

Approved: 2-14-95
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 11:05 a.m. on February 7, 1995 in Room 254-E of the Capitol.

All members were present.

Committee staff present: Mary Galligan, Legislative Research Department
Mary Torrence, Revisor of Statutes
Kim Perkins, Committee Secretary

Conferees appearing before the committee: Mary Galligan, Legislative Research Department

Others attending: See attached list

Sen. Oleen called for bill introductions and Sen. Praeger explained a proposal for a bill relating to certain crimes and penalties therefor; providing for disposition of certain animals taken into custody; relating to licensure and regulation of pounds and animal shelters (Attachment 1). Sen. Jones made a motion to introduce it, and it was seconded by Sen. Papay. The motion passed.

Sen. Oleen asked Mary Galligan to give an overview of the Kansas Lottery, explaining that the overview would be helpful because the majority of the members had not been members of the Legislature when the lottery was first up for renewal in 1990.

Mary Galligan began her presentation with discussion of a memorandum from the Research Department entitled "Reauthorization of State Lottery" (Attachment 2). Sen. Oleen asked if the lottery when first placed on the ballot made the voters aware that the issue would be revisited in 1990 and Mary Galligan answered affirmatively.

Mary Galligan continued her presentation by examining a memorandum entitled "Gambling Revenue" (Attachment 3). Sen. Ramirez asked where the money from the Economic Development Initiative Fund (EDIF) went every year and Mary Galligan answered that the legislature voted each year through the appropriations bills how the money would be allocated. Sen. Ramirez asked whether the legislature had appropriated money for the state water plan and Mary Galligan answered that the legislature had appropriated approximately \$2 million per year for the plan. Sen. Oleen clarified that a major policy decision made by the 1994 legislature was that (as of July 1995) 85 percent of lottery revenue would go to EDIF, 10 percent would go for adult correctional facilities, and the remaining 5 percent would be allocated toward juvenile correctional facilities. Sen. Oleen clarified, in 1996, that approximately 90 percent of EDIF funds came from the lottery and 10 percent of the funds were generated from the racing commission.

Sen. Oleen asked Mary Galligan to explain the cap on the State General Revenue Fund. Mary Galligan explained that anything acquired over a \$50 million cap is then transferred to the State General Fund and that in Fiscal Year 1994, approximately \$3.8 million had been transferred. Mary Galligan further explained that the projected 1996 transfer would be just short of \$1 million. Sen. Ramirez asked whether the Governor's budget was included and Mary Galligan stated that they had not been updated. Sen. Oleen asked Mary Galligan to provide that information at a later date for the committee.

Sen. Vidricksen clarified that originally the people had been well informed on how the money generated by the lottery would be spent. Sen. Oleen stated that she would see to it that the State Historical Society would be contacted in order to gather information to provide a historical perspective from when the lottery was founded and how the funds were to be allocated.

Sen. Gooch asked for verification that the lottery would end on July 1, 1996 unless it were reauthorized. Sen. Oleen explained that when the legislature has reauthorized the lottery in the past, it has been because of "Sunset" provisions which say that there is a year to shut it down. The legislature is now acting under a "repealer" provision which states that the doors are locked in July of 1996; therefore the dismantling would

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E
Statehouse, at 11:05 a.m. on February 7, 1995

begin before July, 1996 and that is why the legislature must address the issue this legislative session.

Mary Galligan turned to a memorandum entitled "Lottery Revenue to the State Gaming Revenue Fund" (Attachment 4) which simply discusses past attempts to change statutory percentage of lottery sales revenue that is transferred to the State Gaming Revenue Fund (SGRF).

Mary Galligan went through several charts which showed the lottery sales by specific games (Attachment 5) and a chart which showed how each county had voted on passage of the lottery when it was a constitutional amendment (Attachment 6).

Sen. Oleen called for questions from the committee, and seeing none, the meeting was adjourned at 11:55 a.m.

The next meeting is scheduled for February 8, 1995.

SENATE BILL NO. _____

By

AN ACT concerning animals; relating to certain crimes and penalties therefor; providing for disposition of certain animals taken into custody; relating to licensure and regulation of pounds and animal shelters; amending K.S.A. 21-4311, 21-4316, 47-1701, 47-1704, 47-1710, 47-1718 and 47-1731 and K.S.A. 1994 Supp. 21-4310 and repealing the existing sections.

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

Section 1. K.S.A. 1994 Supp. 21-4310 is hereby amended to read as follows: 21-4310. (a) Cruelty to animals is:

(1) Intentionally killing, injuring, maiming, torturing or mutilating any animal;

(2) abandoning or leaving any animal in any place without making provisions for its proper care; or

(3) having physical custody of any animal and failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal.

(b) The provisions of this section shall not apply to:

(1) Normal or accepted veterinary practices;

(2) bona fide experiments carried on by commonly recognized research facilities;

(3) killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of chapter 32 or chapter 47 of the Kansas Statutes Annotated;

(4) rodeo practices accepted by the rodeo cowboys' association;

(5) the humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof

Sen. Fed & State
2-7-95
Attachment 1

or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter, ~~or pound~~ or licensed veterinarian is within the city, or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, the operator of an animal shelter ~~or pound~~, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, ~~shelter or pound~~ or shelter;

(6) with respect to farm animals, normal or accepted practices of animal husbandry;

(7) the killing of any animal by any person at any time which may be found outside of the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property; or

(8) an animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods.

(c) Cruelty to animals is a class B A nonperson misdemeanor.

Sec. 2. K.S.A. 21-4311 is hereby amended to read as follows:
 21-4311. ~~(1)~~ (a) Any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals, as defined in K.S.A. 21-4310 and amendments thereto. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care or, if an officer of such humane society or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing. If the animal is placed in the care of an animal shelter, the animal shelter shall notify the owner

or custodian, if known or reasonably ascertainable. The animal shelter may place the animal for adoption or euthanize the animal at any time after 10 days after the owner or custodian is notified or, if the owner or custodian is not known or reasonably ascertainable after 10 days after the animal is taken into custody, unless the owner or custodian of the animal files a cash or corporate surety bond with the county treasurer of the county where the animal is being held, in an amount equal to not less than the cost of care and treatment of the animal for 30 days.

†2) (b) The owner or custodian of an animal placed for adoption or killed pursuant to subsection †1) (a) shall not be entitled to recover damages for the placement or killing of such animal unless the owner proves that such placement or killing was unwarranted.

†3) (c) Expenses incurred for the care, treatment or boarding of any animal, taken into custody pursuant to subsection †1) (a), pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals, as defined in K.S.A. 21-4310 and amendments thereto, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime.

†4) (d) Upon the filing of a sworn complaint by any public health officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility alleging the commission of cruelty to animals, as defined in K.S.A. 21-4310 and amendments thereto, the county or district attorney shall determine the validity of the complaint and shall forthwith file charges for the crime if the complaint appears to be valid.

†5) (e) If a person is adjudicated guilty of the crime of cruelty to animals, as defined in K.S.A. 21-4310 and amendments thereto, and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a

duly incorporated humane society or licensed veterinarian for sale or other disposition.

Sec. 3. K.S.A. 21-4316 is hereby amended to read as follows:
21-4316. (a) When a person is arrested under K.S.A. ~~1983--Supp-~~ 21-4315 and amendments thereto, a law enforcement agency may take into custody any dog on the premises where the dog fight is alleged to have occurred and any dog owned or kept on the premises of any person arrested ~~under subsection (a) or (c) of K.S.A. 1983-Supp-~~ for unlawful conduct of dog fighting or for attending the unlawful conduct of dog fighting, under K.S.A. 21-4315 and amendments thereto.

(b) When a law enforcement agency takes custody of a dog under this section, such agency may place the dog in the care of a duly incorporated humane society or licensed veterinarian for boarding, treatment or other care. If it appears to a licensed veterinarian that the dog is diseased or disabled beyond recovery for any useful purpose, such dog may be humanely killed. If the dog is placed in the care of an animal shelter, the animal shelter may place the dog for adoption or euthanize the dog at any time after 10 days after the dog is taken into custody unless the owner or custodian of the dog files a cash or corporate surety bond with the county treasurer of the county where the dog is being held, in an amount equal to not less than the cost of care and treatment of the dog for 30 days. Except as provided in subsection (c), if it appears to the licensed veterinarian by physical examination that the dog has not been trained for aggressive conduct or is a type of dog that is not commonly bred or trained for aggressive conduct, the district or county attorney shall order that the dog be returned to its owner when the dog is not needed as evidence in a case filed under K.S.A. 21-4315 or 21-4310, and amendments thereto. The owner or keeper of a dog placed for adoption or humanely killed under this subsection (b) shall not be entitled to damages unless the owner or keeper proves that such placement or killing was unwarranted.

(c) If a person is convicted of unlawful conduct of dog

fighting or attending the unlawful conduct of dog fighting under K.S.A. ~~1983-Supp.~~ 21-4315 and amendments thereto, a dog taken into custody pursuant to subsection (a) shall not be returned to such person and the expenses incurred for the care, treatment and boarding of such dog prior to conviction of the owner or keeper shall be assessed to the owner or keeper. Disposition of such dog shall be in accordance with K.S.A. 21-4311 and amendments thereto.

Sec. 4. K.S.A. 47-1701 is hereby amended to read as follows: 47-1701. As used in the Kansas animal dealer act, unless the context otherwise requires:

(a) "Adequate feeding" means supplying at suitable intervals (not to exceed 24 hours) of a quantity of wholesome foodstuff, suitable for the animal species and age, and sufficient to maintain a reasonable level of nutrition in each animal.

(b) "Adequate watering" means a supply of clean, fresh, potable water, supplied in a sanitary manner and either continuously accessible to each animal or supplied at intervals suitable for the animal species, not to exceed intervals of 12 hours.

(c) "Ambient temperature" means the temperature surrounding the animal.

(d) (1) "Animal" means any live dog, cat, rabbit, rodent, nonhuman primate, bird or other warm-blooded vertebrate or any fish, snake or other cold-blooded vertebrate.

(2) Animal does not include horses, cattle, sheep, goats, swine or domestic fowl.

(e) "Animal dealer" means any person who operates animal dealer premises.

(f) (1) "Animal dealer premises" means any premises where dogs or cats, or both, are sold, or offered or maintained for sale, primarily at wholesale for resale to another.

(2) Animal dealer premises does not include: (A) Any pound or animal shelter; or (B) any premises described in subsection (m)(1).

(g) "Animal shelter" means a facility which is used ~~or designed-for-use-to-house-or-contain-any-animal~~ for the purpose of impounding or harboring any seized stray, homeless or abandoned animal and which is:

(1) Owned, operated or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals or other nonprofit corporate organizations devoted to the welfare, protection and humane treatment of animals;

(2) operated by the state, or any political subdivision thereof; or

(3) operated under contract with any municipality or incorporated society for the prevention of cruelty to animals.

(h) "Cat" means an animal which is wholly or in part of the species Felis domesticus.

(i) "Commissioner" means the livestock commissioner appointed by the Kansas animal health board.

(j) "Dog" means any animal which is wholly or in part of the species Canis familiaris but does not include any greyhound, as defined by K.S.A. 74-8802 and amendments thereto.

(k) "Dog warden" means any person employed by, contracted with or appointed by the state, or any political subdivision thereof, for the purpose of aiding in the enforcement of this law, or any other law or ordinance relating to the licensing of animals, control of animals or seizure and impoundment of animals, and includes any state, county or municipal law enforcement officer, animal control officer, constable or other employee, whose duties in whole or in part include assignments which involve the seizure or taking into custody of any animal.

(l) "Euthanasia" means the humane destruction of an animal, which may be accomplished by any of those methods provided for in K.S.A. 47-1718 and amendments thereto.

(m) (1) "Hobby kennel" means any premises where only dogs or cats, or both, which are produced and raised on such premises are sold, or offered or maintained for sale, by a person who resides

on such premises, but only if the total number of dogs or cats, or both, which are produced and raised on such premises and are sold during the registration year is fewer than all or part of six litters of animals or 30 individual animals, whichever is less, whether such animals are dogs or cats, or both.

(2) Hobby kennel does not include: (A) Any pound or animal shelter; or (B) any premises where fewer than all or part of three litters of animals, whether dogs or cats, or both, are sold during the registration year.

(n) "Hobby kennel operator" means any person who operates a hobby kennel.

(o) "Housing facility" means any room, building or area used to contain a primary enclosure or enclosures.

(p) (1) "Kennel operator" means any person who operates an establishment where animals are maintained for boarding or similar purposes for a fee or compensation.

(2) Kennel operator does not include an "animal dealer," "pet shop" or "hobby kennel" or any person on whose premises there are maintained, fewer than four dogs or cats, or both, in any one week.

(q) "Kennel operator premises" means the facility of a kennel operator.

(r) "License year" or "registration year" means the 12-month period ending on June 30.

(s) "Person" means any individual, association, partnership, corporation or other entity.

(t) (1) "Pet shop" means any premises where there are sold, or offered or maintained for sale, at retail and not for resale to another: (A) Any dogs or cats, or both; or (B) any other animals except those which are produced and raised on such premises and are sold, or offered or maintained for sale, by a person who resides on such premises.

(2) Pet shop does not include: (A) Any pound or animal shelter; (B) any premises where only fish are sold, or offered or maintained for sale; or (C) any animal dealer premises, or any

premises described in subsection (m)(1), where the only animals, other than dogs or cats, which are sold, or offered or maintained for sale, are animals which are produced and raised on such premises and are sold, or offered or maintained for sale, by a person residing on such premises.

(u) "Pet shop operator" means any person who operates a pet shop.

~~(v) "Pound" means a facility:~~

~~(1) Operated by the state, or any political subdivision thereof, for the purpose of impounding or harboring any seized stray, homeless or abandoned animal; or~~

~~(2) operated for such a purpose under contract with any municipality or incorporated society for the prevention of cruelty to animals or by another person under contract with such municipality.~~

(w) (v) "Primary enclosure" means any structure used or designed for use to restrict any animal to a limited amount of space, such as a room, pen, cage, compartment or hutch.

~~(x)~~ (w) "Research facility" means any place, laboratory or institution, except an elementary school, secondary school, college or university, at which any scientific test, experiment or investigation involving the use of any living animal is carried out, conducted or attempted.

~~(y)~~ (x) "Sale," "sell" and "sold" include transfers by sale or exchange. Maintaining animals for sale is presumed whenever 20 or more dogs or cats, or both, are maintained by any person.

~~(z)~~ (y) "Sanitize" means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health, at such intervals as necessary.

Sec. 5. K.S.A. 47-1704 is hereby amended to read as follows: 47-1704. It shall be unlawful for any city or the officials thereof ~~to operate a pound~~ or any corporate entity to operate an animal shelter ~~as a pound~~, except a licensed veterinarian, unless a license for such ~~pound or~~ shelter has been obtained from the commissioner. Application for such license shall be made on a

form provided by the commissioner. The license period shall be for the license year ending on June 30 following the issuance date.

Sec. 6. K.S.A. 47-1710 is hereby amended to read as follows: 47-1710. (a) The governing body of a political subdivision ~~regulating-the-operation-of-a-pound~~ operating an animal shelter shall determine the method of disposition of any animal released from such ~~pound~~ animal shelter. Any proceeds derived from ~~such~~ the sale or other disposition of such animals shall be paid directly to the treasurer of the political subdivision, and no part of such proceeds shall accrue to any individual.

(b) The board of directors of any incorporated humane society operating an animal shelter ~~as-a-pound, under-contract with-a-municipality,~~ shall determine the method of disposition of any animal released from its animal shelter. Any proceeds derived from such sale or disposition shall be paid directly to the treasurer of the humane society and no part of such proceeds shall accrue to any individual.

(c) An animal shall not be disposed of by an animal dealer, ~~operator--of--a-pound~~ or operator of an animal shelter ~~as-a-pound~~ until after expiration of a minimum of three ~~(3)~~ days of custody during which the public has clear access to inspect or recover the animal through time periods ordinarily accepted as usual business hours. Such an animal may at any time be released to the legal owner, moved to a veterinary hospital for treatment or observation, released in any manner, if such animal was a gift animal to an animal shelter, or euthanized by a duly incorporated humane society or by a licensed veterinarian if it appears to an officer of such humane society or to such veterinarian that the animal is diseased or disabled beyond recovery for any useful purpose.

Sec. 7. K.S.A. 47-1718 is hereby amended to read as follows: 47-1718. (a) No animal shall be euthanized by any dog warden, or officer of an animal shelter ~~or-officer-of-a-pound~~ by any means, method, agent or device, or in any way, except as follows:

(1) By administration of sodium pentobarbital, or any other barbiturate, or a euthanasia solution marketed under the trade name T-61, by any of the following methods and under the following conditions:

(A) Intravenous or intra-cardial injection of a lethal solution;

(B) oral ingestion by animals of powdered sodium pentobarbital in capsules mixed with food, with the animal remaining in its individual cage until dead (suited for use with vicious or intractable animals);

(C) intraperitoneal or intra-cardial injection in animals when location of and injection into the vein is difficult or impossible;

(D) use of an undamaged hypodermic needle of a size suitable for the size and species of animal;

(E) administration to be only by or under the supervision of a licensed veterinarian.

(2) By the use of carbon monoxide gas administered in a tightly-enclosed chamber equipped with:

(A) Internal lighting and viewport providing direct visual observation of any animal within the chamber;

(B) a gas generation process adequate to achieve a carbon monoxide gas concentration throughout the chamber of at least ~~five--percent--(5%)~~ 5% within five (5) minutes after any animal is placed in the chamber;

(C) a suitable gauge or gas concentration indicator or recording device making possible easy and instantaneous visual determination of the carbon monoxide concentration in the chamber;

(D) a means of cooling the gas, if from an internal combustion gasoline engine, to a temperature not exceeding ~~one hundred-fifteen--(115)--degrees~~ 115° fahrenheit at point of entry into the chamber and to ~~one-hundred--(100)--degrees~~ 100° at any point within the chamber, as determined by temperature gauges permanently installed at point of entry and inside the chamber;

(E) means of removing or filtering out all noxious fumes, irritating acids and carbon particles from the gas before it enters the chamber;

(F) if an internal combustion engine is used for gas generation, a means of substantially deadening the sound and vibration transmission from the engine to the chamber, by placing them in separate rooms or soundproof compartments and connecting them with a flexible tubing or pipe at least ~~twenty-four-(24)~~ 24 inches in length, so that the noise level within the chamber shall not exceed ~~seventy-(70)~~ 70 dBA;

(G) a means of keeping the animals in the chamber in separate compartments, except that young animals from the same litter may be placed in a single compartment with their female parent;

(H) an exhaust fan connected by a gas-tight duct to the outdoors, capable of completely evacuating the gas from the chamber before it is opened after each use, for the protection of personnel.

(3) Animals under six months of age, may be euthanized with chloroform, or with a mixture of chloroform and carbon dioxide by a means approved in writing by any licensed veterinarian after inspecting the equipment and method, provided the following requirements are observed:

(A) The animal to be euthanized must be placed in an individual cage or compartment in a small chamber or box having a tight seal, or in a transparent trash bag which can be closed tight after introduction of the chloroform;

(B) the chloroform, with the dose sufficient to euthanize the size of animal, shall be placed on a paper towel, piece of gauze or ball of cotton, and inserted into the chamber or bag in such a position that the animal shall not be able to come in direct contact with it;

(C) the chamber or box, if used, must have a viewport sufficient to permit unobstructed observation of the animal until dead;

(D) the animal must remain in the chamber or bag until rigor mortis has set in;

(E) the room in which the chloroform is administered must have forced ventilation to remove all fumes after each use, for the protection of personnel;

(F) if a mixture of chloroform and carbon dioxide is used, the carbon dioxide shall be from a cylinder of commercially-produced gas, with the gas introduced into the chamber immediately after introduction of the chloroform through a valve which produces only a minimum of noise and permits rapid distribution within the box, with an air vent at the top of the chamber to permit exit of displaced air.

(4) By shooting, or use of a captive-bolt pistol, provided all of the following requirements are met:

(A) The animal is restrained in a humane manner so as to make possible an accurate shot without the animal becoming unduly agitated;

(B) a weapon and ammunition of suitable caliber and other characteristics are used so as to produce death with a single shot to the brain, with the bullet entering the skull at a point approximately at the point where two lines drawn diagonally from each eye to the back of the opposite ear cross;

(C) adequate precautions are taken to avoid danger to other animals and to personnel by ricocheting bullets;

(D) a captive-bolt pistol may be substituted for gun and ammunition, to provide instantaneous unconsciousness by penetration of the skull and brain, to be followed by any suitable method of producing death if the animal is not dead as a result of such penetration.

(b) This section shall be part of and supplemental to article 17 of chapter 47 of the Kansas Statutes Annotated.

Sec. 8. K.S.A. 47-1731 is hereby amended to read as follows: 47-1731. (a) No dog or cat may be released for adoption from any ~~pound--or~~ animal shelter, as defined by K.S.A. 47-1701 and amendments thereto, or from any duly incorporated humane society,

unless:

(1) Such dog or cat has been first surgically spayed or neutered; or

(2) the adopting party signs an agreement to have the dog or cat spayed or neutered and deposits with the ~~pound-or~~ animal shelter funds sufficient to ensure that the dog or cat will be sterilized. Any funds deposited pursuant to such an agreement shall be refunded to the adopting party upon presentation of a written statement signed by a licensed veterinarian that the adopted dog or cat has been spayed or neutered.

(b) No person shall spay or neuter any dog or cat for or on behalf of a ~~pound~~, an animal shelter or humane society unless such person is a licensed veterinarian or a student currently enrolled in the college of veterinary medicine, Kansas state university, who has completed at least two years of study in the veterinary medical curriculum and is participating in a spay or neuter program as part of the curriculum under the direct supervision of a licensed veterinarian who is a faculty member at the Kansas state university veterinary medical center. The spay or neuter program shall only be conducted at the surgery clinic at the Kansas state university medical center in Manhattan, Kansas. No ~~pound~~, animal shelter or humane society shall designate the veterinarian which a person must use, or a list from which a person must select a veterinarian, to spay or neuter a dog or cat adopted by such person from such ~~pound~~, shelter or society, nor shall such ~~pound~~, shelter or society in any way penalize a person for such person's selection of a veterinarian to spay or neuter a dog or cat adopted from such ~~pound~~, shelter or society.

(c) Nothing in this section shall be construed to require sterilization of a dog or cat which is being held by a ~~pound-or~~ animal shelter and which may be claimed by its rightful owner.

Sec. 9. K.S.A. 21-4311, 21-4316, 47-1701, 47-1704, 47-1710, 47-1718 and 47-1731 and K.S.A. 1994 Supp. 21-4310 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.

MEMORANDUM

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February 6, 1995

REAUTHORIZATION OF STATE LOTTERY

This issue first came before the Legislature in 1990 when it had to adopt a concurrent resolution in order to continue the Lottery (*Kansas Constitution* Art. 15, §3c). At that time the Lottery was placed under the Kansas Sunset Law, and scheduled for abolition in 1992 (the same year the Sunset Law was scheduled to expire). Under current law (K.S.A. 74-8723) the Lottery is abolished on July 1, 1996. As you know, the Senate Committee on Federal and State Affairs introduced 1995 S.B. 27 that would repeal the expiration.

1990 Session

Art. 15, §3a of the *Kansas Constitution* required that the Lottery be extended by adoption of a concurrent resolution of the 1990 Legislature. The resolution had to be adopted during the regular session by a favorable vote of a majority of the members. 1990 S.C.R. 1646 was introduced and referred to the Senate Committee on Federal and State Affairs which recommended it for passage. The Senate, on final action, adopted the resolution 21-18 with one member passing (1990 SJ 1572). When the resolution reached the House it was referred to the Committee of the Whole which adopted the resolution 66-57. On final action, the resolution was adopted 63-61 (1990 HJ 2107).

1990 H.C.R. 5038 also would have authorized continuation of the Lottery as required by the *Constitution*. That resolution was referred to the House Committee on Federal and State Affairs, and recommended for adoption by that Committee. The House resolution was stricken from the House calendar on April 25, well after adoption of the Senate resolution.

Three 1990 bills included provisions for placing the Kansas Lottery under the Sunset Law: 1990 H.B. 2844, 1990 S.B. 784, and 1990 House Sub. S.B. 762.

The House passed and sent to the Senate 1990 H.B. 2844 on February 21, 1990. The introduced version of the bill would have ended the Lottery in 1994. A House floor amendment offered by Representative Bryant set the sunset date at 1992. The bill, as amended, passed the House 116 to 7 (1990 HJ 1429).

H.B. 2844, as amended, was recommended favorably by the Senate Committee on Federal and State Affairs without further amendment, but was defeated in the Senate 15 to 24 (1990 SJ 1337). No explanations of vote were recorded. The motion, made on the next day, to reconsider the adverse action of the Senate failed and the bill was dead on March 23.

Sern. Fed & State
2-7-95
Attachment 2

S.B. 784 was introduced on March 23. That bill would have abolished the Lottery in 1992. The bill passed the Senate 21 to 17 on April 5 (1990 SJ 1571), the same day the Senate adopted H.C.R. 1646 (discussed above) which authorized continuation of the lottery as required by the *Constitution*. The bill was referred to the House Committee on Federal and State Affairs, but no hearing was held and no action was taken on the bill.

House Sub. S.B. 762, which was finally enacted, was introduced by the House Committee on Governmental Organization apparently because the House Committee on Federal and State Affairs had no plans to work S.B. 784 which included an identical 1992 Lottery sunset requirement. S.B. 762, as introduced, would have created the unclassified position of Director of Finance for the Lottery and would have combined the Lottery's divisions of marketing and sales. The House substitute provided for the Lottery, the office of Executive Director and the Lottery Commission to be included in the Kansas Sunset Law and abolished on July 1, 1992. Representative David Miller requested the substitute bill. There was no hearing on the substitute bill in the House Governmental Organization Committee. Committee minutes state only that Representative Miller ". . . explained this will get the bill back in front of the Senate." The substitute bill was enacted without amendment (1990 HJ 2065 and 1990 SJ 1548).

1992 Session

Three bills that dealt with continuation of the Kansas Lottery were introduced and considered during the 1992 Session: 1992 S.B. 472, 1992 S.B. 473, and 1992 H.B. 3085.

H.B. 3085 would have extended the Kansas Lottery, the office of Executive Director of the Lottery, and the Kansas Lottery Commission until July 1, 1995, under the Kansas Sunset Law. The bill was referred both to the House Committee on Governmental Organization and to the House Committee on Federal and State Affairs. Both committees recommended the bill favorably. The House Committee of the Whole defeated the motion to recommend the bill favorably 48 to 74 (1992 HJ 2012). The bill died on General Orders in the House.

1992 S.B. 472, as introduced, would have continued in existence the Kansas Lottery, the Executive Director of the Lottery, and the Lottery Commission until July 1, 2000, at which time each would be subject to abolition under provisions of the Kansas Sunset Law. The eight-year extension was the maximum allowed under the Sunset Law. The bill was amended by the Senate on final action to repeal the 1990 statute that placed the Lottery, Executive Director, and Commission under the Sunset Law. The bill, as amended, passed the Senate 21 to 19 (1992 SJ 1652).

S.B. 472 was referred to the House Committee on Federal and State Affairs on April 6. On April 8 the bill was withdrawn from that Committee and referred to the Committee of the Whole. The next action on the bill was on May 1 when the Committee of the Whole amended the bill to:

- prohibit advertising or promotion of the Lottery at any amateur athletic or sporting event;
- prohibit the Lottery from conducting games on video lottery machines; and
- remove the Lottery from the Kansas Sunset Law.

The motion to recommend the amended bill favorably did not pass (1992 HJ 2512).

On the next day, May 2, the bill was further amended to:

- prohibit the Lottery and licensees of the Kansas Racing Commission from using minors in advertising or promotions;
- make the bill effective upon publication of payment of a particular disputed lottery prize (a roll call vote was conducted on this amendment, 1992 HJ 2569); and
- abolish the Lottery on July 1, 1995 under provisions of the Kansas Sunset Law.

The motion to recommend the bill as further amended passed 62 to 61 (1992 HJ 2571).

Two days later the House on final action voted 37-86 against the bill as further amended. A roll call vote was conducted (1992 HJ 2581). A motion to reconsider all the House's action on the bill prevailed and the bill was placed back on General Orders (1992 HJ 2583). The House Committee of the Whole further amended the bill to delete the amendment regarding payment of the disputed Lottery prize. The House Committee of the Whole voted 66-56 to recommend the amended bill favorably (1992 HJ 2584). The bill, as amended, passed the House on final action 63-60 (1992 HJ 2591).

After conference committee members were appointed from both houses, the Senate concurred in the House amendments 21-19 (1992 SJ 2319). The bill was signed by the Governor, but the provision regarding sunset of the Lottery was repealed by 1992 S.B. 473.

1992 S.B. 473, as introduced, continued in existence the Department of Corrections and the Secretary until 1996 under the Kansas Sunset Law. The Conference Committee report on the bill amended the Lottery Act to abolish the Lottery on July 1, 1996 and to repeal the provision in S.B. 472 that would have continued the Lottery under the Sunset Act until 1995. That report was adopted by the House 116 to 9 (1992 HJ 2683) and by the Senate 40-0 (1992 SJ 2354).

Also during the 1992 Session S.C.R. 1638 was introduced by the Senate Committee on Federal and State Affairs. That resolution would have amended the *Kansas Constitution* to repeal authority for a state owned and operated lottery. The resolution was recommended for adoption by the Senate Committee, but was stricken from the Senate Calendar on May 9, 1992 (1992 SJ 2566).

1993 Session

Another proposed resolution (1993 H.C.R. 5009) that would have repealed the constitutional authority for the state lottery died in the House Committee on Federal and State Affairs at the end of the 1994 Session. The bill's sponsors were Representative Darlene Cornfield, Representative Nancy Brown, Representative Joseph Kejr, Representative Kenneth King, Representative Steve Lloyd, Representative Gayle Mollenkamp, Representative Melvin Neufeld, Representative Ellen Samuelson, Representative Tim Shallenburger, Representative Eugene Shore, Representative Marvin Smith, and Representative Susan Wagle.

Thus, currently statutory authority for the Kansas Lottery will expire on July 1, 1996. 1995 S.B. 27 would simply repeal the expiration statute and not set a new expiration date.

MEMORANDUM

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GAMBLING REVENUE

Who is Responsible for Gambling Revenue in Kansas?

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

Does All Kansas Gambling Revenue Go Into the Same Account?

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

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

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

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

Sen Fed & State
2-7-95
Attachment 3

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a) Revenue does not include operating expenditures.

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

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

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

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

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

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

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

State Operations

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

Local Gambling Revenue FY 1975-FY 1994

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

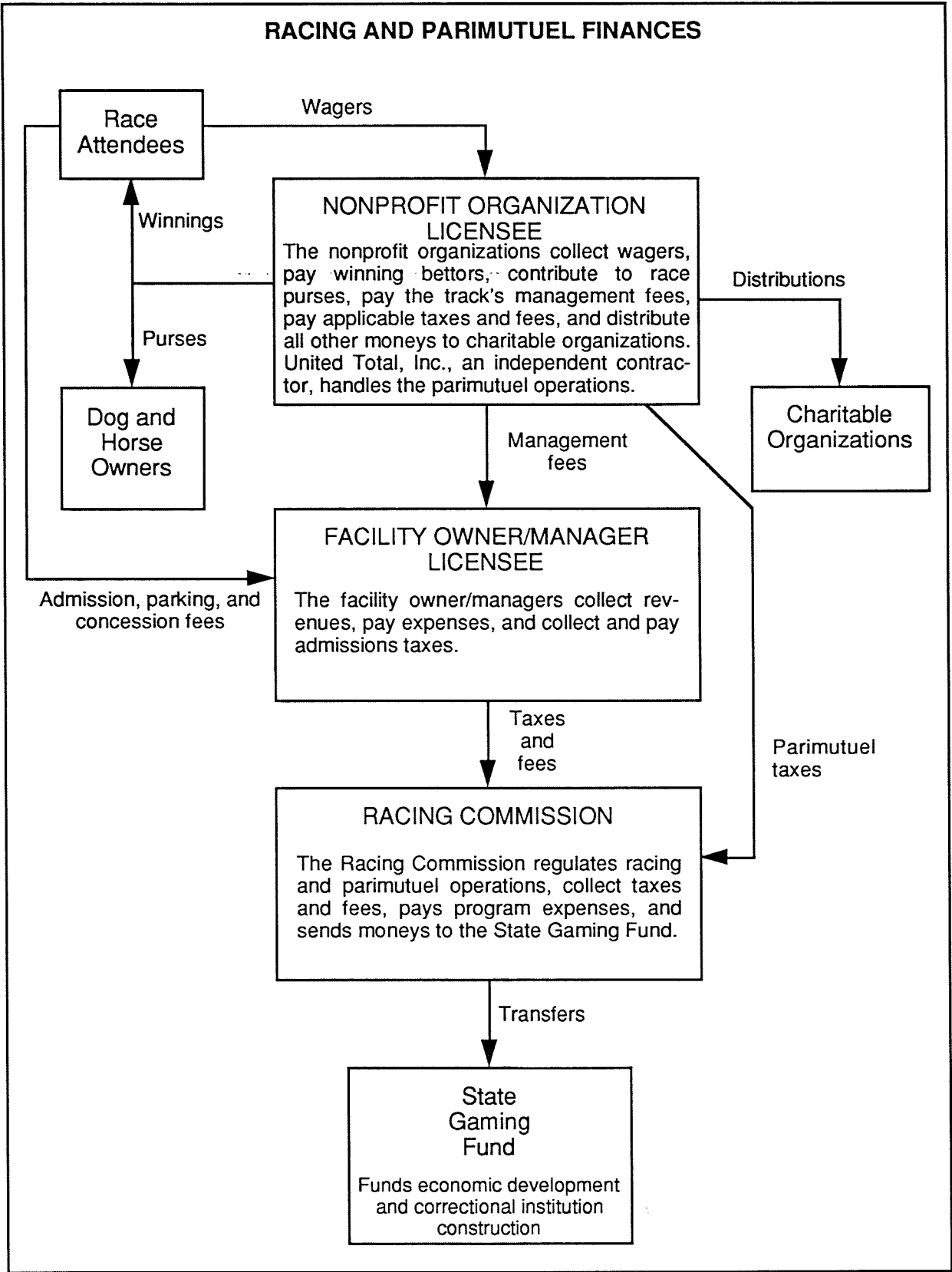
GRAND TOTAL STATE AND LOCAL REVENUE	<u><u>\$ 331,916</u></u>
--------------------------------------------	--------------------------

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

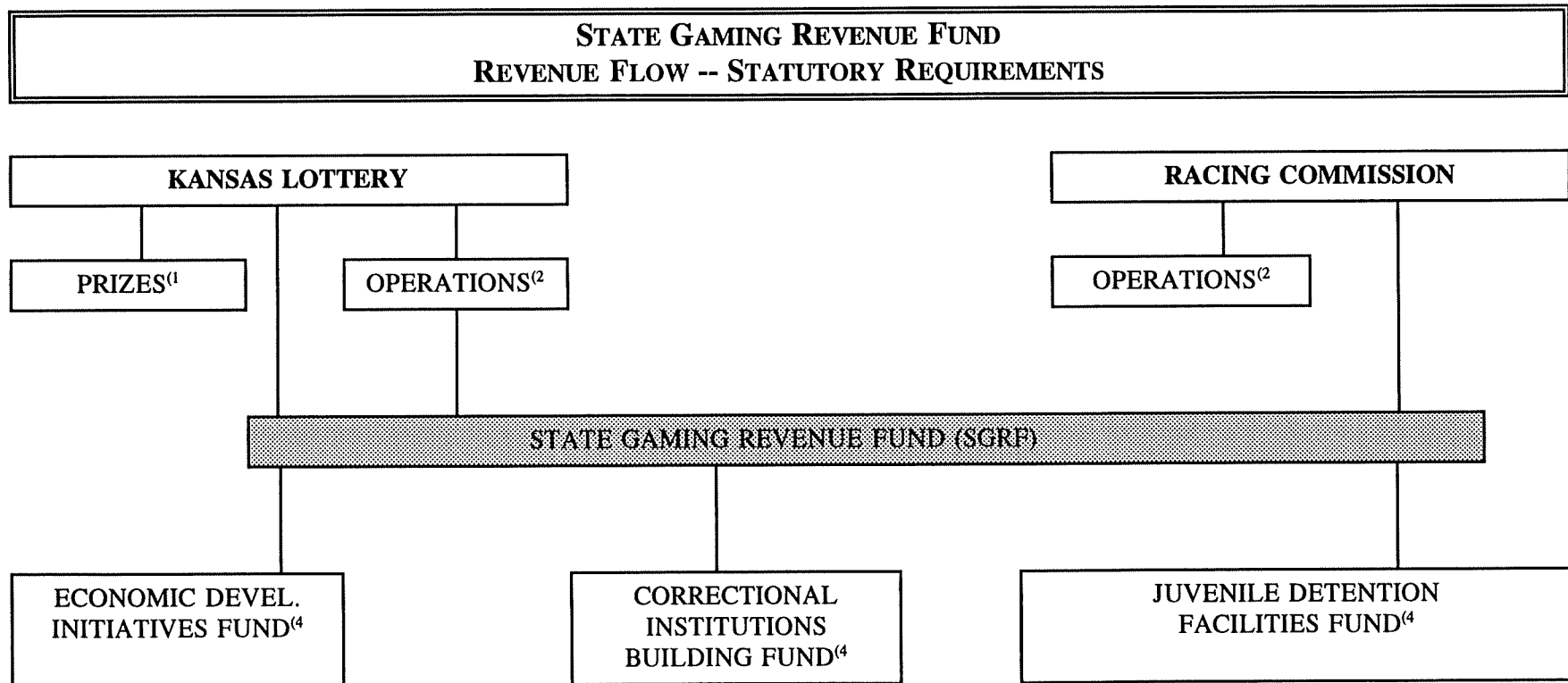
retained by the state after winners' total income tax liability is calculated. State income tax also is collected on lesser winnings that are reported in the same manner as other income from which taxes are not withheld. There is no way to identify taxes paid on those smaller winnings.

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

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



SOURCE: LEGISLATIVE DIVISION OF POST AUDIT, 1994



1) Minimum 45 percent.

2) Established in appropriations acts.

3) Minimum 30 percent of Lottery sales, all Racing Commission revenue not otherwise appropriated.

4) Effective July 1, 1995: 85 percent for EDIF, 10 percent for Correctional Institutions Fund and 5 percent for Juvenile Detention Facilities Fund.

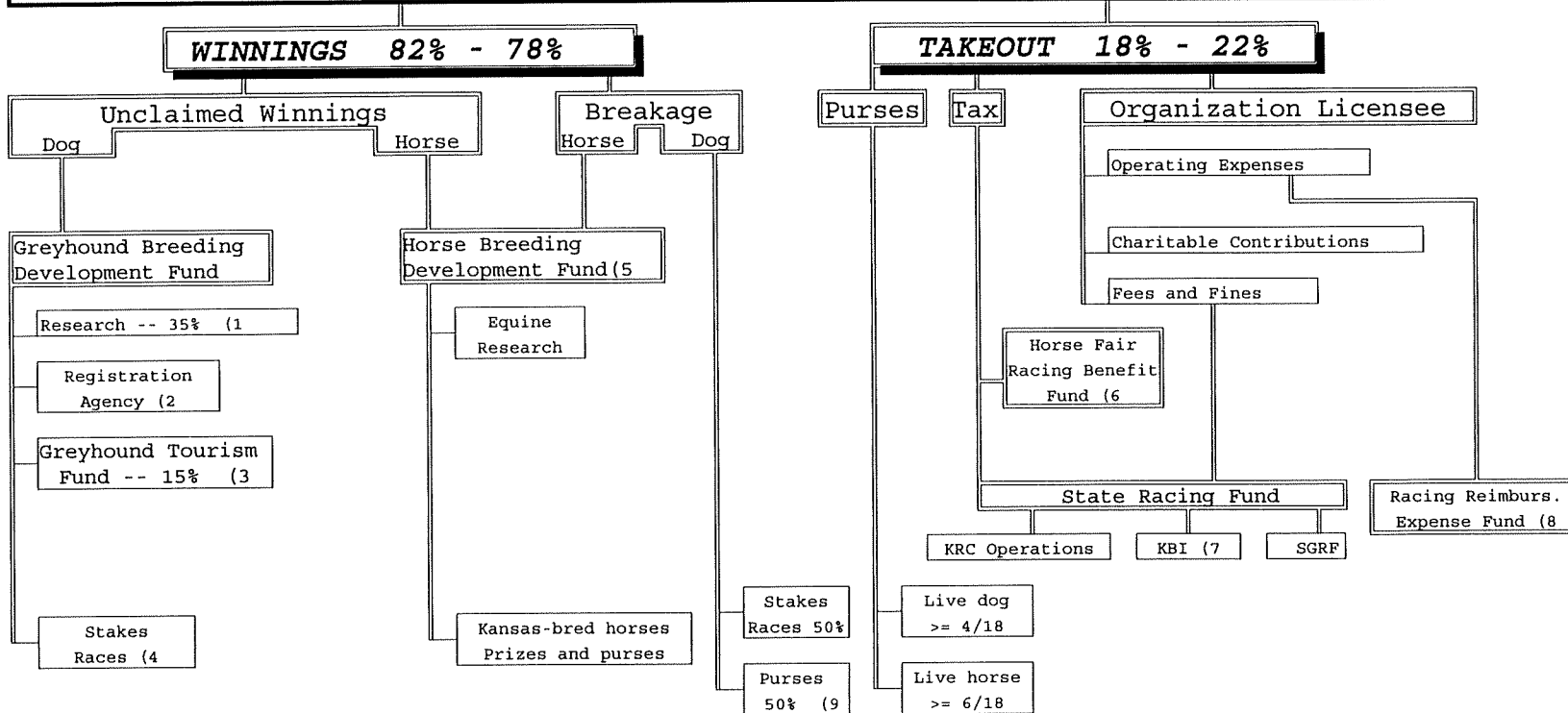
3-10

TRANSFERS FROM LOTTERY AND PARIMUTUEL FUNDS TO OTHER STATE FUNDS

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

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TOTAL WAGER ON LIVE HORSE AND DOG RACES (HANDLE)



3-11

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

MEMORANDUM

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January 18, 1995

LOTTERY REVENUE TO THE STATE GAMING REVENUE FUND

Since the creation of the Lottery in 1987, there have been several attempts to change the statutory percentage of lottery sales revenue that is transferred to the State Gaming Revenue Fund (SGRF). The Lottery Act currently requires that no less than 30 percent of sales revenue be transferred to the SGRF. A minimum of 45 percent of sales revenue must be awarded as prizes.

The most recent attempt to change the allocation was 1993 S.B. 111. That bill, as introduced, would have reduced the SGRF transfer to a minimum of 20 percent of instant and pull-tab ticket sales revenue. The transfer from sales of on-line games, *e.g.*, Lotto, Keno, and the Multi-State Lottery, would have remained at 30 percent. The Senate Committee on Federal and State Affairs amended the bill to make the transfer a minimum of 25 percent of monthly net sales revenue from all types of tickets. On final action, the Senate amended the bill to reduce the transfer from instant and pull-tab games to 25 percent. The transfer from other games would have remained at 30 percent. The amended bill passed the Senate 28-12 (1993 SJ 275).

The amendments of the House Committee on Federal and State Affairs to the bill would have authorized the reduced transfer provisions only until July 1, 1994. The bill was withdrawn from the House calendar and rereferred to the Federal and State Affairs Committee where it died at the end of the 1994 Session.

1991 S.B. 401 would have reduced the transfer to the SGRF from 30 percent to 22.5 percent of monthly sales revenue. The Senate Committee of the Whole amended the bill to retain the 30 percent transfer from keno and on-line lottery games and to apply the reduced transfer percentage only to instant and pull tab ticket sales revenue (1991 SJ 573). The amended bill passed the Senate 22 to 16 (1991 SJ 576). The bill was referred to the House Committee on Federal and State Affairs where it died at the end of the 1992 Session.

Subsequent to passage of S.B. 401 by the Senate, 1991 S.B. 385 was amended by the Senate Committee on Federal and State Affairs to reduce the transfer to the SGRF. As introduced, the bill would have apparently increased the transfer to the SGRF, but that was not the intent of the bill as described in Lottery testimony to the Committee. The Committee amended the bill to make the transfer provisions conform to those included in S.B. 401 as it left the Senate. S.B. 385 was amended on final action in the Senate to strike the reduced transfer provisions. That amendment eliminated completely the minimum transfer percentage (1991 SJ 676). S.B. 385 as amended on final action passed the Senate 22-16 (1991 SJ 676).

After voting to reduce the minimum transfer provision in S.B. 385 to 15 percent at the request of the Lottery, the House Committee on Federal and State Affairs reconsidered its action and introduced a substitute bill. The substitute bill did not amend the transfer provision. After initially nonconcurring in the House amendments, the Senate concurred and the bill was enacted without any change in the transfer language.

Sen Fed & State
2-7-95

Attachment 4

While not an attempt to reduce the existing state share of lottery revenue, 1991 Sub. S.B. 449 would have authorized the Lottery to conduct games on video lottery machines and would have provided that the state's share of revenue from those games be a minimum of 25 percent of net income. Those funds would have been distributed to school districts and would not have been transferred to the SGRF as is current state revenue from the Lottery. The bill was defeated in the Senate on final action 6 to 33 (1991 SJ 925).

On a related matter, 1994 SB 794 (L. 1994 Ch. 351) amended the SGRF statute regarding allocation of moneys in that fund. After July 1, 1995, an amount equal to 5 percent of the total amount credited to that fund will go to the Juvenile Detention Facilities Fund. That 5 percent will come from an equal reduction of the amount transferred from the SGRF to the Economic Development Initiatives Fund (EDIF). Making the latter transfer 85 percent. The existing 10 percent portion transferred from the SGRF to the Correctional Institution Building Fund for adult facilities will not change.

The introduced version of 1995 H.B. 2058 would amend K.S.A. 1994 Supp. 79-4803 to repeal the 1994 changes. That would mean SGRF transfers would continue to be 90 percent for economic development projects and 10 percent for the Correctional Institutions Building Fund as the 5 percent allocation to the Juvenile Detention Facilities Fund included in 1994 S.B. 794 would not become effective.

MEMORANDUM

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February 2, 1995

To: House Committee on Federal and State Affairs

From: Mary Galligan, Principal Analyst

Re: Lottery Sales by Game

The attached graphs and tables were prepared in order to respond to the Committee's questions about sales revenue of the Kansas Lottery. The first attachment displays a table of lottery sales by fiscal year for each type of game since the lottery initially began selling tickets in November, 1987. That table displays the amounts in thousands of dollars.

The single most lucrative type of game since the beginning was the instant ticket game until FY 1994, when that game netted \$45.5 million, second to the sales of the multistate lottery (Powerball). Beginning in FY 1993, Club Keno assumed its current position as the third largest source of sales revenue. Club Keno differs from the on-line Keno game that was played during FY 1991 and FY 1992 by having a duration of only 5 minutes, with winning numbers displayed on a video monitor.

The second table and graph display the percentage that revenue from each game type represents of total lottery revenue for the same fiscal years.

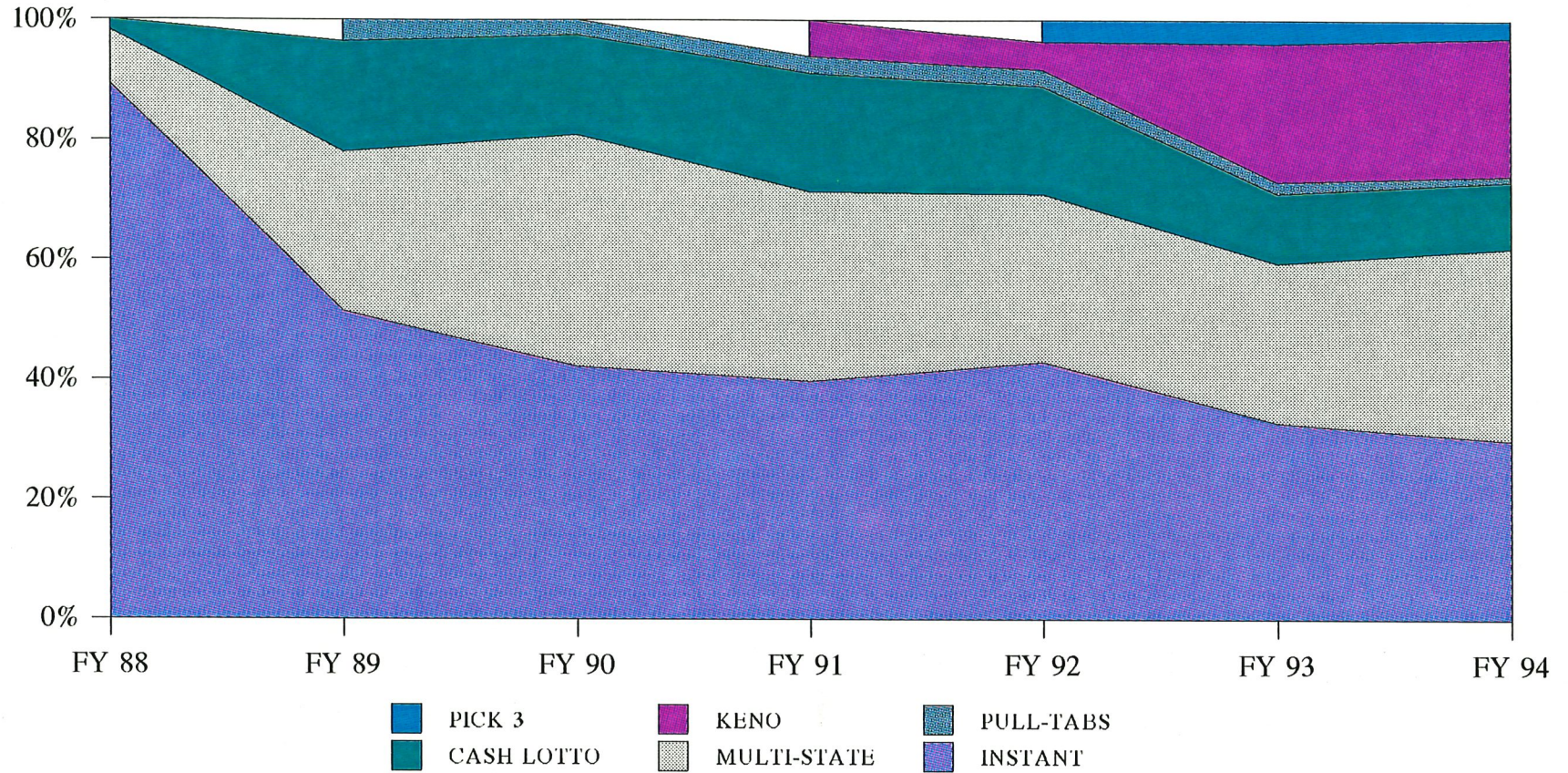
The third graph display includes a chronology of major events that have impacted sales of lottery tickets. The three major events that are evident are the inception of Club Keno and Powerball. Of less significance overall, was the change in statute that allowed bingo licensees to begin selling instant bingo tickets which are essentially the same as the Lottery's pull-tab game. Revenue from the Lottery's pull-tab game fell from \$2 million to less than \$1.5 million during the first year of instant bingo sales.

I hope this information is useful to the Committee. If there are additional questions, I will be glad to find answers to them.

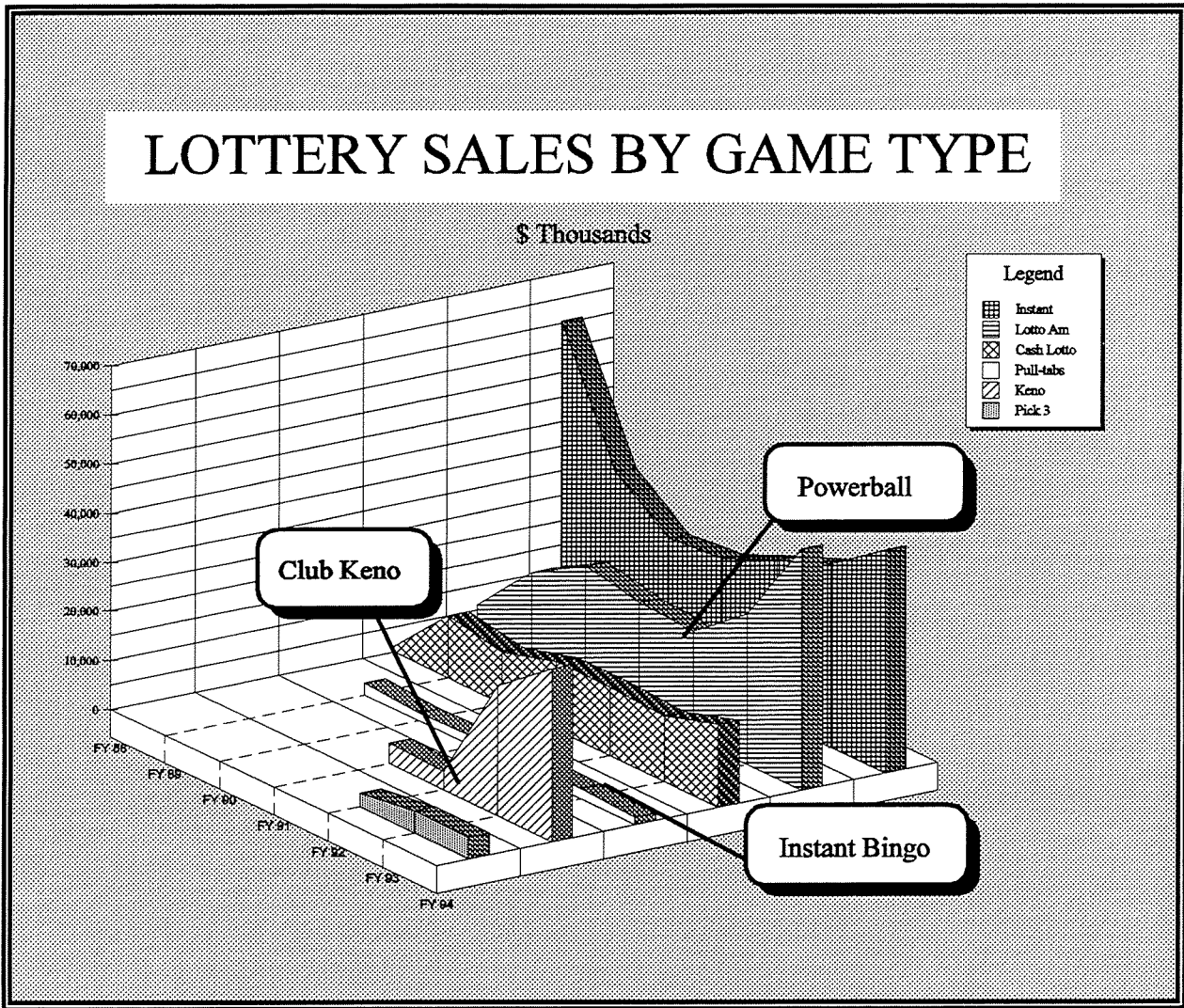
Sen. Fed & State
2-7-95
Attachment 5

LOTTERY SALES BY GAME TYPE

Percent of Total Sales



INSTANT	89.2%	51.4%	42.1%	39.7%	42.9%	32.8%	29.8%
MULTI-STATE	9.0%	26.6%	38.8%	31.7%	28.1%	26.7%	32.2%
CASH LOTTO	1.7%	18.4%	16.6%	19.7%	18.0%	11.7%	11.1%
PULL-TABS	NA	3.6%	2.5%	2.9%	2.7%	1.9%	1.0%
KENO	NA	NA	NA	6.0%	4.7%	23.1%	23.0%
PICK 3	NA	NA	NA	NA	3.6%	3.9%	2.9%



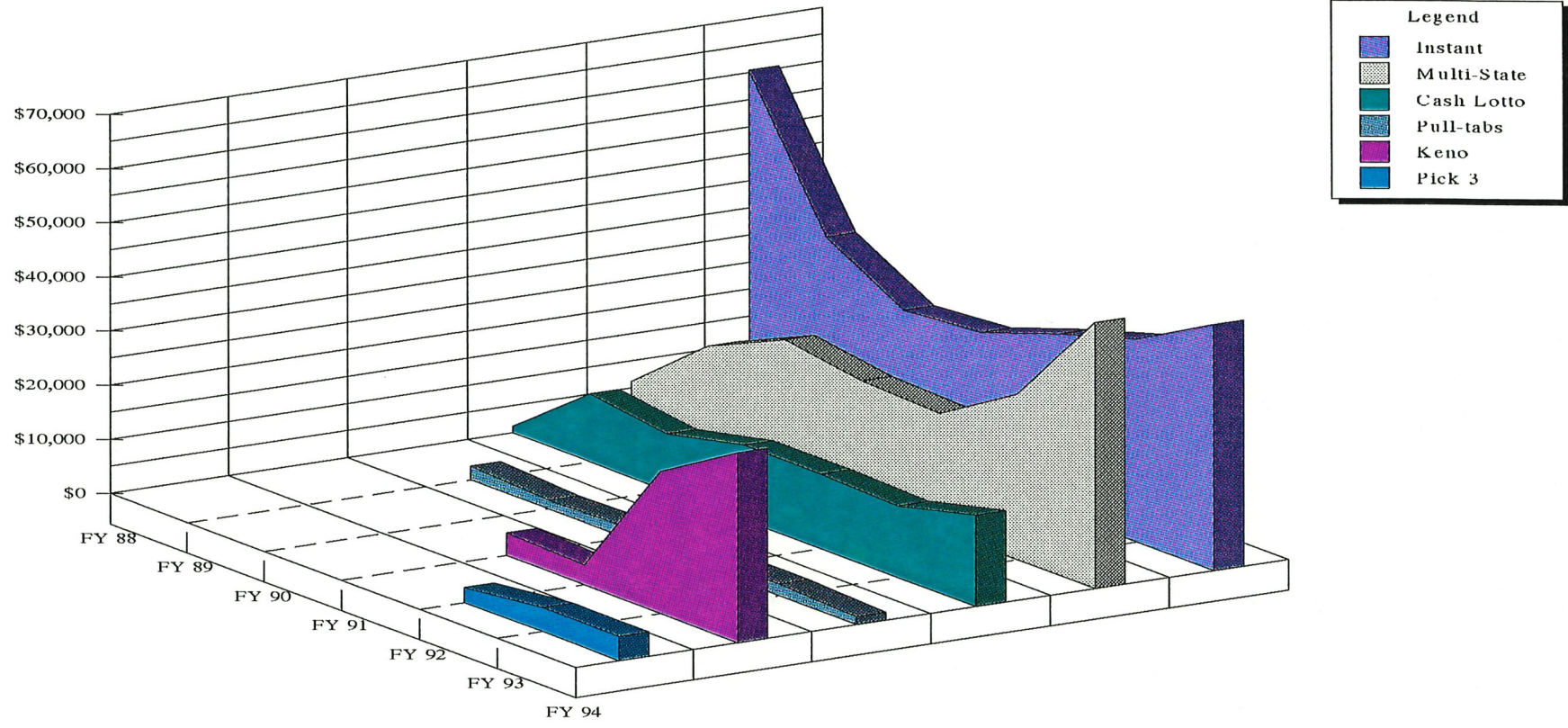
CHRONOLOGY OF MAJOR EVENTS IMPACTING SALES

- | | |
|------------------------------------------------|-----------------|
| Instant ticket sales began | November, 1987 |
| Lotto-America (multi-state lottery) game began | February, 1988 |
| In-state on-line game (Cash Lotto) began | June, 1988 |
| Pull-tab game began | September, 1988 |
| Keno on-line game began | October, 1990 |
| Pick-3 daily game began | January, 1992 |
| Lotto-America changed to Powerball | April, 1992 |
| Club Keno began | October, 1992 |
| Charities began selling pull tabs | July, 1993 |

H-9

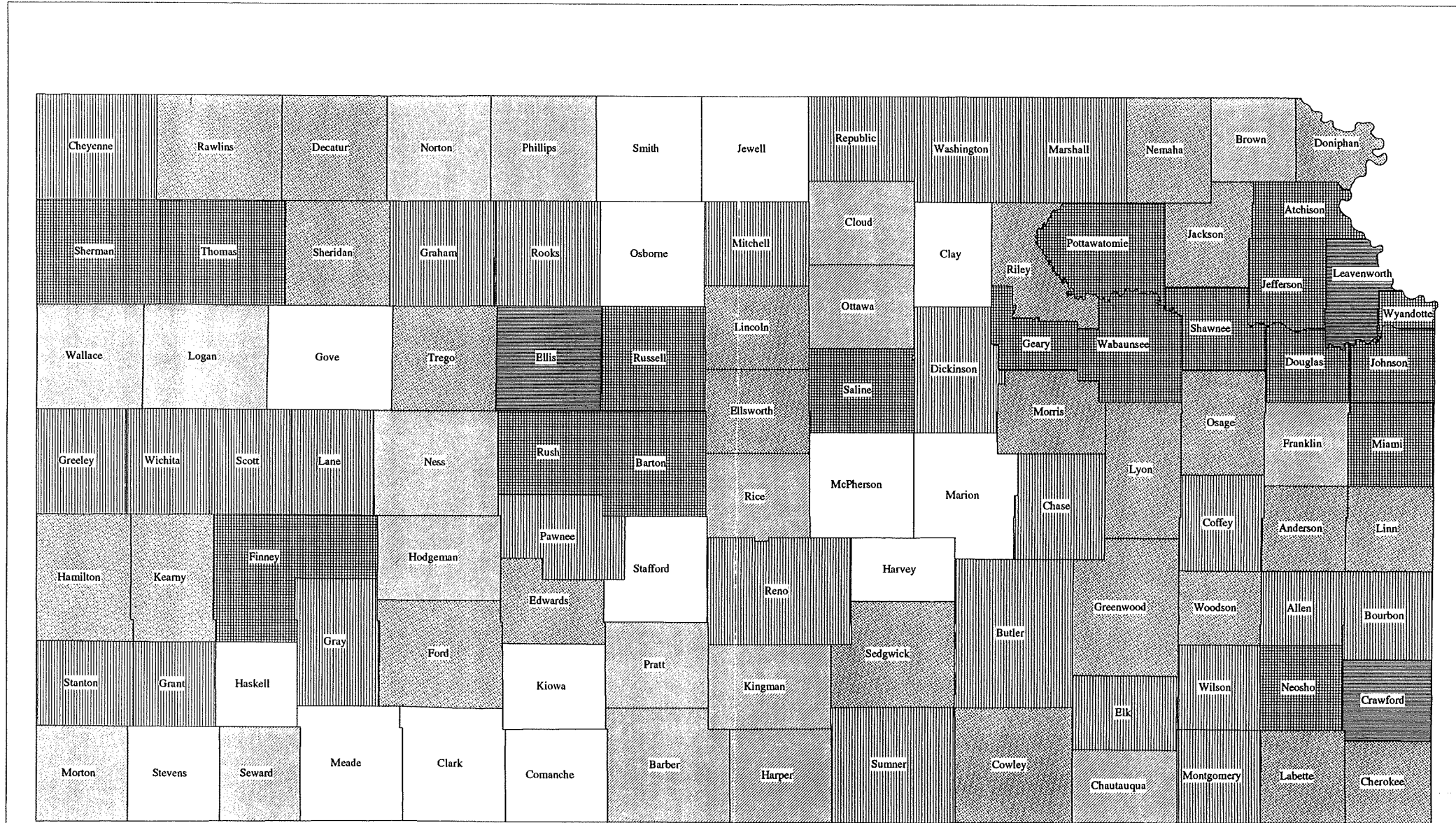
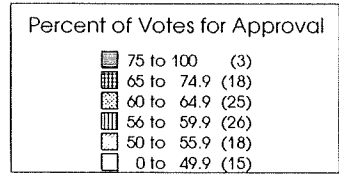
LOTTERY SALES BY GAME TYPE

\$ Thousands



	FY 1988	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994
Instant	\$60,442	\$34,967	\$26,776	\$27,951	\$33,033	\$37,443	\$45,550
Multi-State	\$6,116	\$18,068	\$24,669	\$22,298	\$21,683	\$30,521	\$49,178
Cash Lotto	\$1,185	\$12,552	\$10,549	\$13,847	\$13,845	\$13,303	\$16,895
Pull-tabs		\$2,455	\$1,611	\$2,043	\$2,093	\$2,120	\$1,450
Keno				\$4,195	\$3,626	\$26,316	\$35,110
Pick 3					\$2,759	\$4,401	\$4,446
Total	\$67,743	\$68,042	\$63,605	\$70,334	\$77,039	\$114,104	\$152,629

State Lottery Constitutional Amendment 1986 General Election Percent of Vote for Adoption



*San Fed & State
2-7-95
Attachment 10*