

Approved: 1-19-95  
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 11:10 a.m. on January 18, 1995 in Room 254-E of the Capitol.

Members present were: Senator Gooch  
Senator Hensley  
Senator Oleen  
Senator Papay  
Senator Parkinson  
Senator Ramirez  
Senator Tillotson  
Senator Vidricksen  
Senator Walker

Committee staff present: Mary Galligan, Legislative Research Department  
Kimberly Perkins, Committee Secretary

Conferees appearing before the committee: Charles G. Bredhal, Special Assistant to Adjutant General  
Pat Michaelis, Kansas State Historical Society

Others attending: See attached list

Sen. Oleen began the meeting by announcing that the committee will hear requests for introduction of bills and proceeded to discuss a draft of a bill concerning bingo and instant bingo which would reenact the instant bingo legislation in the event that the constitutional amendment authorizing instant bingo is approved by the voters (Attachment 1). Sen. Hensley made a motion to introduce it, and it was seconded by Sen. Vidricksen. The motion passed. Sen. Oleen asked if there were any other bills for introduction and there were none.

The Chairperson, Sen. Oleen, announced the hearing for **SB 17**, an act concerning military service records, and introduced Charles G. Bredhal, Special Assistant to Adjutant General, who gave testimony as a proponent. Charles Bredhal offered brief testimony in favor of the bill and was asked by Sen. Ramirez to explain what the bill does. Charles G. Bredhal explained that the bill simply was a means of record management which allows for the transfer of military records to the state historical society. Sen. Hensley then asked if the office of the Adjutant General was working in cooperation with State Historical Society and Charles Bredhal assured the committee that this was a cooperative effort. Sen. Tillotson explained that the office of the Adjutant General made a request to the State Historical Society that the records be moved to the state archives and that the issue was discussed in the interim session in the Joint Committee on Arts and Cultural Resources.

Sen. Oleen introduced Pat Michaelis from the State Historical Society, who gave testimony (Attachment 2) as a proponent. Sen. Vidricksen asked Pat Michaelis if the State Historical Society in conjunction with the Adjutant General kept a record on the number of state casualties dating from the Civil War through the Gulf War. Pat Michaelis responded that while the archives does have the killed in action records from some of the earlier conflicts, the more contemporary records are stored only at the federal level. Sen. Oleen clarifies that exempt persons applying for veterans benefits would not be required to pay copying fees and Pat Michaelis assured the committee that the clarification was correct. With no further discussion of **SB 17**, Sen. Oleen closed hearings on the bill.

Sen. Oleen introduced Mary Galligan who gave a presentation (Attachment 3) on a brief on the Gaming Functions in Kansas and other states. Sen. Oleen explained that the brief was an excellent reference piece and that it would be beneficial to the committee throughout the session.

Sen. Oleen asked for committee action on approving Committee minutes for the Committee Meeting on January 18. Sen. Gooch made a motion the Minutes be approved, and it was seconded by Sen. Papay; the

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E  
Statehouse, at 11:10 a.m.

motion passed.

Meeting adjourned at 11:55

The next meeting is scheduled for January 19, 1995.



██████ BILL NO. \_\_\_\_\_

By Committee on Federal and State Affairs

AN ACT concerning bingo; relating to instant bingo; levying certain taxes; reviving and amending K.S.A. 79-4701, as amended by section 1 of chapter 366 of the 1984 Session Laws of Kansas, 79-4704, as amended by section 6 of chapter 341 of the 1977 Session Laws of Kansas, 79-4705, as amended by section 26 of chapter 308 of the 1980 Session Laws of Kansas, 79-4706, as amended by section 1 of chapter 304 of the 1989 Session Laws of Kansas, 79-4710, as amended by section 6 of chapter 366 of the 1984 Session Laws of Kansas and 79-4711, as enacted by section 12 of chapter 341 of the 1977 Session Laws of Kansas and repealing the revived sections; also repealing K.S.A. 1994 Supp. 79-4701, 79-4704, 79-4705, 79-4706, 79-4710, 79-4711 and 79-4712.

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

Section 1. K.S.A. 79-4701, as amended by section 1 of chapter 366 of the 1984 Session Laws of Kansas, is hereby revived and amended to read as follows: 79-4701. As used in this act, each of the following words and phrases shall have the following meaning unless the context otherwise requires:

(a) "Bingo" means the games of call bingo and instant bingo.

(b) "Call bingo" means a game in which each participant must pay a charge and a prize or prizes are awarded to the winner or winners in which each participant receives one or more cards or in which a card or cards are included in a paper game program booklet each of which is marked off into 25 squares arranged in five horizontal rows of five squares each and five vertical rows of five squares each, with each square being designated by number, letter or combination of numbers and letters, and only the center square designated with the word "free" with no two cards being identical, with the players covering squares as the

Senat Fed. & State Affairs  
Attachment 1  
1-18-95

operator of such game announces a number, letter or combination of numbers and letters appearing on an object selected by chance, either manually or mechanically from a receptacle in which have been placed objects bearing numbers, letters or combinations of numbers and letters corresponding to the system used for designating the squares, with the winner of each game being the player or players first properly covering a predetermined and announced pattern of squares upon the card or a card which is included in a paper game program booklet being used by such player or players.

(c) "Instant bingo" means a game: (1) In which each participant must pay a charge; (2) in which a prize or prizes are awarded to the winner or winners; (3) in which each participant receives one or more disposable tickets which accord a participant an opportunity to win something of value by opening, detaching or otherwise removing a cover from the ticket to reveal a set of numbers, letters, symbols or configurations, or any combination thereof; (4) which is conducted by a licensee under this act; (5) the conduct of which must be in the presence of the participants; and (6) which does not utilize any dice, normal playing cards or slot machines.

(d) "Bingo card distributor" means any person or entity that sells or otherwise distributes instant bingo tickets or disposable paper call bingo cards to licensees under this act.

(e) "Nonprofit religious organization" means any organization, church, body of communicants, or group, gathered in common membership for mutual support and edification in piety, worship, and religious observances, or a society of individuals united for religious purposes at a definite place and of which no part of the net earnings inures to the benefit of any private shareholder or individual member of such organization, and which religious organization maintains an established place of worship within this state and has a regular schedule of services or meetings at least on a weekly basis and has been determined by the secretary of revenue to be organized and created as a bona

revenue.

(e) (h) "Nonprofit educational organization" means any public or private elementary or secondary school or institution of higher education which has been determined by the secretary of revenue to be organized and operated as a bona fide educational organization and which has been exempted from the payment of federal income taxes as provided by section 501(c)(3) of the federal internal revenue code of 1954, as amended, or determined to be organized and operated as a bona fide nonprofit educational organization by the secretary of revenue.

(f) (i) "Nonprofit veterans' organization" means any organization within this state or any branch, lodge, or chapter of a national or state organization within this state, the membership of which consists exclusively of individuals who qualify for membership because they were or are members of the armed services or forces of the United States, or an auxiliary unit or society of such a nonprofit veterans' organization the membership of which consists exclusively of individuals who were or are members of the armed services or forces of the United States, or are cadets, or are spouses, widows or widowers of individuals who were or are members of the armed services or forces of the United States, and of which no part of the net earnings inures to the benefit of any private shareholder or individual member of such organization, and has been determined by the secretary of revenue to be organized and operated as a bona fide veterans' organization and which has been exempted from the payment of federal income taxes as provided by section 501(c)(4) or 501(c)(19) of the federal internal revenue code of 1954, as amended, or determined to be organized and operated as a bona fide nonprofit veterans' organization by the secretary of revenue.

(g) (j) "Lessor" means the owner, coowner, lessor or sublessor of premises upon which a licensee is permitted to manage, operate or conduct games of bingo, whether or not a written lease has been entered into and submitted to the

bona fide religious organization and which has been exempted from the payment of federal income taxes as provided by section 501(c)(3) or section 501(d) of the federal internal revenue code of 1954, as amended, or determined to be organized and operated as a bona fide nonprofit religious organization by the secretary of revenue.

~~(e)~~ (f) "Nonprofit charitable organization" means any organization which is organized and operated for:

(1) The relief of poverty, distress, or other condition of public concern within this state; or

(2) for financially supporting the activities of a charitable organization as defined in paragraph (1); or

(3) for conferring direct benefits on the community at large; and of which no part of the net earnings inures to the benefit of any private shareholder or individual member of such organization and has been determined by the secretary of revenue to be organized and operated as a bona fide charitable organization and which has been exempted from the payment of federal income taxes as provided by sections 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6) and 501(c)(7) of the federal internal revenue code of 1954, as amended, or determined to be organized and operated as a bona fide nonprofit charitable organization by the secretary of revenue.

~~(d)~~ (g) "Nonprofit fraternal organization" means any organization within this state which exists for the common benefit, brotherhood, or other interests of its members and is authorized by its written constitution, charter, articles of incorporation or bylaws to engage in a fraternal, civic or service purpose within this state and has been determined by the secretary of revenue to be organized and operated as a bona fide fraternal organization and which has been exempted from the payment of federal income taxes as provided by section 501(c)(8) or section 501(c)(10) of the federal internal revenue code of 1954, as amended, or determined to be organized and operated as a bona fide nonprofit fraternal organization by the secretary of

Sec. 3. K.S.A. 79-4705, as amended by section 26 of chapter 308 of the 1980 Session Laws of Kansas, is hereby revived and amended to read as follows: 79-4705. (a) On dates prescribed by the director of taxation, every organization licensee operating or conducting a game of bingo shall make a return to the director of taxation upon forms prescribed by the director stating the name and address of the organization, the amount of the gross receipts received from charges for admission or participation in such game during the preceding reporting period, the number of each denomination of instant bingo tickets sold during the preceding reporting period and such other information as the director may deem necessary. The organization licensee making the return shall, at the time of making such return, pay to the director of taxation the amount of the tax then due under K.S.A. 79-4704 and amendments thereto. The director may extend the time for making returns and payment of such taxes for a period not exceeding ~~sixty-(60)~~ 60 days under rules and regulations adopted by the secretary of revenue.

(b) ~~If any organization authorized to manage, operate or conduct bingo games under the laws of the state of Kansas~~ On dates prescribed by the director of taxation, every bingo card distributor shall make a return to the director of taxation upon forms prescribed by the director, listing the number of instant bingo tickets sold to each licensee, the amount of the retail sales price of such tickets, the number of disposable paper call bingo faces sold to each licensee and such other information as the director may deem necessary. The distributor making the return shall, at the time of making such return, pay to the director of taxation the amount of tax then due on the instant bingo tickets under K.S.A. 79-4704 and amendments thereto.

(c) If any licensee or bingo card distributor fails to make a return, or to pay any tax, when required to do so by the provisions of this act, except in the case of an extension of time granted by the director of taxation, there shall be added to the tax determined to be due a penalty of ~~twenty-five-percent~~ 25%



secretary of revenue as required in subsection (c) of K.S.A. 79-4703 and amendments thereto, and includes all political subdivisions and other public agencies.

~~(h)~~ (k) "Premises" means any room, hall, building, enclosure or outdoor area used for the management, operation or conduct of a game of bingo.

Sec. 2. K.S.A. 79-4704, as amended by section 6 of chapter 341 of the 1977 Session Laws of Kansas, is hereby revived and amended to read as follows: 79-4704. For the purpose of providing revenue which may be used by the state, counties and cities and for the privilege of operating or conducting games of bingo under the authority of this act<sup>7</sup>:

(a) There is hereby levied and there shall be collected and paid by each licensee a tax at the rate of ~~three-percent-(3%)~~ 3% upon the gross receipts received by the licensee from charges for participation in ~~such~~ call bingo games and any admission fees or charges in connection therewith. The tax imposed by this section shall be in addition to the license fee imposed under K.S.A. 79-4703 and amendments thereto.

(b) There is hereby levied and there shall be collected and paid by each bingo card distributor a tax at a rate of 1% upon the total of the printed retail sales price of all tickets in each box of instant bingo tickets sold by the distributor to each licensee conducting instant bingo games within the state of Kansas. The bingo card distributor shall include the tax due under this subsection in the sales price of each box paid by the licensee and such tax shall be itemized separately on the invoice provided to the licensee.

(c) Whenever, in the judgment of the secretary of revenue, it is necessary, in order to secure the collection of the tax due under subsection (b), the secretary shall require any bingo card distributor subject to such tax to file a bond with the director of taxation under conditions established by and in such form and amount as prescribed by rules and regulations adopted by the secretary.

(b) No person except a bona fide member or spouse of a bona fide member of the sponsoring organization or parent organization or an auxiliary unit or society of such sponsoring organization may participate in the management, conduct or operation of any game of bingo.

(c) No lessor, any employee of any such lessor or any employee, officer or shareholder of a for profit corporation which is the lessor, shall play any game of bingo on premises leased by any such lessor or shall be responsible for or assist in the management, operation or conduct of any game of bingo on such premises.

(d) No person may participate in the management, conduct or operation of bingo games if such person, within five years prior to such participation, has been convicted of or pleaded guilty or nolo contendere to any felony or illegal gambling activity or purchased a tax stamp for wagering or gambling activity.

(e) No person may receive any remuneration or profit for participating in the management, conduct or operation of any game of bingo.

(f) The aggregate value of all prizes including the retail value of all merchandise awarded or offered by any such organization on any single day to winners of games of call bingo shall not exceed \$1,200, and any prize awarded in cash of \$100 or more shall be paid by a check drawn on the bingo trust bank account of the licensee.

(g) The total number of call bingo games managed, operated or conducted by any licensee in any one day shall not exceed 25 and not more than five of such games shall be jackpot or special games and not more than one licensee may conduct bingo games at a given location or registered premises in any one calendar day.

(h) The prize awarded in any one regular call bingo game shall not exceed \$50 in cash or its equivalent and such prize in any one jackpot or special call bingo game shall not exceed \$500 in cash or its equivalent.

(i) The retail value of any merchandise received by a winner

of the amount of such tax, together with interest at the rate per month prescribed by ~~K.S.A.-79-4768(a)~~ subsection (a) of K.S.A. 79-2968 and amendments thereto from the date the tax was due until paid.

~~(c)~~ (d) If any tax determined and assessed by the director of taxation is unpaid due to fraud with intent to evade the tax imposed by this act, there shall be added thereto a penalty of fifty percent of the amount of such tax, together with interest at the rate per month prescribed by ~~K.S.A.-79-2768(a)~~ subsection (a) of K.S.A. 79-2968 and amendments thereto from the date the tax was due until paid.

~~(d)~~ (e) Whenever, in the judgment of the director of taxation, the failure of any organization licensee or bingo card distributor to comply with the provisions of subsection (a) of ~~this-section,~~ or (b) was due to reasonable cause, the director of taxation may, in the director's discretion, waive or reduce any of the penalties or interest imposed by this section, upon making a record of the reason therefor.

~~(e)~~ (f) The penalties imposed under this section shall be in addition to, and in no way shall abridge, supersede, or contravene, other penalties imposed by this act for violation of the provisions of this act.

Sec. 4. K.S.A. 79-4706, as amended by section 1 of chapter 304 of the 1989 Session Laws of Kansas, is hereby revived and amended to read as follows: 79-4706. Games of bingo managed, operated or conducted by organizations licensed under the provisions of this act shall be managed, operated or conducted subject to rules and regulations adopted by the secretary of revenue and the following restrictions:

(a) The entire gross receipts received by any such organization from the operation or conduct of games of bingo, except that portion utilized for the payment of the cost of prizes and license fees and taxes imposed under the provisions of this act, shall be used exclusively for the lawful purposes of the organization permitted to conduct that game.

lessor or licensee shall specify the organization which is managing, operating or conducting the bingo game. For the purposes of this act and rules and regulations of the secretary of revenue, announcement of the cancellation of a game of bingo shall not be considered to be an advertisement.

(o) (p) No lessor of premises used for the management, operation or conduct of any games of bingo or any licensee shall offer an opportunity to participate in a game of chance, drawing, contest, door prize, game, test of skill, lottery or any similar activity as an inducement to participate in games of bingo nor as a bingo prize or preliminary to the awarding of a bingo prize.

(p) (q) No licensee shall manage, operate or conduct bingo on any leased premises or with leased equipment unless all of the terms and conditions of rental or use, including the rental of chairs, bingo equipment, tables, security guards, janitor service or any other services, are set forth in a lease submitted, approved and on file with the secretary of revenue.

(q) (r) No premises shall be used for the management, operation or conduct of bingo games on more than three calendar days in any one week.

(r) (s) No premises shall be subdivided to provide multiple premises where games of bingo are managed, operated or conducted, whether or not the multiple premises have different addresses.

(s) (t) No game of bingo shall be managed, operated or conducted on leased premises if at any time during the immediately preceding 44 hours the premises, or any leased premises within 1,000 feet of them, have been used for the management, operation or conduct of a game of bingo.

(t) (u) Every licensee who has gross receipts of \$1,000 or more received from participation in games, admission fees or charges and from any other source directly related to the operation or conduct of any bingo games in any calendar month shall maintain a bingo trust bank account into which all such receipts are deposited daily and from which all payments are made relating to the management, operation or conduct of any bingo

of a bingo game shall be considered as the cash value for the purposes of determining the value of the prize.

~~(i)~~ (j) The charge made for a single ~~card~~ reusable card or equivalent number of disposable paper cards to play in call bingo games other than jackpot or special games shall not exceed \$1 and such ~~card--shall--be--valid--for--all--regular~~ reusable card or equivalent number of disposable paper cards shall be valid for all such regular call bingo games conducted or operated by the licensee on a particular day. The charge made for a single reusable card or disposable paper card to play in any single jackpot or special game shall not exceed \$1. Paper game program booklets with multiple bingo cards printed on the pages thereof are permitted so long as the charge made for a regular game program booklet does not exceed \$1, except that the charge for such game program booklet may be increased by an amount not exceeding \$1 for each single jackpot or special game in the game program booklet. The charge made for a single instant bingo ticket shall not exceed \$1.

~~(j)~~ (k) Games of bingo shall not be managed, operated or conducted by any licensee on more than two calendar days in any one week.

~~(k)~~ (l) All licenses issued under the provisions of this act shall be issued in the name of the organization licensed.

~~(l)~~ (m) Each licensee shall keep a record of all bingo games managed, operated or conducted by it for a period of three years following the date the game is managed, operated or conducted.

~~(m)~~ (n) No person under the age of 18 years shall participate in the management, operation or conduct of any game of bingo managed, operated or conducted under the provisions of this act.

~~(n)~~ (o) A lessor of premises used for the management, operation or conduct of bingo or a licensee may not advertise bingo games except to the extent and in the manner prescribed by the rules and regulations adopted by the secretary of revenue, and any advertisement of any bingo game by or on behalf of such

games, except payment of prizes of less than \$100. Having once established such bingo trust bank account, the licensee shall continue to make deposits of all receipts therein. Every licensee shall notify the secretary of revenue of the name of the bank in which the bingo trust bank account is maintained, together with the number and name of the account. Every licensee who maintains a bingo trust bank account shall maintain a complete record of all deposits and withdrawals from such bank account and the same shall be available to the secretary of revenue or the secretary's agents or investigators to audit at any reasonable time.

~~(u)~~ (v) The records required under subsection ~~(t)~~ (u) are in addition to all other records required to be kept by the licensee by statute or rules and regulations. The records required by subsection ~~(t)~~ (u) shall be maintained in the same place as all other records required to be kept by the licensee.

(w) No instant bingo ticket shall be sold by a licensee more than one hour prior to the start of the first game of call bingo for the day or after the termination of the last game of call bingo operated or conducted by the licensee for such calendar day.

(x) No licensee shall purchase disposable paper call bingo cards or instant bingo tickets from any person or entity other than a bingo card distributor registered by the secretary of revenue as provided in this act.

(y) All instant bingo tickets sold or distributed to licensees shall bear on the face thereof a unique serial number which shall not be repeated on the same manufacturer's form number less than every three years. All instant bingo tickets shall be sold or distributed in boxes, and each box shall be sealed by the manufacturer with a seal which includes a warning to the purchaser that the box may have been tampered with if the box was received by the purchaser with the seal broken. Each box of instant bingo tickets shall contain tickets printed in such a manner as to insure that at least 60% of the gross revenues generated by the ultimate sale of all tickets from such box shall

be returned to the final purchasers of such tickets. No box of instant bingo tickets may be opened by a licensee unless all tickets contained in a previously opened box with the same form number have been sold.

(z) Each box of instant bingo tickets sold or distributed to licensees shall be accompanied by a flare which contains the following information: (1) The name of the game; (2) the manufacturer's name or logo; (3) the game form number; (4) the ticket count in the game; (5) the prize structure for the game, which includes the number of winning tickets by denomination and their respective winning symbol or number combinations; (6) the cost per ticket; (7) the game serial number; (8) the winning numbers or symbols for the top three winning tiers set out in such a manner that each prize may be marked off as the prize is won and awarded; (9) the business name of the bingo card distributor; and (10) the Kansas bingo license number of the licensee to which the game is sold.

New Sec. 5. (a) No person or entity shall sell or otherwise distribute any disposable paper call bingo cards or instant bingo tickets to any organization licensed under the provisions of this act unless and until such person or entity has made application for and has been issued a bingo card distributor registration certificate by the secretary of revenue. Application for registration shall be accompanied by a fee in the amount of \$500 and shall be made upon forms prescribed by the secretary.

(b) Each bingo card distributor registration certificate shall expire at midnight on June 30 following its date of issuance. Application for renewal of a registration certificate shall be accompanied by a fee in the amount of \$500 and shall be made upon forms prescribed by the secretary.

(c) The secretary of revenue shall establish by rule and regulation reasonable criteria for approval of bingo card distributors. The secretary of revenue shall refuse to register a bingo card distributor if any owner, manager or employee thereof has, within five years prior to registration, been convicted of

or pleaded guilty or nolo contendere to any felony or illegal gambling violation in this or any other jurisdiction.

(d) All bingo card distributors shall maintain for a period of not less than three years full and complete records of all disposable paper call bingo cards and instant bingo tickets sold to licensees within this state. Such records shall be made available for inspection by any authorized representative of the secretary of revenue.

Sec. 6. K.S.A. 79-4710, as amended by section 6 of chapter 366 of the 1984 Session Laws of Kansas, is hereby revived and amended to read as follows: 79-4710. (a) All amounts received by or for the secretary of revenue from license ~~fees-pursuant-to K.S.A.-79-4703--and--amendments--thereto~~ and registration fees pursuant to this act shall be remitted to the state treasurer and the state treasurer shall deposit all of such moneys in the state treasury and, except as otherwise provided by K.S.A. 79-4711 and amendments thereto for maintenance of the bingo refund fund, shall credit the same to the state ~~general~~ bingo regulation fund.

(b) All amounts received by or for the secretary of revenue from the tax levied pursuant to K.S.A. 79-4704 and amendments thereto shall be remitted to the state treasurer and the state treasurer shall deposit all of such moneys in the state treasury. There is hereby created, in the state treasury, the state bingo regulation fund and the county and city bingo tax fund. Subject to the maintenance requirements of the bingo refund fund under K.S.A. 79-4711 and amendments thereto, 1/3 of each deposit shall be credited to the state general fund, 1/3 of each deposit to the state bingo regulation fund and the remaining 1/3 of such deposit shall be credited to the county and city bingo tax fund. Moneys in the state bingo regulation fund shall be expended for the enforcement of the bingo statutes in article 47 of chapter 79 of Kansas Statutes Annotated and rules and regulations adopted pursuant thereto. Such expenditures shall be made upon vouchers approved by the secretary of revenue or a person designated by the secretary.



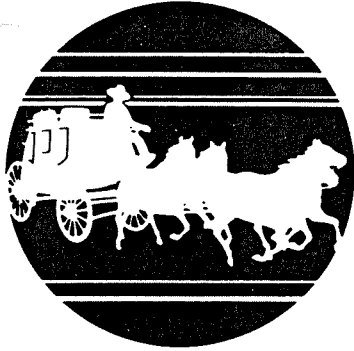
(c) All moneys deposited in the county and city bingo tax fund shall be returned to the counties and cities in which the locations and registered premises are located at a time or times fixed by the secretary but not less than once each year. If the locations and registered premises are located within the corporate limits of a city, all taxes collected therefrom shall be remitted to the city treasurer of such city and credited to the city general fund. If the locations and registered premises are located within the unincorporated area of any county, all taxes collected therefrom shall be remitted to the county treasurer of such county and credited to the county general fund. Moneys distributed to cities and counties under this section shall be used to assist in the enforcement of the bingo laws of this state.

Sec. 7. K.S.A. 79-4711, as amended by section 12 of chapter 341 of the 1977 Session Laws of Kansas, is hereby revived and amended to read as follows: 79-4711. There is hereby created the bingo refund fund in the state treasury. The bingo refund fund shall be a refund clearing fund and refunds of the fees imposed under K.S.A. 79-4703 and amendments thereto and of the tax levied under K.S.A. 79-4704 and amendments thereto shall be made from this fund. The bingo refund fund shall be maintained by the secretary of revenue from the ~~fees-received-under-K-S-A---79-4703~~ and license and registration fees received under this act and from the tax collected under K.S.A. 79-4704 and amendments thereto in an amount sufficient for such refunds ~~of not to exceed ten-thousand-dollars-(\$10,000)~~ \$10,000.

Sec. 8. K.S.A. 79-4701, as amended by section 1 of chapter 366 of the 1984 Session Laws of Kansas and revived by this act, 79-4704, as amended by section 6 of chapter 341 of the 1977 Session Laws of Kansas and revived by this act, 79-4705, as amended by section 26 of chapter 308 of the 1980 Session Laws of Kansas and revived by this act, 79-4706, as amended by section 1 of chapter 304 of the 1989 Session Laws of Kansas and revived by this act, 79-4710, as amended by section 6 of chapter 366 of the

1984 Session Laws of Kansas and revived by this act, 79-4711, as enacted by section 12 of chapter 341 of the 1977 Session Laws of Kansas and revived by this act, and K.S.A. 1994 Supp. 79-4701, 79-4704, 79-4705, 79-4706, 79-4710, 79-4711 and 79-4712 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after certification by the state board of canvassers that the proposition contained in 1995 Senate Concurrent Resolution No. 1602 is adopted by the voters of the state and its publication in the Kansas register.



# KANSAS STATE HISTORICAL SOCIETY

Testimony on Senate Bill 17

Presented By Patricia Michaelis, State Archivist

to the Federal and State Affairs Committee

January 18, 1995

My name is Pat Michaelis of the Kansas State Historical Society and I am testifying before you in my role as State Archivist. The request to amend KSA 48-204, 73-210, and 73-210a originated at a meeting of the State Records Board in late 1993. The State Records Board has responsibility for approving or disproving records retention and disposition schedules for state agencies. At the meeting, the Board was considering a records schedule entry for military service records of individuals held in the Archives Section of the Adjutant General's Department. Everyone involved agreed that the records had enduring value due to the information they contain concerning Kansans' participation in military service. However, the wording of the existing legislation requires the Adjutant General to keep them permanently. In discussions with the Adjutant General's records officer Charles Bredahl, it was agreed to seek an amendment to allow the records in question to be transferred to the Kansas State Historical Society, where they would be more accessible to researchers.

We contacted Senator Tillotson to request that the Revisor of Statute's office prepare such an amendment. The draft bill being considered by this committee allows for the transfer of these records to the Historical Society based on a records schedule entry that would be approved by the State Records Board. It would establish a time frame for retaining records in the Adjutant General's Office and then transferring them to the Historical Society. Military records are of great interest to genealogical researchers and their availability at the Historical Society would make them easily accessible to the more than 15,000 researchers who visit the research rooms each year.

We feel the wording that exempts persons applying for veterans benefits from paying copying fees continues the original bill's intent to recognize the value of military service while allowing for nominal charges for others requesting copies of these records.

We are supportive of the changes brought about by this draft and feel that it meets all of our concerns.

Senate Fed. & State  
1-18-95  
Attachment 2

# MEMORANDUM

## Kansas Legislative Research Department

300 S.W. 10th Avenue  
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Topeka, Kansas 66612-1504  
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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.

Senate Fed & State  
1-18-95  
Attachment 3

- §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.*).<sup>1</sup> 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:

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<sup>1</sup> 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 compacts<sup>2</sup> 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.

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<sup>2</sup> 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.<sup>3</sup> 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)).<sup>4</sup>

The Commission is composed of five members appointed by the Governor to serve four year terms. 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)).

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

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<sup>3</sup> 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)).

<sup>4</sup> 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.

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 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).<sup>5</sup> 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 county fair associations 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 responsibilities of certain occupation licensees (jockey, apprentice jockey, jockey agent, program trainer, starter,

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<sup>5</sup> 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).

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 county 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 III<sup>6</sup> 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.

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<sup>6</sup> 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.

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 Fund<sup>7</sup> 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.

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<sup>7</sup> 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.

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 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.<sup>8</sup> 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.<sup>9</sup>

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)).<sup>10</sup> 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)).

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<sup>8</sup> Post Audit Report, April 1993, p. 7.

<sup>9</sup> Ibid., p.8.

<sup>10</sup> 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.<sup>11</sup> 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)).

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<sup>11</sup> 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 prelicensure 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

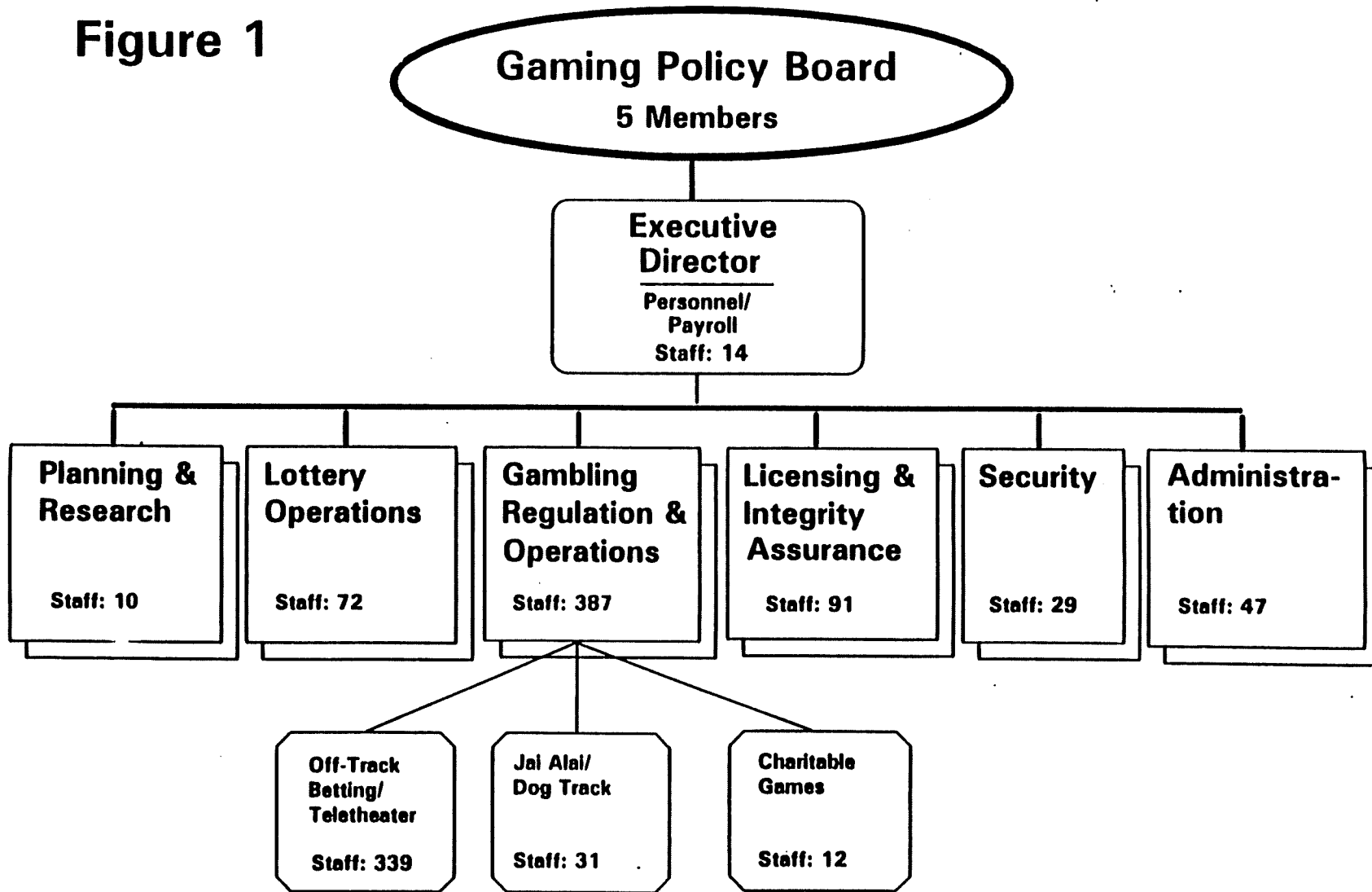
State	Types of Gambling	Commission/Agency	Enforcement
Connecticut (Sec. 12-557b-12-578)	Lottery, parimutuel racing, jaijai, off-track betting, charitable games, tribal gaming	Division of Special Revenue. Executive Director appointed by Governor/confirmed. Gaming Policy Board -- five members appointed 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 gambling	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	

3-16

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.

3-17

**Figure 1**



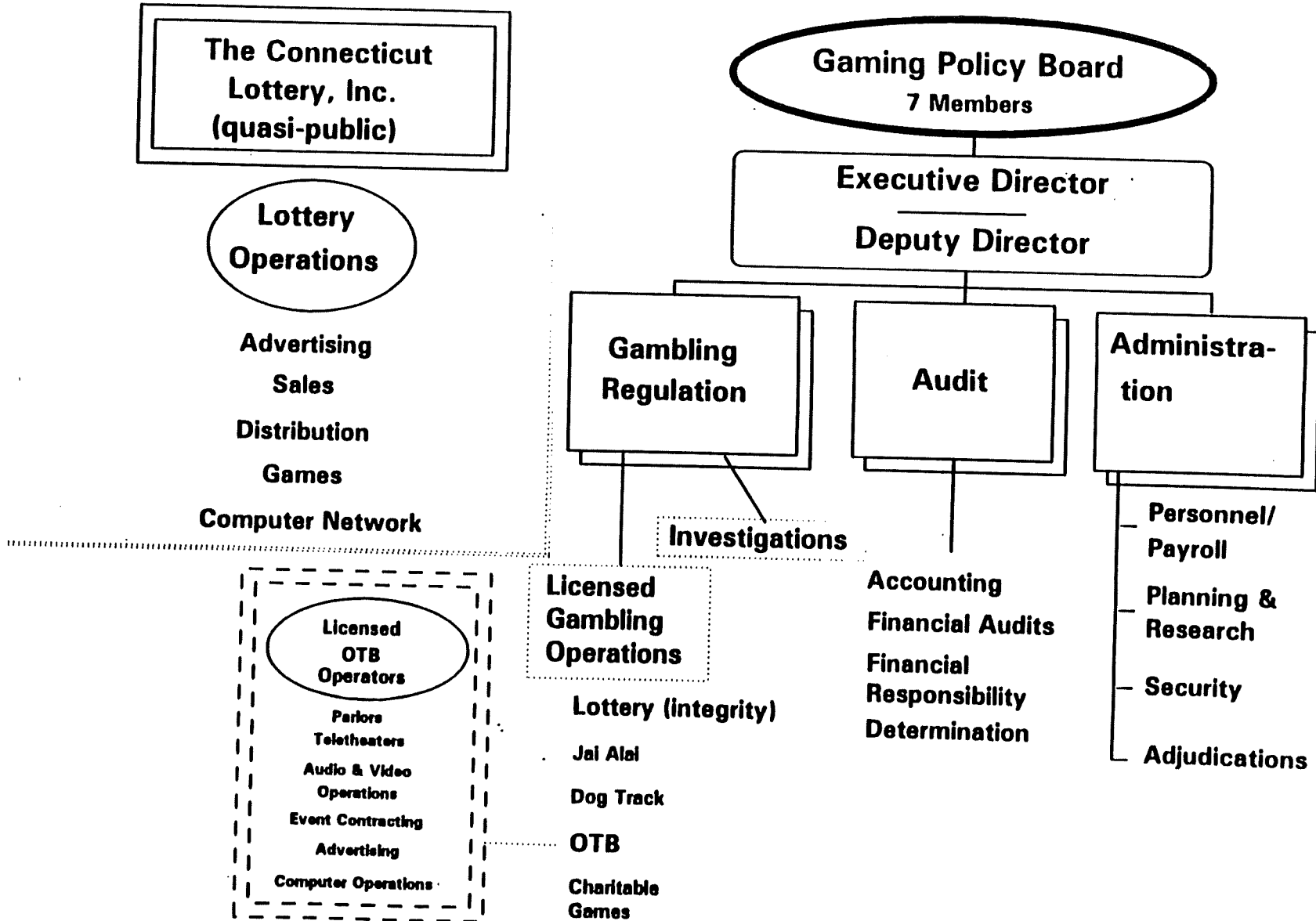
## Division of Special Revenue: Current Organization

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

3-18

**Figure 2: Proposed Organization**

**Gaming Control Commission**



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

3-19

### 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.

### SOURCES

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