

Approved: 4-26-96
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 March 6, 1996 in Room 254-E of the Capitol.

Members present were: Senator Oleen, Chair
Senator Tillotson, Vice Chair
Senator Jones, Ranking Minority Member
Senator Gooch
Senator Hensley
Senator Jordan
Senator Papay
Senator Praeger
Senator Ramirez
Senator Vidricksen
Senator Walker

Committee staff present: Mary Galligan, Legislative Research
Nancy Wolff, Committee Secretary

Conferees appearing before the committee:

Others attending meeting: See attached list

In anticipation of the upcoming trip to Council Bluffs Iowa, Harrahs in Kansas City, Missouri, and the Woodlands, Mary Galligan presented a continuation of the briefing on SCR1621, the constitutional amendment providing for a state-owned and operated lottery to contract with bona fide nonprofit organizations to operate or conduct electronic games of chance at certain locations in the state and SB712, which provides for the operation of certain electronic game of chance machines by certain nonprofit organizations contracting with the state (Attachment 1 and Attachment 2).

Mary Galligan also presented a chart which presented a comparison of electronic gambling at tracks and compared the state laws of Iowa, West Virginia, Rhode Island, Delaware and SB712 as introduced (Attachment 3). She also distributed a summary of Missouri Gaming Commission Law prepared by Kevin P. Mullaly, Esq. For the World Gaming Congress & Expo that was held in Las Vegas, Nevada. (Attach. #4)

Senator Oleen announced that the committee would be leaving on Thursday, March 7, at 7:00 a.m. From the north steps of the statehouse for the trip to Council Bluffs, Kansas City, Missouri, and Kansas City, Kansas.

There being no other business, the meeting was adjourned at 12:00 p.m.

MEMORANDUM

Kansas Legislative Research Department

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February 15, 1996

To: Senate Committee on Federal and State Affairs
From: Mary K. Galligan, Principal Analyst
Re: Electronic Gambling Constitutional Amendment

S.C.R. 1621 would propose to the voters an amendment to the *Kansas Constitution* that would authorize the Legislature to provide for a state-owned and operated lottery that contracts with *bona fide* nonprofit organizations to operate or conduct electronic games of chance. The authority contained in the proposed amendment would be distinct from existing authority for the Legislature to create a state-owned and operated lottery. The resolution would be placed on the November 1996 General Election ballot if adopted by two-thirds of the House and Senate.

Electronic gambling could only be conducted in counties where a majority of voters voting on the resolution approved it; or where a majority of voters approved a subsequent proposition permitting operation of those games in the county. The constitutional authority for electronic gambling would expire on June 30, 2002 unless continued authorization was made by adoption of a concurrent resolution by the 2002 Legislature. The concurrent resolution authorizing continuation of electronic gambling would have to be approved by a majority of members of each house of the Legislature.

With one exception, the resolution would authorize the conduct of such games at a maximum of two locations in each of Kansas' four congressional districts as those districts were established in 1992. Electronic gambling could be conducted at more than two locations in a congressional district only if more than two nonprofit organizations, licensed to conduct dog or horse races with parimutuel wagering in that district on or before July 1, 1996, are approved for electronic gaming contracts with the state.

The resolution would place in the *Kansas Constitution* a requirement that the Legislature provide for a minimum of 10 percent of the total amount gambled in the electronic machines, less prizes paid, to be used for purse and breed enhancements for the licensed horse and dog racing industry in the state.

0016604.01(2/15/96(3:55PM))

Attachment
Exhibit 1
Federal and State Affairs
3/6/96

MEMORANDUM

Kansas Legislative Research Department

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February 23, 1996
Revised February 29, 1996

To: Senate Committee on Federal and State Affairs
From: Mary K. Galligan, Principal Analyst
Re: S.B. 712 Authorizing Electronic Games of Chance

1996 S.B. 712 would enact the Electronic Games of Chance Act that would provide for state-owned and operated electronic games¹ of chance at racetracks licensed on or before July 1, 1996 in counties that approve the constitutional amendment proposed in S.C.R. 1621 or a proposition to permit such gambling in the county at a subsequent election. Those games would be conducted by the state agency responsible for implementing the state's responsibilities under tribal-state gaming compacts (Commission). The Commission would not be established by the bill. The bill would become effective after its publication and approval by voters of the constitutional amendment proposed in S.C.R. 1621. Authority provided by the bill would expire on June 30, 2002 unless the constitutional authority for the Act is continued by adoption of a concurrent resolution by a majority of House and Senate of the 2002 Legislature. The following paragraphs summarize major provisions of the bill.

§7 **AUTHORITY TO CONTRACT WITH TRACKS** -- The bill would authorize the executive director of the Commission to enter into contracts with the nonprofit organizations licensed under the Parimutuel Racing Act for placement of electronic game of chance machines at licensed tracks. The bill does not provide specifically for contracting with other types of nonprofit organizations that could be authorized to have electronic gaming machines under of the proposed constitutional amendment. Organization licensees under the Parimutuel Racing Act with which the executive director has contracts for operation of electronic games of chance would be called "gaming retailers."

§2(g)

¹ Electronic games of chance would be defined in the bill as any game played on an electronic, mechanical, or computerized game machine authorized by the Commission which, upon the insertion of cash, tokens, or a cash voucher is available to play a game of chance and which may use a video display and microprocessors where, by chance, the player may receive cash, tokens or credits that may be redeemed for cash. The definition specifically includes games played on mechanical or video slot machines, but is not limited to such games. (§ 2(d))

*Attachment
Exhibit 2
Federal and State Affairs
3/6/96*

§4(f) **RETAILER QUALIFICATIONS** -- In order to qualify as a gaming retailer, applicants would have to:

- possess financial resources necessary to support the activities necessary to conduct games operated by the Commission; and
- be current in filing all applicable tax returns and payment of all taxes, interest, and penalties due to the state or any taxing subdivision where games will be conducted.

§4(g) In addition, no individual seeking to be a gaming retailer; officer, director, or stockholder of 5 percent or more of the stock of a corporate applicant; officer or director of an unincorporated association, or partner in a partnership applying for an electronic gambling contract could:

- have been convicted of a felony, unless ten years has passed since completion of the sentence or probation;
- have been convicted of an illegal gambling activity;
- have been found guilty of violation of the Act or any rule or regulation authorized by the Act;
- be a vendor, manufacturer, service technician, or validation manager or an employee or agent thereof;
- reside in the same household as an employee or member of the Commission; or
- have knowingly made a false statement to the Commission.

§5(a)(3) The Commission would be authorized to adopt additional qualifications for the section of gaming retailers in rules and regulations recommended by the executive director.

§4(c)
§4(k) **LIMITATIONS ON CONTRACTS** -- Gaming retailer contracts could be renewed annually and could not be transferred or assigned. Any gaming retailer that fails to continue to meet requirements for initial selection as a retailer could have the certificate as a gaming retailer terminated. A retailer's certificate also could be terminated based on grounds for termination included in the retailer contract. All contracts between the executive director and gaming retailers would expire on June 30, 2002 unless renewed pursuant to a concurrent resolution approved by a majority of each house of the Legislature. This provision echos a requirement in S.C.R. 1621.

§7(c)

§4(a) **DISCRETION OF THE EXECUTIVE DIRECTOR** -- The executive director would be authorized to take the following into consideration in the process of selecting entities with which to contract for placement of electronic gambling machines:

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- financial responsibility;
- security of the applicant's place of business;
- accessibility of the applicant's place of business;
- adverse market conditions, such as proximity of other gaming retailers;
- integrity;
- reputation; and
- other factors deemed appropriate by the executive director.

§7(h) **CONTRACT PROVISIONS** -- Gaming retailer contracts could include the following:

- accounting procedures to determine net machine income, unclaimed prizes, and credits;
- the times of operation of electronic game of chance machines;
- the location of those machines within the parimutuel licensee location;
- minimum requirements for an organization licensee to provide qualified oversight, security and supervision of the machines, including the use of qualified personnel with experience in computer technology; and
- other matters relating to the operation of electronic games of chance.

§6(a) **PROHIBITED ACTS** -- Gaming retailers would be prohibited from:

- permitting any person under the age of 18 to play electronic games of chance;
- knowingly permitting the executive director, a member or employee of the commission, or the immediate family or person who lives with any of those persons to play electronic games of chance; and
- permitting any officer or employee of a vendor, manufacturer, service technician, or validation manager from playing electronic games of chance.

§6(b) Violation of those prohibitions would be a class A nonperson misdemeanor upon conviction of the first offense and a level 9, nonperson felony for the second or subsequent offense.

§7(b) **OWNERSHIP AND CONTROL OF MACHINES** -- Electronic game of chance machines would be installed, operated, managed, owned, or leased by gaming retailers subject to the ultimate ownership, control, and operation

of the Commission. Gaming retailers could contractually arrange with game manufacturers to have the manufacturer operate or manage machines at the retailer's location on behalf of the retailer, subject to the ultimate ownership, control, and operation of the commission.

§5(a) **RULES AND REGULATIONS** -- Rule and regulation authority of the Commission would include, but not be limited to:

- §5(b)
- types of electronic games of chance conducted under authority of the Act, however, all games would have to be approved by the Governor;
 - the manner of payment of prizes;
 - provisions for confidentiality of information submitted by vendors, manufacturers, service technicians, and validation managers;
 - information required to be submitted by vendors, manufacturers, service technicians, and validations managers;
 - the major procurement contracts or portions thereof to be awarded to minority business enterprises;
 - prohibition of certain classes of persons, because of the unique nature of the supplies or service they provide for use directly in the operation of an electronic game of chance machine, from participating in any electronic game of chance machine; and
 - the periodic distribution of moneys deposited in the Greyhound, Thoroughbred, and Quarterhorse Gaming Accounts of the Purse and Breed Enhancements Fund.

§5(a) Temporary rules and regulations of the Commission would be exempt from the Rules and Regulations Filing Act, but would have to be submitted to the Attorney General for approval as to legality, and filed with the Secretary of State and published in the *Kansas Register*.

§8 **ASSOCIATED PERMITS** -- The Commission would be authorized to issue permits to qualified manufacturers, service technicians and validation managers. No person could fulfill any of those roles under the bill unless permitted by the Commission. Annual fees for permits would be \$10,000 for a manufacturer permit, \$100 for a service technician and \$50 for a validation manager. Acting as a manufacturer, service technician or validation manager without a current permit would be a severity level 8, nonperson felony.

§2(i) ○ Manufacturers would be any person or entity that engages in the business of designing, building, constructing, assembling, or manufacturing electronic gambling machines or the electronic computer components, random number generator or cabinet thereof, or associated equipment; the product of which is intended for sale, lease, or other assignment to a gaming retailer; and who contracts with the retailer to provide such equipment.

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- §2(o) ○ Service technicians would be persons employed by a gaming retailer and who performs service, maintenance, and repair on electronic game of chance machines and associated equipment.
- §2(r) ○ Validation managers would be persons who sell tokens and redeem electronic game of chance tickets, share, or token redemptions services.
- §7(i) **MINIMUM LIVE RACING REQUIREMENT** -- In order to enter into contracts for electronic games of chance:
- dual tracks would have to seek approval of at least 65 days of live horse racing during the first year of electronic gambling and 75 days of live horse racing during subsequent years, and at least 250 days of year-round live greyhound racing each year; and
 - greyhound only tracks would have to seek approval of at least 250 days of year-round live racing each year.
- §7(h)(2) **MAXIMUM DAYS OF OPERATION** -- Electronic games of chance machines at tracks, other than fair association tracks, could be operated only on days when live races are conducted or on days when simulcast races are displayed at that track as long as a live race was conducted at the track within the preceding 72 hours. Exceptions to the 72-hour requirement would be provided for track maintenance and emergencies as described in the Racing Act. Electronic games of chance could be operated at fair association tracks only if live racing was scheduled at that track for the calendar year during which the machines would operate. Fair association tracks could operate games on a maximum of twice the number of days the association is authorized to display simulcast races at that track.
- §7(a) **LOCATION OF MACHINES** -- Electronic game of chance machines at tracks could only be placed in structures where all races are displayed on video terminals and where operational parimutuel windows are installed for parimutuel wagering on live horse or greyhound races. If the machines are placed in a structure at a track other than the one where live racing is conducted, the executive director must find that the operation of the machines would be beneficial to live racing at that location.
- §7(j) **MACHINE CERTIFICATION** -- Electronic game of chance machines would have to be certified by the executive director. Any machine that does not have such a certificate displayed as required by the Act would be contraband and a public nuisance subject to confiscation by any law enforcement officer. Violation of that provision of the Act would be a severity level 8 nonperson felony.
- §7(k) The Commission would be required to examine prototypes of electronic gambling machines prior to certification. The person seeking the examination and certification would have to pay the anticipated actual cost of the examination in advance. The Commission would be authorized to contract for the examination of the machines and, could, if it is deemed to be in the best interests of the state, rely on testing done by or for another state.

§7(l) **MACHINE CRITERIA** -- Each machine would have to pay out an average of at least 90 percent, but not more than 97.5 percent, of the amount wagered. Each machine also would have to be linked to a central communication system to provide auditing program information as approved by the Commission. The communication system approved by the Commission could not limit participation to only one manufacturer either because of the cost of the program modifications or the inability to communicate with the central computer. The bill would specifically provide that the requirement for a communication system could not be construed to require an electronic game of chance machine to be on-line or in constant communication with the central computer.

§7(d) **REVENUE DISTRIBUTION** -- The Commission would receive 20 percent of net machine income from electronic game of chance machines at tracks during the first full year of operation. That amount would increase by 1 percent each year beginning in FY 1999 until it reached a maximum of 25 percent in FY 2003. All those moneys received by the Commission would be deposited in the State Treasury and credited as follows:

§7(m)(1) ◦ the amount necessary for the Commission to perform its duties under the act would be credited to the Gaming Commission Operating Fund;

§7(m)(2) ◦ an amount equal to 1 percent of net machine income would be credited to the Problem Gamblers Treatment Fund; and

§7(m)(3) ◦ of the remainder, 50 percent would be credited to the Kansas Comprehensive Grant Program Fund;

◦ 25 percent would be credited to the Kansas Educational Technology Grant Fund; and

◦ 25 percent would be credited to the Kansas Research and Technology Transfer Program Fund.

Moneys in the Gamblers Treatment Fund would be used for counseling and rehabilitating problem gamblers. Moneys in the Comprehensive Grant Program Fund would be used to provide financial aid for students attending Regents' institutions, Washburn, independent colleges, community colleges, or vocational schools in Kansas. Moneys in the Educational Technology Grant Fund would be used to provide grants to Regents' institutions, Washburn, independent colleges, community colleges, or vocational schools in Kansas to purchase instructional and technological equipment for classroom instruction. Moneys in the Research and Technology Transfer Program Fund would be used to provide grants for technology transfer research programs related to economic development to Regents' institutions, Washburn, independent colleges, community colleges or vocational schools in Kansas. The bill does not specify the administrative entity for these grant programs.

§7(e) **REVENUE TO BREED AND PURSE ENHANCEMENTS** -- Another 20 percent of net machine income would have to be used for breed and purse enhancements. That latter amount would be allocated to accounts in the

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purse and breed enhancements fund based on the type of live racing conducted at the track:

§7(e)(1) At tracks, other than Anthony Downs, where live horse and greyhound races are conducted:

- 12 percent of net machine income would go to the Greyhound Gaming Account;
- 5 percent of net machine income to the Thoroughbred Gaming Account; and
- 3 percent to the Quarterhorse Gaming Account.

§7(e)(4) At Anthony Downs, if live horse and greyhound races are conducted, the allocation would be as for other dual tracks except that 1 percent of the amount allocated to the Thoroughbred Gaming Account (.05 percent of net machine income) would have to be allocated to racing horses other than thoroughbreds and quarterhorses.

§7(e)(2) At tracks where only live greyhound races are conducted:

- 14 percent of net machine income would go to the Greyhound Gaming Account;
- 3.75 percent to the Thoroughbred Gaming Account; and
- 2.25 percent to the Quarterhorse Gaming Account.

§7(e)(3) At tracks where only live horse races are conducted:

- 6 percent of net machine income to the Greyhound Gaming Account; and
- at Eureka Downs, 14 percent of net machine income to the Quarterhorse Gaming Account with 0.14 percent of net machine income allocated to racing horses other than thoroughbreds and quarterhorses; or
- at Anthony Downs, 4.2 percent of net machine income to the Quarterhorse Gaming Account and 9.7 percent of net machine income to the Thoroughbred Gaming Account with 1 percent of that amount (0.098 percent of net machine income) allocated to racing horses other than thoroughbreds.

§7(i)(3) **REVENUE RETAINED BY ORGANIZATION LICENSEES** -- The remaining 55-60 percent of net machine income would be retained by the organization licensees. Year-round dual tracks and greyhound-only tracks would have to use at least 0.5 percent of the licensee's net machine income at the track to promote live racing at the track and at least 0.5 percent of the

licensee's net machine income for capital improvements for accommodating live racing at the track.

- §11 **CHEATING** -- The bill would make it a crime to intentionally manipulate the outcome, pay-off or operation of an electronic game of chance machine. Violation of that portion of the bill would be a level 8, nonperson felony.
- §12 **PREEMPTION** -- The bill would preempt any other law or rule and regulation of the state or any ordinance or resolution of any subdivision. The bill specifically would provide that its provisions would not supersede any contracts approved by and filed with the Kansas Racing Commission.
- §14 **COUNTY OPTION VOTE** -- The bill would provide for a county local option vote on the question of permitting electronic gambling. The question could be placed on the ballot either by resolution of the county commissioners or by a petition signed by the number of voters equal to at least 10 percent of voters who voted in the preceding election for the office of Secretary of State. The question would have to be placed on the ballot of a special countywide special election held not less than 90 days after the resolution is adopted if the petition is filed.

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COMPARISON OF ELECTRONIC GAMBLING AT TRACKS -- STATE LAWS

	1996 S.B. 712 AS INTRODUCED	IOWA	WEST VIRGINIA	RHODE ISLAND	DELAWARE
Constitutional provisions	The bill would become effective upon amendment of the <i>Constitution</i> to authorize state-owned and -operated electronic games of chance. Article 11, Sec. 3c of the <i>Constitution</i> currently authorizes the Legislature to provide for a state-owned and operated lottery. (Interpreted by the Kansas Supreme Court to include any kind of gambling, <i>i.e.</i> , anything including chance, consideration, and prize.)	No provision in <i>Iowa Constitution</i> .	Article VI, Sec. 36 authorizes the Legislature to authorize lotteries (including video lottery games) which are regulated, controlled, owned, and operated by the state.	Article 6, Sec. 15 authorizes lotteries (schemes or plans with three essential elements -- consideration, chance, and prize) operated by the state subject to prescription and regulation by the Rhode Island General Assembly.	Article II, Sec. 17 authorizes lotteries (games of pure chance and games of chance in which chance is the dominant determining factor) under state control and operation for the purpose of raising funds.
Who is responsible for operating and owning games and slot machines?	The Commission Director would be authorized to contract with organization licensees of the Racing Commission to place electronic game of chance machines at the racetracks (Sec. 7(a)). Ultimate ownership, control, and operation of the machines would reside with the state. Machines would be installed, operated, managed, owned, or leased by organization licensees (Sec. 7(b)).	The Racing and Gaming Commission shall license a parimutuel dog or horse racetrack licensee to operate gambling games at a racetrack subject to rules and regulations (99F.4A). Statutes do not expressly address the ownership of gambling machines. Licenses to operate gambling games can be granted only to parimutuel licensees holding a valid license on 1/1/94.	Video lottery "games" are Commission-approved, owned, and controlled (29-22A-3(v)). The Lottery Commission requires video lottery terminals to be connected to the Commission's central control computer by an on-line or dial-up communication system (29-22A-3(y)). The terminals must be registered with, and approved by, the Lottery Commission (29-22A-5(a)). The main logic boards and Eproms are owned by the Commission and located in a separate, lockable, and sealed area within the terminal. The Commission is able to activate and disable all machines from the central computer (29-22A-6).	The Lottery Commission shall license technology providers capable of interfacing with a central communications system controlled by the Commission. All video lottery machines must be linked under a central communications system to provide auditing program information and any other information determined by the Lottery. All aspects of games are established by Commission in rules and regulations (42.61.2-3). The central communications licensee may provide a maximum of 50 percent of lottery terminals (42-61.2-1(a)).	The Lottery Commission must own or lease all video lottery machines and those machines must be obtained from licensed video lottery manufacturers (Title 29, Sec. 4820 (a)). Video lottery machines must be connected to the Lottery's central computer system (Title 29, Sec. 4819 (c)).

Attachment 3
 Federal State Affairs
 3/6/96

	1996 S.B. 712 AS INTRODUCED	IOWA	WEST VIRGINIA	RHODE ISLAND	DELAWARE
What forms of electronic video gambling are permitted at the racetracks?	"Electronic games of chance" would be any games played on, among others, mechanical or video slot machines (Sec. 2(d)). Specific games would be approved by the Commission in rules and regulations (Sec.5(a)(1)). Games also would have to be approved by the Governor (Sec. 2(b)).	Any games of chance authorized by the State Racing and Gaming Commission, excluding table games of chance, video lottery, or sports betting. (Slot machine "fruit" games are authorized) (99F.1 (9)).) By statute, the Lottery Board is prohibited from authorizing video lottery games (99E.9, Sec. 3 (b)(1)).	Video lottery games, excluding game themes associated with casino gambling (roulette, dice, baccarat card games etc., or a video display depicting symbols that appear to roll on drums to simulate a classic casino slot machine) (29-22A-3 (v) (7)).	Any video lottery games played on video lottery terminals controlled by the Commission (42-61.2-1(f)). Video lottery terminals must be activated by cash and may not dispense coins, cash, or tokens (42-61.2-1(g)).	Any lottery conducted with a video lottery machine. Video lottery machines may be activated by bills, coins, tokens, or an electronic credit system. The machines may use spinning reels, video displays, or both, and may or may not dispense coins or tokens (Title 29, Sec. 4803 (f) and (g)).

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	1996 S.B. 712 AS INTRODUCED	IOWA	WEST VIRGINIA	RHODE ISLAND	DELAWARE
<p>What percentage of net machine income goes to or is retained by the state?</p>	<p>During the first year of operation, 20 percent of net (total wager, less prizes) machine income (Sec. 7(d) and Sec. 2(j)). The amount would increase 1 percent per year until it reaches 25 percent. From that revenue, an amount equal to 1 percent of net machine income would be credited to the Problem Gamblers Treatment Fund. The Commission's operating expenses would be paid from the remaining 19 percent to 24 percent of net machine income. Any portion of the Commission's revenue in excess of the amount needed by the Commission for its contractually related expenses would be credited: 50 percent to the Comprehensive Grant Program Fund; 25 percent to the Educational Technology Grant Fund; and 25 percent to the Research and Technology Transfer Program Fund. (Sec. 7(m)).</p>	<p>Since games are not operated by the state, a tax is imposed on adjusted gross receipts (gross receipts less winnings) to generate state revenue; 5 percent of first \$1 million; 10 percent of next \$2 million; 20 percent of any amount over \$3 million. Beginning January 1, 1997, from gambling games at racetracks, 22 percent, increasing 2 percent per year to a maximum of 36 percent. From the state tax, an amount equal to 0.3 percent of the adjusted gross receipts goes to the gamblers assistance fund; the balance to the general fund (99F.11). For FY 1995, 50 percent of revenues in excess of \$11.1 million was credited to the cash reserve fund with the first \$299,369 to the Department of Public Safety for five parimutuel law enforcement officers. The state also receives \$.50 per admission. Those funds are deposited in the State General Fund. Cities and counties in which tracks are located, divide equally 1 percent of adjusted gross receipts.</p>	<p>All gross terminal income (total wager, less prizes) is remitted to the Commission via electronic transfer. The Commission retains a maximum of 4 percent for administrative expenses. The result is "net terminal income." 30 percent of net terminal income is transferred to the State General Fund (effectively, a total of 28.8 percent of "net," as defined in the draft bill) (29-22A-10 (b) and (c)(1)).</p>	<p>A minimum of 46 percent of net terminal income for administrative purposes and to State General Fund (42-61.2-7 (a)).</p>	<p>All net proceeds are electronically transferred daily to the State Lottery Fund, to be allocated as follows:</p> <ul style="list-style-type: none"> (a) 12.5 percent of the average daily win (the amount remaining after all payouts to players) not exceeding \$25,000; (b) 15 percent of the average daily win in excess of \$25,000 to \$50,000; (c) 20 percent of the average daily win in excess of \$50,000 to \$75,000; (d) 30 percent of the average daily win in excess of \$75,000 (Title 29, Sec. 4815 (b)(2)). From that amount, the Lottery retains revenue to cover its operating expenses (including equipment costs) and associated law-enforcement and security activities of the Attorney General and Delaware State Police. The greater of \$100,000 or 1 percent of proceeds returned to the state is used for compulsive gambling programs, and the remainder goes to the State General Fund. (e) From the amount remaining, the state deducts a reimbursement for equipment costs for each video lottery agent for a proportional share of the cost of the central computer.

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	1996 S.B. 712 AS INTRODUCED	IOWA	WEST VIRGINIA	RHODE ISLAND	DELAWARE
<p>What is the distribution of net machine income to parties other than the state?</p>	<p>Twenty percent of net machine income would be allocated to the Purse and Breed Enhancement Fund. Within that Fund, revenue would be allocated to greyhound, quarterhorse, and thoroughbred accounts, depending upon the type of racing conducted at the track where the revenue was generated. (Sec. 7(i)).</p> <p>The balance of net machine income, 55 percent to 60 percent, would be retained by organization licensees. One percent of that amount would have to be allocated equally to live race promotion and capital improvements at full-time tracks. (Sec. 7 (i)(3)).</p>	<p>If a parimutuel licensee at a horse track has unpaid debt from the race-track operation, the first receipts, minus expenses, taxes, etc. must be used to pay annual indebtedness. After such payment has occurred, the State Racing and Gaming Commission must authorize the parimutuel dog or horse racing licensee to use receipts from games at tracks to supplement purses, pursuant to agreements negotiated between licensees and representatives of the dog or horse owners. Purse supplements are to be used particularly for Iowa-bred horses and to facilitate the development and promotion of Iowa greyhound racing dogs (99F. 6 (4) (a) and (b)).</p>	<p>The remaining 70 percent of "net terminal income" is apportioned as follows:</p> <p>14 percent -- payment of regular purses;</p> <p>2 percent -- counties where terminals are located;</p> <p>0.5 percent -- payment for pensions of employees of licensed racing associations;</p> <p>1.5 percent -- to be shared equally by West Virginia Thoroughbred Development Fund and the West Virginia Greyhound Breeding Development Fund to support a breeders' program;</p> <p>1 percent -- West Virginia Thoroughbred Breeders Classic for purses;</p> <p>47 percent -- track;</p> <p>3 percent -- Tourism Promotion Fund; and</p> <p>1 percent -- Veterans Memorial Program (until the memorial is completed; then used for regular purposes) (29-22A-10).</p>	<p>After the minimum 46 percent is allocated to the Lottery and general fund, the remaining net terminal income is apportioned as follows:</p> <p>31 percent -- track licensee;</p> <p>6 percent -- dog kennel owners under contract with a licensee;</p> <p>16 percent -- technology provider, of which no more than 3 percent may go to the communications system provider; and</p> <p>1 percent -- city or town in which the licensed video retailer is licensed.</p> <p>A total of \$5 million goes to the distressed community relief fund. The following amounts are deducted from the amounts above:</p> <p>Lincoln Park Greyhound track -- \$767,687;</p> <p>Newport Jai Alai Fronton -- \$384,996;</p> <p>Kennel owners -- \$218,579;</p> <p>Technology providers -- \$628,737;</p> <p>State General Fund -- \$3 million (42-61.2-7)</p>	<p>For purses paid by video lottery agents licensed to conduct horse racing meets and harness racing meets, a specific formula applies which is different for each (maximum 10 percent of net); the formula also is different for agents who were licensed before and after January 1, 1993. After payment of purses, the remainder is paid to video lottery agents (tracks) as commission for a maximum of three years (maximum 60 percent of net). (The statute specifies that this is a temporary provision and that a different distribution will be enacted before the three-year limit expires) (Title 29, Sec. 4815).</p> <p>Any licensed track that elects to forego becoming a video lottery agent receives \$75,000-\$100,000 per year from all video lottery agents under certain circumstances. In order to receive those payments, the tracks must conduct at least 90 percent of the number of races conducted in 1992 and award an average purse per race that is at least as great as the average awarded in 1992 (Title 29, Sec. 4821).</p>

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	1996 S.B. 712 AS INTRODUCED	IOWA	WEST VIRGINIA	RHODE ISLAND	DELAWARE
What is the percentage paid out in prizes?	An average of not less than 90 percent and not more than 97.5 percent of the amount wagered (Sec. 7(1)(1)).	The Racing and Gaming Commission makes that determination through rules and regulations (99F.4(16)). Receipts from gambling games, less reasonable expenses, charges, taxes, fees, and allowable deductions must be distributed as prizes or to charitable uses defined in statute (99F.6(4)).	80-95 percent of amount wagered during the expected lifetime of the terminal. Special permission from the Commission is required for machines programmed for payout over 92 percent (29-22A-6(c)(1)).	The Lottery Commission is to make that determination through rules and regulations (42-61.2-3(d)).	Payouts between 87 percent and 95 percent of total proceeds on an average annual basis; or greater than 95 percent with the approval of the Lottery Director (Title 29, Sec. 4805 (a) (15)).
What are the locational and scheduling requirements for tracks that have slot machines?	Contracts between the Commission and parimutuel licensees may include the times of operations of machines. At tracks other than fair association tracks, those games can be operated only on days when live or simulcast races are conducted within 72 hours of a live race. At fair association tracks, electronic games could be operated only during a calendar year when live racing was scheduled. Fair associations could be authorized to operate those games only a maximum of twice the number of authorized simulcast race days at that track (Sec. 7(h)(2)). Machines could be operated in any structure on the real estate where live racing is conducted (Sec. 2(l) and Sec. 7(h)(2)).	Licenses to operate gambling games can be issued only to parimutuel licensees licensed on January 1, 1994 (99F.4A(2)). The Commission must authorize licensees to conduct games at greyhound racetracks at Waterloo and Dubuque if the tracks schedule at least 130 performances of 12 live races each day during a 25-week season. The licensee at Council Bluffs may conduct gambling games if the licensee schedules at least 290 performances of 12 live races each day during a 50-week season (99F.6(4)(b)).	A licensee must allow video lottery games to be played only on days when live racing is being conducted or simulcast racing is displayed. Video lottery terminals must be: continuously monitored by closed circuit television; in areas where access is restricted to persons 18 years of age or older; only located in an area approved by the Commission; may only be located in the area of the grandstand building where parimutuel wagering is permitted; and security personnel must be present during all hours of operation. A maximum of 400 terminals can be located at a track without special authorization from the Commission (29-22A-12).	Video lottery terminals may only be installed and operated at parimutuel licensee facilities which are specifically approved by the Lottery Director subject to approval by the Commission (42-61.2-2 (b)). Video lottery games may be played at the licensed facilities with the approval of the Lottery Commission even if the facility is not conducting a parimutuel event (42-61.2-6).	Video lottery machines may only be located on existing racetrack property on which horse race meets or harness race meets were conducted in 1993. Machines may not be located in a hotel, motel, or other overnight sleeping facility. Video lottery machines may not be played on Christmas, Easter, between 2:00 a.m. and 1:00 p.m. on Sundays, or between 2:00 a.m. and 8:00 a.m. on other days (Title 29, 4819)). As a precondition for maintaining video machines on licensed racetracks, the licensee must conduct live racing operations on at least 90 percent of the number of days for which live racing days were awarded for and conducted in 1992 and employ a minimum of 50 additional employees during live racing operations than the average daily number employed during the most recent racing meet held prior to July 16, 1994 (Title 3, Sec. 10048).

5-5

	1996 S.B. 712 AS INTRODUCED	IOWA	WEST VIRGINIA	RHODE ISLAND	DELAWARE
Is there a local option for qualified voters of a county to vote to permit operation of slot machines at parimutuel racetracks within that county?	Yes. Electronic games of chance could be operated only in counties that approve the Constitutional amendment proposed in S.C.R. 1621, or where their operation has been approved by voters at a countywide special election. A resolution to approve operation of electronic games of chance could be placed on the ballot either by the county commission or by a petition (Sec. 14).	Yes. If a majority of county electorate vote for gambling games at tracks, the same proposition will be submitted to the voters in 2002 and at eight-year intervals thereafter (99F.7 (10) (c)).	Yes. If a majority of county electorate vote for the option, another election on the issue may not be held for a period of five years. If a majority vote "no," another election on the question may not be held for two years (29-22A-8).	No local option.	No local option.

3-6

Summary of Missouri Gaming Commission Law

Prepared by

Kevin P. Mullally, Esq.

for the

World Gaming Congress & Expo

Las Vegas, Nevada

September 19-22, 1993

**Excerpt prepared by Mary Galligan,
Kansas Legislative Research Department**

Powers of the Commission

1. hire an Executive Director and any employees deemed necessary;
2. require investigations of any employee or applicant for employment;
3. the Commission is assigned to the Department of Public Safety, but the director has no supervision, authority, or control over the actions or decisions of the Commission;
4. the Commission may enter into agreements with the FBI, IRS, the state attorney general, or any state, federal, or local agency the Commission deems necessary to carry out its duties;
5. the Commission may provide for the offset of any prize or winnings won by any person making a wager when such person has an outstanding debt owed the State of Missouri;
6. the Commission may enter into a contract with any private entity to carry out the duties of the Commission except that they may not contract with private entities to provide criminal law enforcement, provision of legal counsel before the courts and other agencies of this state, and the enforcement of liquor laws;
7. the Commission may investigate applicants and determine the priority and eligibility of applicants for a license and to select an operator which best serves the interest of the citizens of Missouri;
8. the Commission shall provide regulations to implement a \$500 loss limit on each individual for each gambling excursion;
9. the Commission may assess any appropriate administrative penalty against a licensee including but not limited to suspension, revocations, and penalties of an amount as determined by the Commission up to three times the highest daily amount of gross receipts derived from wagering on the gambling games, conducted during the previous 12 months as well as confiscation and forfeiture of all gambling game equipment used in the conduct of unauthorized gambling games;
10. the Commission has subpoena power;

*Attachment
Exhibit 4
Federal and State Affairs
3/6/96*

11. the Commission has the authority to choose which gambling games may be used on an excursion gambling boat and shall insure that no device be set to pay out less than 80 percent of all wagers;
12. the Commission may inspect a licensee or holder's person, personal property, excursion gambling boat, and effects at any time; and
13. the Commission may impose penalties on any licensee or suspend or revoke any license for any act or failure to act by a licensee that is injurious to the public health, safety, morals, good order, and general welfare of the people of the State of Missouri, or that would discredit or tend to discredit the Missouri gaming industry or the State of Missouri unless the licensee proves by clear and convincing evidence that they are not guilty of such action. The statute goes on to give the Commission a laundry list of criteria which would meet the standard outline above.

Licensing

1. applications for a license shall specify the exact location where the boat will be docked, the land-based economic development plan, an affirmative action plan and a lease with a city or county, or in lieu thereof a resolution supporting the application;
2. the application fee is \$50,000 or \$15,000 per person to be investigated; the applicant is responsible for the full cost of the investigation, and the Commission may assess additional fees as it deems necessary;
3. the annual fee for all licensed excursion gambling boat operators is \$25,000;
4. the Commission shall determine which occupations on an excursion gambling boat should be licensed and shall determine the requirements and fees for such licenses.
5. suppliers of gambling equipment and supplies must be licensed annually and must have a registered agent in the State of Missouri;
6. the burden of proof for applicants requires that the applicant show by clear and convincing evidence their suitability as to character, experience, and any other factors for licensure deemed appropriate by the Commission; thus, it is clear that a gaming license is not a property right but a privilege granted by the state;
7. the Commission shall have the ultimate responsibility of deciding the number, location, and type of excursion gambling boats licensed in any city or county;
8. licensees shall not, by lease, contract, understanding, or arrangement of any kind, grant, assign, or turn over to a person the operation of an excursion gambling boat licensed by the Commission; however, a boat operator may enter into a management contract with a person licensed by the Commission;
9. each excursion gambling boat must have nongaming areas, food service, and a Missouri theme gift shop; the Commission shall determine the amount of space required for each; and

10. each applicant shall demonstrate through clear and convincing evidence that they have financial responsibility sufficient to meet adequately the requirements of the proposed enterprise.

Taxes and Fees

Each licensee is subject to a 20 percent tax on the adjusted gross receipts received from gambling games. Ninety percent of this tax is to be submitted to the state and placed in the "Gambling Proceeds for Education Fund." The remaining ten percent is to be submitted to the home dock city or county for use in providing services necessary for the safety of the public visiting an excursion gambling boat.

In addition, each excursion gambling boat licensee shall pay to the Commission an admission fee of two dollars for each person embarking the boat with a ticket of admission. One dollars of that amount shall be paid to the home dock city or county.

Liquor Control

The Commission is the sole liquor licensing authority for liquor service aboard any excursion gambling boat. The Commission shall establish rules and regulations for the service of liquor aboard an excursion gambling boat. The Commission is prohibited from allowing any person under the age of 21 to consume alcoholic beverages on an excursion gambling boat. All the current criminal provisions of the liquor law will still apply to an excursion gambling boat.