

Approved: 5-3-97
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 2:30 p.m. on April 3, 1997 in Room 313-S of the Capitol.

Members of the Federal & State Affairs Committee of the Senate and House were present.

Committee staff present: Mary Galligan, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Mary Torrence, Revisor of Statutes
Midge Donohue, Committee Secretary

Conferees appearing before the committee:

Mr. Gregory Ziemak, Executive Director, Kansas Lottery
Mr. Myron E. Scafe, Executive Director, Kansas Racing Commission

Others attending: See attached list

Senator Oleen advised the committees this was not a hearing but a briefing on an amendment (Attachment #1) brought to the floor of the Senate a couple of days ago, and that legislative staff would discuss the contents of that amendment today. Senator Oleen directed the committees' attention to the last page of the amendment, noting it was a definition change to replace the definition beginning on page 3, (v), and that the rest of the amendment remained unchanged.

Review of the amendment followed by Legislative Research staff who advised it would authorize the Lottery to conduct a group of games called "racetrack lottery games" at existing racetracks in Crawford, Greenwood, Harper, Sedgwick and Wyandotte counties; that those games would be distinguished from other Lottery games by their payout, where they are conducted, and the allocation of net sales revenue. A chart (Attachment #2) was made available to committee members showing the flow of racetrack lottery game revenue proposed in **HB 2374**, an act relating to travel and tourism. Distributed also was a chart (Attachment #3) showing the allocation of racetrack lottery game revenue proposed in **HB 2174**, as introduced, an act providing for the operation of certain state-owned and operated lottery games at certain racetrack facilities.

Mr. Greg Ziemak, Executive Director of the Kansas Lottery, appeared at the request of the committee to respond to questions from committee members regarding the effect the amendment, if adopted, would have on his agency and its retailers. He said the Racing Commission indicated five new positions would be required for the Lottery to carry out provisions of the measure. When questioned if the Lottery had ever requested racetrack lottery games, Mr. Ziemak responded they had, but the legislature had rejected the request. In regard to satellite offices, he said the legislature had that request also but had not acted favorably on it.

Discussion followed on the percentage of return on payouts and a comparison of current payouts with those proposed. Mr. Ziemak indicated the proposed amendment would adversely affect retail sales.

Operational control of the terminals at the racetrack was discussed. Mr. Ziemak told the committee the Lottery would like to have a terminal at its headquarters to oversee the operation, and that he did not envision GTECH involvement. He advised that, under the current amendment, his agency would maintain control of games at the racetracks.

Mr. Ziemak was asked if the group that is interested in the amendment had visited with him about the proposal, and Mr. Ziemak indicated they had not.

Mr. Myron Scafe, Executive Director of the Racing Commission, appeared at the request of the committee to respond to questions about the proposed amendment. He told the committee the amendment did not define who would be responsible for the cost of security and background checks associated with the proposed

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL & STATE AFFAIRS COMMITTEE, Room 313-S of the Capitol, at 2:30 p.m. on April 3, 1997.

expansion; that the Commission currently pays for background checks on its own employees who work at the tracks. He indicated the Commission would want background checks on all individuals associated with the games, and that the cost of the background checks would depend on the level of the investigation. He explained that some are conducted by the Commission and some by the Kansas Bureau of Investigation which is reimbursed for expenses incurred. He said it was not clear in the proposed amendment if individuals hired as a result of the expansion would require a KBI background check or if the Commission would be responsible for the background investigation.

Mr. Scafe was asked if the industry had approached him or the Commission about expansion of the games, and he replied that Mr. Lawrence of K-Race had made a presentation on **HB 2174** to the Racing Commission, but the Commission has not had any input into the bill, and he was not aware the amendment was being offered until earlier in the week. Mr. Ziemak indicated also that he was not aware of the amendment until it was offered.

Senator Oleen inquired about the industry's reaction to the Commission not taking a formal position on the issue, and Mr. Scafe advised that the industry was very unhappy with him and the Commission. Mr. Scafe pointed out that the Commission's role is that of regulator, not promoter, and that the industry has been very critical of the Commission for not being more proactive by going to the legislature and speaking on the industry's behalf. When asked if there had been reprisals as a result, Mr. Scafe advised that the Commission's budget was cut in the House and would go to a conference committee, but he could not say for certain if it was a direct reprisal. Mr. Ziemak, upon questioning, told the committee the Lottery's budget was also cut in the House but restored in the Senate. Senator Oleen called attention to quotes attributed to an unnamed legislator that the cuts were made to "get the attention" of the Lottery and Racing Commission and to get the two agencies to consider the stand of the industry. Mr. Scafe said the Commission's position has not changed.

Senator Oleen stated that those who are opposed to the amendment would agree that the proposal has come forward because the industry believes it needs more money. She pointed out the legislature had responded to the industry's need for money with incentives by restoring \$100,000 to some of the smaller tracks to maintain the horse and dog industry. She said it was impossible to predict if sufficient money would be generated by granting higher payouts.

Senator Oleen distributed copies of an amendment (Attachment #4) which she said she intended to introduce on the floor of the Senate as an amendment to a House bill. Staff explained the contents of the proposal, noting it was a draft amendment, not a bill as the document indicated. Discussion followed on the proposed amendment, and Senator Oleen reiterated her intent not to hamper one industry in an effort to help another.

The meeting adjourned at 3:20 p.m. The next meeting is on call of the chairman.

STATE OF KANSAS

SENATE CHAMBER

MR. PRESIDENT:

I move to amend **HB 2374**, As Further Amended by Senate Committee, on page 1, after line 21, by inserting:

"Section 1. K.S.A. 74-8701 is hereby amended to read as follows: 74-8701. K.S.A. 74-8701 through 74-8721, and sections 3, 4 and 5, and amendments thereto, shall be known as and may be cited as the Kansas lottery act.

Sec. 2. K.S.A. 74-8702 is hereby amended to read as follows: 74-8702. As used in this act, unless the context otherwise requires:

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

(b) "Executive director" means the executive director of the Kansas lottery.

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

(d) "Instant bingo" means instant bingo, as defined by subsection (c), excluding subpart (4), of K.S.A. 79-4701 and amendments thereto.

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

(f) "Keno" means a game in which a player selects up to 20 numbers from a total of 80 numbers and a computer or other selection device randomly selects up to 20 numbers from the same pool of 80 numbers. Winners are determined by the correct matching of the numbers selected by the player with the numbers randomly selected by the computer or other selection device. If the player wins the game, as determined in accordance with the

rules of the game adopted by rules and regulations of the commission, the player may be awarded game credits redeemable in cash.

{e} (g) "Lottery retailer" means the Kansas lottery or any person with whom the Kansas lottery has contracted to sell lottery tickets or shares, or both, to the public. "Lottery retailer" does not include a racetrack lottery retailer.

{f} (h) "Lottery" or "state lottery" means the lottery or lotteries operated pursuant to this act.

{g} (i) (1) "Major procurement" means any gaming product or service, including but not limited to gaming products and services related to racetrack lottery games, facilities, advertising and promotional services, annuity contracts, prize payment agreements, consulting services, equipment, tickets and other products and services unique to the Kansas lottery, but not including.

(2) "Major procurement" does not include materials, supplies, equipment and services common to the ordinary operations of state agencies.

(j) "Net income from racetrack lottery games" means all revenue from the sale of racetrack lottery tickets and shares less amounts paid by racetrack lottery retailers or by the lottery as prizes for racetrack lottery games.

(k) "Parimutuel lottery game" means any lottery game in which: (1) The total money wagered by individuals playing the game is placed in pools; (2) the winners are paid prizes from such pools; (3) the size and extent of the prizes are determined by the size and extent of the pools; and (4) the takeout for purses, taxes and the share of the racetrack lottery retailer from each pool is not less than 5% nor more than 20%, as determined by the commission, of the total amount wagered in such pool and is not affected by the outcome of the game. "Parimutuel lottery game" does not include any game involving off-track betting in connection with horse and dog racing.

(h) (l) "Person" means any natural person, association, corporation or partnership.

(i) (m) "Prize" means any prize paid directly by the Kansas lottery pursuant to its rules and regulations.

(n) "Racetrack facility" means racetrack facility as defined by K.S.A. 74-8802 and amendments thereto.

(o) "Racetrack licensee" means: (1) A facility owner or facility manager licensee, as defined by K.S.A. 74-8802 and amendments thereto; or (2) an organization licensee, as defined by K.S.A. 74-8802 and amendments thereto, that owns a racetrack facility.

(p) "Racetrack lottery game" means any lottery game conducted by the Kansas lottery at racetrack lottery retailer locations, including but not limited to: (1) Instant bingo; (2) keno; and (3) any parimutuel lottery game.

(q) "Racetrack lottery retailer" means a racetrack licensee with which the executive director has entered into a contract pursuant to section 3.

(r) "Racetrack lottery retailer locations" are those locations where racetrack lottery retailers are authorized to conduct racetrack lottery games pursuant to a contract with the lottery at a racetrack facility in existence on the effective date of this act in Crawford, Greenwood, Harper, Sedgwick or Wyandotte county.

(s) "Racetrack organization licensee" means an organization licensee as defined by K.S.A. 74-8802 and amendments thereto.

(t) "Returned ticket" means any ticket that was transferred to a lottery retailer or racetrack lottery retailer, was not sold by such retailer and was returned to the Kansas lottery for refund by issuance of a credit or otherwise.

(j) (u) "Share" means any intangible manifestation authorized by the Kansas lottery to prove participation in a lottery game, including a racetrack lottery game.

(v) "Slot machine" means a mechanical, electromechanical or

computerized device: (1) Into which cash, tokens or other consideration is placed and play is activated by a player; (2) which displays symbols in a game of chance or skill, or plays or simulates the play of a game of chance or skill; and (3) which determines whether the player has won or lost. If the player is a winner, the device distributes the prize, or paper, tokens or other tangible or intangible evidence of the prize.

{*} (w) "Ticket" means any tangible evidence issued by the Kansas lottery to prove participation in a lottery game, including a racetrack lottery game.

{†} (x) "Vendor" means any person who has entered into a major procurement contract with the Kansas lottery.

~~{m}--"Returned-ticket"--means-any-ticket-which-was-transferred to-a-lottery-retailer,-which-was-not-sold-by-the-lottery-retailer and--which--was--returned--to--the--Kansas--lottery-for-refund-by issuance-of-a-credit-or-otherwise.~~

{n} (y) "Video lottery machine" means any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game authorized by the commission, including but not limited to bingo, poker, black jack and keno, and which uses a video display and microprocessors and in which, by chance, the player may receive free games or credits that can be redeemed for cash.

New Sec. 3. (a) The executive director may enter into contracts with racetrack licensees for the sale of racetrack lottery game tickets or shares to the public, as provided by this act and rules and regulations adopted pursuant to this act. Each contract shall be renewable annually on approval of the commission and the Kansas racing and gaming commission and shall be conditioned on the racetrack lottery retailer's remaining a facility owner licensee, facility manager licensee or organization license under the Kansas parimutuel racing act during the term of the contract and a finding by the Kansas racing and gaming commission that the contract is in the best

interests of the racing industry in Kansas. Such contracts shall not be subject to the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

(b) Contracts entered into pursuant to this section shall include but not be limited to:

(1) Provisions for the racetrack lottery retailer to pay all costs associated with advertising and promotional services, consulting services, equipment, tickets and other products or services for the operation of racetrack lottery games, including start-up costs that shall be determined by and paid pursuant to the contracts authorized by this section;

(2) accounting procedures to determine the net income from racetrack lottery games, unclaimed prizes and credits;

(3) provisions requiring the racetrack lottery retailer to remit to the Kansas lottery the net income from racetrack lottery games operated by such retailer and procedures for remittance of such income;

(4) subject to the provisions of subsection (c), the times of operation of racetrack lottery games, the locations of operation of racetrack lottery games within the racetrack facility, and other matters relating to the operation of racetrack lottery games;

(5) minimum requirements for a racetrack lottery retailer to provide qualified oversight, security and supervision of the operation of racetrack lottery games at a racetrack facility; and

(6) provisions for the racetrack lottery retailer to file a surety bond or other security with the executive director, based on the expected volume of such retailer's sales of lottery tickets or shares and conditioned on the retailer's performance of such retailer's obligations pursuant to the contract, the provisions of this act and rules and regulations adopted pursuant to this act.

(c) Days of operation of racetrack lottery games shall not be restricted except as follows:

(1) No racetrack lottery game shall be operated at a racetrack facility, other than at a fair association location, except: (A) On days when live races are conducted or simulcast races are displayed at the racetrack facility; and (B) at times when, within the preceding 72 hours, live horse or dog racing has been conducted at the racetrack facility, except during those extended periods in which live races are not scheduled to allow for track maintenance, emergencies declared pursuant to subsection (b)(4) of K.S.A. 74-8836 and amendments thereto or similar circumstances.

(2) No racetrack lottery game shall be operated at a racetrack facility at a fair association location except when live racing has been scheduled during the same calendar year at the location where the racetrack lottery games will be operated. The number of days during which racetrack lottery games may be operated at a fair association location shall not exceed twice the number of simulcast race days authorized at such location.

(d) No racetrack lottery game shall be operated pursuant to this act:

(1) At a racetrack facility, other than a fair association location, where the conduct of both live horse and live greyhound races is authorized pursuant to the Kansas parimutuel racing act unless the racetrack organization licensee conducting live races at the racetrack facility: (A) Seeks approval of not less than 45 days of live horse racing at the racetrack facility during the first year in which racetrack lottery games are permitted at the racetrack facility and 55 days of live horse racing during every year thereafter; and (B) seeks approval of not less than 250 days of live greyhound racing at the racetrack facility during each year in which racetrack lottery games are operated at the racetrack facility; or

(2) at a racetrack facility, other than a fair association location, where the conduct of only live greyhound races is authorized pursuant to the Kansas parimutuel racing act unless

the racetrack organization licensee conducting live races at the racetrack facility seeks approval of not less than 250 days of live greyhound racing at the racetrack facility during each year in which racetrack lottery games are operated at the racetrack facility.

(e) All moneys received by the commission from racetrack lottery games operated pursuant to this section shall be deposited in the state treasury and credited to the racetrack lottery operating fund established by section 4.

New Sec. 4. (a) There is hereby established in the state treasury the racetrack lottery operating fund.

(b) The executive director shall remit at least weekly to the state treasurer the net income from the operation of racetrack lottery games collected pursuant to this act. Upon receipt of any such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and credit it to the racetrack lottery operating fund. Moneys credited to the fund shall be expended or transferred only as provided by this act. Expenditures from such fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive director or by a person designated by the executive director.

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

(1) The payment of expenses of the Kansas lottery attributable to the operation of racetrack lottery games and implementation, administration and enforcement of contracts entered into pursuant to section 3;

(2) transfers to the state racing fund pursuant to subsection (d);

(3) transfers to the state tourism fund pursuant to subsection (e);

(4) transfers to the breed and purse enhancement fund

pursuant to subsection (f);

(5) payments to organization licensees pursuant to subsection (g); and

(6) payments to racetrack lottery retailers pursuant to subsection (h).

(d) On or before the 15th day of each month, commencing with the month following the first month in which moneys are credited to the racetrack lottery operating fund, the director of accounts and reports shall transfer moneys in the racetrack lottery operating fund to the state racing fund created by K.S.A. 74-8826 and amendments thereto in an amount certified monthly by the executive director and determined as equal to the expenses of the Kansas racing and gaming commission attributable to the operation of racetrack lottery games, based on an accounting by the executive director of the Kansas racing and gaming commission.

(e) On or before the 15th day of each month, commencing with the month following the first month in which moneys are credited to the racetrack lottery operating fund, the director of accounts and reports shall transfer moneys in the racetrack lottery operating fund to the state tourism fund created by section 18 in an amount certified monthly by the executive director and determined as equal to 10% of the net income from racetrack lottery games credited to the racetrack lottery operating fund during the preceding calendar month.

(f) On or before the 15th day of each month, commencing with the month following the first month in which moneys are credited to the racetrack lottery operating fund, the director of accounts and reports shall transfer moneys in the fund to the breed and purse enhancement fund established pursuant to section 5, in an amount certified monthly by the executive director and determined as equal to the following percentages:

(1) Subject to the provisions of subsection (f)(4), of the proportionate amount of moneys in the racetrack lottery operating fund in excess of the those needed for the purpose described in

subsection (c)(3) that were derived from the operation of racetrack lottery games at a racetrack where a racetrack organization licensee conducts both live horse races and live greyhound races: (A) 12% shall be credited to the greyhound account; (B) 5% shall be credited to the thoroughbred account; and (C) 3% shall be credited to the quarter horse account;

(2) of the proportionate amount of moneys in the racetrack lottery operating fund in excess of the those needed for the purpose described in subsection (c)(3) that were derived from the operation of racetrack lottery games at a racetrack where a racetrack organization licensee conducts only live greyhound races: (A) 14% shall be credited to the greyhound account; (B) 3.75% shall be credited to the thoroughbred account; and (C) 2.25% shall be credited to the quarter horse account;

(3) subject to the provisions of subsection (f)(5), of the proportionate amount of moneys in the racetrack lottery operating fund in excess of the those needed for the purpose described in subsection (c)(3) that were derived from the operation of racetrack lottery games at a racetrack where a racetrack organization licensee conducts only live horse races: (A) 6% shall be credited to the greyhound account; (B) 13.85% shall be credited to the quarter horse account; and (C) 0.15% shall be credited to the account for racing horses other than thoroughbreds and quarter horses;

(4) of the proportionate amount of moneys in the racetrack lottery operating fund in excess of those needed for the purpose described in subsection (c)(3) that were derived from the operation of racetrack lottery games at Anthony Downs when a racetrack organization licensee conducts both live horse races and live greyhound races at Anthony Downs: (A) 12% shall be credited to the greyhound account; (B) 4.9% shall be credited to the thoroughbred account; (C) 3% shall be credited to the quarter horse account; and (D) 0.1% shall be credited to the account for racing horses other than thoroughbreds and quarter horses; and

(5) of the proportionate amount of moneys in the racetrack lottery operating fund in excess of the those needed for the purpose described in subsection (c)(3) that were derived from the operation of racetrack lottery games at Anthony Downs when a racetrack organization licensee conducts only live horse races at Anthony Downs: (A) 6% shall be credited to the greyhound account; (B) 8.5% shall be credited to the thoroughbred account; (C) 5.25% shall be credited to the quarter horse account; and (D) .25% shall be credited to the account for racing horses other than thoroughbreds and quarter horses.

(g) On or before the 15th day of each month, commencing with the month following the first month in which moneys are credited to the racetrack lottery operating fund, the executive director shall authorize payments from the fund to racetrack organization licensees conducting live races at racetrack facilities where racetrack lottery games are conducted. Such payments shall be in an aggregate amount equal to 1% of the moneys in the racetrack lottery operating fund in excess of those needed for the purposes described in subsections (c)(1) and (c)(2). The payment to each licensee shall be in an amount proportionate to that portion of the moneys in the fund that were derived from racetrack lottery games operated at the racetrack facility where the licensee conducts live racing. All amounts received by a racetrack organization licensee pursuant to this subsection shall be distributed to organizations qualified to receive distributions of the licensee's net earnings under subsection (d)(1) of K.S.A. 74-8813 and amendments thereto, subject to the limitation of subsection (d)(2) of K.S.A. 74-8813 and amendments thereto.

(h) On or before the 15th day of each month, commencing with the month following the first month in which moneys are credited to the racetrack lottery operating fund, the executive director shall authorize payments from the fund to racetrack lottery retailers. Such payments shall be in an aggregate amount equal to the moneys in the fund in excess of those needed for the

purposes described in subsections (c)(1), (c)(2), (c)(3), (c)(4) and (c)(5). The payment to each retailer shall be in an amount proportionate to that portion of the moneys in the fund that were derived from racetrack lottery games operated by the retailer.

New Sec. 5. (a) There is hereby established in the state treasury the breed and purse enhancement fund.

(b) There is hereby created, in the breed and purse enhancement fund, the greyhound account, the thoroughbred account, the quarter horse account and the account for racing horses other than thoroughbreds and quarter horses. Moneys in such accounts shall be used as directed by the Kansas racing and gaming commission for the respective breeds for: (1) Purse supplements; and (2) awards to owners of Kansas-bred horses and owners of Kansas-bred greyhounds.

(c) Expenditures from the breed and purse enhancement fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive director of the Kansas racing and gaming commission or by a person designated by such executive director.

Sec. 6. K.S.A. 74-8704 is hereby amended to read as follows: 74-8704. (a) The executive director shall have the power to:

(1) Supervise and administer the operation of the state lottery in accordance with the provisions of this act and such rules and regulations as adopted hereunder.

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

(3) Enter into contracts for advertising and promotional services, subject to the provisions of subsection (b); annuities or other methods deemed appropriate for the payment of prizes; data processing and other technical products, equipment and

services; and facilities as needed to operate the Kansas lottery, including but not limited to gaming equipment, tickets and other services involved in major procurement contracts, in accordance with K.S.A. 74-8705 and amendments thereto.

(4) Enter into contracts with persons for the sale of lottery tickets or shares to the public, as provided by this act and rules and regulations adopted pursuant to this act, which contracts shall not be subject to the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

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

(6) Examine, or cause to be examined by any agent or representative designated by the executive director, any books, papers, records or memoranda of any lottery retailer or racetrack lottery retailer for the purpose of ascertaining compliance with the provisions of this act or rules and regulations adopted hereunder.

(7) Issue subpoenas to compel access to or for the production of any books, papers, records or memoranda in the custody or control of any lottery retailer or racetrack lottery retailer, or to compel the appearance of any lottery retailer, racetrack lottery retailer or employee of any lottery retailer or racetrack lottery retailer, for the purpose of ascertaining compliance with the provisions of this act or, rules and regulations adopted hereunder or terms of any contract entered into pursuant to section 3. Subpoenas issued under the provisions of this subsection may be served upon natural persons and corporations in the manner provided in K.S.A. 60-304 and amendments thereto for the service of process by any officer authorized to serve subpoenas in civil actions or by the executive director or an agent or representative designated by the executive director. In the case of the refusal of any person to comply with any such subpoena, the executive director may make

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

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

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

(b) The Kansas lottery shall not engage in on-site display advertising or promotion of the lottery at any amateur athletic or sporting event including, but not limited to, amateur athletic sporting events at institutions under the jurisdiction and control of the state board of regents.

Sec. 7. K.S.A. 74-8706 is hereby amended to read as follows: 74-8706. The executive director shall have the duty to:

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

(b) Make quarterly and annual financial reports to the commission, the governor, the state treasurer and the legislature. Such reports shall be based upon generally accepted accounting principles and include a full and complete statement of lottery revenues, prize disbursements, expenses, net revenues and other financial transactions for the reporting period.

(c) Make available for inspection by the commission, upon

request, all books, records, files and other information and documents of the Kansas lottery.

(d) Engage, in accordance with K.S.A. 74-8705 and amendments thereto, an independent firm experienced in security procedures, including but not limited to computer security and systems security, to periodically conduct a comprehensive study and evaluation of all aspects of security in the operation of the Kansas lottery.

(e) Engage, in accordance with K.S.A. 74-8705 and amendments thereto, an independent firm experienced in marketing research and analysis to periodically conduct an evaluation to determine the effectiveness of marketing, promotion and public information programs used by the Kansas lottery and make recommendations which will enhance such programs.

(f) Prepare and submit budgets and proposals for the operation of the Kansas lottery.

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

(h) Make available at the point of sale of any lottery tickets or shares a list of the odds of winning such game, based upon the number of tickets or shares projected to be sold.

(i) Make provision for the timely and efficient transfer of funds due from lottery retailers and racetrack lottery retailers to the lottery operating fund or the racetrack lottery operating fund, as provided by law, including the use of electronic funds transfers whenever possible.

Sec. 8. K.S.A. 74-8708 is hereby amended to read as follows: 74-8708. (a) The executive director shall select as lottery retailers such persons as deemed best able to serve the public convenience and promote the sale of tickets or shares in accordance with marketing plans developed by the Kansas lottery. In the selection of lottery retailers, the executive director shall consider factors such as financial responsibility, security

of the applicant's place of business or activity, accessibility of the applicant's place of business or activity, integrity, reputation, volume of expected sales and such other factors as the executive director may deem appropriate. The Kansas lottery may engage in direct sales of lottery tickets and shares as a lottery retailer at the Kansas lottery's regional offices at Great Bend, Topeka and Wichita and at other locations when conducting a promotional event, except that no direct sales of lottery tickets or shares during a promotional event shall be made for more than two weeks at any one location during any calendar year. The executive director may select the state fair board as a lottery retailer to sell lottery tickets or shares only on the state fairgrounds and only during the time of the annual state fair. Other persons lawfully engaged in nongovernmental business on state property may be selected as lottery retailers.

(b) The executive director may charge an application fee to persons applying to become lottery retailers.

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

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

(e) Each lottery retailer shall be issued a lottery retailer certificate which shall be conspicuously displayed at the place where the lottery retailer is authorized to sell lottery tickets or shares.

(f) Lottery tickets or shares shall only be sold by the lottery retailer at the location stated on the lottery retailer certificate.

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

(1) Be at least 18 years of age;

(2) have sufficient financial resources to support the

activities required to sell lottery tickets or shares;

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

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

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

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

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

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

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

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

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

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

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

(j) For a corporation to be selected as a lottery retailer, the corporation must meet the requirements of subsections (g)(2), (g)(3), (g)(4) and (g)(5) and each officer or director and each

stockholder who owns 5% or more of the stock of such corporation must meet the requirements of subsections (g)(3), (g)(4) and (h)(1) through (h)(6).

(k) For an unincorporated association to be selected as a lottery retailer, the association must meet the requirements of subsections (g)(2), (g)(3), (g)(4) and (g)(5) and each officer or director must meet the requirements of subsections (g)(1), (g)(3), (g)(4) and (h)(1) through (h)(6).

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

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

Sec. 9. K.S.A. 1996 Supp. 74-8710 is hereby amended to read as follows: 74-8710. (a) The commission, upon the recommendation of the executive director, shall adopt rules and regulations governing the establishment and operation of a state lottery as necessary to carry out the purposes of this act. Temporary rules and regulations may be adopted by the commission without being subject to the provisions and requirements of K.S.A. 77-415 through 77-438, and amendments thereto, but shall be subject to approval by the attorney general as to legality and shall be filed with the secretary of state and published in the Kansas register. Temporary and permanent rules and regulations may include but shall not be limited to:

(1) Subject to the provisions of subsection (b), the types of lottery games to be conducted, including but not limited to instant lottery, on-line and, traditional and racetrack lottery games, but not including games on slot machines or video lottery machines.

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

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

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

(5) The type or types of locations at which tickets or shares may be sold.

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

(7) Additional qualifications for the selection of lottery retailers and racetrack lottery retailers and the amount of application fees to be paid by each, which fees shall be sufficient to pay all expenses of any background investigation and processing of the application.

(8) The amount and method of compensation to be paid to lottery retailers, including special bonuses and incentives and a commission of not less than 7.5% of sales.

(9) Deadlines for claims for prizes by winners of each lottery game.

(10) Provisions for confidentiality of information submitted by vendors pursuant to K.S.A. 74-8705, and amendments thereto.

(11) Information required to be submitted by vendors, in addition to that required by K.S.A. 74-8705, and amendments thereto.

(12) The major procurement contracts or portions thereof to

be awarded to minority business enterprises pursuant to subsection (a) of K.S.A. 74-8705, and amendments thereto, and procedures for the award thereof.

(13) For racetrack lottery games, minimum prize pay-outs of not less than 80% of the total sales of tickets and shares for such games, computed on an annual basis, and maximum prize pay-outs of not more than 95% of the total sales of tickets and shares for such games, computed on an annual basis.

(14) Minimum and maximum prize pay-outs for instant bingo conducted by lottery retailers.

(15) Provisions for security, monitoring, auditing and control of racetrack lottery games.

(b) Rules and regulations adopted by the commission pursuant to this section shall require that the odds in racetrack lottery games be posted in prominent locations on the premises where the games are operated or conducted.

(c) No new racetrack lottery game or other lottery game shall commence operation after the effective date of this act unless first approved by the governor or, in the governor's absence or disability, the lieutenant governor.

Sec. 10. K.S.A. 74-8711 is hereby amended to read as follows: 74-8711. (a) There is hereby established in the state treasury the lottery operating fund.

(b) The executive director shall remit at least weekly to the state treasurer all moneys collected from the sale of lottery tickets and shares and any other moneys received by or on behalf of the Kansas lottery, other than net income from racetrack lottery games. Upon receipt of any such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and credit it to the lottery operating fund. Moneys credited to the fund shall be expended or transferred only as provided by this act. Expenditures from such fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers

approved by the executive director or by a person designated by the executive director.

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

(1) The payment of expenses of the lottery, which shall include all costs incurred in the operation and administration of the Kansas lottery; all costs resulting from contracts entered into for the purchase or lease of goods and services needed for operation of the lottery, including but not limited to supplies, materials, tickets, independent studies and surveys, data transmission, advertising, printing, promotion, incentives, public relations, communications, and distribution of tickets and shares; and reimbursement of costs of facilities and services provided by other state agencies;

(2) the payment of compensation to lottery retailers;

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

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

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

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

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

(1) In an amount equal to the moneys in the lottery operating fund in excess of those needed for the purposes described in subsections (c)(1) through (c)(4); or

(2) an amount equal to not less than the sum of the

following:

(A) For on-line games with drawings occurring no more frequently than once a day, 30% of total monthly revenues from the sales of lottery tickets and shares, less estimated returned tickets and compensation paid to lottery retailers for on-line instant bingo sales by lottery retailers;

(B) for on-line games with drawings occurring more frequently than once a day, 20% of total monthly revenues from sales of tickets and shares, less estimated returned tickets;

(C) for instant lottery games, 25% of total monthly revenues from sales of tickets and shares, less estimated returned tickets; and

(D) for pull-tab lottery games, total monthly revenues, less estimated returned tickets and amounts needed for the purposes described in subsections (c)(1) through (c)(3).

Sec. 11. K.S.A. 74-8712 is hereby amended to read as follows: 74-8712. (a) There is hereby established in the state treasury the lottery prize payment fund.

(b) The executive director shall certify periodically to the director of accounts and reports such amounts as the executive director determines necessary to pay prizes to the holders of valid winning lottery tickets or shares. Upon receipt of such certification, the director of accounts and reports shall promptly transfer the amount certified from the lottery operating fund to the lottery prize payment fund. Moneys credited to the fund shall be expended only for the payment of prizes to the holders of valid winning lottery tickets or shares, for the purchase of nonmonetary prizes, for the reimbursement of retailers who have paid holders of winning tickets or shares or as otherwise authorized by law. Prior to making any expenditure for reimbursement of a retailer or payment of a prize of \$50 or more, the executive director shall cause all proposed prize payments to be matched against the state debtor files maintained by the director of accounts and reports and shall certify and pay

or deliver any matched prize or the cash amount thereof to the director of accounts and reports for setoff as prescribed under K.S.A. 75-6201 et seq. and amendments thereto. Expenditures from such fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports, or a person designated by the director of accounts and reports pursuant to K.S.A. 75-3732 and amendments thereto, issued pursuant to vouchers approved by the executive director, or a person designated by the executive director.

Sec. 12. K.S.A. 74-8716 is hereby amended to read as follows: 74-8716. (a) It is unlawful for the executive director, a member of the commission or any employee of the Kansas lottery, or any person residing in the household thereof to:

(1) Have, either directly or indirectly, an interest in a business or person knowing that such business or person contracts with the Kansas lottery for a major procurement, whether such interest is as a natural person, partner, member of an association, stockholder or director or officer of a corporation;

(2) have, either directly or indirectly, an interest in:
(A) A racetrack lottery retailer; or (B) a business or person knowing that such business or person contracts with a racetrack lottery retailer for goods or services related to the operation of racetrack lottery games;

~~(2)~~ (3) accept or agree to accept any economic opportunity, gift, loan, gratuity, special discount, favor or service, or hospitality other than food and beverages, having an aggregate value of \$20 or more in any calendar year from a person knowing that such person (A) contracts or seeks to contract with the state to supply gaming equipment, materials, tickets or consulting services for use in the lottery or (B) is a lottery retailer, racetrack lottery retailer or an applicant for lottery retailer or racetrack lottery retailer.

(b) It is unlawful for a lottery retailer or racetrack lottery retailer, an applicant for lottery retailer or racetrack

lottery retailer or a person who contracts or seeks to contract with the state or with a racetrack lottery retailer to supply gaming equipment, materials, tickets or consulting services for use in the lottery to offer, pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor or service, or hospitality other than food and beverages, having an aggregate value of \$20 or more in any calendar year to a person, knowing such person is the executive director, a member of the commission or an employee of the Kansas lottery, or a person residing in the household thereof.

(c) Violation of this section is a class A misdemeanor.

(d) If the executive director, a member of the commission or an employee of the Kansas lottery, or any person residing in the household thereof, is convicted of an act described by this section, such executive director, member or employee shall be removed from office or employment with the Kansas lottery.

(e) In addition to the provisions of this section, all other provisions of law relating to conflicts of interest of state employees shall apply to the members of the commission and employees of the Kansas lottery.

Sec. 13. K.S.A. 1996 Supp. 74-8718 is hereby amended to read as follows: 74-8718. (a) It is unlawful for:

(1) Any person to sell a lottery ticket or share at a price other than that fixed by rules and regulations adopted pursuant to this act;

(2) any person other than a lottery retailer or racetrack lottery retailer authorized by the Kansas lottery to sell or resell any lottery ticket or share; or

(3) any person to sell a lottery ticket or share to any person, knowing such person to be under 18 years of age.

(b) (1) Violation of ~~this-section~~ subsection (a) is a class A nonperson misdemeanor upon conviction for a first offense; and

(2) violation of ~~this-section~~ subsection (a) is a severity level 9, nonperson felony upon conviction for a second or

subsequent offense.

(c) No person less than 18 years of age shall purchase a lottery ticket or share. Any person violating this subsection shall be subject to adjudication as a juvenile offender pursuant to the juvenile offenders code.

Sec. 14. K.S.A. 1996 Supp. 74-8719 is hereby amended to read as follows: 74-8719. (a) It is unlawful for any person to purchase a lottery ticket or share, or to share in the lottery winnings of a person, knowing that such person is:

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

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

(3) a spouse, child, stepchild, brother, stepbrother, sister, stepsister, parent or stepparent of a person described by subsection (a)(1) or (2); or

(4) a person who resides in the same household as any person described by subsection (a)(1) or (2).

(b) (1) Violation of subsection (a) is a class A nonperson misdemeanor upon conviction for a first offense.

(2) Violation of subsection (a) is a severity level 9, nonperson felony upon conviction for a second or subsequent offense.

(c) Notwithstanding subsection (a), the executive director may authorize in writing any employee of the Kansas lottery and any employee of a lottery vendor to purchase a lottery ticket for the purposes of verifying the proper operation of the state lottery with respect to security, systems operation and lottery retailer contract compliance and racetrack lottery retailer contract compliance. Any prize awarded as a result of such ticket purchase shall become the property of the Kansas lottery and be added to the prize pools of subsequent lottery games.

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

(e) Nothing in this section shall prohibit lottery retailers or racetrack lottery retailers, or their employees, from purchasing lottery tickets and shares or from being paid a prize of for a winning ticket or share.

(f) Each person who purchases a lottery ticket or share thereby agrees to be bound by rules and regulations adopted by the commission and by the provisions of this act.

Sec. 15. K.S.A. 74-8720 is hereby amended to read as follows: 74-8720. (a) As nearly as practical and except as provided by subsection (b)(13) of K.S.A. 74-8710, and amendments thereto, an amount equal to not less than 45% of the total sales of lottery tickets or shares, computed on an annual basis, shall be allocated for payment of lottery prizes.

(b) The prize to be paid or awarded for each winning ticket or share shall be paid to one natural person who is adjudged by the executive director, the director's designee or the lottery retailer or racetrack lottery retailer paying the prize, to be the holder of such winning ticket or share, or the person designated in writing by the holder of the winning ticket or share on a form satisfactory to the executive director, except that the prize of a deceased winner shall be paid to the duly appointed representative of the estate of such winner or to such other person or persons appearing to be legally entitled thereto.

(c) The executive director shall award the designated prize to the holder of the ticket or share upon the validation of a claim or confirmation of a winning share. The executive director shall have the authority to make payment for prizes by any means deemed appropriate upon the validation of winning tickets or

shares.

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

(e) All prizes awarded shall be taxed as Kansas source income and shall be subject to all state and federal income tax laws and rules and regulations. State income taxes shall be withheld from prizes paid whenever federal income taxes are required to be withheld under current federal law.

(f) Unclaimed prize money not payable directly by lottery retailers shall be retained for the period established by rules and regulations and if no claim is made within such period, then such unclaimed prize money shall be added to the prize pools of subsequent lottery games.

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

(h) The Kansas lottery shall not publicly disclose the identity of any person awarded a prize except upon written authorization of such person.

Sec. 16. K.S.A. 1996 Supp. 74-8810 is hereby amended to read as follows: 74-8810. (a) It is a class A nonperson misdemeanor for any person to have a financial interest, directly or indirectly, in any racetrack facility within the state of Kansas or in any host facility for a simulcast race displayed in this state:

(1) While such person is a member of the commission or during the five years immediately following such person's term as member of the commission; or

(2) while such person is an officer, director or member of an organization licensee, other than a fair association or horsemen's nonprofit organization, or during the five years immediately following the time such person is an officer, director or member of such an organization licensee.

(b) It is a class A nonperson misdemeanor for any member, employee or appointee of the commission, including stewards and racing judges, to knowingly:

(1) Participate in the operation of or have a financial interest in any business which has been issued a concessionaire license, racing or wagering equipment or services license, facility owner license or facility manager license, or any business which sells goods or services to an organization licensee;

(2) participate directly or indirectly as an owner, owner-trainer or trainer of a horse or greyhound, or as a jockey of a horse, entered in a race meeting conducted in this state;

(3) place a wager on an entry in a horse or greyhound race conducted by an organization licensee; or

(4) accept any compensation, gift, loan, entertainment, favor or service from any licensee, except such suitable facilities and services within a racetrack facility operated by an organization licensee as may be required to facilitate the performance of the member's, employee's or appointee's official duties.

(c) It is a class A nonperson misdemeanor for any member, employee or appointee of the commission, or any spouse, parent, grandparent, brother, sister, child, son-in-law, daughter-in-law, grandchild, uncle, aunt, parent-in-law, brother-in-law or sister-in-law thereof, to:

(1) Hold any license issued by the commission, except that a steward or racing judge shall hold an occupation license to be such a steward or judge; or

(2) enter into any business dealing, venture or contract with an owner or lessee of a racetrack facility in Kansas; or

(3) have, directly or indirectly, an interest in a business or person knowing that such business or person contracts with a racetrack lottery retailer pursuant to subsection (b)(1) of section 3.

(d) It is a class A nonperson misdemeanor for any officer, director or member of an organization licensee, other than a fair association or horsemen's nonprofit organization, to:

(1) Receive, for duties performed as an officer or director of such licensee, any compensation or reimbursement or payment of expenses in excess of the amounts provided by K.S.A. 75-3223 and amendments thereto for board members' compensation, mileage and expenses; or

(2) enter into any business dealing, venture or contract with the organization licensee or, other than in the capacity of an officer or director of the organization licensee, with a facility owner licensee, facility manager licensee, racing or wagering equipment or services license or concessionaire licensee, or with any host facility for a simulcast race displayed in this state.

(e) It is a class A nonperson misdemeanor for any facility owner licensee or facility manager licensee, other than a horsemen's association, or any officer, director, employee, stockholder or shareholder thereof or any person having an ownership interest therein, to participate directly or indirectly as an owner, owner-trainer or trainer of a horse or greyhound, or as a jockey of a horse, entered in a live race conducted in this state.

(f) It is a class A nonperson misdemeanor for any licensee of the commission, or any person who is an officer, director, member or employee of a licensee, to place a wager at a racetrack facility located in Kansas on an entry in a horse or greyhound race if:

(1) The commission has by rules and regulations designated such person's position as a position which could influence the outcome of such race or the parimutuel wagering thereon; and

(2) such race is conducted at or simulcast to the racetrack facility where the licensee is authorized to engage in licensed activities.

(g) It is a class B nonperson misdemeanor for any person to use any animal or fowl in the training or racing of racing greyhounds.

(h) It is a class A nonperson misdemeanor for any person to:

(1) Sell a parimutuel ticket or an interest in such a ticket to a person knowing such person to be under 18 years of age, upon conviction of the first offense;

(2) accept, transmit or deliver, from a person outside a racetrack facility, anything of value to be wagered in any parimutuel system of wagering within a racetrack facility, upon conviction of the first offense;

(3) administer or conspire to administer any drug or medication to a horse or greyhound within the confines of a racetrack facility in violation of rules and regulations of the commission, upon conviction of the first offense;

(4) possess or conspire to possess, within the confines of a racetrack facility, any drug or medication for administration to a horse or greyhound in violation of rules and regulations of the commission, upon conviction of the first offense;

(5) possess or conspire to possess, within the confines of a racetrack facility, equipment for administering drugs or medications to horses or greyhounds in violation of rules and regulations of the commission, upon conviction of the first offense;

(6) enter any horse or greyhound in any race knowing such horse or greyhound to be ineligible to compete in such race pursuant to K.S.A. 74-8812 and amendments thereto; or

(7) prepare or cause to be prepared an application for registration of a horse pursuant to K.S.A. 74-8830 and amendments thereto knowing that such application contains false information.

(i) It is a severity level 8, nonperson felony for any person to:

(1) Sell a parimutuel ticket or an interest in such a ticket to a person knowing such person to be under 18 years of age, upon

conviction of the second or a subsequent offense;

(2) accept, transmit or deliver, from any person outside a racetrack facility, anything of value to be wagered in any parimutuel system of wagering within a racetrack facility, upon the second or a subsequent conviction;

(3) conduct or assist in the conduct of a horse or greyhound race, or the display of a simulcast race, where the parimutuel system of wagering is used or is intended to be used and where no license has been issued to an organization to conduct or simulcast such race;

(4) enter any horse or greyhound in any race conducted by an organization licensee knowing that the class or grade in which such horse or greyhound is entered is not the true class or grade or knowing that the name under which such horse or greyhound is entered is not the name under which such horse or greyhound has been registered and has publicly performed;

(5) use or conspire to use any device, other than an ordinary whip for horses or a mechanical lure for greyhounds, for the purpose of affecting the speed of any horse or greyhound at any time during a race conducted by an organization licensee;

(6) possess or conspire to possess, within the confines of a racetrack facility, any device, other than an ordinary whip for horses or a mechanical lure for greyhounds, designed or intended to affect the speed of a horse or greyhound;

(7) administer or conspire to administer any drug or medication to a horse or greyhound within the confines of a racetrack facility in violation of rules and regulations of the commission, upon conviction of the second or a subsequent offense;

(8) possess or conspire to possess, within the confines of a racetrack facility, any drug or medication for administration to a horse or greyhound in violation of rules and regulations of the commission, upon conviction of the second or a subsequent offense;

(9) possess or conspire to possess, within the confines of a racetrack facility, equipment for administering drugs or medications to horses or greyhounds in violation of rules and regulations of the commission, upon conviction of the second or a subsequent offense;

(10) sponge the nostrils or windpipe of a horse for the purpose of stimulating or depressing such horse or affecting its speed at any time during a race meeting conducted by an organization licensee;

(11) alter or attempt to alter the natural outcome of any race conducted by, or any simulcast race displayed by, an organization licensee or transmit or receive an altered race or delayed broadcast race if parimutuel wagering is conducted or solicited after off time of the race;

(12) influence or attempt to influence, by the payment or promise of payment of money or other valuable consideration, any person to alter the natural outcome of any race conducted by, or any simulcast race displayed by, an organization licensee;

(13) influence or attempt to influence any member, employee or appointee of the commission, by the payment or promise of payment of money or other valuable consideration, in the performance of any official duty of that member, employee or appointee;

(14) fail to report to the commission or to one of its employees or appointees knowledge of any violation of this act by another person for the purpose of stimulating or depressing any horse or greyhound, or affecting its speed, at any time during any race conducted by an organization licensee;

(15) commit any of the following acts with respect to the prior racing record, pedigree, identity or ownership of a registered horse or greyhound in any matter related to the breeding, buying, selling or racing of the animal: (A) Falsify, conceal or cover up, by any trick, scheme or device, a material fact; (B) make any false, fictitious or fraudulent statement or

representation; or (C) make or use any false writing or document knowing that it contains any false, fictitious or fraudulent statement or entry; or

(16) pass or attempt to pass, cash or attempt to cash any altered or forged parimutuel ticket knowing it to have been altered or forged.

(j) No person less than 18 years of age shall purchase a parimutuel ticket or an interest in such a ticket. Any person violating this subsection shall be subject to adjudication as a juvenile offender pursuant to the Kansas juvenile offenders code.

Sec. 17. K.S.A. 1996 Supp. 38-1602 is hereby amended to read as follows: 38-1602. As used in this code, unless the context otherwise requires:

(a) "Juvenile" means a person 10 or more years of age but less than 18 years of age.

(b) "Juvenile offender" means a person who does an act while a juvenile which if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-3105 and amendments thereto or who violates the provisions of K.S.A. 21-4204a ~~or~~ K.S.A. 41-727 ~~or~~ subsection (j) of K.S.A. 74-8810 or subsection (c) of K.S.A. 74-8718, and amendments thereto, but does not include:

(1) A person 14 or more years of age who commits a traffic offense, as defined in subsection (d) of K.S.A. 8-2117 and amendments thereto;

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

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

(4) a person who has been prosecuted as an adult by reason

of subsection (b)(3) and whose prosecution results in conviction of a crime;

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

(6) a person who has been convicted of aggravated juvenile delinquency as defined by K.S.A. 21-3611 and amendments thereto; or

(7) a person 16 years of age or over who has been adjudicated to be a juvenile offender under the Kansas juvenile offender's code and who is charged with committing a felony or more than one offense of which one or more is a felony while confined in any training or rehabilitation facility under the jurisdiction and control of the department of social and rehabilitation services or while running away or escaping from any such institution or facility.

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

(d) "Law enforcement officer" means any person who by virtue of that person's office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

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

(f) "Juvenile detention facility" means any secure public or private facility which is used for the lawful custody of accused or adjudicated juvenile offenders and which must not be a jail.

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

(h) "Warrant" means a written order by a judge of the court

directed to any law enforcement officer commanding the officer to take into custody the juvenile named or described therein.

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

(j) "Jail" means:

(1) An adult jail or lockup; or

(2) a facility in the same building as an adult jail or lockup, unless the facility meets all applicable licensure requirements under law and there is (A) total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

(k) "Court-appointed special advocate" means a responsible adult, other than an attorney appointed pursuant to K.S.A. 38-1606 and amendments thereto, who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 1996 Supp. 38-1606a, and amendments thereto, in a proceeding pursuant to this code.

(l) "Juvenile intake and assessment worker" means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 1996 Supp. 75-7023 and amendments thereto.";

Also on page 1, in line 22, by striking "Section 1." and inserting "Sec. 18.";

And by renumbering the remaining sections accordingly;

On page 6, in line 18, before "74-9001" by inserting "74-8701, 74-8702, 74-8704, 74-8706, 74-8708, 74-8711, 74-8712, 74-8716, 74-8720 and"; in line 19, by striking "is" and inserting

"K.S.A. 1996 Supp. 38-1602, 74-8710, 74-8718, 74-8719 and 74-8810 are";

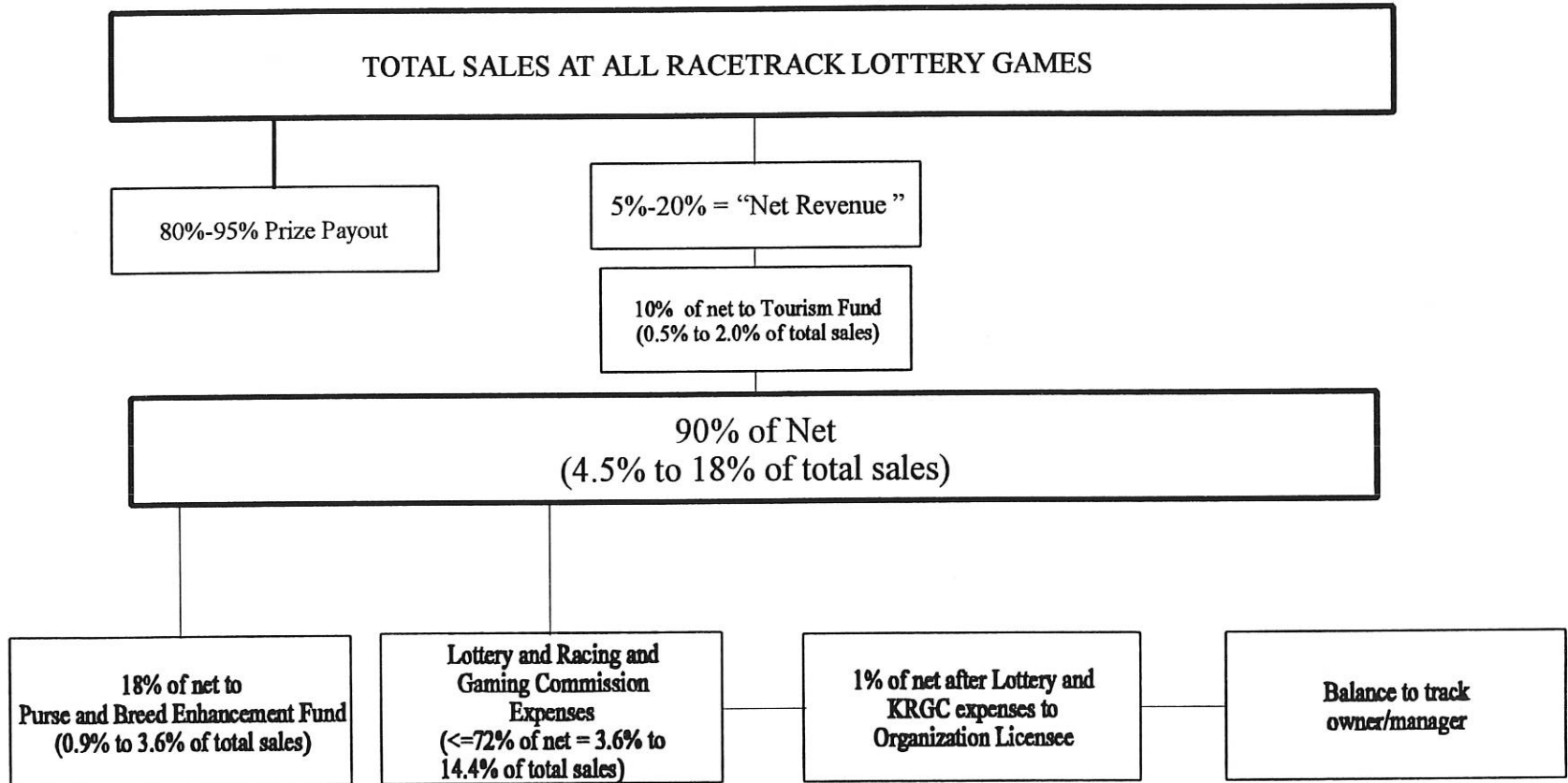
In the title, in line 18, before "amending" by inserting "; concerning lotteries; providing for the operation of certain state owned and operated lottery games at certain racetrack facilities; providing for disposition of revenues from certain lottery games; prohibiting certain acts and providing penalties for violations;"; also in line 18, before "74-9001" by inserting "74-8701, 74-8702, 74-8704, 74-8706, 74-8708, 74-8711, 74-8712, 74-8716, 74-8720 and"; also in line 18, before "re-" by inserting "K.S.A. 1996 Supp. 38-1602, 74-8710, 74-8718, 74-8719 and 74-8810"; in line 19, by striking "section" and inserting "sections"

Senator _____

(v) "Slot machine" means a mechanical, electromechanical or computerized device: (1) Into which cash, tokens or other consideration is placed and play is activated by a player; (2) which displays symbols in a game of chance or skill, or plays or simulates the play of a game of chance or skill; and (3) which determines or is connected to a device that determines whether the player has won or lost. If the player is a winner, the device distributes the prize, or paper, tokens or other tangible or intangible evidence of the prize.

ALLOCATION OF RACETRACK LOTTERY GAME REVENUE

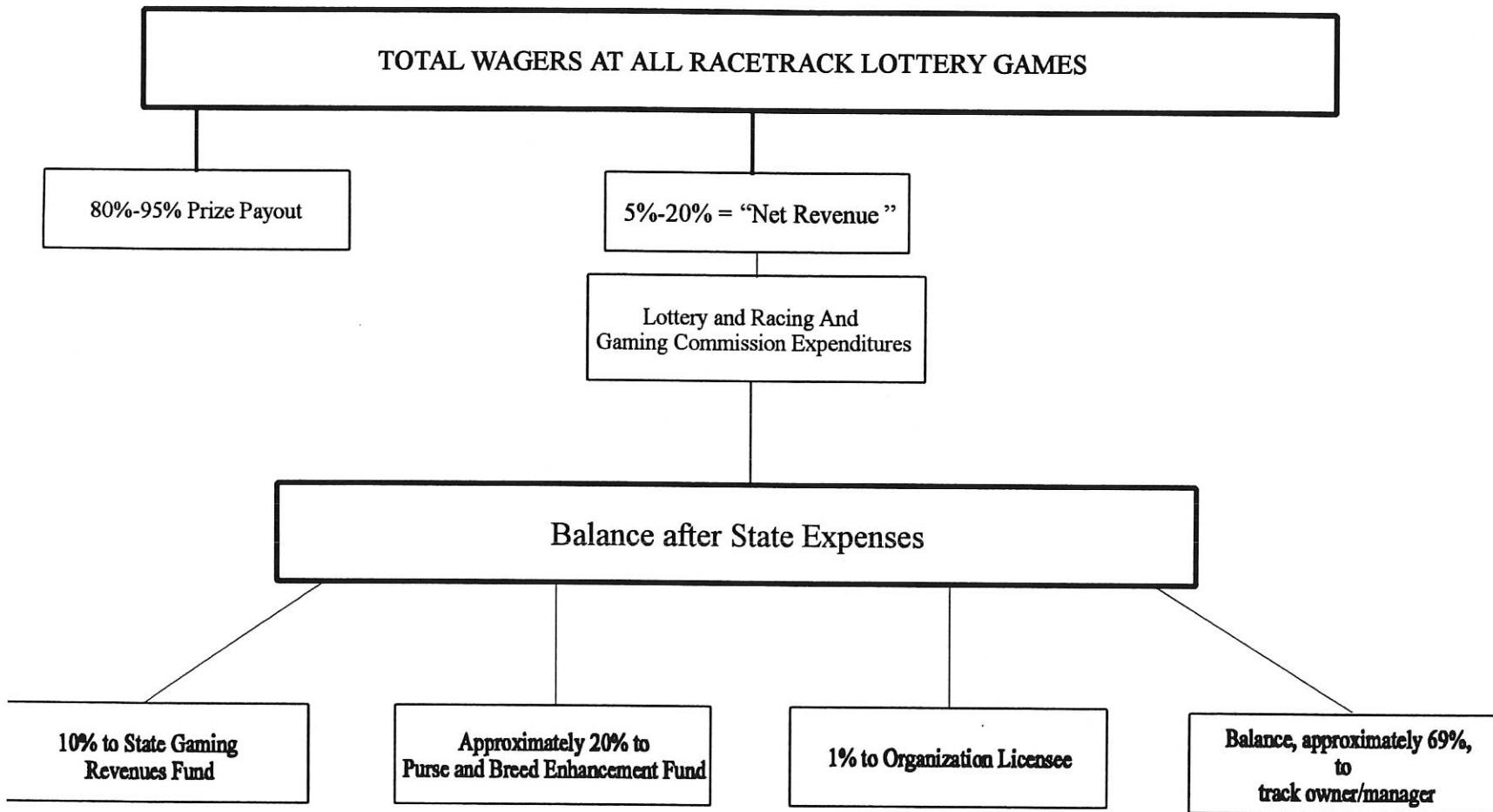
Proposed Senate floor amendment HB 2374



Sen. Federal & State Affairs Comm.
Date: 4-3-92
Attachment: #2

ALLOCATION OF RACETRACK LOTTERY GAME REVENUE

HB 2174 as introduced



Sen. Federal & State Affairs Comm.
Date: 4-3-97
Attachment: # 3

BILL NO. _____

By Committee on Federal and State Affairs

AN ACT concerning parimutuel racing; relating to disposition of certain revenues; amending K.S.A. 74-8826 and K.S.A. 1996 Supp. 79-4801, 79-4803 and 79-4804 and repealing the existing sections.

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

Section 1. K.S.A. 74-8826 is hereby amended to read as follows: 74-8826. (a) There is hereby created the state racing fund in the state treasury.

(b) Except as otherwise provided by K.S.A. 74-8824 and 74-8835, and amendments thereto, all taxes on parimutuel wagering, admissions tax, application fees, license fees and fines which are collected by the commission shall be remitted to the state treasurer, who shall deposit the entire amount in the state treasury and credit it to the state racing fund. All moneys credited to such fund shall be expended or transferred only for the purposes and in the manner provided by this act. Expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the commission or a person designated by the chairperson.

(c) Except as otherwise provided by this act, all operating expenses of the commission and moneys for the promotion of horse and greyhound racing appropriated by the legislature shall be paid from the state racing fund. ~~On January 15, 1997, and~~ On the 15th day of each month ~~thereafter~~, and at such other times as provided by law, the director of accounts and reports shall transfer to the state gaming revenues fund created by K.S.A. 79-4801 and amendments thereto any moneys in the state racing fund on each such date in excess of the ~~amount~~ amounts required for:

(1) Operating expenditures and an adequate fund balance, taking into consideration encumbrances, anticipated revenues, revenue and expenditure experience to date and other relevant factors, as determined by the executive director and the director of accounts and reports;

(2) payments to facility owner licensees and organization licensees pursuant to subsection (g); and

(3) payments to organization licensees pursuant to subsection (h).

(d) Any appropriation or transfer of state general fund moneys for the operation of the commission or the office of the executive director and any other expenses incurred in connection with the administration and enforcement of this act shall be considered a loan and shall be repaid with interest to the state general fund in accordance with appropriation acts. Such loan shall not be considered an indebtedness or debt of the state within the meaning of section 6 of article 11 of the constitution of the state of Kansas. Such loan shall bear interest at a rate equal to the rate prescribed by K.S.A. 75-4210 and amendments thereto for inactive accounts of the state effective on the first day of the month during which the appropriation or transfer takes effect.

(e) At the time of repayment of a loan pursuant to subsection (d), the executive director shall certify to the director of accounts and reports the amount to be repaid and any interest due thereon. Upon receipt of such certification, the director of accounts and reports shall promptly transfer the amount certified from the state racing fund to the state general fund.

(f) On or before the 15th day of each month, for fiscal years commencing on or after July 1, 1998, the executive director shall determine the amount equal to the greater of: (1) The amount in the state racing fund in excess of that needed for the purposes described in subsection (c)(1) or \$200,000, whichever is less; or (2) \$200,000 times the number of months in the fiscal

year that have elapsed at the time of the transfer, minus the aggregate of all amounts determined pursuant to this subsection since the preceding July 1.

(g) On or before the 15th day of each month, for fiscal years commencing on or after July 1, 1998, the executive director shall pay to facility owner licensees and organization licensees that own racetrack facilities amounts equal in the aggregate to 50% of the amount determined pursuant to subsection (f), to be used by the facility owner licensee or organization licensee to retire debt incurred by the licensee for construction of the licensee's racetrack facility as approved by the commission. The amount paid to each licensee shall be based on the percentage of the moneys credited to the state racing fund during the preceding calendar month that was derived from live races conducted or simulcast races displayed, or both, at the licensee's racetrack facility.

(h) On or before the 15th day of each month, for fiscal years commencing on or after July 1, 1998, the executive director shall pay to organization licensees amounts equal in the aggregate to 50% of the amount determined pursuant to subsection (f), to be used by the organization licensee to supplement purses as approved by the commission. The amount paid to each licensee shall be based on the percentage of the moneys credited to the state racing fund during the preceding calendar month that was derived from live races conducted or simulcast races displayed, or both, at the racetrack facility where the organization licensee conducts live racing. Purse supplements using amounts paid pursuant to this subsection shall be allocated between purses in horse races and purses in greyhound races based on the percentage of the moneys credited to the state racing fund during the preceding calendar month that was from taxes and daily license fees derived from horse racing or greyhound racing at the racetrack facility, except that taxes derived from simulcast races shall be allocated in the manner provided for allocation of moneys for purses pursuant to subsection (g) of K.S.A. 74-8836

and amendments thereto.

Section 2. K.S.A. 1996 Supp. 79-4801 is hereby amended to read as follows: 79-4801. There is hereby created the state gaming revenues fund in the state treasury. All moneys credited to such fund shall be expended or transferred only for the purposes and in the manner provided by this act and all expenditures from the state gaming revenues fund shall be made in accordance with appropriation acts. All moneys credited to such fund shall be allocated and credited monthly to the funds and in the amounts specified by this act except that the total of the amounts credited to such funds in any one fiscal year pursuant to this act shall not exceed ~~\$50,000,000~~ \$47,600,000. All amounts credited to such fund in any one fiscal year which are in excess of ~~\$50,000,000~~ \$47,600,000 shall be transferred and credited to the state general fund ~~on July 15, 1996, and June 25, 1997, and each year thereafter~~ on June 25 of each year.

Sec. 3. K.S.A. 1996 Supp. 79-4803 is hereby amended to read as follows: 79-4803. ~~(a) Before July 1, 1995, an amount equal to 10% of all moneys credited to the state gaming revenues fund shall be transferred and credited in accordance with the following:~~

~~(1) A portion of such amount, which shall be specified by appropriations act, shall be credited to the juvenile detention facilities fund, and~~

~~(2) the remainder of such amount shall be credited to the correctional institutions building fund created pursuant to K.S.A. 76-6b09, and amendments thereto, to be appropriated by the legislature for the use and benefit of state correctional institutions as provided in K.S.A. 76-6b09 and amendments thereto.~~

~~(b)~~ (a) On and after July 1, ~~1995~~ 1997:

(1) An amount equal to ~~10%~~ 10.5% of all moneys credited to the state gaming revenues fund shall be transferred and credited to the correctional institutions building fund created pursuant to K.S.A. 76-6b09 and amendments thereto, to be appropriated by

the legislature for the use and benefit of state correctional institutions as provided in K.S.A. 76-6b09 and amendments thereto; and

(2) an amount equal to 5% 5.25% of all moneys credited to the state gaming revenues fund shall be transferred and credited to the juvenile detention facilities fund.

~~(c)~~ (b) There is hereby created in the state treasury the juvenile detention facilities fund which shall be administered by the ~~attorney--general~~ secretary of social and rehabilitation services. All expenditures from the juvenile detention facilities fund shall be for the retirement of debt of facilities for the detention of juveniles; or for the construction, renovation, remodeling or operational costs of facilities for the detention of juveniles in accordance with a grant program which shall be established with grant criteria designed to facilitate the expeditious award and payment of grants for the purposes for which the moneys are intended. "Operational costs" shall not be limited to any per capita reimbursement by the secretary of social and rehabilitation services for juveniles under the supervision and custody of the secretary but shall include payments to counties as and for their costs of operating the facility. The secretary of social and rehabilitation services shall make grants of the moneys credited to the juvenile detention facilities fund for such purposes to counties in accordance with such grant program. All expenditures from the juvenile detention facilities fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of social and rehabilitation services or the secretary's designee.

~~(d)--On-July-17-1994--the-director-of--accounts--and--reports shall--transfer--all--moneys-in-the--juvenile--detention--facilities capital--improvements--fund--to--the--juvenile--detention--facilities fund--established--pursuant--to--subsection--(c)--On--July--17--1994--all liabilities---of---the---juvenile--detention--facilities--capital~~

~~improvements-fund-existing-prior-to-such-date-are-hereby--imposed
on-the-juvenile-detention-facilities-fund-established-pursuant-to
subsection--(c)--and--the--juvenile--detention-facilities-capital
improvements-fund-is-hereby-abolished.~~

Sec. 4. K.S.A. 1996 Supp. 79-4804 is hereby amended to read as follows: 79-4804. (a) An amount equal to 85% 84.25% of all moneys credited to the state gaming revenues fund shall be transferred and credited to the state economic development initiatives fund. Expenditures from the state economic development initiatives fund shall be made in accordance with appropriations acts for the financing of such programs supporting and enhancing the existing economic foundation of the state and fostering growth through the expansion of current, and the establishment and attraction of new, commercial and industrial enterprises as provided by this section and as may be authorized by law and not less than 1/2 of such money shall be distributed equally among the congressional districts of the state. Except as provided by subsection (g), all moneys credited to the state economic development initiatives fund shall be credited within the fund, as provided by law, to an account or accounts of the fund which are created by this section.

(b) There is hereby created the Kansas capital formation account in the state economic development initiatives fund. All moneys credited to the Kansas capital formation account shall be used to provide, encourage and implement capital development and formation in Kansas.

(c) There is hereby created the Kansas economic development research and development account in the state economic development initiatives fund. All moneys credited to the Kansas economic development research and development account shall be used to promote, encourage and implement research and development programs and activities in Kansas and technical assistance funded through state educational institutions under the supervision and control of the state board of regents or other Kansas colleges and universities.

(d) There is hereby created the Kansas economic development endowment account in the state economic development initiatives fund. All moneys credited to the Kansas economic development endowment account shall be accumulated and invested as provided in this section to provide an ongoing source of funds which shall be used for economic development activities in Kansas, including but not limited to continuing appropriations or demand transfers for programs and projects which shall include, but are not limited to, specific community infrastructure projects in Kansas that stimulate economic growth.

(e) Except as provided in subsection (f), the director of investments may invest and reinvest moneys credited to the state economic development initiatives fund in accordance with investment policies established by the pooled money investment board under K.S.A. 75-4232, and amendments thereto, in the pooled money investment portfolio. All moneys received as interest earned by the investment of the moneys credited to the state economic development initiatives fund shall be deposited in the state treasury and credited to the Kansas economic development endowment account of such fund.

(f) Moneys credited to the Kansas economic development endowment account of the state economic development initiatives fund may be invested in government guaranteed loans and debentures as provided by law in addition to the investments authorized by subsection (e) or in lieu of such investments. All moneys received as interest earned by the investment under this subsection of the moneys credited to the Kansas economic development endowment account shall be deposited in the state treasury and credited to the Kansas economic development endowment account of the state economic development initiatives fund.

(g) In each fiscal year, the director of accounts and reports shall make transfers in equal amounts on July 15 and January 15 which in the aggregate equal \$2,000,000 from the state economic development initiatives fund to the state water plan

fund created by K.S.A. 82a-951, and amendments thereto. No other moneys credited to the state economic development initiatives fund shall be used for: (1) Water-related projects or programs, or related technical assistance; or (2) any other projects or programs, or related technical assistance, which meet one or more of the long-range goals, objectives and considerations set forth in the state water resource planning act.

Sec. 5. K.S.A. 74-8826 and K.S.A. 1996 Supp. 79-4801, 79-4803 and 79-4804 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.