto.

11 (k) Information required to be submitted by vendors, in addition
12 to that required by K.S.A. ~~1987~~ 1990 Supp. 74-8705, and amend-
13 ments thereto.

14 (l) The major procurement contracts or portions thereof to be
15 awarded to minority business enterprises pursuant to subsection (a)
16 of K.S.A. ~~1987~~ 1990 Supp. 74-8705, and amendments thereto, and
17 procedures for the award thereof.

18 Sec. 7. K.S.A. 1990 Supp. 74-8711 is hereby amended to read
19 as follows: 74-8711. (a) There is hereby established in the state
20 treasury the lottery operating fund.

21 (b) The executive director shall remit at least weekly to the state
22 treasurer all moneys collected from the sale of ~~lottery tickets and~~ lottery tickets and shares
23 ~~shares tickets, shares and video lottery games~~ and any other moneys
24 received by or on behalf of the Kansas lottery. Upon receipt of any
25 such remittance, the state treasurer shall deposit the entire amount
26 thereof in the state treasury and credit it to the lottery operating
27 fund. Moneys credited to the fund shall be expended or transferred
28 only as provided by this act. Expenditures from such fund shall be
29 made in accordance with appropriations acts upon warrants of the
30 director of accounts and reports issued pursuant to vouchers ap-
31 proved by the executive director or by a person designated by the
32 executive director.

33 (c) Moneys in the lottery operating fund shall be used for:

34 (1) The payment of expenses of the lottery, which shall include
35 all costs incurred in the operation and administration of the Kansas
36 lottery; all costs resulting from contracts entered into for the purchase
37 or lease of goods and services needed for operation of the lottery,
38 including but not limited to supplies, materials, tickets, independent
39 studies and surveys, data transmission, advertising, printing, pro-
40 motion, incentives, public relations, communications, and distribu-
41 tion of tickets and shares; and reimbursement of costs of facilities
42 and services provided by other state agencies;

43 (2) the payment of compensation to lottery retailers;

(3) transfers of moneys to the lottery prize payment fund pursuant to K.S.A. 1988 1990 Supp. 74-8712 and amendments thereto;

(4) transfers to the state general fund pursuant to K.S.A. 1988 1990 Supp. 74-8713 and amendments thereto;

(5) transfers to the state gaming revenues fund pursuant to subsection (d) of ~~this section~~ and as otherwise provided by law;

(6) ~~transfers to the lottery tax reduction fund pursuant to subsection (e);~~ and

(7) the transfers to the county reappraisal fund as prescribed by law.

(d) The director of accounts and reports shall transfer moneys in the lottery operating fund to the state gaming revenues fund created by K.S.A. 1988 1990 Supp. 79-4801 and amendments thereto, on or before the 15th day of each month, ~~for fiscal years commencing on or after July 1, 1988~~ in an amount certified monthly by the executive director and determined as follows, whichever is greater:

(1) ~~In~~ An amount equal to the moneys in the lottery operating fund in excess of those needed for the purposes described in subsections (c)(1) through (c)(4), *less amounts required to be transferred to the lottery tax reduction fund pursuant to subsection (e);* or

(2) an amount equal to not less than 30% of total monthly revenues from the sales of lottery tickets and shares less estimated returned-tickets, *and not including amounts required to be transferred to the lottery tax reduction fund pursuant to subsection (e).*

(e) *The director of accounts and reports shall transfer moneys in the lottery operating fund to the lottery tax reduction fund established by section 21 on or before the 15th day of each month, in an amount equal to not less than 85% of the state's share of net video machine income during the preceding month, less the amount of such income transferred to the lottery prize fund pursuant to K.S.A. 1990 Supp. 74-8712 and amendments thereto for the preceding month, as certified monthly by the executive director.*

Sec. 8. K.S.A. 1990 Supp. 74-8712 is hereby amended to read as follows: 74-8712. (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 *and such amounts as the executive director determines necessary to pay prizes to winners of video lottery machine games.* 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

1 credited to the fund shall be expended only for the payment of
 2 prizes to the holders of valid winning lottery tickets or shares or
 3 winners of video lottery machine games, for the reimbursement of
 4 retailers who have paid holders of winning tickets or shares or win-
 5 ners of video lottery machine games or as otherwise authorized by
 6 law. Prior to making any expenditure for reimbursement of a retailer
 7 or payment of a prize of \$50 or more, the executive director shall
 8 cause all proposed prize payments to be matched against the state
 9 debtor files maintained by the director of accounts and reports and
 10 shall certify and pay or deliver any matched prize or the cash amount
 11 thereof to the director of accounts and reports for setoff as prescribed
 12 under K.S.A. 75-6201 *et seq.* and amendments thereto. Expenditures
 13 from such fund shall be made in accordance with appropriations acts
 14 upon warrants of the director of accounts and reports, or a person
 15 designated by the director of accounts and reports pursuant to K.S.A.
 16 75-3732 and amendments thereto, issued pursuant to vouchers ap-
 17 proved by the executive director, or a person designated by the
 18 executive director.

19 Sec. 9. K.S.A. 1990 Supp. 74-8717 is hereby amended to read
 20 as follows: 74-8717. (a) It is unlawful to:

21 (1) Falsely make, alter, forge, pass or counterfeit, with intent to
 22 defraud, a lottery ticket or share, or receipt for the purchase thereof,
 23 issued or purported to have been issued by the Kansas lottery under
 24 this act;

25 (2) tamper with a video lottery machine with intent to interfere
 26 with the proper operation of such machine;

27 (3) intentionally manipulate the outcome, payoff or operation of
 28 a video lottery machine by physical tampering or any other means;
 29 or

30 (4) have in the person's possession, custody or control, or permit
 31 to be kept in any place in the person's possession or control, any
 32 device, not certified by the Kansas lottery, that awards video lottery
 33 machine credits and contains a circuit meter or switch capable of
 34 removing and recording the removal of video lottery machine credits
 35 when the award of credits is dependent upon chance.

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

37 Sec. 10. K.S.A. 1990 Supp. 74-8718 is hereby amended to read
 38 as follows: 74-8718. (a) It is unlawful for:

39 (1) Any person to sell a ~~lottery ticket or share ticket, share or~~ lottery ticket or share
 40 video lottery machine game at a price other than that fixed by the
 41 rules and regulations adopted pursuant to this act;

42 (2) any person other than the Kansas lottery a lottery retailer
 43 authorized by the Kansas lottery to sell or resell any lottery ticket

1 share; ~~or~~ *or to have a video lottery machine on premises owned*
2 *by or under the control of such person;*

3 (3) any person to sell a lottery ticket or share to any ~~person~~
4 *minor, knowing such person minor to be under 18 years of age; or*

5 (4) *Any person who owns or controls premises where a video*
6 *lottery machine is placed, or any employee of such person, to permit*
7 *a minor to play a video lottery machine game on such premises,*
8 *knowing such minor to be under 18 years of age.*

9 (b) Violation of this section is a class A misdemeanor upon con-
10 viction of the first offense and a class D felony upon conviction of
11 a second or subsequent offense.

12 Sec. 11. K.S.A. 1990 Supp. 74-8719 is hereby amended to read
13 as follows: 74-8719. (a) It is unlawful for any person to purchase a
14 lottery ticket or share *or play a video lottery game*, or to share in
15 the lottery winnings of a person, knowing that such person is:

16 (1) The executive director, a member of the commission or an
17 employee of the Kansas lottery;

18 (2) an officer or employee of a vendor contracting with the Kansas
19 lottery to supply gaming equipment or tickets to the Kansas lottery
20 for use in the operation of any lottery conducted pursuant to this
21 act;

22 (3) a spouse, child, stepchild, brother, stepbrother, sister, step-
23 sister, parent or stepparent of a person described by subsection (a)(1)
24 or (2); ~~or~~

25 (4) a person who resides in the same household as any person
26 described by subsection (a)(1) or (2); *or*

27 (5) *less than 18 years of age.*

28 (b) *It is unlawful for any person to play a video lottery machine*
29 *game at any time when the licensed premises are not permitted by*
30 *law to sell alcoholic liquor cereal malt beverage for consumption on*
31 *the licensed premises.*

32 (c) Violation of subsection (a) or (b) by a person 18 or more
33 years of age is a class A misdemeanor upon conviction of the first
34 offense and a class D felony upon conviction of a second or sub-
35 sequent offense. *Violation of subsection (a) or (b) by a person less*
36 *than 18 years of age shall render the person subject to adjudication*
37 *as a juvenile offender under the Kansas juvenile offenders code.*

38 (e) *(d)* Notwithstanding subsection (a), the executive director may
39 authorize in writing any employee of the Kansas lottery and any
40 employee of a lottery vendor to purchase a lottery ticket *or share*
41 *or play a video lottery game* for the purposes of verifying the proper
42 operation of the state lottery with respect to security, systems op-
43 eration and lottery retailer contract compliance. Any prize awarded

1 as a result of ~~such ticket purchase~~ *purchasing such ticket or share*
 2 *or playing such game* shall become the property of the Kansas lottery
 3 and be added to the prize pools of subsequent lottery games.

4 ~~(d)~~ (e) Certain classes of persons who, because of the unique
 5 nature of the supplies or services they provide for use directly in
 6 the operation of a lottery pursuant to this act, may be prohibited,
 7 in accordance with rules and regulations adopted by the commission,
 8 from participating in any lottery in which such supplies or services
 9 are used.

10 ~~(e)~~ (f) Nothing in this section shall prohibit lottery retailers or
 11 their employees from purchasing lottery tickets ~~and shares or shares~~
 12 *or playing video lottery machine games* or from being paid a prize
 13 ~~of for~~ a winning ticket ~~or share, share or game.~~

14 ~~(f)~~ (g) Each person who purchases a lottery ticket or share or
 15 *plays a video lottery machine game* thereby agrees to be bound by
 16 rules and regulations adopted by the commission and by the pro-
 17 visions of this act.

18 Sec. 12. K.S.A. 1990 Supp. 74-8720 is hereby amended to read
 19 as follows: 74-8720. (a) As nearly as practical, an amount equal to
 20 not less than 45% of the total sales of lottery tickets or shares ~~and~~
 21 ~~not less than 45% of the state's share of revenues from the sale of~~ 80% and not more than 92%
 22 *video lottery machine games*, computed on an annual basis, shall be ~~money~~ wagered in
 23 allocated for payment of lottery prizes.

24 (b) The prize to be paid or awarded for each winning ticket ~~or~~
 25 ~~share, share or game~~ shall be paid to one natural person who is
 26 adjudged by the executive director ~~or, the director's designee or~~
 27 *the retailer paying the prize* to be the holder of such winning ticket
 28 or share *or the winner of the game, or to the person designated in*
 29 *writing by such holder or winner on a form satisfactory to the*
 30 *executive director*, except that the prize of a deceased *holder or*
 31 winner shall be paid to the duly appointed representative of the
 32 estate of such *holder or winner* or to such other person or persons
 33 appearing to be legally entitled thereto.

34 (c) The executive director shall award the designated prize to the
 35 holder of the ticket or share *or the winner of the game* upon the
 36 validation of a claim or confirmation of a winning share. The executive
 37 director shall have the authority to make payment for prizes by any
 38 means deemed appropriate upon the validation of winning tickets
 39 ~~or shares, shares or games.~~

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

42 (e) All prizes awarded shall be taxed as Kansas source income.
 43 and shall be subject to all state and federal income tax laws and

credits?

1 s and regulations. State income taxes shall be withheld from
2 prizes paid whenever federal income taxes are required to be with-
3 held under current federal law.

4 (f) Unclaimed prize money not payable directly by lottery re-
5 tailers shall be retained for the period established by rules and
6 regulations and if no claim is made within such period, then such
7 unclaimed prize money shall be added to the prize pools of sub-
8 sequent lottery games.

9 (g) The state of Kansas, members of the commission and em-
10 ployees of the Kansas lottery shall be discharged of all further liability
11 upon payment of a prize pursuant to this section.

12 ~~Sec. 13. K.S.A. 1990 Supp. 74-8721 is hereby amended to read~~
13 ~~as follows: 74-8721. All sales of lottery tickets and shares, shares~~
14 ~~and video lottery machine games shall be exempt from retailers' sales~~
15 ~~taxes imposed pursuant to K.S.A. 12-187 et seq., and amendments~~
16 ~~thereto, and from the tax imposed by the Kansas retailers' sales tax~~
17 ~~act.~~

18 New Sec. 14. (a) A video lottery machine, ~~distributor~~ shall enter
19 into a contract with the Kansas lottery and receive a certification
20 from the executive director before such ~~distributor~~ distributes, sells
21 or places any video lottery machine or associated equipment for
22 public use in this state.

23 (b) The commission shall establish by rules and regulations an
24 annual fee for each certificate issued to a video lottery machine
25 distributor pursuant to this section or to a video lottery retailer
26 pursuant to K.S.A. 1990 Supp. 74-8708 and amendments thereto,
27 Such fee shall not exceed:

- 28 (1) For a video lottery machine distributor, \$5,000.
- 29 (2) For a video lottery retailer, \$100 for each video lottery ma-
30 chine placed on the retailer's licensed premises.

31 (c) In addition to the annual fee provided by this section, the
32 executive director may charge video lottery machine distributors a
33 one-time application fee, established by rules and regulations of the
34 commission in an amount not to exceed \$100. All moneys from fees
35 collected pursuant to this section shall be deposited into the state
36 treasury and credited to the lottery operating fund.

37 (d) All certificates issued by the Kansas lottery under this section
38 are renewable annually unless sooner cancelled or terminated.

39 (e) No certificate issued pursuant to this act is transferable or
40 assignable.

41 New Sec. 15. (a) ~~A video lottery machine distributor may not~~
42 ~~be a video lottery retailer or own, manage or control a video lottery~~
43 ~~retailer. A video lottery retailer may not be a video lottery machine~~

New Sec. 13. (a) The state's share of net video lottery machine income
shall be 25% of net video lottery machine income from start up of video
lottery games by the Kansas lottery through June 30, 1994. On or after that
date, the Kansas lottery commission may, by rule and regulation, increase the
state's share of net video income to a maximum of 30%. Net video machine income
shall be reported and remitted to the Kansas lottery within 15 days after the
15th day of each month and within 15 days after the end of each month by the cer-
tified machine operator. Each machine operator shall keep a record of net video
machine income in the form the commission may require. A machine operator who
falsely reports or fails to report the amount due required by this section is
guilty of a class D felony upon conviction, and is subject to termination of his
certificate by the Kansas lottery executive director or his designee. Late
payments shall be assessed a penalty on the unpaid balance at the rate of one
and one-half percent per month.

(b) In addition to the fees set forth in section 14, one percent of net video
machine income shall be retained by the Kansas lottery and deposited into the
lottery operating fund.

14.

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operator

(1) For video lottery machine manufacturer, \$5,000.

(2)

(3) For video lottery machine operator, \$150 per machine, or \$2,000, whichever
amount is greater.

(4)

who sell in KS (covered in def of manufacturer)

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16. A video lottery machine manufacturer may not receive a certificate as a video
lottery machine operator or own, manage or control a licensed establishment. A
video lottery machine distributor may not receive a certificate as a video lottery

machine operator or own, manage or control a licensed establishment. A video lottery machine operator may not receive a certificate or own, manage, control or have any financial interest in a video lottery machine manufacturer, distributor or licensed establishment. An owner or manager of a licensed establishment may not receive a certificate or own, manage, control or have any financial interest in a video lottery machine manufacturer, distributor or operator.

Nothing in this section prohibits the commission, after prior notice to all video lottery machine operators holding certificates from authorizing the placement of video lottery machines by a manufacturer in an establishment that satisfactorily demonstrates that it is otherwise unable to obtain appropriate machine placement or service.

17. Each video lottery machine certified under this chapter:
- (a) Shall offer only games certified and authorized by the Kansas lottery.
 - (b) May not have any means of manipulation that affect the random probabilities of winning credits.
 - (c) Shall have one or more mechanisms that accept coins or cash in the forms of bills, the mechanisms of which shall be designed to prevent obtaining credits without paying by stringing, slamming, drilling or other means and if those attempts involve physical tampering, the machine shall suspend itself from operation until reset.
 - (d) Shall have non-resettable meters housed in any readily accessible locked machine area that keeps a permanent record of all cash inserted into the machine, all refunds of winnings made by the machine's printer, credits played for games and credits won by players.
 - (e) Shall be capable of printing a ticket stating the value of the prize for the player at the completion of each video lottery game, the time of day in a 24-hour format showing hours and minutes, the date, the machine serial number, the sequential number of the ticket vouchers, and an encrypted validation number from which the validity of the prize may be determined.
 - (f) Shall have accounting software that keeps an electronic record which includes, but is not limited to, the total cash inserted into the machine, the value of winning tickets claimed by players, the total credits played and the total credits awarded.
 - (g) Shall be linked under a central communications system to provide auditing program information as approved by the commission. The communications systems approved by the commission may not limit participation to only one manufacturer of video lottery machines by either the cost of implementing the necessary program modifications to communicate or the inability to communicate with the central communications system. Nothing in this section may be construed to require a machine which only offers video lottery games to be on-line or in constant communication with a central computer.
 - (h) Shall not use the word "casino" to describe any video lottery machine certified under this title or as the name or any part of the name of the licensed/certified establishment or a portion thereof where a video lottery machine is located.

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distributor nor be owned, managed or controlled by such a distributor.

~~(b) Nothing in this section shall be construed to restrict a video lottery retailer, or a person owning, managing or controlling such retailer, from owning and having on the retailer's licensed premises video lottery machines certified under section 18.~~

New Sec. 16. (a) The placement of video lottery machines shall be subject to rules and regulations of the commission. Not more than five video lottery machines may be placed in any licensed establishment. *from MT*

~~(b) Only video lottery machines certified by the Kansas lottery shall be permitted on the premises of a licensed establishment.~~

~~(c) A video lottery machine may not accept more than \$2 to be played on a single game or award free games or credits in excess of the value of \$100 per credit played.~~

~~(d) The expected payback value of one credit shall be at least 80% but not more than 92% of the value of the credit determined over time as established by rules and regulations adopted by the commission.~~

~~(e) A licensed establishment shall pay in cash or by check credits less than \$600 owed to a player as shown on a valid ticket. The commission shall establish by rules and regulations procedures for the payment of credits owed with a value of \$600 or more.~~

New Sec. 17. Net video machine income shall be reported to the Kansas lottery in accordance with rules and regulations of the commission and records of such income shall be maintained in the form required by the commission. The state's share of such income shall be determined and collected in accordance with contracts and rules and regulations of the commission. Failure to report such income, falsely reporting such income, failure to maintain such records or failure to remit to the Kansas lottery the state's share of net video lottery machine income is a class D felony.

~~New Sec. 18. (a) No person shall place a video lottery machine on the premises of a video lottery retailer unless the executive director first issues a certificate for such machine. Each machine shall have the certificate prominently displayed thereon. Any machine which does not display the certificate required by this section is contraband and a public nuisance subject to confiscation by any law enforcement officer. A violation of this subsection is a class D felony.~~

~~(b) The Kansas lottery shall examine prototypes of video lottery machines and associated equipment prior to certification pursuant to this section. The Kansas lottery shall require the person seeking the~~

18.

(b) No person shall place a video lottery machine on the premises of a video lottery retailer unless the executive director first issues a certificate for such machine. Each machine shall have the certificate prominently displayed thereon. Any machine which does not display the certificate required by this section is contraband and a public nuisance subject to confiscation by any law enforcement officer. A violation of this subsection is a class D felony.

(c)

(d) A video lottery machine may not accept more than two dollars to be played on a single game or award free games of credits in excess of the value of \$500 per game.

(e) The Kansas lottery shall examine prototypes of video lottery machines and associated equipment prior to certification pursuant to this section. The Kansas lottery shall require the person seeking the examination and certification of a video lottery machine or associated equipment to pay the anticipated actual costs of the examination in advance and, after the completion of the examination, shall refund overpayments or charge and collect amounts sufficient to reimburse the Kansas lottery for underpayments of actual costs. The Kansas lottery may contract for the examination of video lottery machines and associated equipment as required by this subsection.

(f)

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~~examination and certification of a video lottery machine or associated equipment to pay the anticipated actual costs of the examination in advance and, after the completion of the examination, shall refund overpayments or charge and collect amounts sufficient to reimburse the Kansas lottery for underpayments of actual costs. The Kansas lottery may contract for the examination of video lottery machines and associated equipment as required by this subsection.~~

New Sec. 19. (a) ~~Illegal lottery devices are per se gambling devices and contraband.~~ 20.

(b) As used in this section, "illegal lottery device" means:

(1) Any device of any sort whatsoever which utilizes a cathode ray tube or video screen upon which symbols, numbers, cards, figures, facsimiles or data appear for observation by the player and which is equipped with either: (A) A cash automatic payout device; or (B) a capability, design, device or programming capable of releasing free games, credits or replays ~~and a capability, design, device~~ and/or or programming to record the free games, credits or free plays so released.

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definitive*

(2) Any video device which accepts coins or credits for the purpose of advancing the odds or benefits to the player for successful completion of the object of play, or which may award a cumulative total in excess of 15 free games or replays.

(3) Any device that awards credits and contains a circuit meter or switch capable of removing ~~and recording the removal of credits~~ and/or when the award of credits is dependent upon chance.

(c) Any law enforcement officer may confiscate ~~and immediately destroy~~ all illegal lottery devices used for illegal gambling that come to such officer's attention.

(d) Any video lottery machine or any associated equipment certified by the Kansas lottery shall not be subject to confiscation ~~and destruction~~ unless such machine or equipment is being used for unlawful gambling activities.

(e) Any law enforcement agency which seizes any illegal lottery device in accordance with this section may, ~~in lieu of the immediate destruction of the device,~~ file a petition in the district court where the device was seized seeking a judicial determination that the seized device is an illegal lottery device. The petition shall require the persons and entities from whom the device was seized and such other persons as the agency believes may have an interest in the device to appear and show cause why the seized device should not be destroyed as an illegal lottery device.

~~(f) Neither the state nor any political subdivision, agency, agent or enforcement officer thereof shall be liable civilly or criminally for~~

1 ~~the destruction of any illegal lottery device.~~

2 ~~New Sec. 20 (a) If a person has engaged or is engaging in an~~
3 ~~act or practice constituting a violation of any provision of this act,~~
4 ~~or any rule and regulation of the commission, relating to video~~
5 ~~lottery, machines or video lottery machine games or associated equip-~~
6 ~~ment, the executive director may issue a temporary order to cease~~
7 ~~and desist from the act or practice for a period not to exceed 60~~
8 ~~days and, after notice and opportunity for hearing, may:~~

9 (1) Issue a permanent order to cease and desist from the act or
10 practice. The order shall remain in effect unless amended or stricken
11 following judicial review.

12 (2) If the person holds a certificate issued pursuant to this act,
13 place the person on probation.

14 (3) If the person holds a certificate issued pursuant to this act,
15 suspend for a period not to exceed 180 days the certificate of the
16 person.

17 (4) If the person holds a certificate issued pursuant to this act,
18 revoke the certificate of the person.

19 (5) Impose an administrative penalty not to exceed \$10,000 for
20 each violation.

21 (6) Impose any combination of penalties authorized by this sub-
22 section (a).

23 (b) The commission may bring an action in district court for relief
24 from any act or practice prohibited by law or rule and regulation of
25 the commission. Upon a proper showing the court may:

26 (1) Grant a restraining order, a temporary or permanent injunc-
27 tion or other appropriate remedy.

28 (2) Suspend or revoke a certificate.

29 (3) Appoint a receiver or conservator for the defendant or for
30 the assets of the defendant.

31 (c) If a person fails to pay an administrative penalty imposed
32 under this section, the amount due shall be a lien on the person's
33 video lottery game machines, associated equipment or other assets
34 of the person, and the amount due may be recovered by the ex-
35 ~~ecutive director in a civil action.~~

36 ~~New Sec. 21. (a) There is hereby established in the state treasury~~
37 ~~the lottery tax reduction fund.~~

38 (b) Moneys in the lottery tax reduction fund shall be allocated
39 to the counties and cities of the state as follows:

40 (1) Each city where there are licensed premises on which video
41 lottery machines are located shall receive an amount proportionate
42 to that portion of the state's share of net video machine income
43 which is derived from sales of games on such machines; and

1 (2) each county where there are licensed premises which are
 2 outside the corporate limits of any city and on which video lottery
 3 machines are located shall receive an amount proportionate to that
 4 portion of the state's share of net video machine income which
 5 derived from sales of games on such machines.

6 (c) The state treasurer shall make distributions from the lottery
 7 tax reduction fund in amounts certified by the executive director in
 8 accordance with the allocation formula prescribed by subsection (b).
 9 Such distributions shall be made on March 15, June 15, September
 10 15 and December 15 of each year. The director of accounts and
 11 reports shall draw warrants on the state treasurer in favor of the
 12 several county treasurers and city treasurers on the dates and in the
 13 amounts determined under this section. Such distributions shall be
 14 paid directly by mail to the several county treasurer's and city
 15 treasurers.

16 (d) Each city or county treasurer, on receipt of moneys pursuant
 17 to this section shall deposit the entire amount in the respective city
 18 or county treasury and the tax levy of such city or county shall be
 19 reduced by an amount equivalent to the amount received from the
 20 fund.

21 New Sec. ~~22~~. (a) The board of county commissioners may, by 22.
 22 resolution, or shall, upon a petition filed in accordance with sub-
 23 section (b), submit to the registered voters of the county at the state
 24 general election in November, 1992, a proposition to prohibit video
 25 lottery machines in such county:

26 (b) A resolution to submit a proposition to the registered voters
 27 of a county pursuant to this section shall be adopted not later than
 28 90 days before the state general election in November, 1992.

29 (c) A petition to submit a proposition to the registered voters of
 30 a county pursuant to this section shall be filed with the county
 31 election officer not later than 90 days before the state general election
 32 in November, 1992. The petition shall be signed by registered voters
 33 of the county equal in number to not less than 10% of the voters
 34 of the county who voted for the office of secretary of state at the
 35 November, 1990, general election. The following shall appear on the
 36 petition:

37 "We request an election to determine whether video lottery ma-
 38 chines shall be prohibited in _____county."

39 (d) Upon the adoption of a resolution or the submission of a valid
 40 petition calling for an election pursuant to this section, the county
 41 election officer shall cause the following proposition to be placed on
 42 the ballot at the November, 1992, state general election:

43 "Shall video lottery machines be prohibited in _____

1 county.”

2 (e) If a majority of the votes cast and counted is in favor of the
3 proposition, the county election officer shall transmit a copy of the
4 results to the executive director, who shall not contract for placement
5 of video lottery machines within the county.

6 (f) The election provided for by this section shall be conducted,
7 and the votes counted and canvassed, in the manner provided by
8 law for question submitted elections of the county.

9 Sec. 23. K.S.A. 1990 Supp. 38-1602 is hereby amended to read
10 as follows: 38-1602. (a) “Juvenile” means a person 10 or more years
11 of age but less than 18 years of age.

12 (b) “Juvenile offender” means a person who does an act while a
13 juvenile which if done by an adult would constitute the commission
14 of a felony or misdemeanor as defined by K.S.A. 21-3105 and amend-
15 ments thereto or who violates the provisions of K.S.A. 41-727, K.S.A.
16 1990 Supp. 74-8719 or subsection (j) of K.S.A. ~~1989~~ 1990 Supp. 74-
17 8810, and amendments thereto, but does not include:

18 (1) A person 14 or more years of age who commits a traffic offense
19 in violation of chapter 8 of the Kansas Statutes Annotated or any
20 city ordinance or county resolution which relates to the regulation
21 of traffic on the roads, highways or streets or the operation of self-
22 propelled or nonself-propelled vehicles of any kind;

23 (2) a person 16 years of age or over who commits an offense
24 defined in chapter 32 of the Kansas Statutes Annotated;

25 (3) a person 16 years of age or over who is charged with a felony
26 or with more than one offense of which one or more is a felony
27 after having been adjudicated in two separate prior juvenile pro-
28 ceedings as having committed an act which would constitute a felony
29 if committed by an adult and the adjudications occurred prior to the
30 date of the commission of the new act charged;

31 (4) a person who has been prosecuted as an adult by reason of
32 subsection (b)(3) and whose prosecution results in conviction of a
33 crime;

34 (5) a person whose prosecution as an adult is authorized pursuant
35 to K.S.A. 38-1636 and amendments thereto; or

36 (6) a person who has been convicted of aggravated juvenile de-
37 linquency as defined by K.S.A. 21-3611 and amendments thereto.

38 (c) “Parent,” when used in relation to a juvenile or a juvenile
39 offender, includes a guardian, conservator and every person who is
40 by law liable to maintain, care for or support the juvenile.

41 (d) “Law enforcement officer” means any person who by virtue
42 of that person’s office or public employment is vested by law with
43 a duty to maintain public order or to make arrests for crimes, whether

1 that duty extends to all crimes or is limited to specific crimes.

2 (e) "Youth residential facility" means any home, foster home or
3 structure which provides twenty-four-hour-a-day care for juveniles
4 and which is licensed pursuant to article 5 of chapter 65 of the
5 Kansas Statutes Annotated.

6 (f) "Juvenile detention facility" means any secure public or private
7 facility which is used for the lawful custody of accused or adjudicated
8 juvenile offenders and which, if in a city or county jail, must be in
9 quarters separate from adult prisoners.

10 (g) "State youth center" means a facility operated by the secretary
for juvenile offenders.

11 (h) "Warrant" means a written order by a judge of the court
13 directed to any law enforcement officer commanding the officer to
14 take into custody the juvenile named or described therein.

15 (i) "Secretary" means the secretary of social and rehabilitation
16 services.

17 Sec. 24. K.S.A. 1990 Supp. 38-1602, 74-8701, 74-8702, 74-8704,
18 74-8706, 74-8708, 74-8710, 74-8711, 74-8712, 74-8717, 74-8718, 74-
19 8719, 74-8720, 74-8720a and 74-8721 are hereby repealed.

20 Sec. 25. This act shall take effect and be in force from and after
21 its publication in the statute book.

To: Federal and State Affairs Committee
From: Gene Miller and Carlton Van Gorder
Games West
Concordia, Kansas
Re: Senate Bill 449

Games West is a manufacturer and distributor of electronic games. The company recently expanded its Tucson, Arizona plant to Concordia, Kansas where we occupy a 6000 square foot facility. Operations in Concordia will consist of manufacturing and distribution in the states in this region, many of which are considering similar legislation. We know from a great deal of experience that video lottery has excellent potential for increased revenues to the state of Kansas.

We are concerned that the manufacturer may be omitted from being a "video lottery machine distributor" as defined in Section 2 (r) of Senate Bill 449. There is not a valid reason why the manufacturer should be prohibited from doing so. This legislation should contain verbage that would allow the manufacturer to be a video lottery machine distributor and prohibit discrimination against such firms.

Games West has the the technical expertise and replacement parts necessary to keep the equipment functional and therefore realize the maximum profit for the state of Kansas and the entrepreneur.

We as Kansans must also be sure that any entity that has had a license in this business revoked or denied in another state or country be denied license in our state. This should be added to Senate Bill No. 449.

Games West meets all of the requirements of the United States Department of Justice and is registered with this agency.

We appreciate the opportunity to contribute to this legislation and look forward to conducting business in Kansas.

Senate F&SA
4-23-91
Att. 2

LIKELY VIDEO WAGERING TAX REVENUES IN KANSAS
SUMMARY STATEMENT

by
William T. Terrell
Wichita State University
April 23, 1991

1. Video games are complementary, not competitive, with other gambling opportunities now legal in the state. Video games are distinctly different from lottery and the points of sale for these two alternatives are substantially mutually exclusive. Any net effects of consumer switching between the two, and the direction of the transfer of patronage, is thought to be minimal.

2. Kansas projections are based on applying a scale factor to the number of terminals in the South Dakota video experience. The scale factor is based on population comparisons, which is the most conservative criterion among several that are relevant (see attachment of area comparisons). Other characteristics are held to be the same in both states: 90% prize payoff per game, about 4 terminals per retail establishment, market saturation at about 1 terminal per 120-125 residents, and 3-4 games played from credits won after cash deposit for a cash prize payout of 63% of total cash paid in, weekly net machine income of \$400 to \$500 per terminal, and a weekly per capita population net machine income of \$3 to \$4 at maximum.

3. Kansas projections (attachment on state revenues) involve applying the scale factor (3.5597) to the number of terminals and the net machine incomes in South Dakota. The latter is multiplied by .26 to determine the Kansas state share. No allowances

Senate F&SA
4-23-91
Att. 3

are made for population growth and increases in personal income. For example, based on the South Dakota experience, Kansas could expect about \$41.5 million in state revenues for fiscal 1992 if video wagering begins mid-October, 1991. For the third 12-month period after commencing video games, the state can expect a maximum and stable revenue of \$117.2 million.

4. A similar procedure is applied to a 15-county sub-state region (counties identified on attached area comparison table and shaded on attached map of Kansas counties). The state estimates are multiplied by the population scale factor of .65. This is the smallest factor in the area comparisons table. The 15 counties are not the largest 15 counties in terms of population, but this group does include the top 10. Assuming negligible travel to these counties for the purpose of video game playing, restricting said games to these 15 counties would yield revenues at 65 per cent of those accruing to the state if the games were legal in all 105 counties. For example (see revenue attachment for 15-county region), the fiscal 1992 expectation is about \$27 million in state receipts. Projected state receipts for the third year of video games is \$76.2 million.

STATE AND SUB-STATE AREA COMPARISONS

STATE	1990 POPULATION	1988 PERSONAL INCOME (\$1,000)	1988 TOTAL EMPLOYMENT	1988 WAGE & SALARY EMPLOYMENT
KANSAS	2,477,574	39,320,369	1,426,459	1,139,961
SOUTH DAKOTA	696,004	9,094,529	382,354	286,575
KANSAS/SOUTH DAKOTA	3.5597	4.3235	3.7307	3.9779
15 KANSAS COUNTIES 1/	1,602,560	26,485,000	NA	813,200
KANSAS STATE	2,477,574	39,320,369	1,426,459	1,139,961
COUNTIES/STATE	.6468	.6736		.7134

1/
 SEDGWICK
 JOHNSON
 SHAWNEE
 WYANDOTTE
 DOUGLAS
 GEARY
 RENO
 SALINE
 RILEY
 LEAVENWORTH
 FINNEY
 CRAWFORD
 FORD
 BUTLER
 SEWARD

VIDEO GAME REVENUES: SOUTH DAKOTA AND KANSAS MULTIPLE OF SOUTH DAKOTA

SOUTH DAKOTA FISCAL YEARS

Fiscal Year Ending June 30	Weeks Since Inception	Ending Number of Terminals	Fiscal Year Net Machine Income (\$)	Fiscal Year State Share (\$)
1990	37	3750	44,873,875	10,096,622
1991	89	5600	107,684,338	24,873,524

SOUTH DAKOTA TWELVE-MONTH YEARS

Twelve Month Year	Weeks Since Inception	Ending Number of Terminals	Total Net Machine Income (\$)	Total State Share (\$)
First	52	4567	72,415,068	16,293,390
Second	104	5800	116,278,895	27,710,694
Third	156	5800	126,672,000	31,668,000

KANSAS MULTIPLE (3.5597) OF SOUTH DAKOTA FISCAL YEARS

Fiscal Year Ending June 30	Weeks Since Inception	Ending Number of Terminals	Fiscal Year Net Machine Income (\$)	Fiscal Year State Share (\$)
1992	37	13,349	159,737,533	41,531,759
1993	89	19,934	383,323,938	99,664,224

KANSAS MULTIPLE (3.5597) OF SOUTH DAKOTA TWELVE-MONTH YEARS

Twelve Month Year	Weeks Since Inception	Ending Number of Terminals	Total Net Machine Income (\$)	Total State Share (\$)
First	52	16,257	257,775,918	67,021,739
Second	104	20,646	413,917,983	107,618,675
Third	156	20,646	450,914,318	117,237,723

VIDEO GAME REVENUES: 15-COUNTY REGION OF KANSAS

KANSAS MULTIPLE (3.5597) OF SOUTH DAKOTA FISCAL YEARS

Fiscal Year Ending June 30	Weeks Since Inception	Ending Number of Terminals	Fiscal Year Net Machine Income (\$)	Fiscal Year State Share (\$)
1992	37	13,349	159,737,533	41,531,759
1993	89	19,934	383,323,938	99,664,224

KANSAS MULTIPLE (3.5597) OF SOUTH DAKOTA TWELVE-MONTH YEARS

Twelve Month Year	Weeks Since Inception	Ending Number of Terminals	Total Net Machine Income (\$)	Total State Share (\$)
First	52	16,257	257,775,918	67,021,739
Second	104	20,646	413,917,983	107,618,675
Third	156	20,646	450,914,318	117,237,723

15 COUNTY MULTIPLE OF KANSAS (.65) FISCAL YEARS

Fiscal Year Ending June 30	Weeks Since Inception	Ending Number of Terminals	Fiscal Year Net Machine Income (\$)	Fiscal Year State Share (\$)
1992	37	8,677	103,829,396	26,995,643
1993	89	12,957	249,160,560	64,781,746

15 COUNTY MULTIPLE (.65) OF KANSAS TWELVE-MONTH YEARS

Twelve Month Year	Weeks Since Inception	Ending Number of Terminals	Total Net Machine Income (\$)	Total State Share (\$)
First	52	10,567	167,554,346	43,564,130
Second	104	13,420	269,046,689	69,952,139
Third	156	13,420	293,094,307	76,204,520

TESTIMONY ON SB 449

by

STAN CHILTON, WICHITA, KANSAS

April 23, 1991

Mr. Chairman, Honorable Committee Members, my name is Stan Chilton. I have owned Chilton Vending Company in Wichita, Kansas for over 45 years furnishing coin-operated amusement machines and juke boxes to central and northeast Kansas businesses.

I would like to speak in favor of Senate Bill 449.

Video Lottery Terminals (VLT's) are a voluntary method offering a better alternative to raising taxes for states to generate large sums of money. Over the past several years I have known about Montana's Video Lottery Terminal (VLT) operation. In the last 15 months I have closely followed South Dakota's phenomenal results with VLT's. South Dakota's state share of VLT income the first week of April two weeks ago, was \$610,000, a rate of over \$31 million per year, and South Dakota has less than 1/3 the population of Kansas.

There are no skeletons in the VLT closet. Montana and South Dakota officials are enthusiastic about the success of their VLT programs. The VLT's do earn the dollar amounts reported and have presented no problems for the state while doing it. Written statements by Montana county commissioners, Mayor of Missoula, sheriff and police chief report no problems and no increase in crime. In fact the Missoula Chief of Police has been able to

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purchase additional police equipment with funds distributed by the state from VLT earnings.

On a direct per capita comparison with South Dakota, Kansas could expect \$64 million state's share for the first 12 months operation of VLT's. Over \$100 million could be expected in the second 12 month period with a further increase in the third year.

VLT's are fun to play as well as a chance to win cash. This is one reason VLT's earnings are constantly and consistently increasing. VLT's are a natural evolution of video amusement machines such as Pac Man, etc. Players feel comfortable playing them and are already acquainted with amusement video games such as the Nintendo home system. But players also like to play VLT's because they can have an effect on the outcome of the game. In the poker mode, a player may hold some cards, discard others, and draw new cards.

VLT's are not a slot machine. There are no odds to increase with successive games, no direct cash pay out and no huge or progressional jackpots. There is a limit of 8 quarters per game with a maximum win of \$500 per game.

There is no cost to the state for placement of VLT's. Private sector operators purchase the machines and place them in alcoholic sale and consumption businesses. (Generally, clubs, taverns, some restaurants). There is zero advertising for the VLT program. VLT's are not ever seen by the general public unless they go to clubs, taverns, etc.

There are presently 6 to 7,000 video poker machines similar

to VLT's in Kansas. 300 were confiscated in Wyandotte County by the FBI and Kansas ABC last week. These poker machines are called "gray area" machines, not illegal to operate for strictly amusement only, but illegal under Kansas gambling laws if winnings are paid out in cash. It is very difficult and time consuming for law enforcement officers to catch a pay-out in the act for a successful arrest.

In addition, the state is receiving no income, probably not even sales tax from these 6 to 7000 machines. Note, South Dakota is receiving \$610,000 per week, \$31 million per year from 5274 machines right now.

Part of SB 449 provides that these gray area machines are illegal on sight. Merchants presently depending on gray area machine income may substitute them with legal VLT income that may amount to more income because under SB 449 they may have up to 5 machines.

VLT's are strictly controlled and audited by the state. Each machine is hooked up to a central computer in Lottery headquarters by phone line and reports each day's total amount played, total amount won, much other audit data including if the machine was opened for service or otherwise. The state's share of the VLT earnings is collected every other week by the states computer, electronically sweeping the special set up bank trust accounts.

Many states are considering VLT operation. Missouri may begin their VLT operation by July 1st of this year, the Missouri

Lottery already having sufficient authorization to do so without a new bill being necessary. It would benefit Kansas to have a VLT operation before rather than after surrounding states. Other states with VLT bills written and under consideration are Wyoming, Texas, Oregon, West Virginia, Pennsylvania, Vermont, Wisconsin and Illinois.

State VLT income under SB 449 is directed squarely to property tax relief. Passage of SB 449 would assure \$60 million the first year and over \$100 million the second year for property tax relief, no matter what other legislative bills are passed or not passed.

I ask your support for SB 449.

Thank you Mr. Chairman and Honorable Committee Members.

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