

Approved: February 2, 1995
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on January 25, 1995 in Room 526-S of the Capitol.

All members were present except: Representative Douglass Lawrence, Absent
Representative Don Smith, Excused

Committee staff present: Mary Galligan, Legislative Research Department
Lynne Holt, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
June Evans, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

The Chairperson introduced members of the Racing Commission that were in attendance: Frances Snell, Deputy Directory, Terry Hamblin, General Counsel, and Dave Johnson, Director of Security.

Lynne Holt, Legislative Research Department, gave an overview and briefing of the parimutuel area of the Racing Commission. This was updated from July 16, 1993. Article 15, Section 3b of the Kansas Constitution authorizes the Legislature to permit, regulate, license, and tax the operation or conduct of parimutuel wagering on horse or dog races by non-profit organizations in counties that approved the constitutional provision. Off-track wagering is expressly prohibited.

Regulation means to control or direct conduct by rule or law; one method of achieving this objective is through licensure by which the state controls the location, amount, and conduct of gambling. Promotion means to encourage the existence and expansion of a given activity; this could include advertising the marketing, provision of technical assistance, and subsidies; enforcement means to compel obedience to laws and to impose a course of action (sanctions) to ensure compliance with laws; and collection of taxes and revenue means, in this context, the mechanisms used by agencies with statutory oversight to obtain revenues due to the state. (See Attachment #1)

Mary Galligan, Legislative Research Department, gave an overview and briefing of the Racing Commission. The area covered was the racing and parimutuel finances which covered the total flow of money from the point of making wagers from the people who attend races to the State Gaming Revenue Fund. The Racing Commission estimates that \$236M (the handle) will be wagered in FY 96 (the fiscal year that starts this coming July). That is the handle from both live and simulcast racing at three major tracks that will be operating by that time, the Woodlands, Wichita and Frontenac. By statute 78 to 82% of that handle goes to people that places winning bets. A minimum of 6% is awarded to purses for horse races and a minimum of 4% is awarded to purses for dog races. The balance of the handle goes out to non-profit organization licensees which is 18 to 22%. That licensee uses its share of the handle to pay management fees to the facility owner manager, other business expenses, parimutuel tax which is 3 to 5% and make distribution to charitable organizations. Those distributions, according to the Racing Commission's 1993 Annual Report was about \$933,000. Race attendees also pay admissions, parking and concessions and those amounts stay with the manager with the exception of a 10% tax that is collected on admission charges to tracks. That tax goes to the Racing Commission and that pays the program expenses and then is transferred to the State Gaming Fund. (See Attachment #2) The following attachments were provided by Legislative Research Staff: Parimutuel Wagering Terminology (See Attachment #3) and Economic Development Initiatives Fund (See Attachment #4)

It was asked of the Racing Commission how many positions would be lost if the Woodlands would close?

The Racing Commission stated the Woodlands would lose ten positions. There are 40 1/2 positions overall.

The Chairperson announced the Monday, January 30 meeting would be in Room 313-S as a large crowd is expected and Tuesday, January 31 meeting would be a joint Senate/House meeting in Room 313-S at 12 noon.

The meeting adjourned at 3:05 p.m. The next meeting will be January 26, 1995.

MEMORANDUM

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July 16, 1993
Updated January 17, 1995

To: Senate Committee on Federal and State Affairs
From: Mary Galligan and Lynne Holt, Principal Analysts
Re: Gaming Functions in Kansas and Other States

This memorandum examines the overall structure of state gaming oversight in Kansas and in other states. To that end, this memorandum is divided into three parts.

Part I provides a framework for analyzing the functions assigned by statute to Kansas state agencies responsible for some or all aspects of state regulated gaming activities. Four types of gambling are legal in Kansas: lottery, bingo, parimutuel, and Indian gaming. Assigned agency functions encompass the following: regulation (includes licensure), promotion, enforcement, and tax/revenue collection. The state has primary statutory responsibility for these functions with respect to each of the four gaming activities under review.

Part II is an outline of gambling oversight in selected other states.

Part III identifies several issues for Committee consideration as it reviews agency oversight responsibilities.

PART I

WHAT GAMBLING IS ALLOWED IN KANSAS?

Article 15 §3 of the *Kansas Constitution* prohibits lotteries and the sale of lottery tickets. However, the *Constitution* contains three specific exceptions to that general prohibition.

- §3a authorizes the Legislature to regulate, license and tax bingo operated or conducted by non-profit religious, charitable, fraternal, educational and veterans organizations.

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- §3b authorizes the Legislature to permit, regulate, license, and tax the operation or conduct of parimutuel wagering on horse or dog races by non-profit organizations in counties that approved the constitutional provision. Off-track wagering is expressly prohibited.
- §3c authorizes the Legislature to provide for a state owned and operated lottery and requires the state to provide public information on the odds of winning lottery game prizes.

Thus, the *Kansas Constitution* places specific limitations on those types of gambling the Legislature may authorize. Since the constitutional provisions are not self-executing, Kansas statutes form an integral part of state policy regarding gambling that may be legally conducted in the state. Those constitutional provisions are implemented by the Kansas Lottery Act (K.S.A. 74-8701 *et seq.*); the Parimutuel Racing Act (K.S.A. 74-8801 *et seq.*), and Bingo statutes (K.S.A. 79-4701 *et seq.*).¹ In addition to statutes specifically governing lottery, parimutuel, and bingo operations, there are criminal statutes (K.S.A. 21-2302 *et seq.*) that essentially prohibit any type of gambling not expressly permitted in those enabling statutes.

The only state law governing Indian gaming is 1993 Senate Sub. for House Sub. for H.B. 2023 (K.S.A. 46-2301, *et seq.*), which authorizes a procedure for negotiation and legislative approval of tribal-state gambling compacts pursuant to the federal Indian Gaming Regulatory Act (IGRA; 25 U.S.C. 2701, *et seq.*).

WHAT IS THE STATE'S ROLE WITH RESPECT TO GAMBLING IN KANSAS?

In this section, we identify four functions of the state in regard to legal gambling: regulation, promotion, enforcement, and collection of taxes and other revenue. The latter function could arguably be applied to realizing the objectives of any of the first three functions. The four functions are defined for purposes of this memorandum as follows:

¹ There has been debate about the constitutionality of instant bingo authorized by 1993 S.B. 181 (effective July 1, 1993). An Attorney General Opinion (87-171) concluded that the term "bingo," as used in the *Constitution*, could not be defined by the Legislature to include pull tabs (instant bingo) without a constitutional amendment to authorize such games.

In a letter dated June 7, 1993, the Office of the Attorney General declined to approve instant bingo regulations submitted by the Department of Revenue. The reason cited for the refusal was the 1987 opinion and the Attorney General's position that in light of that opinion, "it would be inappropriate to approve regulations that implement what we consider to be an unconstitutional bill."

The Attorney General filed suit on July 1, 1993 to prevent implementation of the new law. The Shawnee County district court found the instant bingo provisions constitutional. The case was appealed to the State Supreme Court, which issued a contrary opinion December 22, 1994. Subsequently, the intervenor in the case filed a motion for rehearing and modification. A ruling on that motion is pending.

1. regulation means to control or direct conduct by rule or law; one method of achieving this objective is through licensure by which the state controls the location, amount, and conduct of gambling;
2. promotion means to encourage the existence and expansion of a given activity; this could include advertising and marketing, provision of technical assistance, and subsidies;
3. enforcement means to compel obedience to laws and to impose a course of action (sanctions) to ensure compliance with laws; and
4. collection of taxes and revenue means, in this context, the mechanisms used by agencies with statutory oversight to obtain revenues due to the state.

HOW ARE STATE OVERSIGHT AGENCIES ORGANIZED?

Three state agencies are authorized by statute to exercise primary oversight of legal gambling activities: the Lottery, the Racing Commission, and the Department of Revenue. Other state agencies, most prominently the Kansas Bureau of Investigation (KBI), also exercise some oversight authority, and references to such agencies are made, as is applicable. A brief description of the respective organizational structures of the Department of Revenue (in its capacity as regulator of bingo games), the Lottery, and the Racing Commission should set the stage for a more detailed discussion of state agency responsibilities for the functions of regulation/licensure, promotion, enforcement, and tax/revenue collection.

The state has not yet entered into any tribal-state gambling compacts² and no state agency has been identified to implement the state's responsibilities under any compact that might be approved. References will be made in this discussion to state responsibilities identified in those compacts that have been presented to the Legislature pursuant to K.S.A. 46-2301, *et seq.*

It should be noted that each agency assigned a role in regard to gambling is structured in a different way which may, or may not, be effective or appropriate for regulating gambling activities under its jurisdiction. No attempt is made in this memorandum to draw any conclusions concerning the effectiveness or appropriateness of existing regulatory structure. The intent is to illustrate similarities and differences of state agencies with respect to their statutory oversight of gambling activities, and to provide a viable framework for consideration of those approaches.

² Proposed gaming compacts between Kansas and all four Native American nations with reservations in Kansas were submitted to, but not approved by, the 1993 and 1994 Legislatures. Consideration of those proposed compacts was in accordance with K.S.A. 46-2301, *et seq.*

A. Department of Revenue

The Secretary of Revenue is required to adopt and enforce rules and regulations to regulate, license, and tax the management, operation, and conduct of bingo games and participants in those games, and to properly administer and enforce bingo laws. Also, the Secretary must adopt rules and regulations relating to leasing premises for the management, operation and conduct of bingo games (K.S.A. 79-4708).

The Department of Revenue licenses and collects bingo taxes through its Business Tax Bureau and enforces the bingo statutes through the Division of Alcoholic Beverage Control. In its enforcement capacity, the Division audits and inspects bingo licensees. Revenue field representatives perform unscheduled on-site inspections to ensure compliance with statutory and regulatory requirements and to ensure that the proper amount of tax revenue is remitted to the state. In contrast to the Lottery and the Racing Commission, the Department of Revenue has many other regulatory responsibilities in addition to those associated with bingo.

B. The Lottery

The state is the only entity constitutionally authorized to own and operate a lottery other than bingo and parimutuel wagering on horse and dog racing.³ The Legislature established a free-standing agency, the Kansas Lottery, to administer and conduct lottery games (K.S.A. 74-8703). Since the Lottery is state owned and operated, there is no licensure function, as there is with bingo.

The Executive Director of the Lottery is appointed by the Governor and confirmed by the Senate (K.S.A. 74-8703(a)). That position must administer the Lottery in accordance with statute and must be financially accountable to the Governor, Legislature, the State Treasurer and the Kansas Lottery Commission (K.S.A. 74-8706(b)).⁴

The Commission is composed of five members appointed by the Governor to serve four-year terms. Appointments of members are subject to Senate confirmation. The Commission's oversight is largely confined to the internal operations of the Lottery. It does not regulate retail activities. The Commission has an advisory role with respect to the Lottery's operations and policies (K.S.A. 74-8709(d)); however, it must approve the Lottery's proposed annual budget and all major procurements recommended by the Executive Director (K.S.A. 74-8909(d) through (f)).

³ Since passage of the lottery amendment to the *Constitution*, the precise meaning of the term lottery in the *Kansas Constitution* has been a matter of debate. That debate became more heated with emergence of tribal gaming and related questions about the scope of gambling permitted in Kansas. In accordance with 1993 S.R. 1844, the Attorney General filed a petition for writ of *mandamus* and *quo warranto* seeking an interpretation of the constitutional provision. The Supreme Court's opinion issued January 27, 1994 stated that "Lottery," as used in the *Kansas Constitution*, means any game involving the three elements of chance, consideration, and prize (*State, ex rel. Stephen v. Finney*, 254 Kan. 632 (1994)).

⁴ Financial accountability is clearly the objective of K.S.A. 74-8707, which requires the accounts and transactions of the Kansas Lottery and Commission to be subject to an annual financial-compliance audit, to be performed under the direction of the Legislative Post Audit Committee.

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The Executive Director selects and contracts with retailers who must meet qualifications enumerated in statute (K.S.A. 74-8708(g) and (h)). Those retailers are the only entities from which lottery tickets can be purchased (K.S.A. 74-8718(a)(2)). There is nothing in statute to preclude such retailers from being bingo licensees or licensees of the Racing Commission or Alcoholic Beverage Control.

The Lottery is authorized to adopt rules and regulations; however, temporary rules and regulations are not subject to the state's statutory rule and regulation oversight process established in K.S.A. 77-415 *et seq.* Rules and regulations may include specified information about the implementation of lottery games and the awarding of prizes (K.S.A. 74-8710(a) through (j)).

A significant difference between the bingo and lottery statutes is that the former are much more prescriptive about the treatment of prizes, operation of games, and the nature of premises for games than are the latter. Many specifics regarding implementation of bingo games are set forth in statute, whereas lottery statutes leave specifics of games to be articulated in rules and regulations (which in this case, are less regulatory than descriptive as to which games will be conducted). The disparate treatment might be attributed to the fact that bingo is conducted by third parties regulated by the Secretary of Revenue, while the Lottery is conducted by the state. As was previously noted, the Lottery is not a licensing agency and conditions on third-party actions are primarily included in contracts. To some extent, differences in the games themselves (essential elements of call and instant bingo are defined in statute, whereas lottery games may take several forms) may account for the dissimilar treatment in statute.

C. The Racing Commission

The Kansas Racing Commission exercises regulatory and enforcement responsibilities over licensees that conduct horse or greyhound races. The Commission is composed of five members appointed by the Governor for three-year terms and confirmed by the Senate. Statutory authority granted the Racing Commission includes more direct policy-making authority than is provided the Lottery Commission (compare 74-8804 to K.S.A. 74-8709(d)). The Executive Director of the Racing Commission, for example, is appointed by the Commission while the Executive Director of the Lottery is appointed by the Governor (this appointment authority was given to the Racing Commission in 1990, three years after initial passage of the Act). Much of the Racing Commission's Executive Director's statutory authority relates to personnel matters (K.S.A. 74-8805). In contrast, the Executive Director of the Lottery appears to have considerable independent administrative and contractual power beyond the scope of personnel matters (K.S.A. 74-8704). The differences between the statutory powers of the Executive Director positions in these agencies represent two different policy approaches on the part of the Legislature. The authority provided to the Racing Commission by Kansas law is very similar to that found in other states' racing statutes. (See the enforcement section for further comparisons.)

The Racing Commission is required to adopt rules and regulations, as necessary, to implement and enforce the parimutuel laws (K.S.A. 74-8804(q)). The Racing Commission assigns much of its procedure for implementation of those laws to rules and regulations.

HOW ARE GAMBLING ACTIVITIES REGULATED, PROMOTED, ENFORCED, AND TAXED IN KANSAS?

A. Regulation/Licensure

1. **Bingo.** The state has exclusive authority to “regulate, license, and tax the management, operation, and conduct of and participation in games of bingo” (K.S.A. 79-4702). Such regulatory authority manifests itself in the statutes in several ways. Kansas’ bingo statutes specifically define those nonprofit organizations enumerated in the *Constitution* as exclusively eligible to conduct bingo games (K.S.A. 79-4701). Those include religious, charitable, fraternal, educational, or veterans’ organizations, all of which must be nonprofit and tax exempt. Any such organization that wants to conduct bingo games must be licensed by the Secretary of Revenue.

Statutes regulate a number of aspects of the conduct of bingo games:

- a. grounds for not issuing bingo licenses to organizations (criminal offenses on the part of officers, directors, officials, or certain employees; K.S.A. 79-4703);
- b. conditions under which persons may be involved in the management, operation, or conduct of bingo games (K.S.A. 79-4706), or in bingo card distribution (K.S.A. 79-4712);
- c. conditions for authorized use of the licensee premises for bingo games and for conduct of such games (K.S.A. 79-4706; K.A.R. 92-23-11 through 14);
- d. conditions under which moneys must be deposited, records must be kept, tickets or cards (call and instant bingo) may be sold or purchased by the licensee, and prizes may be awarded (K.S.A. 79-4706; K.S.A. 79-4712; K.A.R. 92-23-15 and 16; K.A.R. 92-23-10; K.A.R. 92-23-38); and
- e. conditions under which bingo games may be promoted and advertised (K.S.A. 79-4706).

The 1993 Legislature enacted S.B. 181 (1993 L. Ch. 155), which expanded the type of bingo games authorized under statute, to include instant bingo (commonly known as “pull tabs”). Instant bingo can only be conducted by entities licensed to conduct call bingo. (Bingo authorized prior to enactment of S.B. 181 is now classified as “call bingo” to distinguish it from instant bingo.) The original authorization for instant bingo was for one year -- until July 1, 1994. The 1994 Legislature removed the expiration language from the statute (L. 1994 Ch. 53). Instant bingo must be conducted by call bingo licensees during sessions of call bingo. Most of the statutory regulation is the same for both types of bingo. Despite the challenge of the constitutionality of those instant bingo provisions, bingo licensees have conducted instant bingo since the law became effective.

2. **Lottery.** The Lottery does not regulate games under its jurisdiction -- it conducts those games. Although the agency does not license retailers, the Executive Director is authorized to contract with persons to sell lottery tickets or shares (K.S.A. 74-8704(a)(4)).

One quasi-regulatory function statutorily assigned to the Lottery is that of ensuring that employees, contractors, and vendors do not have criminal connections or backgrounds. The Executive Director of the Lottery is authorized to submit fingerprints of certain employees and other persons in sensitive positions to the KBI or FBI for purposes of verifying the identity of such persons and obtaining criminal records (K.S.A. 74-8704(a)(9)). In FY 1994 the KBI conducted 49 criminal record checks for the Lottery (KBI letter to Legislative Division of Post Audit, October 26, 1994). The KBI conducted 40 criminal history record checks for the Lottery in FY 1992, reduced from 545 in FY 1991 and 1,651 in FY 1990 (Post Audit Report, April 1993, p. 8).⁵ The KBI, Secretary of Revenue, the Securities Commissioner, and the Attorney General may be contacted by the Executive Director to assist in background investigations of any person having a beneficial interest in a vendor (K.S.A. 74-8705(c)). For CY 1987-92, the KBI conducted 438 background checks for the Lottery (Post Audit Report, April 1993, p.7).

3. **Parimutuel Wagering.** Unlike the Lottery, the Racing Commission has a licensing function. Only nonprofit organizations (not-for-profit corporations or county fair associations) may conduct races with parimutuel wagering (*Kansas Constitution*, Art. 15 §3b and K.S.A. 74-8802(s) and 74-8813). These organizations must be licensed by the Commission. Prescribed in statute are the qualifications for licensure of not-for-profit corporations (K.S.A. 74-8813(c)), as well as application procedures (K.S.A. 74-8813(a) through (b); K.A.R. 112-3-1, 112-3-7, 112-3-9 through 14, and 112-3-16), and conditions upon which a decision may be made to grant a license to an organization (K.S.A. 74-8813(f)). Application and licensure procedures for fair associations and horsemen's nonprofit organizations are set forth in K.S.A. 74-8814. The Commission is required to review organization licenses at least once a year to determine compliance with the law (K.S.A. 74-8813(i); K.A.R. 112-3-15), and must approve all contracts and agreements (including modifications thereto) of licensees that involve prospective licensee employees, suppliers of goods and services, facility leases, and the operation of any concessions within or adjacent to racetrack facilities (K.S.A. 74-8813(n)).

In addition to nonprofit organizations, facility owners and managers must be licensed by the Commission (K.S.A. 74-8815). A facility owner may be a person, partnership, corporation, association, or governmental unit licensed to construct or own a racetrack facility. A facility manager may be any person, partnership, corporation, or association licensed to manage a racetrack facility. Conditions a facility owner or manager must satisfy in order to be granted a license are enumerated in statutes (K.S.A. 74-8815(e) through (g)), as are application requirements (K.S.A. 74-8815 (c) through (d)). Application procedures are established in Commission rules and regulations (owners: K.A.R. 112-3-3 through 4, 112-3-8 through 10, 112-3-13; managers: K.A.R. 112-3-5 through 6, 112-3-8, 112-3-12). As with organization licenses, facility owner and manager licenses must be reviewed at least once a year for compliance with the law (K.S.A. 74-8815(h)).

The Commission is also responsible for granting occupation licenses and concessionaire licenses. Any owner of horses or greyhounds and any person who works at a racetrack must have an occupation license (K.S.A. 74-8816; K.A.R. 112-4-1). Any business not owned and operated by the organization licensee that sells goods at the racetrack must have a concessionaire license (K.S.A. 74-8817). Commission regulations are very expansive on, and specific with respect to, qualifications and responsibili-

⁵ The reduction in numbers over the years could be attributed to the fact that the Lottery increased its reliance on the Automated Statewide Telecommunications and Records Access Network (ASTRA) provided by the FBI, instead of obtaining that information from the KBI. The KBI audited the Lottery's use of ASTRA in January 1993, and determined that it was an improper use of the network. The Lottery indicated that it would request such record checks from the KBI in the future (Post Audit Report, April 1993, p. 9).

ties of certain occupation licensees (jockey, apprentice jockey, jockey agent, program trainer, starter, paddock judges, patrol judges, placing judges and timers, clerk of scales, racing secretary, identifier, kennel master, director of racing, lure operator, and racing secretary, mutuel manager, and animal health officers).

The Commission's regulatory oversight includes employment and oversight of stewards (horse racing) and racing judges (greyhound racing) who must have occupation licenses and who must pass examinations prepared by the Commission. For each race the Commission is required to appoint three individuals to serve in that capacity. Such individuals are unclassified employees of the Commission (K.S.A. 74-8818). Responsibilities of stewards and racing judges are outlined in regulations (K.A.R. 112-5-2 and 112-6-2, respectively).

Organization licensees, together with facility owner licensees (if the racetrack is owned by the latter), must obtain a simulcasting license from the Commission in order to display simulcast horse and greyhound races and to conduct intertrack parimutuel wagering thereon (K.S.A. 74-8836(a)).

The Commission also must review and approve proposed construction and major renovation to racetrack facilities and all contracts with racetracks or businesses involved in simulcasting races to racetrack facilities in Kansas (K.S.A. 74-8813(g)-(h)).

Moreover, the Commission must allocate race dates, approve facilities used for races (K.S.A. 74-8804(e), K.S.A. 74-8819(a)), the form of wagering (K.S.A. 74-8819(b), K.A.R. 112-9-3), and the minimum purse to be paid out in stakes races during each race meeting (K.S.A. 74-8820(a)). The treatment of parimutuel pools and races is prescribed in detail in regulations (K.A.R. 112-9-9 through 23).

Conflict of interest provisions prohibit officers, directors, or members of an organization licensee (other than a fair association or horseman's association) from having a direct or indirect financial interest in a racetrack facility or a host facility for a simulcast race during or five years after that person's term expires (K.S.A. 74-8810(a)).

Licensees of the Racing Commission also are prohibited from recruiting persons under 18 years old to promote parimutuel wagering (K.S.A. 74-8839).

4. **Indian Gaming.** State/tribal gaming compacts submitted to the 1993 and 1994 Legislatures clearly designate tribal gaming agencies as the authorized licensing and regulatory body for Class III⁶ gaming on tribal lands. A state gaming agency (to be designated by the state) would exercise regulatory oversight of the proposed gaming activities to the extent that the agency, in conjunction with the KBI, would have a monitoring and enforcement role (see enforcement section). The state gaming agency also would have to concur with proposed gaming rules and with the Tribal Gaming Agency on proposed supervisory staffing.

⁶ The federal Indian Gaming Regulatory Act defines three classes of gambling that may be conducted on Indian lands. Class I gaming includes social or traditional games played in connection with tribal ceremonies or celebrations. Class I gaming is regulated exclusively by tribes under IGRA. Class II gaming includes bingo and, if played at the same location as bingo, pull tabs, punch boards, tip jars, and instant bingo. In addition, Class II games include card games authorized by state law or not explicitly prohibited by state law and played at any location in the state. Class II gaming specifically does not include banking card games or electronic or electromechanical facsimiles of any game of chance or slot machine. Class III gaming is defined to include all other type of gaming. Class III gaming can only be conducted in states that allow such gaming pursuant to a state tribal compact that has been approved by the Secretary of Interior.

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Finally, the state gaming agency would receive reports and proposed management contracts from the Tribal Gaming Agency.

The issue of delegation of the state's role under a state/tribal compact to regulate Class III gaming was addressed in *State of Kansas, ex rel. Stephan v. Finney* (251 Kan. 559 (1992)). The original compact between the Governor and the Kickapoo nation that was the subject of that lawsuit, provided for state responsibilities to be conducted by the Kansas Lottery. The Court's opinion took issue with this proposed *modus operandi* because the Lottery's statutes do not authorize those powers, nor was the Lottery authorized to adopt rules and regulations to implement this new function. The Court held that a state agency's power to adopt rules and regulations is a delegation of legislative authority and that creation of a state agency is a legislative function. Although the Court's decision raises questions about the legality of a state gaming agency established by the Executive Branch rather than the Legislature, it does not, with the possible exception of dissemination of information from the KBI, take a position on the appropriate duties of such an agency. With respect to the KBI, the Court decision notes that existing law does not authorize release of information by the KBI to the tribe or Tribal Gaming Agency as would have been required under all versions of proposed compacts presented to date.

B. Promotion

1. **Bingo.** The state does not directly promote bingo games, except to the extent that permitting those games can be interpreted to be promotion. Promotion by licensees and operators is restricted to some extent by statute (see section on regulation/licensure above).

2. **Lottery.** Promotion is clearly a major function of the Kansas Lottery, as evidenced by the statutory requirement that the Executive Director of the Lottery select as lottery retailers ". . . such persons as deemed best able to serve the public convenience and promote the sale of tickets or shares in accordance with marketing plans developed by the Kansas Lottery" (K.S.A. 74-8708(a)). To ensure that promotion activities are optimally effective, the Executive Director may engage a firm experienced in research marketing analysis to evaluate marketing effectiveness and make recommendations to enhance marketing programs (K.S.A. 74-8706(e)). The Kansas Lottery Commission is also authorized to enter into written agreements with one or more states or corporations for joint lottery activities, and to participate in the operation, marketing, and promotion of such activities (K.S.A. 74-8709(g)). That is the statutory authorization for Kansas participation in the multi-state lottery, the interstate agreement which is codified in K.S.A. 74-8731.

3. **Parimutuel.** Funds appropriated by the Legislature for the promotion of horse and greyhound racing must be paid from the State Racing Fund (the primary funding source for Racing Commission operations), but there is no statutory requirement that the Legislature appropriate moneys for that purpose (K.S.A. 74-8826(c)).

Amounts credited to the Greyhound Tourism Fund⁷ are earmarked for greyhound-related tourism. However, expenditures from that fund are made by the Secretary of Commerce or the Secretary's designee (K.S.A. 74-8831). Thus, that aspect of promotion is not conducted by the Racing Commission.

⁷ The Greyhound Tourism Fund is the repository for 15 percent of funds credited annually to the Greyhound Breeding Development Fund. Unclaimed winnings from wagers in greyhound races are credited to the latter fund.

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K.S.A. 74-8838 requires that one-third of taxes paid on the takeout from parimutuel pools for simulcast races be credited to the Horse Fair Racing Benefit fund. That revenue is to be used to defray a variety of race-related and licensure expenses of the Commission and county fair associations. While the statute does not specifically give the Racing Commission a role in promoting those races, dedication of revenue to facilitating the expansion of parimutuel racing might be interpreted as promotional.

4. **Indian Gaming.** None of the proposed compacts presented to the Legislature address promotional activities; presumably, such activities would be considered an appropriate responsibility of the tribe and not the state and therefore would not be included in a compact.

C. Enforcement

1. **Bingo.** Enforcement of bingo laws is assigned to the Secretary of Revenue who is required to "adopt and enforce rules and regulations to regulate, license, and tax the management, operation and conduct of games of bingo and participants therein and to properly administer and enforce the provisions of this Act" (K.S.A. 79-4708).

The Secretary of Revenue is vested with authority to suspend or revoke licenses upon findings of violations of bingo laws, and to enjoin any person from managing, operating, or conducting games if such person lacks a valid license or registration certificate (K.S.A. 79-4707; K.A.R. 92-23-39). The Director of Taxation of the Department of Revenue also may impose financial penalties for failure to prepare and submit tax returns and to pay applicable taxes (K.S.A. 79-4705). In addition, the Secretary of Revenue or the Secretary's designee is also authorized to impose civil fines not to exceed \$500 per violation (K.S.A. 79-4713). Enforcement powers of the Revenue Department also extend to authorization of the Director of Taxation to inspect books and records of bingo game operations (K.A.R. 92-23-38(c)).

2. **Lottery.** Enforcement authority of the lottery laws rests largely but not exclusively with the Executive Director and Lottery employees. Among the Executive Director's enforcement powers are the ability to require lottery retailers to furnish proof of financial stability; examine, or designate employees to examine, any materials of a retailer to document compliance with the law; issue subpoenas to gain access to retailer records; and administer oaths and take depositions (K.S.A. 74-8704(a)(5) through (a)(8)). Employees designated by the Executive Director as law enforcement officers are authorized to: make arrests, conduct searches and seizures, and carry firearms while investigating violations of the law or in the course of routine conduct of their duties; and issue notices to appear in court (K.S.A. 74-8714). Enforcement responsibilities also are assigned to an Assistant Attorney General who works exclusively with the Lottery to enforce criminal and civil provisions of the Act (K.S.A. 74-8715).

3. **Parimutuel.** Like the Lottery, the Racing Commission has certain statutory enforcement powers and those powers are to some extent shared with other agencies, particularly the KBI. As is reviewed in the attached memorandum, there have been ongoing questions about which agency (KBI or Racing Commission) the Legislature intended to conduct investigations under the Parimutuel Racing Act (Attachment I). Appropriations actions since FY 1988 suggest that the Legislature intended the KBI to assume a prominent role in such activities, but until 1994, the Legislature had not clarified its position on this matter in the Parimutuel Racing Act.

The 1993 Legislature addressed the relationship of the Racing Commission to the KBI. An effort to clarify that relationship was made in the version of 1993 H.B. 2427 that passed both houses. In

addition to other things, the bill stated that the KBI was an investigative agency of criminal violations of the Act and rules and regulations of the Commission; that such responsibility could be executed independently by the KBI or in conjunction with the Racing Commission; and that each agency must report to the other any suspected or actual criminal violations occurring at a racetrack facility. Late during consideration of the bill, the Legislature learned that the Racing Commission and the KBI were negotiating a memorandum of understanding regarding their respective jurisdictions and responsibilities. The Conference Committee on the bill deleted provisions that addressed investigative responsibilities, and the bill was signed into law without those provisions. Subsequently, the 1994 Legislature enacted H.B. 2978 (K.S.A. 1994 Supp. 74-8807), which included provisions originally in the 1993 bill regarding the relationship between the KBI and the Racing Commission.

Enforcement powers in the Racing Act are generally assigned to the Racing Commission and not to the Executive Director, as is the case in the Lottery statutes. The Racing Commission, like the Lottery's Executive Director, may require fingerprinting of ". . . all persons necessary to verify qualification for any license. . ." (K.S.A. 74-8804(n); K.A.R. 112-3-19). Moreover, the Racing Commission is statutorily required (the Lottery is only authorized) to submit fingerprints to the KBI or FBI for purposes of verifying the identity of such persons and obtaining criminal records. The Commission is authorized to receive from the Commission security personnel, the KBI, and other criminal justice agencies any information related to criminal and background investigations, as needed, to determine licensee and applicant qualifications (K.S.A. 74-8804(o); K.A.R. 112-3-19).

From 1987 through 1992 the KBI conducted 371 background checks for the Racing Commission.⁸ From FY 1990 to FY 1992 the KBI's record of criminal history checks for the Racing Commission reflects a reduction from 6,224 (FY 1990) to 1,624 (FY 1992), most likely because licensing activity diminished once the tracks were established.⁹

The Racing Commission, like the Executive Director of the Lottery, also is authorized to examine, or to have examined, books, papers, records, or memoranda of licensees (in the case of the Lottery, of retailers) for the purpose of ascertaining compliance with the Act; in addition, like the Lottery's Executive Director, the Racing Commission may issue subpoenas to gain access to such materials (K.S.A. 74-8804(c) and (d)).¹⁰ The same authority accorded the Executive Director of the Lottery with respect to administering oaths and taking depositions is accorded the Racing Commission and its hearing officers (K.S.A. 74-8804(b)).

The Commission is allowed to impose sanctions for violations of the Act. These sanctions may include prohibiting a licensee from participation in a race meeting or presence at a racetrack facility or from conducting business with any person under certain circumstances specified in law (K.S.A. 74-8804(f); K.A.R. 112-4-23). Other sanctions include suspension of a horse or greyhound involved in violations (K.S.A. 74-8804(i)); and suspension or revocation of a license or imposition of a civil fine for certain violations (K.S.A. 74-8813(j), (s), (t); K.S.A. 74-8815(i), (l),); K.S.A. 74-8816(f); K.S.A. 74-8817(e) and (f); K.S.A. 74-8837(e) and (f)). The Commission also is authorized to impose civil fines for any violations, for which no specific penalty is provided (K.S.A. 74-8804 (k)).

⁸ Post Audit Report, April 1993, p. 7.

⁹ Ibid., p.8.

¹⁰ An August, 1994 Legislative Post Audit report (No. 95-35) found that the Racing Commission has not unnecessarily used its subpoena power and that it rarely uses that power.

The Executive Director of the Racing Commission has authority similar to that of the Executive Director of the Lottery with respect to designating certain employees to enforce the law (K.S.A. 74-8807; K.A.R. 112-11-12). However, in the case of the Racing Commission's law enforcement personnel, the Commission must approve the Executive Director's designations. The Commission's security personnel or the KBI are authorized to search without warrant any occupation licensee's person, personal property, or work area and any concessionaire licensee's work area or personal property for purposes of investigating possible criminal violations of the Kansas Racing Act (K.S.A. 74-8816(d); K.S.A. 74-8817(c); K.A.R. 112-11-12).

The Attorney General may appoint a maximum of two assistant attorneys general to assist the Commission in all aspects of implementation of the act, including enforcement (K.S.A. 74-8809).

4. **Indian Gaming.** The proposed tribal-state gaming compacts that have been submitted to the Legislature indicate that enforcement activities would have been shared by the Tribal Gaming Agency and the state. The Tribal Gaming Agency would have been authorized to: enforce all relevant state laws related to gaming operations; employ qualified inspectors or agents under its jurisdiction; investigate any reported violation of compact provisions, require remedies, and impose fines and sanctions, as needed. The Tribal Law Enforcement Agency would have been authorized to carry out law enforcement related to provisions of the compact.

The state gaming agency and KBI, for their part, would have been authorized to monitor gaming operations to ensure compliance with provision of the compacts. The KBI would have been authorized to conduct background checks. The state would have had exclusive criminal jurisdiction over non-Indians and would have shared criminal jurisdiction with the Tribe over Indians.

D. Tax/Revenue Collection

1. **Bingo.** The state receives tax and fee revenue from bingo enterprises. Revenue from license fees and one-third of the bingo tax goes to the State General Fund. The balance of bingo tax receipts are earmarked for use by the state or localities for enforcement of bingo laws (K.S.A. 74-4710). For call bingo, the tax rate is 3 percent upon gross receipts and for instant bingo, 1 percent upon the total retail price of all tickets in a box (K.S.A. 79-4704). Revenue from licensure and registration fees is credited to the Bingo Regulation Fund (K.S.A. 79-4710).

Each licensee operating or conducting bingo games in Kansas must make a tax return and remit to the Department of Revenue all enforcement taxes due for the preceding month (K.S.A. 79-4705, K.A.R. 92-23-39).

2. **Lottery.** In contrast to bingo, state revenue from lottery games is not generated from a tax. (The state does not tax a product it sells to the public. Indeed, lottery tickets are exempt from the state sales tax; see K.S.A. 74-8721.) Since there is no licensing requirement no fees are generated from license fees. However, applicants for lottery retailer contracts must pay an application fee (K.S.A. 74-8710). Lottery revenues are generated entirely from ticket sales. Each contract between the Lottery and a retailer requires that the retailer have the capacity to relay to the Lottery proceeds from ticket sales electronically.

3. **Parimutuel.** The Racing Commission has certain tax collection responsibilities that are similar to responsibilities of the Department of Revenue in regard to bingo taxes. The Commission is

required to audit and verify that the amount of tax received from each organization licensee is correct (K.S.A. 74-8823). With respect to the tax on wagers, the Commission collects the tax from each organization licensee no later than the business day following the day during which wagers were made. The Commission is required to remit those taxes to the State Treasurer (K.S.A. 74-8823). The same time schedule applies to the collection by the Commission of admission tax (K.S.A. 74-8824). In addition to receiving application and licensure fees, the Commission collects the tax on the gross amount wagered (handle) for live and simulcast races.¹¹ In addition to the tax on wagering, there is a 10 percent tax on admissions to race meetings. One-half of admission tax proceeds are remitted to the city or county in which the racing facility is located (K.S.A. 74-8824(b)). The remaining half is remitted to the State Racing Fund, to which are also credited proceeds from the wagering tax, application fees, license fees, and fines. Generally, all operating (regulatory and enforcement) expenses of the Commission are financed from the Fund (K.S.A. 74-8826(b) and (c)).

4. **Indian Gaming.** The federal Indian Gaming Regulatory Act prohibits states from imposing any tax, fee, charge or assessment upon a Tribe, any management contract, or any gaming activity or operation and this prohibition is acknowledged in the proposed tribal-state compacts that have been submitted to the Kansas Legislature. However, these compacts provide for reimbursement by the tribe of the state's expenses for implementation of the compact.

WHAT LIMITATIONS ARE PLACED ON PARTICIPATING IN GAMBLING IN KANSAS?

1. **Bingo.** Restrictions placed on the conduct and participation in bingo games are discussed above in connection with regulation/licensure.

2. **Lottery.** Certain restrictions govern participation in lottery games. First, there are limitations on who is allowed to purchase lottery tickets. Minors may not participate in the lottery (K.S.A. 74-8718(a)(3)). Certain other individuals, by virtue of their position relative to the Lottery, also cannot participate: the Executive Director and members of the Commission; vendors of gaming equipment or tickets; and family or household members of those persons (K.S.A. 74-8719 (a)).

Second, there are limitations on the types of lottery games that are authorized; instant lottery, on-line games, and traditional games are permitted, but video lottery games are prohibited (K.S.A. 74-8710(a)). The Kansas Supreme Court found that while the *Constitution's* provision regarding a state-owned and -operated lottery is broad enough to include virtually any type of gambling, legislation would be necessary to authorize games beyond those covered by the current Lottery Act (*State ex rel. Stephan v. Finney*, 254 Kan. 632 (1994)).

¹¹ The 1993 Legislature amended the formula for the tax rate imposed on greyhound wagering to make the increase in the tax rate contingent upon the amount wagered (K.S.A. 74-8823). As originally enacted the tax rate was subject to increase after a track had been in operation a specific number of years. The tax rate applied to live horse and simulcast racing is 3/18 of the takeout, equivalent to 3 percent of the handle, the minimum tax rate permitted under the *Kansas Constitution*.

Third, there are limitations on allowable promotion and advertising of lottery games. The Kansas Lottery is prohibited from advertising or promoting lottery games at amateur athletic or sporting events (K.S.A. 74-8704(b)). Also prohibited is the recruitment of persons under 18 years old for advertising or promoting lottery games.

Fourth, there are restrictions governing business interests of the Executive Director, Commission members, and Lottery employees (K.S.A. 74-8716(a)(1)). Those restrictions are imposed to prevent conflicts of interest between the statutory responsibilities and private business interests of those individuals.

3. **Parimutuel.** Certain restrictions govern participation in races and associated parimutuel wagering. Just as minors are not allowed to purchase lottery tickets, they also may not participate in parimutuel wagering (K.S.A. 74-8810(j), K.A.R. 112-9-31). Conflict of interest provisions prohibit commissioners from having direct or indirect financial interest in a racetrack facility or a host facility for a simulcast race during or five years after that person's term expires (K.S.A. 74-8810(a)). Other conflict of interest provisions apply to all members, appointees, and employees of the Commission with respect to horse or greyhound races (K.S.A. 74-8810(b) through (f)).

4. **Indian Gaming.** Proposed compacts presented to the Legislature during 1993 and 1994 included provisions prohibiting gambling by persons under the age of 21. Any restrictions that would have been imposed on state personnel involved in implementation of tribal-state compacts would have been included in authorizing legislation. Restrictions imposed on tribal regulators would be a matter of tribal law.

PART II

The research for this section involved reviewing statutes and summaries of statutes from many, but not all states, in which some form of gambling is legal. States structure gambling regulation in a variety of ways, but most have created separate agencies or semi-autonomous divisions for oversight of different types of gambling. Commonly, state lotteries are operated by a free-standing or nearly free-standing agency. Parimutuel wagering also is commonly regulated by an agency or division that has a single focus. In many cases bingo is regulated by the state tax collection agency. Charitable gambling, which takes many forms, may be regulated by the tax collection agency, the state's law enforcement agency, the state lottery or a separate gaming agency.

In most cases it appears that the structure of gambling oversight reflects, at least in part, the evolution of gambling in the state. The structure also may reflect the function or functions of primary importance to policy makers, *e.g.*, oversight by a division of the state police agency might reflect a concern about criminal involvement while oversight by the tax agency may reflect an emphasis on tax/revenue collection.

Some states have reexamined their structure of gambling oversight in recent years. The impetus for that reexamination in at least some cases has been the expansion or possible expansion of types of legal gambling -- generally the advent of commercial casinos.

We have been unable to locate any studies that speak to regulatory structures that are more effective than others. One can only assume that in this area, as in many others, the most appropriate

structure is the one that works best in the context of the regulated industry and law enforcement operations in the state.

Because gambling oversight tends to be relatively decentralized, states that consider a change tend to look at some level of consolidation. However, the definition of consolidation appears to be slightly different from state to state. For example, the 1992 report of the Wisconsin Governor's Blue Ribbon Task Force on Gambling recommended a single regulatory authority with criminal laws enforced by a separate agency. However, in making that recommendation the Task Force specifically did not ". . . advocate dismantling or eliminating the existing regulatory boards."

In a 1988 report to the governor of New Jersey, the Governor's Advisory Commission on Gambling endorsed that state's existing "two tiered" casino regulation/enforcement structure that places investigation and enforcement responsibilities with the Department of Law and Public Safety under the Attorney General and administrative/licensure functions with the semi-autonomous Casino Control Commission in the Department of Treasury. In addition to two agencies involved in regulation of casino operations, New Jersey also has separate agencies that regulate parimutuel wagering on horse races and a separate state lottery. The New Jersey Legalized Games of Chance Control Commission oversees municipal licensure of bingo games and raffles.

A 1992 study by the Connecticut Legislative Program Review and Investigations Committee was initiated because of questions about the existing oversight agency's regulatory performance at a time when the Legislature was considering authorization of additional types of gambling in the state. That study identified ". . . the inherent conflict between the division's role as both promoter and regulator of gambling. . . ." The recommendation of that study was that regulation be separated from promotion and that the state cease to be involved in gambling as an operator. In the case of the state lottery, in which ". . . there is an overwhelming state interest to operate gaming. . ." a quasi-public governmental entity was recommended. The study also recommended that the state cease direct operation of off-track betting parlors.

One might conclude from this relatively small sample of analyses that there are commonly held opinions about the usefulness of separating some functions of gambling oversight whether those functions are implemented by one or more agencies. Thus, one frequently finds the enforcement function, both of criminal laws and of prohibited acts under specific gambling statutes, delegated to a single purpose law enforcement agency. Similarly, law enforcement agencies are frequently required to conduct precensure background investigations. (However, in many state statutes, the licensing entity is designated as a law enforcement agency for purposes of conducting background checks and for purposes of conducting searches of licensed facilities.) Likewise, it is unusual to find a state lottery, a primary function of which is promotion, operated by a licensure/regulatory agency.

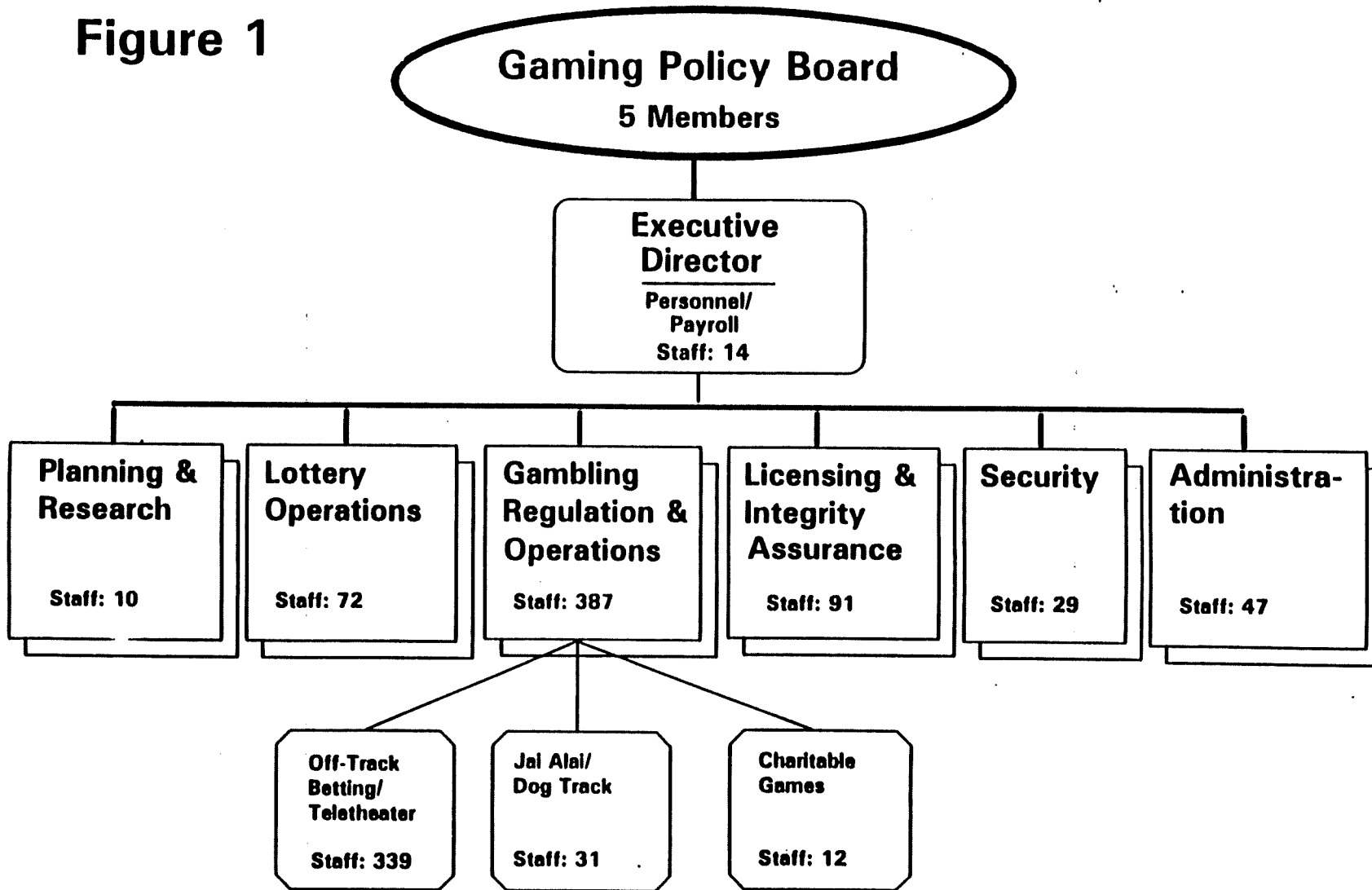
The table that follows displays a brief summary of statutory structures of gambling regulation in Connecticut, Wisconsin, Iowa, Missouri, and Montana. Those states were chosen because they have authorized more types of gambling than has Kansas and because they utilize oversight structures different from that found in Kansas -- and thus represent options for legislative consideration in the context of the potential for expanded legal gambling. Again, we emphasize that these examples were not chosen because they have been determined to be particularly effective regulatory structures, but rather because they are different, to some extent, from the structure currently in place in Kansas.

REGULATION OF GAMBLING – KANSAS AND SELECTED STATES

State	Types of Gambling	Commission/Agency	Enforcement
Connecticut (Sec. 12-557b-12-578)	Lottery, parimutuel racing, jai-alai, off-track betting, charitable games, tribal gaming	Division of Special Revenue. Executive Director appointed by Governor/confirmed. Gaming Policy Board – five members appointed by Governor/confirmed; four-year terms.	Special Police in Division of Special Revenue and Legalized Gambling Unit in Division of State Police responsible for criminal enforcement.
Wisconsin (15.64 et seq. and Ch. 561-565 and 569)	Parimutuel racing, bingo, raffles, crane games, lottery, and tribal gaming	3-member commission appointed by Governor. Divisions: Administrative Services, Gaming Security, Racing, Lottery. Subunits: Council on Charitable Gaming; Indian Gaming.	Gaming Security reports suspected criminal activity to Department of Justice. Department of Justice has primary enforcement role.
Iowa (Ch. 99A, 99B, 99D, 99E)	Parimutuel, riverboats, amusement concessions, bingo, raffles	State Racing and Gaming Commission (part of Department of Inspections and Appeals). Five-member commission appointed by Governor; Senate confirmations; 3-year terms. Commission appoints administrator, Senate confirmation.	Department of Inspections and Appeals and Division of Criminal Investigation Racing and Gaming Commission
Iowa (Ch. 99E)	Lottery	Lottery Division of Department of Revenue and Finance. Lottery Commissioner and five-member Lottery Board appointed by Governor; Senate confirmation.	Division of Criminal Investigation through contract with Lottery.
Iowa (Ch. 10A.102, 10A.104)	Indian Gaming (negotiation and implementation)	Department of Inspections and Appeals. Director appointed by Governor, confirmed by Senate every four years.	Under provisions of compacts.
Missouri (1993 S.B. 10 and S.B. 11)	Riverboat casinos; bingo (as of July 1, 1994); two separate divisions	Missouri Gaming Commission (Division of Department of Public Safety, but Department Director has no oversight or control responsibilities). Five members appointed by Governor; confirmed by Senate. Three-year terms/two-term limit. Commission appoints Executive Director and other employees.	Commission authorized to conduct background investigations. Commission may contract with federal, state, or local agencies. Criminal justice records available to Commission.
Missouri (313.200)	Lottery	Three-member Commission appointed by Governor, confirmed by Senate; six-year terms; Commission appoints Director.	Attorney General provides legal services (no outside counsel permitted). Commission may request Attorney General to investigate. Highway Patrol may initiate investigation and report to prosecuting authorities.
Missouri	Parimutuel racing (no commercial tracks have been established in Missouri)	Racing Commission	

State	Types of Gambling	Commission/Agency	Enforcement
Montana (23-4-101 <u>et seq.</u>)	Parimutuel racing.	Board of Horse Racing. Five members appointed by Governor; confirmed by Senate; three-year terms. Under Department of Commerce. Director appoints Executive Secretary who hires staff subject to Board approval.	Not directly addressed in statute.
Montana (23-5-110 <u>et seq.</u>)	Commercial card games, VLTs, sport pools, bingo, keno, calcutta pools, and casino nights.	Department of Justice, headed by Attorney General. Gaming Advisory Council, nine members: 1 Senator, 1 Representative, 1 public, 2 local government, 1 Native American, 3 gaming industry representatives (no regulatory duties).	Department of Justice is law enforcement agency. Violations reported to County Attorneys; if they do not prosecute, Attorney General does.
Montana (23-7-101 <u>et seq.</u>)	State lottery.	Commission -- five members appointed by Governor (under Department of Commerce for administrative purposes). Governor appoints Director of Lottery who is supervised by Commission.	Lottery Security Division is designated law enforcement agency. Reports violations to Attorney General, State Auditor, or other law enforcement.
Kansas (74-8701 <u>et seq.</u>)	Lottery.	State Lottery -- five-member commission appointed by Governor, confirmed by Senate; four year terms. Executive Director appointed by Governor; confirmed by Senate. Executive Director hires all Lottery staff.	Employees designated by Executive Director have law enforcement authority. KBI may be involved under its general law enforcement authority.
Kansas (74-8801 <u>et seq.</u>)	Parimutuel racing.	Racing Commission -- five members appointed by Governor; confirmed by Senate. Commission appoints Executive Director who hires most other employees for positions approved by the Commission.	Employees designated by Executive Director have law enforcement authority. KBI may be involved under its general law enforcement authority.
Kansas (79-4701 <u>et seq.</u>)	Bingo	Secretary of Revenue administers Act. Secretary is appointed by Governor; confirmed by Senate.	Secretary has civil enforcement authority, including subpoena power under Act.

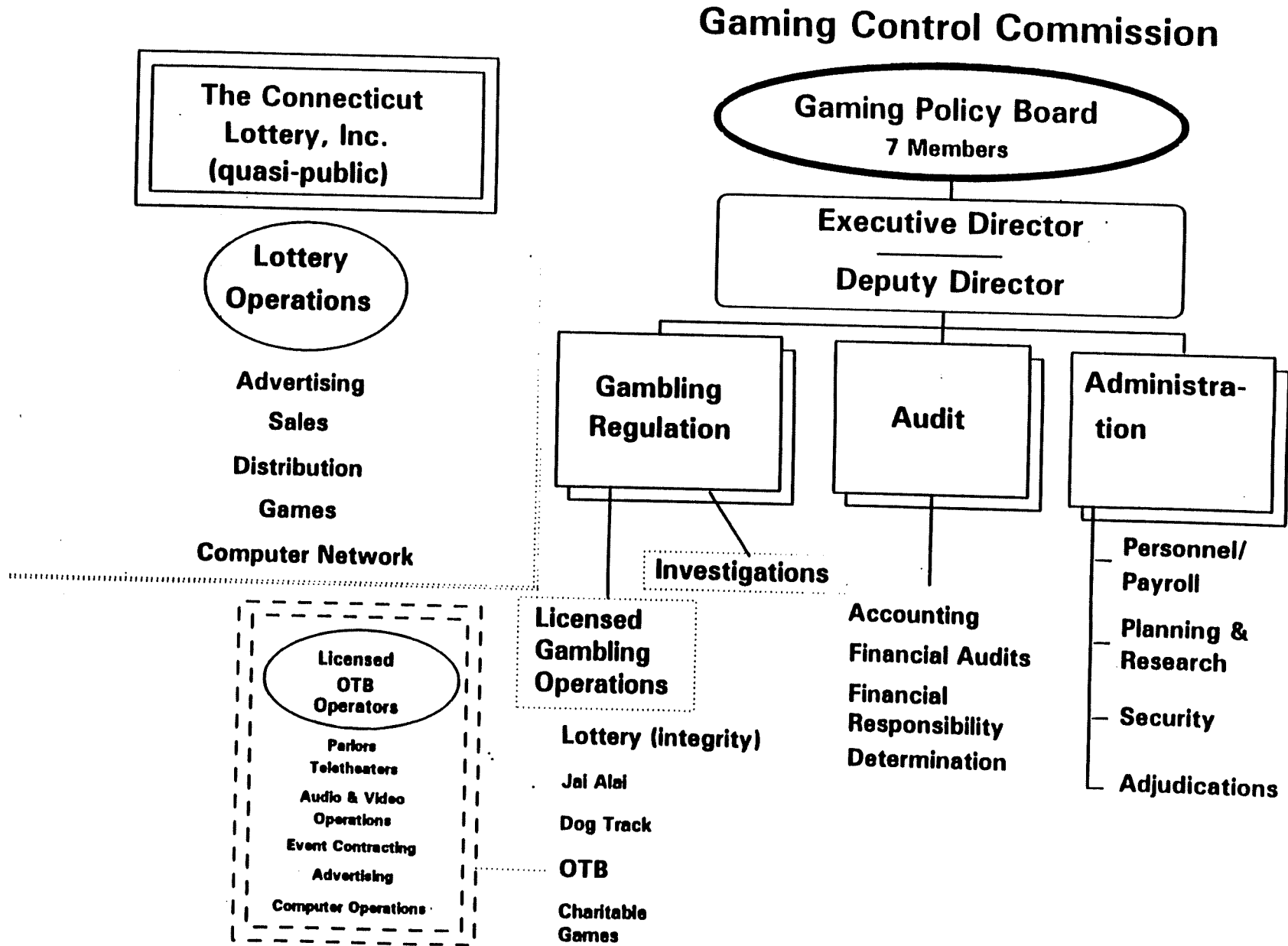
Figure 1



Division of Special Revenue: Current Organization

Source: Staff Findings and Recommendations: Regulation and Operation of Legalized Gaming in Connecticut. Legislative Program Review and Investigations Committee. December 15, 1992.

Figure 2: Proposed Organization



Source: Staff Findings and Recommendations: Regulation and Operation of Legalized Gaming in Connecticut. Legislative Program Review and Investigations Committee. December 15, 1992.

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PART III -- ISSUES FOR COMMITTEE CONSIDERATION

As the Committee considers the structure and function of the agency or agencies charged with oversight of gambling, several questions emerge and might be used to guide Committee discussion:

1. Does the existing oversight effort provide for execution of all the necessary functions to implement Kansas policy regarding legal gambling? If not, which functions are not being carried out at all, or are being carried out incompletely?
2. Would some functions be more effectively or efficiently carried out by a single-purpose agency, *e.g.*, bingo and parimutuel tax collection consolidated within the Department of Revenue?
3. Is there sufficient structural separation of functions to avoid internal conflicts for implementing agencies?
4. Are gambling laws, criminal and civil, being effectively and consistently enforced? If not, would consolidation of enforcement efforts in a single agency at the state level, or alternatively, delegation of more authority to local law enforcement entities, improve enforcement?

Discussion: In regard to these questions, the Committee may wish to request that an audit or study be conducted by Legislative Post Audit or by an outside consultant with expertise in the area.

5. Is a new structure for gambling regulation necessary or advisable?

Discussion: This question arises most frequently when new types of gambling are under consideration. Clearly, this is a policy decision for the Legislature. New types of gambling could be incorporated in the existing structure either by adding to responsibilities of existing agencies or by creating a new agency to oversee each new type of gambling. In either instance, the general structure of decentralized regulation would be preserved.

Alternatively, whether or not additional types of gambling are authorized, the Legislature could consolidate oversight in a number of different ways. For example:

- a single agency with a division for each type of legal gambling could be created to carry out all functions discussed above; or
- oversight of bingo and racing could be consolidated, leaving conduct of the lottery and/or law-enforcement with separate agencies; or
- functions could be consolidated, but not necessarily within a single agency:
 - tax collection and audit functions could be assigned to the Department of Revenue;

- licensure and regulation could be assigned to an entity with powers similar to those existing for the Racing Commission;
- enforcement could be consolidated in a law enforcement agency; and
- the state's role in promotion could be conducted by a lottery-type agency.

Other structural options may be identified as desirable as the Committee refines its goals in regard to oversight of legal gambling.

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MEMORANDUM

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November 20, 1992
Revised July 6, 1993

Re: Kansas Bureau of Investigation's Role in Enforcement of the Parimutuel Racing Act

The following information was originally provided in response to a request for an analysis of legislative intent as to the role of the Kansas Bureau of Investigation (KBI) in conducting investigations under the Parimutuel Racing Act.

The Legislative Research Department cannot divine "legislative intent." However, this memorandum includes a review of versions of the Act from the initial draft proposed in 1986 by the Governor's Parimutuel Task Force to the 1992 amendments and appropriations and subcommittee reports from 1988 to 1992. While the Parimutuel Racing Act gives the Kansas Racing Commission broad law enforcement authority, policy established in appropriations acts appears to have placed much of the responsibility for law enforcement with the Kansas Bureau of Investigation. However, since the Act has not been substantially amended to reflect policy established in the appropriations process, an unambiguous statement of legislative intent on this question cannot be ascertained. The Legislature may mean for the KBI to have primary responsibility for investigations; it may mean for the KBI to work at the request of the Racing Commission; or, it may intend that the two agencies work in tandem.

The law enforcement and investigation authority contained in the Parimutuel Racing Act is only slightly different from the bill recommended by the Governor's Parimutuel Task Force prior to the 1987 Legislative Session. From the time of enactment in 1987, the Act provided the Racing Commission's law enforcement personnel with authority to conduct searches and seizures and to generally enforce all criminal laws of the state.¹ The Conference Committee that crafted the final version of the Act during the 1987 Session specifically directed that Racing Commission law enforcement personnel have the same law enforcement authority as personnel of the Alcoholic Beverage Control. That provision of the Act has not been amended. However, the Racing Commission's requests for additional security personnel have not been endorsed by the Governor or the Legislature, which might imply that the Legislature intends for the Racing Commission to have a limited investigatory role, notwithstanding the language of the Act.²

Specifically with regard to background investigations of applicants for licensure or of licensees, neither the Task Force draft, nor the bill as enacted in 1987, specified who would conduct those investigations. That seems to have been rectified to some extent when the Racing Commission was authorized by a 1988 amendment to the Act, to receive from the KBI or other criminal justice agencies, criminal history record information relating to criminal and background investigations.³ While that amendment did not limit in any way the Racing Commission's ability to conduct

background investigations itself, it acknowledges that criminal history background information available to criminal justice agencies, including the KBI, would come from those agencies.

The 1987 law contemplated some areas of shared or overlapping authority between the Racing Commission and the KBI. An example is language requiring concessionaire and occupation licensees to consent, as a condition of licensure, to allow agents of the KBI or the Racing Commission to conduct warrantless searches of personal property and work areas within a racetrack facility.⁴ Likewise, by requiring that applicants and licensees' fingerprints be submitted to the KBI and the FBI, it would appear that the Legislature anticipated that the KBI and the Racing Commission would work together, at least to the extent that the KBI provide a service to the Racing Commission.

The policy that the Racing Commission might seek assistance from and reimburse other agencies for services rendered during background investigations on license applicants' was solidified during the 1988 Session with creation of the Racing Investigative Expense Fund. The Act that created the Fund included a requirement that "[w]henever another state agency assists the commission in such investigation and incurs costs in addition to those attributable to the operations of such agency, such additional costs shall be paid from the racing investigative expense fund."⁵ This provision does not require the Racing Commission to utilize other agencies, but simply establishes a mechanism for reimbursing those agencies the Commission utilizes in the course of conducting background investigations.

So, when one looks at the Parimutuel Racing Act, one sees a Racing Commission that is a licensing and regulatory entity with broad law enforcement authority. The scope of the Commission's authority includes the ability to draw upon other state agencies for assistance regarding background investigations of license applicants. There is no language in the Act requiring the Commission to defer to the KBI or to any other law enforcement agency during the course of any investigation, whether of license applicants' backgrounds or of violations of the Act.

Beginning with the 1988 Session, just a year after passage of the Parimutuel Racing Act, policy developed through the budget process appears to give the KBI a prominent role in enforcement of the Parimutuel Racing Act. The Governor's budget message to the Legislature at the beginning of that session included a proposal for creation of a Gaming Investigation Unit in the KBI, "to perform the investigations required by lottery and parimutuel legislation."⁶ The Governor's budget also contained a reference to the "new and permanent" investigation responsibility that emerged from activities of the Racing Commission and Lottery.⁷ The Governor's proposal was for initial financing of the unit (for the last part of FY 1988) from the State General Fund which was to be reimbursed to the extent possible.⁸ That proposal also included eight FTE positions as staff for the unit. Costs of operating the new unit were to be recovered by the KBI to reduce the burden on the State General Fund in future years. The Legislature approved an FY 1988 emergency supplemental appropriation from the State General Fund to create the Gaming Investigation Unit and approved the eight FTE positions.⁹

Also during the 1988 Session, the Legislature created a special revenue fund for the KBI as a repository for funds received from both the Racing Commission and the Lottery as payments for services. Language was included in the appropriation for the KBI that authorized it to establish and collect fees for services provided to other agencies.¹⁰ The relevant subcommittee report indicates that the Racing Commission was to be charged for work done at its request and for other costs attributable to work done to support the Racing Commission.¹¹ The Legislature placed a \$0

expenditure limitation on the fund, presumably to allow sufficient balances to accumulate to enable shifting the financing of the Unit away from the State General Fund.

The Governor recommended that the 1989 Legislature continue to finance operation of the KBI's Gaming Investigation Unit from the State General Fund. That recommendation would have continued the \$0 expenditure limitation on the special revenue fund for both fiscal years 1989 and 1990.¹² The 1989 Legislature authorized expenditures from the special revenue fund to support activities undertaken for the Lottery and Racing Commission during both fiscal years 1989 and 1990.¹³ At that point, the policy appears to have been that the Racing Commission was to reimburse the KBI on a fee-for-service basis. As long as that was the situation, the Racing Commission could, theoretically, control the level and type of services provided by the KBI. That arrangement appears to be consistent with the Parimutuel Racing Act which places primary responsibility for enforcement of the Act with the Racing Commission.

In the 1990 Session, the relationship between the Racing Commission and the KBI appeared to change again. The Governor recommended expenditure of \$350,000 and \$364,000 during fiscal years 1990 and 1991, respectively, to support the Gaming Investigation Unit.¹⁴ While nothing in the Governor's budget message spoke to the basis for the recommendation, presumably the Commission would have been billed for those amounts based on services rendered. In addition, the Governor's recommendation included expenditure of \$142,000 and \$98,000 during fiscal years 1990 and 1991, respectively, to pay for KBI fingerprint checks. The Governor's recommendation also included expenditure of \$85,000 in payments to the KBI during the two fiscal years for background investigations.¹⁵ This set of recommendations separated support of the Gaming Unit from charges imposed for fingerprint checks and background investigations. That separation continues to be reflected in the Racing Commission's budget.

Rather than approve the Governor's recommendation that the amount recommended for support of the Gaming Unit be an expenditure by the Racing Commission, the 1990 Legislature instituted a transfer from the Racing Commission to the special revenue fund of the KBI.¹⁶ The amounts budgeted for fingerprint checks and background investigations were approved as expenditures as recommended by the Governor. Use of the transfer mechanism eliminated the Commission's ability to exercise any discretion over what services would be provided and what services would be paid for (because the KBI would no longer have to bill the Racing Commission in order to receive those funds). With the advent of the transfer, which has been renewed each year by the Legislature, base support of the Gaming Investigation Unit ceased to be directly connected to services rendered.¹⁷ In addition to the transfer, the Racing Commission has continued to pay the KBI for specific services, *i.e.*, fingerprint checks and criminal background checks, for which the Commission is billed.

The issue of how the Racing Commission and the KBI might work together to enforce the Parimutuel Racing Act and rules and regulations issued under the Act specifically came before the 1991 Legislature in the form of S.B. 366. The bill, requested by the KBI, would have amended the Act to make the KBI an investigative agency of criminal violations of the Act. Those investigative responsibilities would have been conducted either independently or in conjunction with employees of the Racing Commission. The bill specified that the two agencies would report results of their investigative activities to one another. The bill appeared to clarify investigative procedure, but actually may not have granted the KBI any additional authority, nor limited existing authority of the Racing Commission. The bill, as amended by the Senate Committee on Federal and State Affairs, was endorsed by the Executive Director of the Racing Commission. The bill was not taken up by the House committee to which it was referred.

Two Racing Commission security/investigative matters came before the 1992 Legislature. The Legislature made one amendment to the Act that speaks to investigative authority.¹⁸ That bill limited the time during which the Commission may observe and inspect racetrack facilities. The amendment was sought by the Racing Commission. In his testimony, the Executive Director of the Commission stated: "The reason for the changes is to clarify that the Kansas Racing Commission has authority and regulatory oversight during the period of racing, but at other times the facility owner should be able to use its facility for purposes it deems appropriate."¹⁹ Also, in its FY 1993 budget request, the Racing Commission proposed elimination of the position of Director of Security. The necessary legislation to implement that change was not introduced, however. It is unclear whether these two most recent issues indicate a desire on the part of the Commission to narrow its responsibility for law enforcement activities.

In summary, two actions of the Legislature subsequent to enactment of the Parimutuel Racing Act are evidence of a different relationship between the KBI and the Racing Commission than described in the Act. First was the advent of Racing Commission payments to the KBI when those payments were not directly attributable to services provided by the KBI; second, was the modification of the process used to move funds from the Racing Commission to the KBI. As a result of those actions, the authority granted to the Racing Commission in the Parimutuel Racing Act exists in tandem with a unit at the KBI dedicated solely to gambling related law enforcement.

When those actions are viewed in the context of rejection of repeated requests from the Racing Commission for expansion of its law enforcement staff, one might conclude that the Governor and Legislature intend for the KBI to assume the lead role in investigating and enforcing the Act. However, since this position was established through the budget process and by the Appropriations and Ways and Means committees which were not directly involved in development of the Parimutuel Racing Act, there is no way to know conclusively whether the Legislature intends for one policy to prevail over the other. One might argue that if the Legislature meant for the KBI to assume the lead role in enforcement of the Parimutuel Racing Act, it would have amended the Act, or at least would have enacted 1991 S.B. 366.

1. Law enforcement powers of employees of the Commission were enumerated at §8, p. 1 of the draft bill proposed by the Parimutuel Task Force. The only substantive change to that language was made by the Conference Committee on 1987 H.B. 2044 (L. 1987 Ch. 112 §7) which gave designated law enforcement personnel of the Commission authority to generally enforce all criminal law of the state as violations of such laws are encountered during performance of those employees' duties. (K.S.A 74-8807)
2. Budget analyses developed by the Legislative Research Department indicate that the Racing Commission requested additional investigators for FY 1990 (1989 Legislature) and FY 1991 (1990 Legislature).
3. L. 1988 Ch. 315 §3.
4. Authorization for those searches is found at K.S.A. 74-8816(d) and 74-8817(c). The Parimutuel Task Force recommendation included, at §24, p. 1 and §29, p. 1, language nearly identical to that currently in statute. The only amendment to those provisions was made by the Conference Committee on 1987 H.B. 2044 which removed references to warrantless searches of licensees' on-track living quarters. That change was made after the Committee was advised that such a provision might be unconstitutional.
5. K.S.A. 74-8835(c).
6. The Governor's budget message included the following recommendation: "A special Gaming Investigation Unit is proposed in the current year to perform the investigations required by lottery and parimutuel legislation. This unit is needed to allow the KBI to respond to these additional investigations while maintaining its existing investigative responsibilities. The ability of the Racing Commission and the Lottery to continue their activities is dependent upon an early implementation of this unit. Financing for this unit's expenditures will be from the State General Fund. However, the Governor recommends that these costs be reimbursed to the extent possible. Eight positions and support costs are recommended to establish this unit." Mike Hayden, Governor. *The Governor's Report on The State of Kansas Budget Fiscal Year 1989*. Volume 1, pp. 8-6.
7. Mike Hayden, Governor. *The Governor's Report on The State of Kansas Budget: Fiscal Year 1989*. Volume 2, p. 4-51.
8. See note 5 above.
9. "Subcommittee Report" on 1988 H.B. 2808 §4, Attorney General -- KBI. p. 2.
10. The Fund was initially created by 1988 H.B. 2808 §4 and has continued to be authorized only in appropriations acts. The most recent authorization for the Fund is at L. 1992 Ch. 222 §6.
11. "Subcommittee Report" on 1988 H.B. 2808 §4, Attorney General -- KBI. p. 2.
12. Kansas Legislative Research Department. *Fiscal Year 1990 Budget Analysis: Submitted to the 1989 Legislature*. p. 184.
13. "Subcommittee Report" on 1989 H.B. 2063 §35, p. 3. The House Appropriations Subcommittee increased the expenditure limitation on the Lottery and Racing Investigations Fee Fund for FY 1989 from \$0 to \$54,437. "Subcommittee Report" on 1989 H.B. 2027 §6, p. 2. The House Appropriations

Subcommittee increased the expenditure limitation on the Lottery and Racing Investigations fee fund from \$0 to \$10,375 for FY 1990. The Senate Ways and Means Subcommittee subsequently increased the expenditure limitation to \$156,273 for FY 1990.

14. Kansas Legislative Research Department. *Fiscal Year 1991 Budget Analysis: Submitted to the 1990 Legislature.* p. 171.

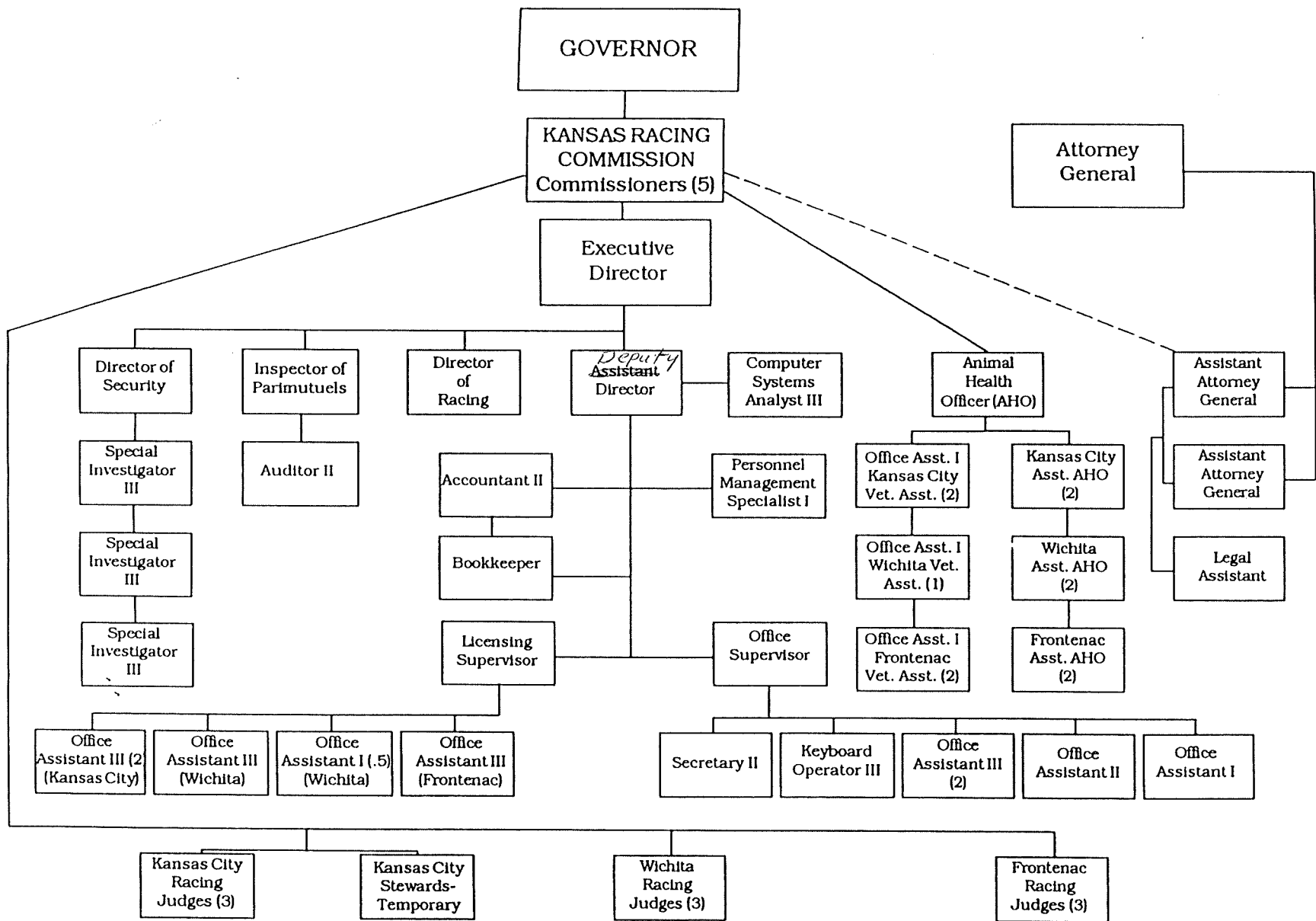
15. Ibid.

16. "Subcommittee Report" on 1990 S.B. 558 §11, p. 1. "Subcommittee Report" on 1990 S.B. 450 §5, p. 1.

17. L. 1990 Ch. 16 §10(c) states, in part, ". . . the director of accounts and reports shall transfer \$350,000 from the state racing fund to the lottery and racing investigations fee fund of the attorney general -- Kansas bureau of investigation for the purpose of financing a portion of the cost of operation and general expense of the Kansas bureau of investigation gaming unit." (Emphasis added.) That transfer was for FY 1990. Transfer language in subsequent appropriations has been essentially the same in regard to the purpose for which funds are transferred and to the extent that there is no requirement that the amount transferred be tied to services rendered.

18. K.S.A. 74-8804 (L. 1992 Ch. 286 §2).

19. "Testimony of Dana Nelson, Executive Director, Kansas Racing Commission, before the Senate Federal and State Affairs Committee, March 2, 1992." p. 2.



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MEMORANDUM

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January 24, 1995

GAMBLING REVENUE

Who is Responsible for Gambling Revenue in Kansas?

Kansas statutes provide for collection and allocation of revenue from three types of gambling: bingo, parimutuel wagering on dog and horse races, and the Kansas Lottery. Bingo license fees and tax receipts are collected by the Department of Revenue. Taxes and fees related to parimutuel wagering are collected by the Kansas Racing Commission, and lottery revenue is collected by the Kansas Lottery. The Secretary of Revenue, lottery and racing commissions, and the director of the Lottery are all appointed by the Governor.

Does All Kansas Gambling Revenue Go Into the Same Account?

No. Revenue from each type of gambling is distributed slightly differently.

Bingo license and registration fees and taxes are all remitted by the Secretary of Revenue to the State Treasurer. License and registration fees are credited to the Bingo Regulation Fund. Bingo tax revenue is divided equally between the State Bingo Regulation Fund, the County and City Bingo Tax Fund, and the State General Fund. The State Bingo Regulation Fund finances enforcement of bingo laws by the Department of Revenue. Revenue to the County and City Bingo Tax Fund is returned to those counties and cities in which bingo licensees are located. Those funds are to be used to assist in enforcement of state bingo laws. (K.S.A. 79-4710)

Receipts from the sale of lottery tickets are deposited by the Executive Director of the Kansas Lottery in the Lottery Operating Fund in the state treasury. Statutorily, moneys in that Fund are used to support operation of the Lottery; pay prizes to lottery winners (*via* a transfer to the Lottery Prize Payment Fund); and provide funding for correctional facilities, and economic development *via* the State Gaming Revenues Fund (SGRF). Not less than 45 percent of net monthly receipts from the sale of lottery tickets must be awarded as prizes. Not less than 30 percent of net monthly receipts from the sale of lottery tickets must be credited to the SGRF. The remainder may be used to operate the Lottery and to pay a fee to merchants who sell lottery tickets.

Other transfers of lottery revenue have been made over the years. During the first year of Lottery operation, FY 1988, a statutorily required transfer was made from the Lottery Operating Fund to repay to the State General Fund the amount utilized to establish the Lottery. (K.S.A. 74-8712) In FY 1989 a transfer was made from the Lottery Operating Fund directly to the County Reappraisal Fund. (Those funds

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were in addition to amounts transferred from the SGRF to cover a portion of the cost of statewide reappraisal. See discussion of transfers from the SGRF below.) In FY 1993 and FY 1994, transfers were made from the Lottery Operating Fund to the Kansas Bureau of Investigation (KBI) for the purpose of supporting the KBI's gaming investigation unit.

The *Kansas Constitution* requires that the parimutuel tax cannot be less than 3 percent, nor more than 6 percent of the total amount wagered. The Parimutuel Racing Act requires that the parimutuel tax be no less than 3 percent nor more than 6 percent of the total amount wagered each day.

The Parimutuel Tax is a 3/18 of the takeout¹ from parimutuel pools on live horse races at any track and for the first four years of live greyhound racing and wagering at a greyhound-only track. In the fifth and subsequent years of live greyhound racing and wagering at a greyhound-only track, the tax is 3/18 of the first \$400,000 wagered, 4/18 of the next \$200,000 wagered, and 5/18 of any amounts wagered in excess of \$600,000. For dual horse-dog racetracks the tax rate is 3/18 of the takeout from wagers on live greyhound races for the first seven years of greyhound racing with wagering. In the eighth and subsequent years the tax rate is 3/18 of the first \$600,000 wagered, 4/18 of the next \$200,000 wagered, and 5/18 of any amounts in excess of \$800,000. The parimutuel tax on all simulcast races, regardless of whether they are horse or greyhound races, is 3/18 of takeout.

In addition to the parimutuel wagering tax, a 10 percent tax is imposed on admission fees to tracks. An additional 20 cent admission tax is imposed on admission to tracks exempt from *ad valorem* property taxes.

With three exceptions, all taxes on parimutuel wagering, admission tax, application fees, license fees, and fines collected by the Kansas Racing Commission are credited to the State Racing Fund. The exceptions are: the additional \$.20 admission tax² (K.S.A. 74-8824); investigation fees which are collected from certain license applicants to cover the cost of background investigations (K.S.A. 74-8827);

¹ Takeout is statutorily defined as the total amount of money withheld from each parimutuel pool (the amount wagered) for payment of purses, taxes and the share to be kept by the organization licensee (nonprofit organization licensed to conduct races). Takeout does not include breakage (odd cents by which the amount payable on each dollar wagered exceeds \$.10, or other number of cents as required by law of the host jurisdiction in the case of interstate wagering pools). The balance of each pool, less breakage, is distributed to holders of winning parimutuel tickets.

The amount of takeout is calculated as follows: After wagering has been closed for each live race conducted by the licensee, the organization licensee may deduct an amount not exceeding 18 percent of the total wagered in each parimutuel pool and the balance, less the breakage, shall be paid to holders of winning tickets for that pool in accordance with procedures authorized by the commission. The commission may authorize a higher amount not exceeding 22 percent to be deducted from the total wagered in parimutuel pools for multiple and exotic bets.

² The additional admission tax is allocated to cities and counties in which racetracks subject to the tax are located. The county in which such a track is located gets one-half of the amount collected at that track and the city in which the track is located gets the other one-half. For tracks that are not located in a city, the county gets the whole amount. Neither Wichita Greyhound Park nor the Woodlands are subject to the admission tax. The tax has been collected only at Anthony Downs and Eureka Downs.

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and one-third of the parimutuel tax collected on the takeout from simulcast races (K.S.A. 74-8838), which is used for certain expenses associated with horse racing at county fairs.

Expenditures are made from the State Racing Fund to operate the Racing Commission. As required by statute, a transfer was made from the State Racing Fund to repay the State General Fund for amounts expended to establish and operate the Commission prior to realization of any revenue to the Fund. Amounts in the Racing Fund in excess of those needed to operate the Commission are transferred monthly to the SGRF. (K.S.A. 74-8826) In addition, transfers have been made from the Racing Fund to finance the KBI's Gaming Unit every year since FY 1990.

Breakage and unclaimed winnings from live and simulcast horse races are collected by the Racing Commission and credited to the Kansas Horse Breeding Development Fund in the state treasury. (Breakage is the odd cents by which the amount payable on each dollar wagered in a parimutuel pool exceeds a multiple of \$.10.) The Horse Breeding Development Fund is used to provide:

- purse supplements to owners of Kansas-bred horses;
- stakes and awards to owners of winning Kansas-bred horses in certain races;
- a stallion award to each owner of a Kansas-registered stallion which is the sire of a Kansas-bred horse that wins any race conducted at a Kansas race meeting;
- a breeder's award to each owner of a Kansas-registered mare that is the dame of a Kansas-bred horse that wins any race conducted at a Kansas race meeting; and
- funds for equine research through institutions of higher education under the State Board of Regents. (K.S.A.'s 74-8821 and 74-8822)

Breakage from live greyhound races is directly distributed by organization licensees and is not remitted to the Racing Commission. One-half the breakage from live greyhound races is used to supplement open stakes races as approved by the Racing Commission. The other one-half is used for purses to breeders of Kansas-whelped greyhounds. (K.S.A. 74-8821) Breakage from simulcast greyhound races conducted by a horse-only licensee must be distributed to benefit greyhound racing as determined by the Commission.

Unclaimed winnings from live and simulcast greyhound races are remitted to the Racing Commission and credited to the Greyhound Breeding Development Fund in the state treasury. Moneys credited to that fund are allocated as follows:

- 15 percent to the Greyhound Tourism Fund;
- 35 percent for research conducted within Kansas relating to the prevention of injury and disease of greyhounds;
- not more than \$30,000, as determined by the Racing Commission, to pay a portion of the administrative costs of the official greyhound registration agency; and
- the balance to be used by racetrack facilities to supplement stake races for Kansas-whelped greyhounds as approved by the Commission. (K.S.A. 74-8831)

Moneys in the Greyhound Tourism Fund can be used only for promotion of greyhound-related tourism. Expenditures from the fund are made under the authority of the Secretary of Commerce and Housing. (K.S.A. 74-8831)

Applicants for organization, facility manager, and facility owner licenses must make a deposit with the Racing Commission at the time of application. Those deposits are refunded to unsuccessful applicants, but deposits from licensees are held by the Commission until the facility is completed in accordance with terms of the license. If the licensee does not complete the track in accordance with the terms of the license, the deposit, and any interest accrued on the deposit are forfeited. In the case of a forfeiture, the deposit and any interest is credited to the Racing Fund. (K.S.A. 74-8828)

As explained above, some revenue from both the Lottery and parimutuel wagering is transferred to the SGRF. That fund is used essentially as a holding fund from which further transfers are made on a monthly basis. No more than \$50 million can be credited to the SGRF in any fiscal year. Amounts in excess of \$50 million are credited to the State General Fund. FY 1994 was the first year during which transfers to the SGRF topped \$50 million. As a result, approximately \$3.75 million was transferred to the SGF.

Effective July 1, 1995, transfers from the SGRF will be made as follows:

- 85 percent to the Economic Development Initiatives Fund (EDIF);
- 10 percent to the Correctional Institutions Building Fund; and
- 5 percent to the Juvenile Detention Facilities Fund.

During FY 1995, which ends June 30, 1995, 90 percent of SGRF revenue will go to the EDIF and 10 percent to the Correctional Institutions Building Fund (for adult correctional facilities).

Prior to June 30, 1990, 30 percent of the SGRF was used to defray a portion of costs incurred by counties during statewide reappraisal. At that time 60 percent of the fund was used to finance economic development projects. (K.S.A. 79-4804) In addition, for each of fiscal years 1991-1995 the Legislature appropriated approximately \$3 million to the Department of Revenue from the EDIF for county reappraisal aid.

Attached is a table that displays amounts transferred from lottery and parimutuel wagering revenues to various funds and a chart that depicts the generalized flow of racing and the lottery revenue.

How Does the Amount of Revenue Realized from the Lottery and Parimutuel Wagering Compare with Estimates?

Preliminary revenue estimates were included in material presented to legislative committees considering those constitutional amendments during the 1985 and 1986 sessions, when proposed lottery and parimutuel constitutional amendments were considered by the Legislature. Estimates provided at that time

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are displayed in the table below with actual average annual revenue for the years the lottery and parimutuel wagering have been conducted.

Those revenue estimates were prepared prior to development of the implementing legislation for lottery and parimutuel wagering, so could not be based on the tax rates (parimutuel) and state share (lottery) currently in statute.

An economic impact study prepared at the request of proponents of parimutuel wagering probably contained the most often cited estimate of anticipated state revenue from parimutuel wagering. The author of that study assumed a 5.5 percent parimutuel tax rate and made other assumptions about disposition of revenue that are not consistent with the current Racing Act.

Estimates of lottery revenue were presented during consideration of the proposed constitutional amendment in 1986. The Department of Revenue estimated net revenue of \$30 million to \$35 million annually. Other estimates ranged up to "\$40 million, plus."

	Projected Annual State Revenue (Millions) ^a	Actual Average Annual Revenue (Millions) ^a
Parimutuel Tax	\$ 34	5.7
State Lottery	30-40	21.7

a) Revenue does not include operating expenditures.

The average for the Lottery is for fiscal years 1988 through 1994. The average for the parimutuel tax is for fiscal years 1989 through 1994.

How Much Gambling Revenue Has the State Collected Since the Inception of Legalized Gambling?

Revenue from the Bingo Enforcement Tax was first collected in FY 1975. Revenue from the State Lottery was first collected in FY 1988. Revenue from parimutuel wagering was first collected in FY 1989. The table below displays revenue allocations from those three types of gambling since their inception.

The table includes as state revenue amounts credited to the State General Fund (Bingo Enforcement Tax since FY 1978 and transfers from lottery and racing) and to the State Gaming Revenues Fund (lottery and parimutuel less amounts transferred or appropriated to the County Reappraisal Fund). Also included as state revenue are amounts expended to operate the Lottery, Racing Commission, and Bingo Enforcement unit; and transfers from the Lottery and Racing Commission to the Kansas Bureau of Investigation (KBI) to fund its gaming investigation unit. (In addition to these transfers, payments to the KBI for specific work done for the Lottery and Racing Commission are included as part of those agencies' expenditures for state operations.) Since FY 1985, one-third of the Bingo Enforcement Tax has been used to fund bingo enforcement conducted by the Department of Revenue.

Of the total amount of gambling revenue (not including income taxes withheld from winnings) collected by the state since FY 1975, 55 percent has gone to the State General Fund and the State Gaming Revenues Fund, 35 percent has been used for state operations (including transfers to the KBI), and 10 percent has gone to local units of government via the Reappraisal Fund, the County and City Bingo Tax Fund, and the Parimutuel Admissions Tax. A total of \$30.8 million has been provided to counties to finance reappraisal expenses from FY 1988 through FY 1995.

**State Gambling Revenue FY 1975-FY 1994
(Thousands)**

Bingo Enforcement Tax to SGF	\$ 4,397
Lottery -- Transfers to SGRF and SGF	176,359
Parimutuel -- Transfers to SGRF and SGF	30,249
LESS SGRF AMOUNTS TO CO. REAPPRAISAL	(15,892)
Subtotal	<u>\$ 184,709</u>

State Operations

Lottery	\$ 97,729
Racing Commission	12,715
Department of Revenue (Bingo Enforcement)	2,812
Direct Transfers to KBI	1,881
Subtotal	<u>\$ 115,137</u>
GRAND TOTAL STATE REVENUE	<u><u>\$ 298,280</u></u>

Local Gambling Revenue FY 1975-FY 1994

Lottery -- Direct Transfers to Reappraisal Fund	\$ 2,975
SGRF Portion to County Reappraisal Fund	15,892
County and City Bingo Tax Fund	2,812
Racing Admissions Tax	25
Subtotal Local Revenue	<u>\$ 33,637</u>

GRAND TOTAL STATE AND LOCAL REVENUE	<u><u>\$ 331,916</u></u>
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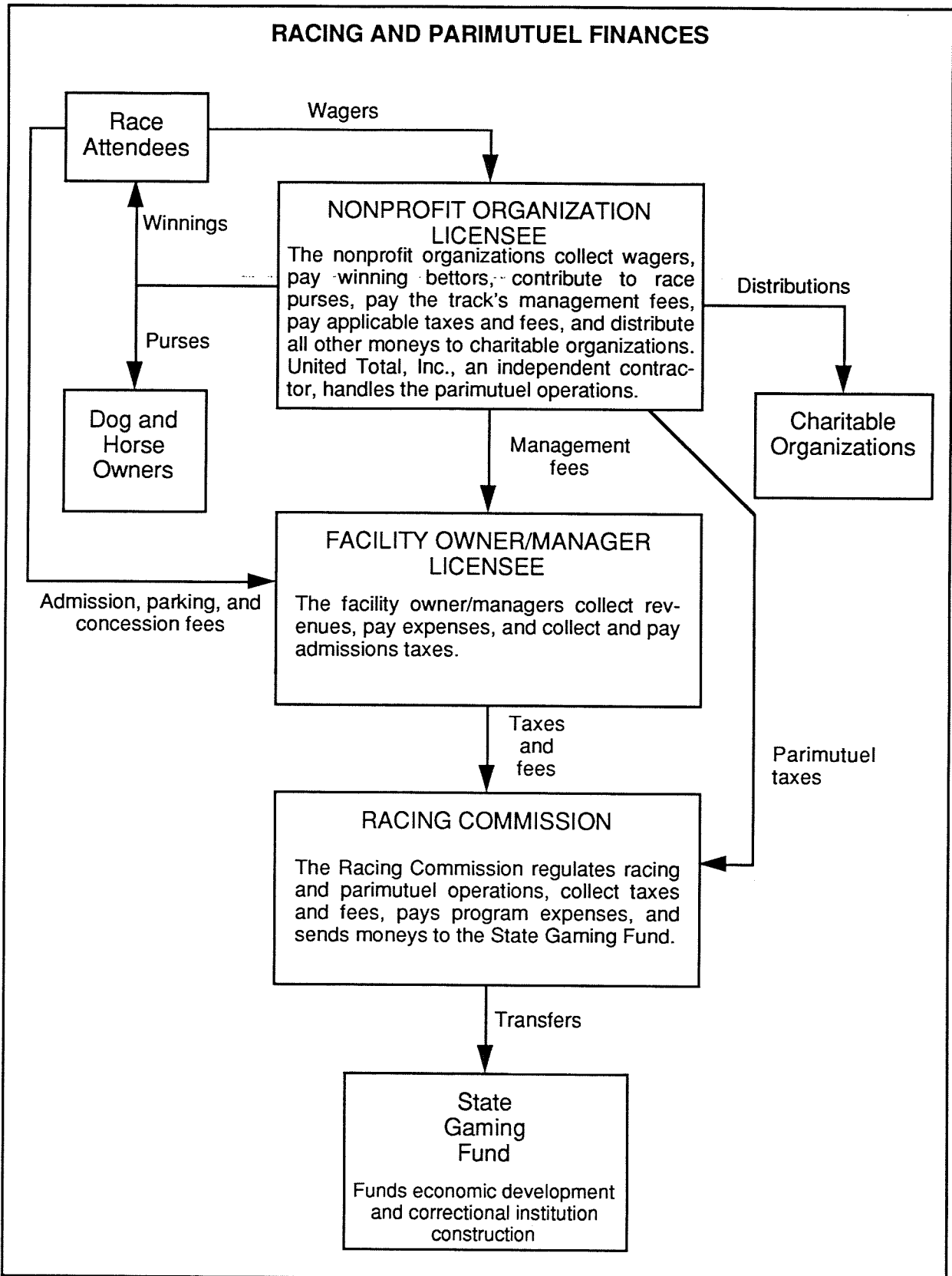
State income tax is withheld from large gambling winnings just as for wage income. State tax withheld from large lottery winnings totaled approximately \$3.3 million for fiscal years 1988 through 1994. During fiscal years 1988-1993, through the "set-off" program, the state also recovered approximately \$140,000 owed by the lottery winners. Figures currently available from the Racing Commission show that approximately \$2.9 million state income taxes were withheld from large parimutuel wagering winnings from calendar years 1989-1992. (Please note that figures on withholding from winnings at Wichita Greyhound Park are for 1991 and 1992 only.) There is no way to ascertain how much of those amounts withheld are

retained by the state after winners' total income tax liability is calculated. State income tax also is collected on lesser winnings that are reported in the same manner as other income from which taxes are not withheld. There is no way to identify taxes paid on those smaller winnings.

**How Many Jobs Have Been Created by Legalization
of Gambling in Kansas?**

Approximately 150 full-time equivalent (FTE) positions are authorized for the Lottery and the Racing Commission combined. Bingo enforcement activities of the Division of Alcoholic Beverage Control involves approximately 5.5 FTE positions. In addition, tracks employ personnel for various lengths of time during the year. Approximately 6,000 occupation licenses were issued at the two operating tracks in 1993; however, many of those licenses were issued to racing animal owners who are not employed by the track, strictly speaking. Some jobs also may have been created in businesses that provide goods and services to the tracks, but there is no reliable tally of those positions. Likewise, there is no reliable means of determining how many positions may have been created in those entities receiving funds from the State Gaming Revenue Fund for economic development activities or those recipients of grants from the nonprofit organization licensees that are required to donate racing revenue to charities. In its 1993 *Annual Report*, the Kansas Racing Commission reported that approximately \$955,000 had been distributed to nonprofit organizations during calendar year 1993. Bingo licensees must be nonprofit organizations, some of which use Bingo proceeds for charitable purposes, but there are no reliable means of determining how many jobs have been created due to Bingo revenue used for those purposes.

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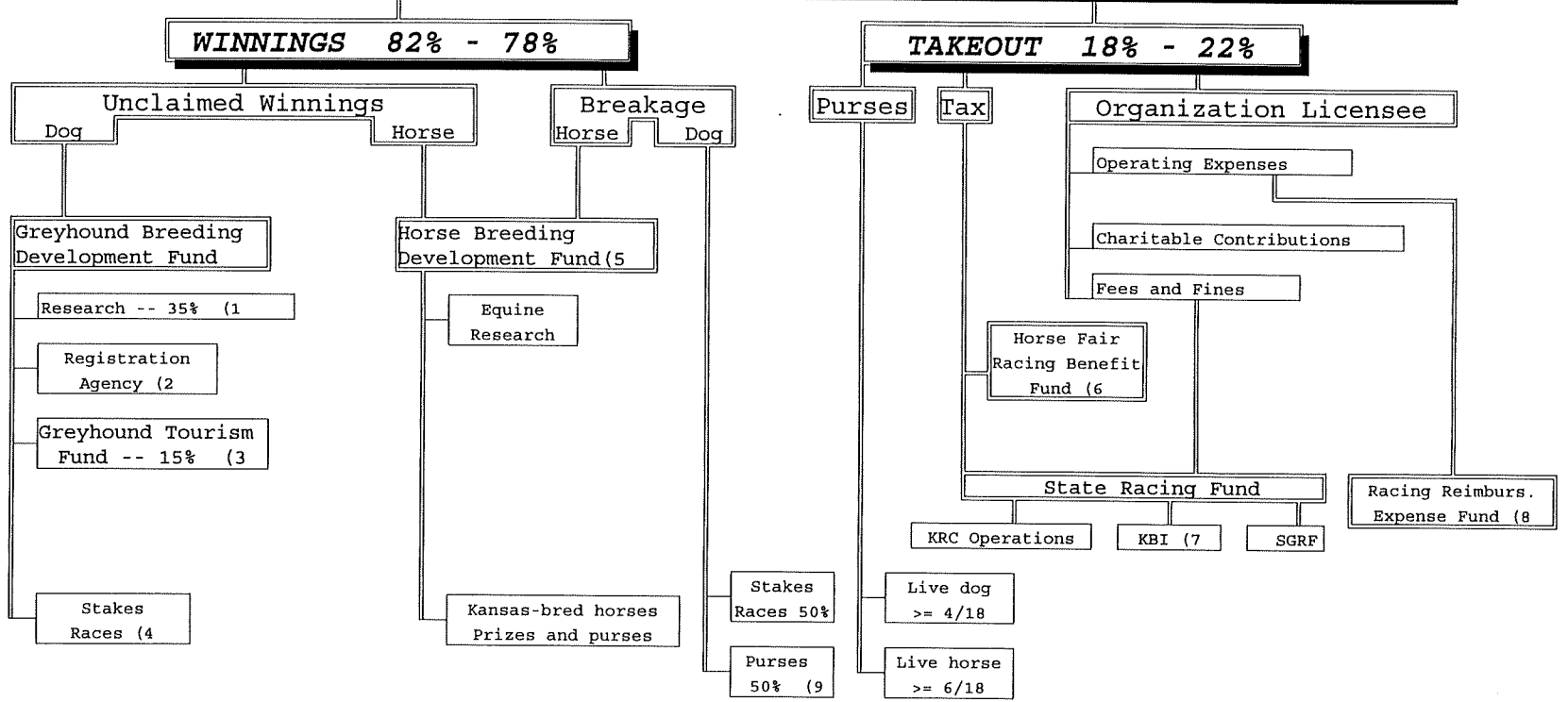
SOURCE: LEGISLATIVE DIVISION OF POST AUDIT, 1994

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- 1) Research conducted within the state relating to prevention of injury to and disease of greyhounds.
- 2) An amount determined by the Commission, but not more than \$30,000 per fiscal year to pay a portion of the administrative costs of the official registering agency designated by the Commission.
- 3) Expenditures from the fund are made by authority of the Secretary of Commerce and Housing.
- 4) An amount equal to 50 percent of all moneys credited to the fund in a fiscal year, less the amount used to finance the administration of the greyhound registration agency.
- 5) Expenditures from the fund are made by the Commission. Moneys credited to the fund must be apportioned into categories corresponding with the various breeds of horses participating in races conducted by organization licensees in proportion to each category's contribution to the fund. Moneys in the fund must be used to provide: purse supplements to owners of Kansas-bred horses; stakes and awards to the owners of winning Kansas-bred horses in certain races as determined by the Commission; a stallion award to each owner of a Kansas-registered stallion that meets certain requirements and that is the sire of a Kansas-bred horse that wins, places, or shows; and a breeder's award to each owner of a Kansas-registered mare that is the dam of a Kansas-bred horse that wins, places, or shows.
- 6) One-third of the Parimutuel Tax on simulcast races is credited to this fund. Expenditures from the fund are made by the Commission for statutorily enumerated expenses associated with the conduct of racing by county fair associations.
- 7) The Legislature, from time-to-time, authorizes via appropriations acts direct transfers from the State Racing Fund to the KBI to support that agency's Gaming Enforcement Unit.
- 8) Revenue to the fund includes fees for processing fingerprints of license applicants and licensees and reimbursements for services of stewards, judges, and assistant animal health officers. Expenditures from the fund are made by the Racing Commission to pay salaries of stewards, racing judges, and assistant animal health officers.
- 9) Purses from this fund are only to be paid to breeders of Kansas-whelped grey hounds pursuant to rules and regulations of the Commission.

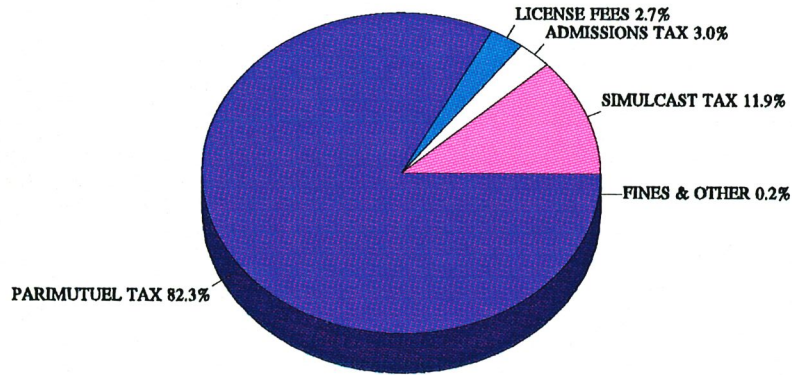
TOTAL WAGER ON LIVE HORSE AND DOG RACES (HANDLE)



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Racing Fund Sources -- FY 1996

Agency Estimate

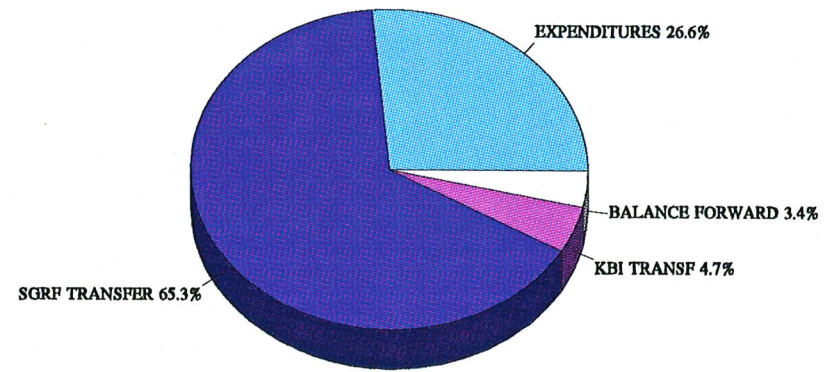


Parimutuel Tax	\$6,783,400
Simulcast Tax	977,310
Admission Tax	244,089
License Fees	221,086
Fines & Other	13,075
Total	\$8,238,960

Racing Fund Distribution -- FY 1996

Governor's Estimate

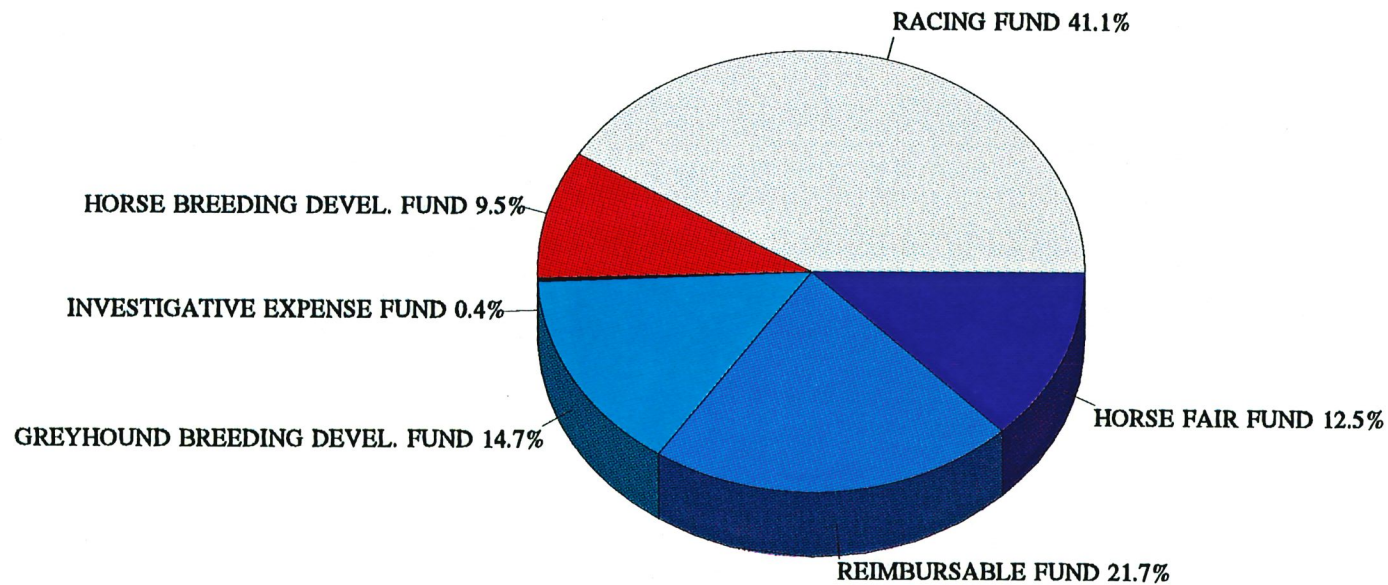
SGRF Transfer	\$5,127,100
KBI Transfer	372,023
Balance Forward	263,287
Expenditures	2,089,762
Total	\$7,852,172



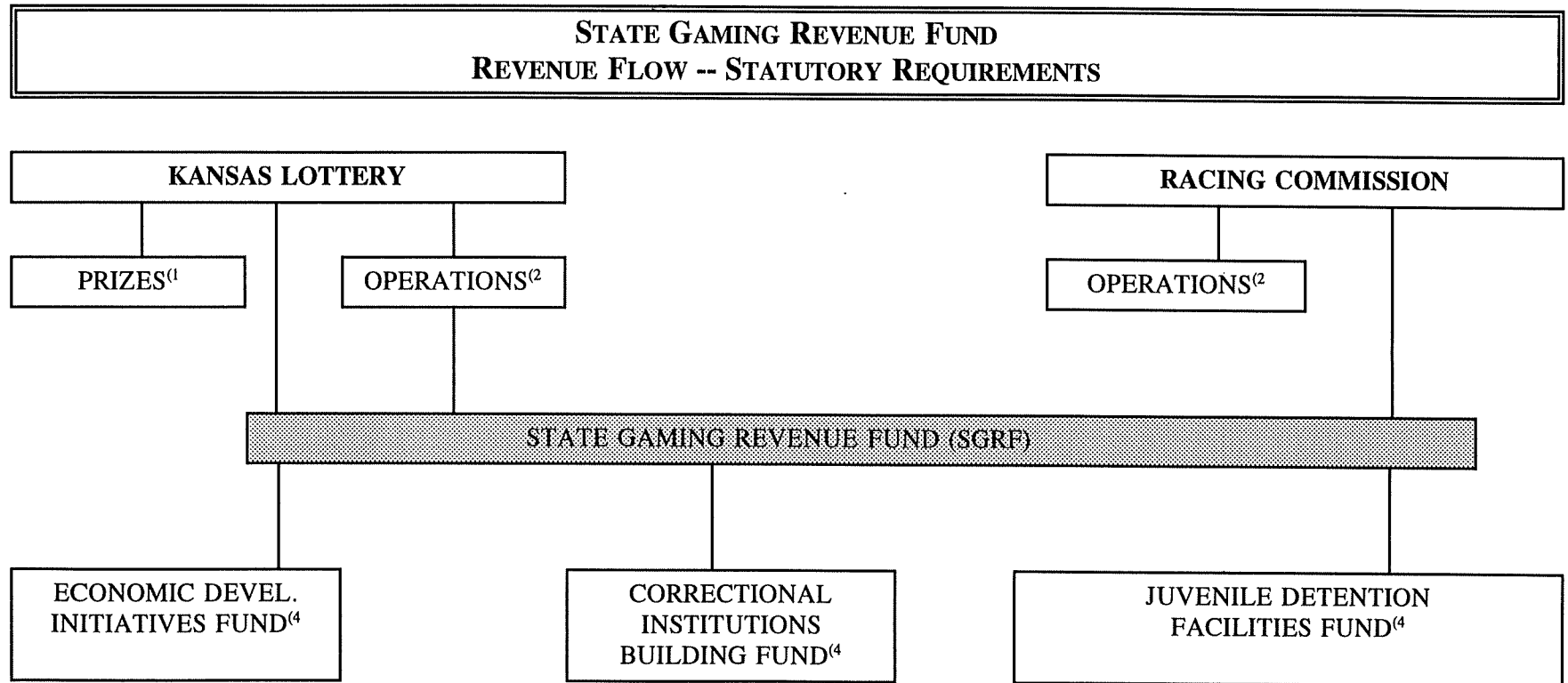
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Racing Commission Financing--FY 1996

Governor's Recommendation



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- 1) Minimum 45 percent.
- 2) Established in appropriations acts.
- 3) Minimum 35 percent of Lottery sales, all Racing Commission revenue not otherwise appropriated.
- 4) Effective July 1, 1995: 85 percent for EDIF, 10 percent for Correctional Institutions Fund and 5 percent for Juvenile Detention Facilities Fund.

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TRANSFERS FROM LOTTERY AND PARIMUTUEL FUNDS TO OTHER STATE FUNDS

	Actual FY 1988	Actual FY 1989	Actual FY 1990	Actual FY 1991	Actual FY 1992	Actual FY 1993	Actual FY 1994	Cumulative Totals
State Gen. Fund Receipts/Offsets:								
Lottery Transfers to SGF	\$2,843,321	--	--	--	\$1,500,000	--	--	\$4,343,321
Lottery Transfers to KBI	--	--	--	--	--	\$150,000	\$100,684	250,684
Parimutuel Transfer to SGF	--	--	--	1,646,665	--	--	--	1,646,665
Parimutuel Transfers to KBI	--	--	350,000	364,000	303,872	289,984	322,580	1,630,436
Total Transfers	\$2,843,321	\$0	\$350,000	\$2,010,665	\$1,803,872	\$439,984	\$423,264	\$7,871,106
St. Gaming Rev. Fund Receipts:								
Regular Lottery Transfers	\$8,500,000	\$20,115,848	\$19,081,989	\$19,453,470	\$22,847,019	\$32,479,362	\$45,787,019	\$168,264,707
Special Lottery Transfers	--	1,444,696	150,000	--	2,800,000	--	2,000,000	6,394,696
Parimutuel Transfers	--	--	3,682,246	7,577,665	7,103,667	5,822,316	5,963,172	30,149,066
Total Funds Available	\$8,500,000	\$21,560,544	\$22,914,235	\$27,031,135	\$32,750,686	\$38,301,678	\$53,750,191	\$204,808,469
SGRF Transfers Out:								
To Econ. Devp. Initiatives Fund	\$5,100,000	\$12,936,326	\$13,748,541	\$24,328,021	\$29,475,617	\$34,471,510	\$45,000,171	\$184,327,622
To County Reappraisal Fund	2,550,000	6,468,163	6,874,271	***	***	***	***	***
To State General Fund ****	0	0	0	0	0	0	3,750,001	0
To Correctional Insts. Bldg. Fund	850,000	2,156,054	2,291,424	2,703,113	3,275,069	3,830,168	5,000,019	20,480,847
Total SGRF Transfers	\$8,500,000	\$21,560,544	\$22,914,235	\$27,031,135	\$32,750,686	\$38,301,678	\$53,750,191	\$204,808,469
*** No 30% statutory transfer for reappraisal after June 30, 1990.								
**** Only when SGRF receipts exceed \$50.0 million annually.								
Transfer to Co. Reapprsl. Fund a)	--	\$2,915,318	\$24,316	--	--	--	--	2,939,634
a) recapture of lapsed encumbrances per 1988 H.B. 3091.								
TOTAL GAMING TRANSFERS	\$11,343,321	\$24,475,862	\$23,288,551	\$29,041,800	\$34,554,558	\$38,741,662	\$54,173,455	\$215,619,209

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MEMORANDUM

July 27, 1989

TO: Special Committee on Federal and State
Affairs/Governmental Organization

FROM: Kansas Legislative Research Department

RE: Parimutuel Wagering Terminology

The following terms and definitions are commonly used in discussion of parimutuel racing. This information was compiled from Glossary of Racing Terms by S. Tupper Bigelow. A copy of the entire Glossary is available in the Research Department.

back side or backstretch -- That part of a race track commonly known as the stable area.

breakage -- In parimutuel betting, the odd cents left over, after paying the successful bettors in multiples of 20, 10, or 5 cents on the dollar as the case may be, the exact amount of breakage varying in different racing jurisdictions. the breakage is retained by the racing association or split between it and the taxing authority. For instance, in a racing jurisdiction where the racing association pays to the dime, the calculators have calculated that a win ticket on Dinner Gong is actually worth \$6.69, but the successful bettor receives only \$6.60, the extra 9 cents being retained as breakage.

clerk of the course -- The employee of a race track whose duty it is to manage the conduct of a race meeting.

clerk of the scales -- The employee of a race track who weighs the jockeys with their tack and weights before and after a race.

colors -- (1) The racing colors or silks worn by a jockey in a race to identify the owner of the horse and to make it relatively easy for the stewards, patrol judges, and the public to differentiate between various horses in a race. The practice of wearing colors originated in Newmarket, England in 1762. (2) A jockey's uniform.

combination -- (1) In parimutuel betting, three separate bets that a certain horse will come first, that it will come second or better, and that it will come third or better. For convenience, since such bets are popular, special wickets are set up at race tracks to handle such bets, rather than put the bettor to the inconvenience of lining up in three different lines to buy three tickets. The bettor therefore buys one ticket, but has made three bets. (2) a **combination** race.

daily double -- (1) In two designated races, the betting on two horses to win each of the two races. (2) The two races designated as the ones on which daily double betting is permitted.

Daily Racing Form -- A daily newspaper published in a number of editions at various racing centers in the United States and Canada, dealing in a wealth of detail with past performances of horses competing the following day, and reporting in similar detail the

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results of the races held on the day of issue. In addition, it carries news and columns dealing with racing, and other news.

dead heat -- The finish of a race in which two or more horses finish precisely together.

disqualify -- (1) To place a horse in a lower position in a race than where it actually finished, due to carrying improper weight, ineligibility, the use of drugs, a foul committed by the jockey in the race, or other infractions of the rules of racing. A disqualified horse may be placed in any lower position in a race for foul riding, but is usually placed immediately behind the horses it interfered with in the race. (2) To suspend a horse, horseman, or jockey from racing.

dollar odds -- The profit a bettor will receive on a successful bet of \$1.00. Thus, if a \$2.00 investment pays \$6.60, his profit is \$4.60, or \$2.30 for \$1.00. The dollar odds are therefore \$2.30. To translate parimutuel pay-offs (for \$2.00 bet) to dollar odds subtract \$2.00 and divide by two.

drop -- Of a mare, to give birth to a foal.

equivalent odds -- The odds to \$1.00. If in parimutuel betting, a horse pays \$12.00 for a \$2.00 ticket, deduct the \$2.00 which has been bet; the odds, then are 10-2; the equivalent odds are 5-1.

exacta -- (1) In a designated race, the betting on two horses to finish first and second in that order. (2) The race designated as the one on which exacta betting is permitted.

field -- (1) All the horses which compete in a race. (2) A number of horses which are grouped together as an entry for the purpose of parimutuel betting. The horses which comprise the field are selected by the racing secretary or the track handicapper, and are the horses which are conceded to have the least chance of winning. But there are cases of three horses in the field finishing 1, 2, 3, which may or may not indicate how really difficult it is to correctly assess the possible performance of a Thoroughbred race horse. (3) In a race, the horses which finish after the first three.

furlong -- One-eighth of a mile.

futurity race -- A race for younger horses, usually two-year-olds, in which entries are made a considerable time before the running of the race, often before the entered horse is born.

groom -- A stable employee who cares for horses and often leads the horses from the stable to the paddock before a race.

half-miler -- (1) A race track one-half mile in circumference. (2) A horse which runs its best at a distance of one-half mile. (3) A horse which runs its best on a half-mile track.

handicap -- (1) A race in which the competing horses are assigned weights to carry which, ideally, will equalize their chances of winning. (2) As between horses, the difference in weights so assigned. (3) Loosely, any important race. It should be noted that virtually all races are handicaps in the sense of definition 1, since an attempt is made to equalize the chances of all competing horses by apprentice allowances, sex allowances, maiden allowances, and the like.

handicapper -- (1) The official of a racing association, usually the racing secretary, who assigns weights to competing horses in an effort to equalize their chances of winning. (2)



A newspaper writer who does his best to select the winners of a day's racing. (3) A bettor or student of the turf who makes his own selections.

intermediate distance -- Of a length of a race, anything over seven furlongs and under 1 1/8 miles.

invitation race -- A race in which the competing horses are selected by inviting their owners to enter specific horses in a race.

jockey -- (1) A professional race rider. Amateurs are called amateur riders or gentlemen riders. (2) Of a jockey, in a race, to maneuver for an advantageous position in relation to the other horses in the race.

Jockey Club, The -- (1) All Thoroughbreds racing on the North American Continent must be registered with **The Jockey Club** (New York) and their names must be approved by the Club. (2) The governing body of racing in the U.K.

Jockey's Guild, The -- A nationally organized body of jockeys, associated for the double purpose of performing charitable works for their own members and other jockeys, and advancing their relations with governing bodies of racing, race tracks, horsemen, and the public.

jockeys' room -- The quarters where the jockeys change, shower, etc., and where their tack is kept.

jockeys' room custodian -- Custodian of the jockey's room.

jockeys' school -- An off-season establishment where jockeys, particularly apprentices, and in some cases, unlicensed persons who wish to become jockeys, are trained in race riding.

judge -- A steward, placing judge, paddock judge, or patrol judge.

junior steward -- A steward, usually one who is learning, who has all the powers of any other steward, except the right to vote on any matter being determined by the stewards.

learner steward -- A steward who is inexperienced but sits with the stewards and has all the powers of any other steward, except the right to vote on any matter being determined by the steward.

maiden -- (1) A horse that has never won a race. (2) Of a race, one in which the contenders are horses that have not won a race. (3) Of a jockey, one who has not ridden a winner.

maiden allowance race -- A race exclusively for maidens, in which certain weight allowances are made under the conditions. A usual condition is that an allowance may be claimed if the horse has previously started in a closed claiming race, i.e., a claiming race out of which horses can be claimed only by owners of the other horses competing in the race in question.

match race -- A race between two horses, the property of two different owners on terms agreed to by them; it is void if either horse or party dies.

maturity -- A futurity for four-year-olds.

minus pool -- The total amount of money bet in the parimutuels on a race, or for win, place, show which will not show a profit for the racing association because the racing association is required to pay a certain minimum premium on each \$2 bet; in most racing jurisdictions, 10 cents. Thus, in the case of an almost unbeatable horse, particularly in stakes races, big bettors will bet large sums of money on the favorite to show, knowing they are bound to get \$2.10 back for every \$2.00 they bet.

morning line -- the probable odds on each horse, calculated by the track handicapper and posted in the morning of the day the races are to be run after scratches and the track condition are known.

mutuel pool -- (1) In parimutuel betting, the total amount bet on any race, or on any day, or at any meeting. (2) In parimutuel betting, the total amount bet on any race, or on any day, or at any meeting, less the tax and race track commission. After these deductions, the remainder is paid to successful bettors.

NASRC -- The National Association of State Racing Commissioners, members of which are members of Racing Commissions or Boards in the United States, Bahamas, Canada, Mexico, Puerto Rico, etc.

nose -- A unit of distance used to separate one horse from another in a race. The winning of a race is determined by ascertaining which horse got its nose over the finish line first.

objection -- A protest of foul in a race, entered by a steward, a patrol judge, the jockey, or by the horse's owner or trainer.

odds board -- A large sign-board-like structure, usually placed in front of the grandstand in the infield at a race track, upon which the odds are posted, usually in lights, as the betting on a race proceeds. Other information may also be found on the odds board, such as the time of the last race, post time for the next race, the parimutuel pay-off of the last race, and so on.

odds man -- An employee of a racing association whose duty it is to calculate the approximate odds on each horse in a race as the betting progresses so that these odds may be flashed on the odds board.

off-course betting -- Illegal betting with bookmakers outside of race track premises.

out -- (1) Of a horse, **out of the money**. (2) An outstanding (unredeemed) parimutuel ticket.

owner -- A person of stable which has property rights in a horse or horses, or who has leased the racing qualities of a horse or horses. In some jurisdictions, for some purposes, a husband and wife are recognized as a single owner. In most jurisdictions, an owner is licensed by the racing commission or governing body of racing.

paddock -- (1) The building or enclosure where the horses are saddled for a race. (2) A railed enclosure, sometimes surrounded by bleacher seats, in which the horses are paraded for public view immediately before the horses leave for the post parade.

paddock judge -- A race track official whose duty it is to get the jockeys up on their mounts in time, and get the horses on the racing strip in time.

paddock to post -- The parade of horses competing in a race from the paddock to the starting point of the race and, thence, by racing to the winning post. It is usually provided

that the horses should pass the stewards' stand twice before proceeding to the starting point.

parimutuel odds -- The odds paid on bets made at the race track where the parimutuel system of betting is in effect.

parimutuels -- The system of race track betting which returns to successful bettors the precise amount of money wagered by unsuccessful bettors, after deduction of tax and race track commission.

path-patrol judge -- A racing association official who watches a race from a certain part of a race track, and reports what he has seen to the stewards. There are usually three or four patrol judges.

pay-off -- The amount of money returned on a successful bet.

photo -- the series of photographs, taken a split second apart, of the finish of a race. At all modern tracks, such photographs are taken of every finish, and are posted on the grounds for public viewing in all cases where a neck or less separates any of the first four horses.

photo finish -- A close finish.

place -- (1) The betting on a horse to win or come in second in a race, rather than straight or show. (2) Of a horse, to come in second in a race. (3) Of a horse, to come in the first three in a race. (4) Of a horse, when the first four horses share the purse, to come in the first four in a race.

placing judge -- A racing association official who, with the other placing judges, decides the placement of the horses in their order of finish in a race.

pony boy -- (1) The rider of a horse who accompanies and aids the jockey in controlling his mount in the post parade. (2) The rider of a horse who leads a riderless horse in a workout.

pool -- (1) In parimutuel betting, the total amount bet on a race, or for win, place or show. (2) In parimutuel betting, the total amount bet on a race, or for win, place or show, after deducting the tax and race track commission.

post parade -- The procession of horses from the paddock along the first stretch, usually passing the stewards' stand and the grandstand twice.

program -- (1) A publication sold each day of racing at the track. Each program contains the following information: the date; the number of the day of the meeting; the name of the racing association, the officers and officials of the meeting; the order in which the races are to be run; the amount of each purse; the conditions and distances of each race; post position number; mutuel numbers; name, age, color, sex, breeding, assigned weight, and any change of equipment of each horse; the name of each jockey and trainer; the real or assumed name of each owner, his racing colors; and other matters pertaining to racing. (2) The races of a particular day, considered together.

purse -- (1) The amount of money won in a race. (2) The amount of money won by the owner of any competitor in a race. (3) A purse race.

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purse race -- A race for money or a prize to which the owners of the competing horses do not contribute.

quarter horse -- (1) A race horse, not a thoroughbred, which derived its name from the fact that the early settlers of Virginia raced their horses over distances of about a quarter-mile. The foundation sire of the American quarter horse was an English Thoroughbred named Janus and all present day quarter horses trace their blood lines back to this stallion. (2) A term used derisively of a Thoroughbred horse which is capable only of a short burst of speed.

quinella -- (1) In a designated race, the betting on two horses to finish first and second, although not necessarily in that order. Thus a bet on Dark Secret and Silver Land may pay off if these horses finish first and second or second and first respectively. (2) The race designated as the one on which **quinella** betting is permitted. Also spelled **quinela** and **quiniela**.

quinella pool -- (1) In parimutuel betting, the total amount bet on a quinella in a designated race. (2) In parimutuel betting, the total amount bet on a quinella in a designated race, after deducting the tax and race track commission.

race -- In its technical sense, according to the rules of racing in nearly all jurisdictions of Thoroughbred racing, a contest between or among horses for stakes, a purse or plate, a sweepstakes, a match, or an overnight event, but not a steeplechase or hurdle race.

race meeting -- The period of days during which races are run at any specified track.

race track -- (1) The place where races are run. (2) The racing strip.

racing qualities -- Of a horse, its use for the purpose of racing. The ownership of a horse may remain with its legal owner, but if its racing qualities are leased to another, the lessee becomes, for the purpose of racing, the owner of the horse. The racing qualities of a horse may be leased for a period of time or until its racing days are finished after which, in either case, the ownership of the horse reverts to the legal owner.

racing secretary -- The race track official whose duty it is, broadly speaking, to write the races.

rake-off -- The part of the money bet through the parimutuels deducted for the state and the race track, before payment of the rest to the betting public. See **take**.

record clerk -- The employee of a race track in the racing secretary's office whose duty it is to keep records of all personnel and horses engaged in racing at the current meeting.

ringer -- A horse which runs under the name and identity of another, or under a fictitious name.

rules of racing -- The regulations passed by a governing body of racing which regulate, control, and supervise the conduct of racing in the governing body's jurisdiction.

school -- To train a race horse, particularly in the starting gate, in the paddock, and on the racing strip; for preparing a horse for actual racing.

school course -- A training track.

scratch -- (1) The withdrawal of a horse from a race in which its entry has been accepted. (2) To withdraw a horse from a race after its entry has been accepted.

season -- The racing season in any particular region.

set down -- (1) Of any licensed personnel such as a trainer, jockey, etc., to suspend from his racing activities, usually for a period of days. (2) Of a horse, to give it a brisk workout.

show -- (1) Of a horse, to come third in a race. (2) Of a horse, to come first, second, or third in a race.

silks -- The registered racing colors of an owner, worn by the jockey when riding the owner's horse in a race. All racing colors must not only be different, but should be not similar to any other registered colors. These colors are shown on the jockey's shirt and cap which are of silk.

sire -- The father of a horse.

sloppy track -- A racing strip which is wet on the surface, but solid under the water, slower than a slow track, but faster than a heavy track.

slow track -- A racing strip which is drying out after a heavy rain, slower than a good track, but faster than a sloppy track.

sponge -- As well as its conventional meaning, as applied to a horse, to illegally insert a piece of sponge in one or both of a horse's nostrils, before a race or workout, so that its breathing will be interfered with and its performance will be relatively poor.

sprint -- A race of seven furlongs or less.

stake -- (1) Erroneous term for stakes. (2) An amount of money (usually 10 percent of the winner's share of the purse in stakes races) given as a gratuity to the jockey of a winning mount by the owner of the horse. (3) An amount of money given by the owner to the trainer as a gratuity for winning the race. (4) To give by way of gratuity a sum of money to a trainer, jockey, or groom.

stakes race -- A race in which the owners of the competing horses nominate their horse for participation and pay subscriptions, entrance, and starting fees, whether money or any prize is added or not (unless it is a private sweepstakes). An overnight race, however, is never considered to be a stakes race.

starting gate -- (1) In Thoroughbred racing, a solid structure stationary at the start of a race, equipped with a number of stalls tending to keep the horses more or less tightly stalled in until the race begins. It is equipped with wheels and is pulled off the track by tractors or work horses to the location of the start of the next race. (2) In harness racing, an automobile equipped with wide wings stretched almost the entire width of the track which precedes the horses as they approach the starting point. As the starting gate (which is not, of course, a starting gate at all, or even a gate of any kind for that matter) gets close to the starting point, it accelerates quickly and its wings fold forward as it then gets off the track to let the horses go by. (3) In Thoroughbred racing, by extension, any device, such as the barrier, used to start the horses in a race.

state take -- That part of the mutuel pool which accrues to the state, or taxing authority.

steward -- The word "steward" or "stewards" means steward or stewards of the race meeting. Usually there are three stewards to supervise each race meeting. One of such stewards is appointed or designated by the state racing commission, and two are appointed by the racing association, subject to the approval of the state racing commission. They are judges of all matters of fact with respect to the conduct of a race meeting, but their decisions are subject to appeal to the state racing commission.

straight -- The betting on a horse to win a race, rather than place or show.

stretch -- That part of a race track upon which no turns are made, particularly the straight part of the track between the last turn and the finish line. See **backstretch**.

stud -- (1) A stallion. (2) An establishment in which stallions and mares are kept for breeding purposes; also, the stallions and mares kept there. (3) A number of horses kept by one owner.

studbook -- (1) A list of Thoroughbred horses. (2) List of the engagements of a stallion at stud.

tack -- The equipment used by a jockey in riding, including saddle, bridle, whip, spurs, blinkers, tongue strap, muzzle, hood, noseband, bits, shadow roll, martingale, breastplate, bandages, boots, plates, and the like. The term is also applied to stable gear.

tack room -- A room in which riding equipment is kept and often on a race track where stable employees live and sleep.

take -- (1) The total amount deducted from the amount bet on a race, or day, at a race meeting, to be paid to the taxing authority and the race track. (2) The total amount of the tax and track commission. "The track **take** in this state is 6 percent and the government's **take** is 9 percent; a total **take** of 15 percent."

take out -- See **take**.

Teletimer -- An electronic device which times the running of a race and the fractional times of the race, and flashes the times on the odds board automatically and immediately.

Thoroughbred -- A breed of race horses which is registered in the National Stud Book, or if not registered, its sire and dam are. Every Thoroughbred racing today can trace its ancestry back to one of the three foundation sires: (1) through Herod to the Byerly Turk; (2) through Matchem to the Godolphin Barb; or (3) through Eclipse to the Darley Arabian.

timer -- (1) An employee of a racing association who officially times the races. (2) See **clocker**.

totalisator or **totalizator** -- A refinement of the parimutuel system of race track betting (see **parimutuels**) whereby tickets are printed as purchased and the purchase automatically recorded at a central place, so that the approximate odds may be quickly determined at any particular time and flashed on the odds board for public view and correctly determined and flashed when the race is over. With a totalisator, approximate odds are changed usually every 90 seconds.

track condition -- The state of the racing strip, due to weather conditions. Standard track conditions, in reverse order of fastness are **fast, good, slow, sloppy, heavy, or muddy**. See **fast track, good track**, etc.

track handicapper -- The race track official whose duty it is to assign weights to competing horses in a handicap in such a manner that, ideally, all the horses in such a race will finish in a multiple dead heat. At many tracks, he also selects the order of finish of the first three horses in each race, and this information is shown on the program.

track take -- That part of the **take** which accrues to the race track conducting the meeting.

trainer -- The employee of an owner who supervises and cares for race horses and in many cases is charged as well with the duty of entering the horses in his care in races which suit the horses. In most jurisdictions, a trainer is licensed by the racing commission or governing body of racing.

training track -- An auxiliary race track on the grounds of a racing association or on private property, used for workouts, schooling, starts, and the like.

trial -- A race preparatory to a much more important race, usually a stakes race, held about a week in advance of the important race, and at a different distance.

turn, the -- On an elliptical or oval race track, the bend at the end of the track before the finish line.

urinalysis -- Analysis of a urine specimen of a horse done by a racing chemist in an effort to detect forbidden substances.

urine test -- The taking of a sample of a horse's urine, usually just after a race in which it has competed, for analysis by a racing chemist, to ensure that it is free from forbidden substances.

weigh in -- As applied to jockeys, to be weighed with their equipment after a race by a race track official to ensure that their weight is the same as when they were weighed out. See **weigh out**. Allowances are made, of course, for a wet or muddy track, when the jockeys will accumulate a certain amount of mud and water on their clothing and equipment. Two pounds overweight in these circumstances is permitted.

weigh out -- As applied to jockeys, to be weighed with their equipment before a race by a race track official to ensure that they are not under the weight assigned to the horses they are riding. If they are overweight, the amount of the overweight is announced to the public. If they are underweight, lead plates are carried in their saddles to make up the deficit.

weight -- The poundage of a jockey and certain equipment specified by the rules of racing in any jurisdiction, which is assigned to a certain horse either by the track handicapper, or by the rules of racing in such jurisdiction, depending on the type of race, such as **handicap**, **allowance**, **claiming race**, etc., or by the conditions of the race as set out in the **condition book**.

weight for age -- (1) A weight for age race. (2) A weight, arbitrarily determined by the racing commission or governing body of racing, which is to be carried by horses of certain ages, over races of certain distances, during certain months of the year, provided the conditions of a race, as set out in the **condition book** do not otherwise specify. The rules of racing of any racing jurisdiction have a scale of weights for age.

whip -- A light, flexible stick carried by a jockey in a race.

wicket -- In U.K. a window at which a parimutuel clerk sells or cashes betting tickets.

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window -- The wicket at which a parimutuel clerk sells tickets or cashes them. Usually prefixed by a description of the **window**, such as "The \$5 place window," "The \$2 show window," "The daily double window," "The combination window," etc.

winner's circle -- An enclosure close to the racing strip, where the winner of a race is brought immediately after the race.

wire, the -- (1) The finish line of a race. (2) The starting point of a race. (Years ago, a wire was stretched across the track at the start of a race, and while the modern starting gate has long since replaced the wire and after that, the barrier, the practice of referring to the wire as the starting point still persists.)

withdraw -- **Scratch.**

workout -- The exercising of a horse for the purpose of exercise, or to ascertain its speed, usually in the morning.

Economic Development Initiatives Fund

	FY 1995 <u>Estimate</u>	FY 1996 <u>Request</u>	FY 1996 <u>Gov. Rec.</u>
State Water Plan	\$2,000,000	\$2,000,000	\$2,000,000
Department of Commerce and Housing			
Small Business Development Centers	325,000	325,000	325,000
Certified Development Companies	475,000	475,000	475,000
Kansas Industrial Training/Retraining	2,727,500	3,000,000	3,000,000
Trade Show Promotion	247,420	270,000	270,000
Strategic Planning Grants	600,000	600,000	600,000
Kansas Quality Improvement Network	65,000	65,000	65,000
Tourism Promotion	379,600	1,120,000	379,600
Boot Hill Tourism Grant	100,000	-	-
Wichita World Trade Center	100,000	-	-
Travel Information Centers	878,025	35,000	35,000
Kansas Economic Opportunity Initiatives Fund	1,700,000	5,000,000	4,000,000
High Performance Incentive Grants	75,000	75,000	75,000
Micro Loan Program	-	2,400,000	2,400,000
State Economic Development Block Grants	-	10,000,000	-
Operations	5,274,613	6,960,596	6,150,914
Subtotal Commerce and Housing	\$12,947,158	\$30,325,596	\$17,775,514
Kansas Technology Enterprise Corporation			
Research Matching Grants	1,259,613	1,800,000	1,260,000
Business Innovative Research Grants	85,000	565,000	86,000
Training Equipment	150,000	300,000	250,000
Industrial Liaison	200,000	300,000	300,000
Centers of Excellence	4,267,386	5,000,000	4,250,000
Seed Capital	1,500,000	4,500,000	3,300,000
Research Equipment Grants	-	1,000,000	-
EPSCOR	2,028,793	4,000,000	4,000,000
Special Projects	163,000	400,000	163,000
Commercialization	790,221	1,282,984	1,286,539
Agricultural Value Added Center	541,301	880,000	528,250
Mid-America Manufacturing Technology Ctr.	1,004,921	1,000,000	1,000,000
Telecommunications Grants	100,000	100,000	-
Operations	1,390,873	1,900,847	1,651,579
Subtotal KTEC	\$13,481,108	\$23,028,831	\$18,075,368
Department of Education			
Cultural Arts Center	25,000	25,000	-
Foundation for Agriculture	25,000	25,000	-
At-Risk/Innovative Program Assistance	1,485,000	2,000,000	1,351,234
Matching Grants - AVTS	495,000	500,000	145,000
Postsecondary Aid - AVTS	5,700,000	6,500,000	6,050,000
Capital Outlay - AVTS	1,500,000	2,000,000	1,500,000
Subtotal Education	\$9,230,000	\$11,050,000	\$9,046,234
Agriculture Market Promotion	366,707	366,707	366,707
KSSB Accessible Arts Program	150,000	-	-
Kansas, Inc.	516,889	132,928	129,144
Revenue	3,000,000	12,000,000	-
Wildlife and Parks	652,337	742,000	-
State Fair	114,000	200,000	-
Public Broadcasting	588,776	877,292	-
Arts Commission	1,124,650	1,573,171	-
Historical Society	119,200	823,198	-
Board of Regents	40,000	40,000	-
Human Resources	100,000	-	-
University of Kansas	829,735	862,290	-
Kansas State University	408,694	423,468	-
Kansas State University-ESARP	1,395,856	1,440,735	-
Wichita State University	393,686	408,826	-
State Library	1,250,277	330,000	-
Total EDIF Transfers	\$48,709,073	\$86,625,042	\$47,392,967