

Approved: March 30, 1998
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on March 19, 1998 in Room 519-S of the Capitol.

All members were present except: Representative John Faber, Excused
Representative Cliff Franklin, Excused
Representative Jene Vickrey, Excused

Committee staff present: Mary Galligan, Legislative Research Department
Jill Wolters, Revisor of Statutes
June Evans, Committee Secretary

Conferees appearing before the committee: Gregory P. Ziemak, Executive Director, Kansas Lottery

Others attending: See attached list

HB 2999 - Concerning Lottery Machines; relating to the unlawful sale of lottery tickets.

The Chairperson stated that Greg Ziemak, Executive Director, Kansas Lottery, was out of town attending a memorial service in Connecticut for the President of the Connecticut Lottery Corporation who was killed in a shooting that took the lives of five Connecticut Lottery Corporation employees the day the hearing was held on **HB 2999**.

Gregory P. Ziemak, Executive Director, Kansas Lottery, addressed the Kansas Lottery's concerns that **HB 2999** would prohibit the Lottery from allowing lottery retailers to use automated ticket dispensers to sell instant scratch-off and pull-tab tickets.

The Kansas Lottery has been using ticket dispensers over the past eight years, including at the Kansas State Fair. Some Kansas Lottery retailers have purchased their own ticket dispensers and have been using them for several years. Of the 38 lotteries in the United States, 30 are legally utilizing lottery ticket dispensers to dispense their products. (Attachment 1)

Representative Tanner offered a balloon amendment to add on page 3, at the end of line 25, "The provisions of this subsection shall not allow the governor or lieutenant governor to approve games on lottery machines."

Jill Wolters briefed the amendment stating there was some concern that in 1992 an amendment was added that no new lottery game shall commence operation after effective date of this Act unless first approved by the governor or in the governor's absence, the lieutenant governor. There was concern brought up when redefining what a lottery machine is that there was concern that paragraph sub (b) that the governor or lieutenant governor could in any event OK a new game such as that and just wanted to be sure that under no circumstances could be governor or lieutenant governor approve games on lottery machines.

Representative Tanner moved and Representative Swenson seconded to adopt the amendment on page 3, at the end of line 25, adding "The provisions of this subsection shall not allow the governor or lieutenant governor to approve games on lottery machines." The motion carried. (Attachment 2)

The Chairperson stated we're back on the bill.

Representative Klein moved and Representative Ruff seconded to adopt an amendment on page 3 and add subsection (c) "It shall be a defense to a prosecution under this section if: (1) The defendant sold the lottery ticket to the person under 18 years of age with reasonable cause to believe that such person was 18 or more years of age; and under 18 years of age exhibited to the defendant a driver's license, Kansas nondriver's identification card and/or other official or apparently official document, containing a photograph of such person and purporting to establish that such person was 18 or more years of age." The motion carried. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE FEDERAL AND STATE AFFAIRS, Room 519-S
Statehouse, at 1:30 p.m. on March 19, 1998.

Representative Ruff moved and Representative Tanner seconded to move **HB 2999** out favorably as amended.

Representative Grant moved and Representative Cox seconded a substitute motion to Table **HB 2999**. There was a Question and a show of hands was requested: 6 yeas and 12 nays. The motion failed.

The Chairperson stated back on Representative Ruff's motion to pass out **HB 2999** out favorable as amended. The motion carried.

It was asked if there would be any difference in allowing the compacts to have on-line games. Staff stated the compacts would be treated the same as they are now. The definition of what is being prohibited is what is currently prohibited under the current law.

Representative Gilbert moved and Representative Cox seconded to approve the minutes on March 18. The motion carried.

The meeting adjourned at 2:20 p.m.

TESTIMONY ON HOUSE BILL 2999

**by: Gregory P. Ziemak, Executive Director - Kansas Lottery
March 19, 1998**

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to speak to you today. I apologize for not being present at your March 10 hearing on HB 2999. I was in Connecticut attending the memorial service of the President of the Connecticut Lottery Corporation who was killed in a shooting that took the lives of five Connecticut Lottery Corporation employees.

My purpose in addressing you today about HB 2999 is to state the Kansas Lottery's concerns that this bill would prohibit the Lottery from allowing lottery retailers to use automated ticket dispensers to sell instant scratch-off and pull-tab tickets.

The Kansas Lottery has been using ticket dispensers over the past eight years, including at the Kansas State Fair. Some Kansas Lottery retailers have purchased their own ticket dispensers and have been using them for several years.

Of the 38 lotteries in the United States, 30 are legally utilizing lottery ticket dispensers to dispense their products. The Missouri State Lottery has approximately 600 dispensers which are instrumental in accounting for annual pull-tab sales of over \$27,000,000. The Iowa Lottery utilizes over 500 dispensers and has approximately \$25,000,000 in annual pull-tab sales. The Colorado Lottery has recently implemented a program using 485 ticket dispensers. Nebraska charitable institutions, with the assistance of dispensers, generate pull-tab sales of approximately \$160,000,000 a year.

Feder State
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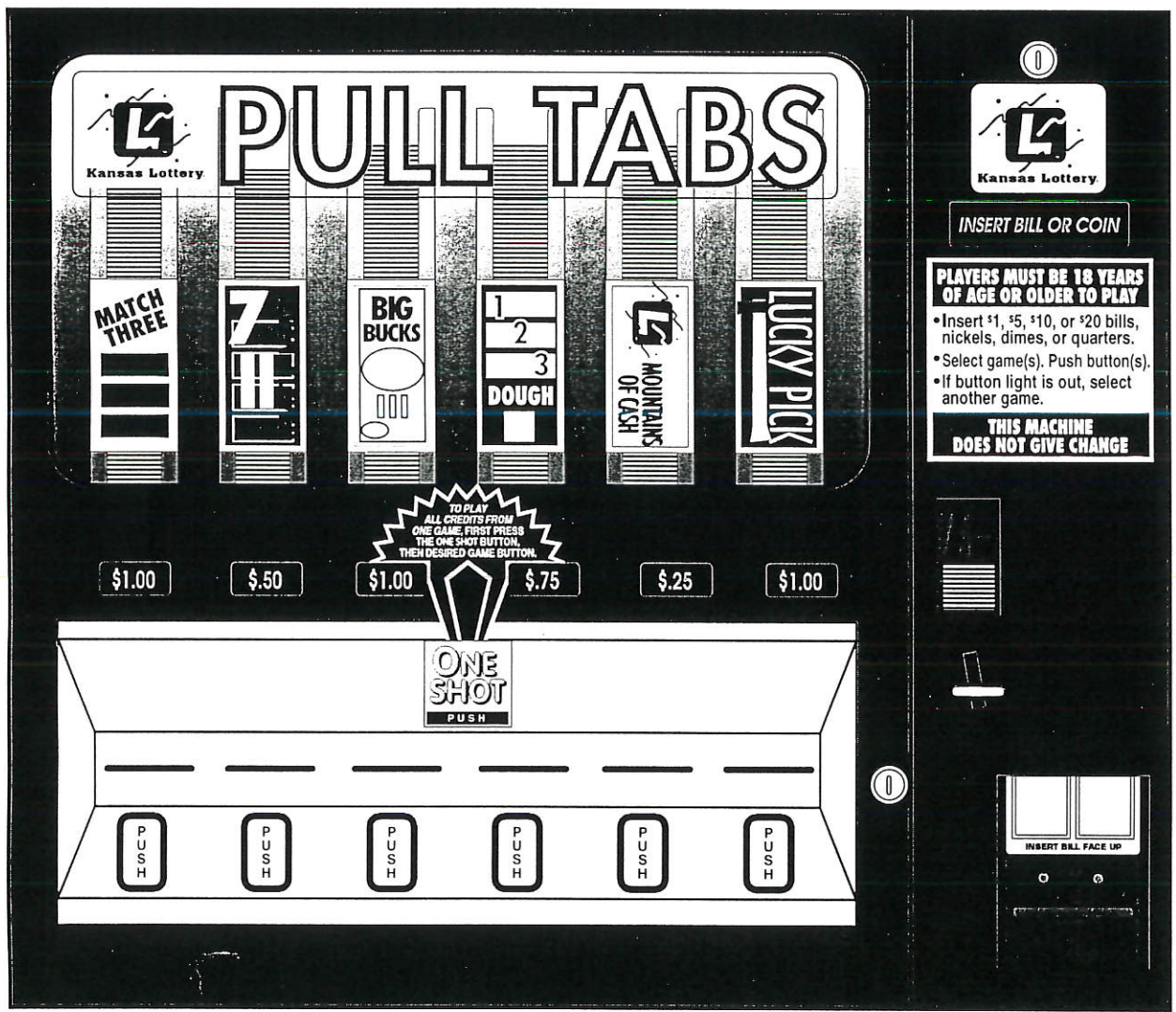
The Kansas Lottery currently has fifty (50) lottery ticket dispensers placed in establishments approved to sell lottery games. These dispensers are expected to produce approximately \$1,000,000 in sales and \$312,500 in revenues for the State Gaming Revenues Fund each year. In addition, the 50 businesses where these dispensers are placed will earn an average of \$1,000 yearly in commissions. The retailers who use these dispensers have responded very favorably to them. The dispensers have allowed retailers to sell Kansas Lottery products to their customers who request these products while giving the retailer better control over inventory and freeing up valuable employee time.

We, at the Kansas Lottery, are aware of the Legislature's concern about the accessibility of ticket dispensers to minors and have been very careful to place these dispensers in "social environment" retailer locations, those licensed to serve cereal malt beverage and alcohol for consumption on premise, as well as liquor stores. We know that in most instances there is no legal restriction prohibiting minors from entering such locations. However, in practice minors visit these types of locations most often, only when accompanied by an adult. Our retailers are very aware of the criminal consequences of selling lottery tickets to minors either directly or through dispensers.

The mission of the Kansas Lottery is to produce substantial revenues for the State of Kansas and those worthwhile programs designated by the Kansas Legislature while ensuring the integrity of all games and operations. Within that mission, the Kansas Lottery fully intends to continue to be vigilant regarding the placement of ticket dispensers.

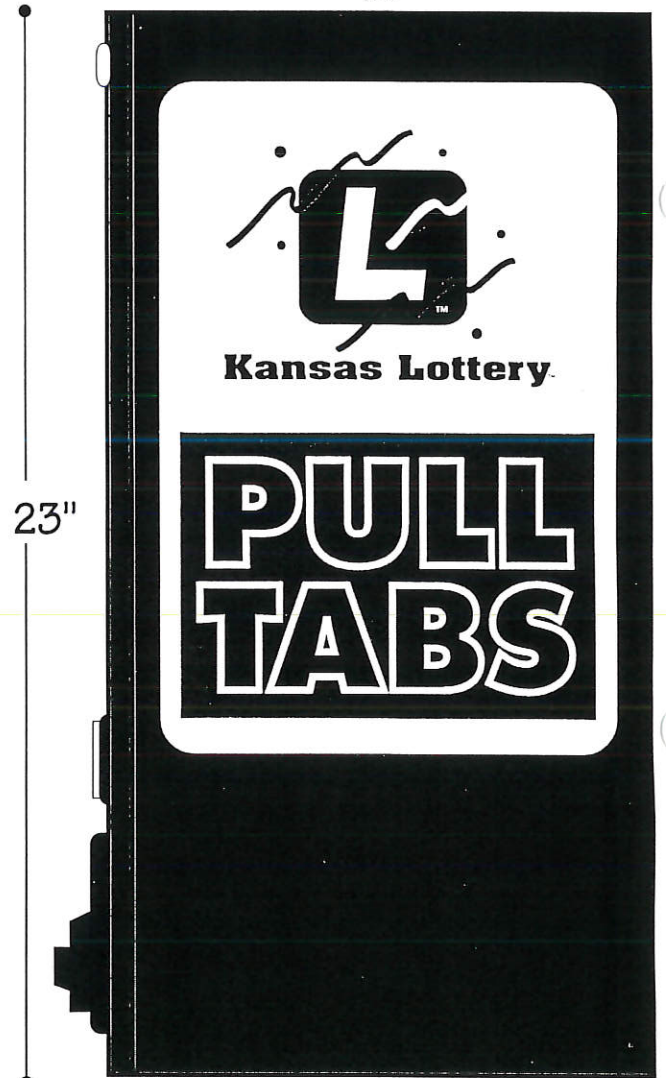
Thank you for the opportunity to speak to you about this matter.

27"



Front View

12"



Side View

Feder State
3-19-98
Atch # 2

HOUSE BILL No. 2999

By Committee on Federal and State Affairs

2-26

9 AN ACT concerning lottery machines; relating to the unlawful sale of
10 lottery tickets; amending K.S.A. 74-8702 and 79-4701 and K.S.A. 1997
11 Supp. 74-8710, 74-8718 and 74-9802 and repealing the existing
12 sections.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 74-8702 is hereby amended to read as follows:
16 74-8702. As used in this act, unless the context otherwise requires:

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

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

20 (c) "Gaming equipment" means any electric, electronic or mechani-
21 cal device or other equipment unique to the Kansas lottery used directly
22 in the operation of any lottery and in the determination of winners pur-
23 suant to this act.

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

26 (e) "Lottery retailer" means any person with whom the Kansas lottery
27 has contracted to sell lottery tickets or shares, or both, to the public.

28 (f) "Lottery" or "state lottery" means the lottery or lotteries operated
29 pursuant to this act.

30 (g) "Major procurement" means any gaming product or service, in-
31 cluding but not limited to facilities, advertising and promotional services,
32 annuity contracts, prize payment agreements, consulting services, equip-
33 ment, tickets and other products and services unique to the Kansas lot-
34 tery, but not including materials, supplies, equipment and services com-
35 mon to the ordinary operations of state agencies.

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

38 (i) "Prize" means any prize paid directly by the Kansas lottery pur-
39 suant to its rules and regulations.

40 (j) "Share" means any intangible manifestation authorized by the
41 Kansas lottery to prove participation in a lottery game.

42 (k) "Ticket" means any tangible evidence issued by the Kansas lottery
43 to prove participation in a lottery game.

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(l) "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) "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. "Lottery machine" means any machine or device that allows a player to insert cash, any form of credit or other consideration, and may deliver, as the result of an element of chance, regardless of the skill required by the player, a prize or evidence of a prize, including, but not limited to, interactive lottery machines and noninteractive lottery machines.

(o) "Interactive lottery machine" means a lottery machine in which the prize is determined by both chance and player or players' skill and in which the player or players can influence the prize through one-on-one interaction with the machine, including, but not limited to, machines on which lottery games, such as poker and blackjack, are played.

(p) "Noninteractive lottery machine" means a lottery machine in which the prize is determined only by chance, including, but not limited to, slot machines, bingo, keno ticket dispensers, lottery ticket dispensers, pull-tab dispensers and instant bingo dispensers.

Sec. 2. K.S.A. 1997 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, online and traditional games, but not including games on 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

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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 the amount of application fees to be paid by each.

(8) The amount and method of compensation to be paid to lottery retailers, including special bonuses and incentives.

(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.

(b) No new 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.

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Sec. 3. K.S.A. 1997 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 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 is a class A nonperson misdemeanor upon conviction for a first offense; and

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

Sec. 4. K.S.A. 1997 Supp. 74-9802 is hereby amended to read as follows: 74-9802. As used in the tribal gaming oversight act:

(a) "Class III gaming" means all tribal gaming activities defined as class III gaming by the Indian gaming regulatory act (25 U.S.C. 2701 et seq.), as in effect on the effective date of this act.

(b) "Executive director" means the executive director of the state

The provisions of this subsection shall not allow the governor or lieutenant governor to approve games on lottery machines.

1 gaming agency.

2 (c) "Tribal gaming" means any class III gaming conducted pursuant
3 to a tribal-state gaming compact. "Tribal gaming" does not include games
4 on video lottery machines, as defined by K.S.A. 74-8702 and amendments
5 thereto, that the Kansas lottery is prohibited from conducting under
6 K.S.A. 74-8704 and amendments thereto.

7 (d) "Tribal gaming commission" means a commission created by a
8 native American tribe in accordance with a tribal-state gaming compact.

9 (e) "Tribal gaming facility" means a facility where tribal gaming is
10 conducted or operated.

11 (f) "Tribal-state gaming compact" means a compact entered into be-
12 tween the state of Kansas and the Iowa Tribe of Kansas and Nebraska,
13 the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas, the
14 Prairie Band Potawatomi Nation in Kansas or the Sac and Fox Nation of
15 Missouri in Kansas and Nebraska with respect to the tribe's authority to
16 engage in class III gaming on the tribe's reservation property in the state
17 of Kansas.

18 Sec. 5. K.S.A. 79-4701 is hereby amended to read as follows: 79-
19 4701. As used in this act, each of the following words and phrases shall
20 have the following meaning unless the context otherwise requires:

21 (a) "Bingo" means the games of call bingo and instant bingo *but shall*
22 *not include games played on a lottery machine.*

23 (b) "Call bingo" means a game in which each participant must pay a
24 charge and a prize or prizes are awarded to the winner or winners in
25 which each participant receives one or more cards or in which a card or
26 cards are included in a paper game program booklet each of which is
27 marked off into 25 squares arranged in five horizontal rows of five squares
28 each and five vertical rows of five squares each, with each square being
29 designated by number, letter or combination of numbers and letters, and
30 only the center square designated with the word "free" with no two cards
31 being identical, with the players covering squares as the operator of such
32 game announces a number, letter or combination of numbers and letters
33 appearing on an object selected by chance, either manually or mechani-
34 cally from a receptacle in which have been placed objects bearing num-
35 bers, letters or combinations of numbers and letters corresponding to the
36 system used for designating the squares, with the winner of each game
37 being the player or players first properly covering a predetermined and
38 announced pattern of squares upon the card or a card which is included
39 in a paper game program booklet being used by such player or players.
40 "Call bingo" does not include any game utilizing an electronic or com-
41 puterized card system.

42 (c) "Instant bingo" means a game: (1) In which each participant must
43 pay a charge; (2) in which a prize or prizes are awarded to the winner or

winners; (3) in which each participant receives one or more disposable pull-tab or break-open tickets which accord a participant an opportunity to win something of value by opening or detaching the paper covering from the back of the ticket to reveal a set of numbers, letters, symbols or configurations, or any combination thereof; (4) which is conducted by a licensee under this act; (5) the conduct of which must be in the presence of the participants; and (6) which does not utilize any dice, normal playing cards, instant ticket with a removable latex covering or slot machines. "Instant bingo" does not include any game utilizing electronically generated or computer-generated tickets.

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

(e) "Nonprofit religious organization" means any organization, church, body of communicants, or group, gathered in common membership for mutual support and edification in piety, worship, and religious observances, or a society of individuals united for religious purposes at a definite place and of which no part of the net earnings inures to the benefit of any private shareholder or individual member of such organization, and which religious organization maintains an established place of worship within this state and has a regular schedule of services or meetings at least on a weekly basis and has been determined by the secretary of revenue to be organized and created as a bona fide religious organization and which has been exempted from the payment of federal income taxes as provided by section 501(c)(3) or section 501(d) of the federal internal revenue code of 1954, as amended, or determined to be organized and operated as a bona fide nonprofit religious organization by the secretary of revenue.

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

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

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

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

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1 of revenue.

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

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

21 (i) "Nonprofit veterans' organization" means any organization within
22 this state or any branch, lodge, or chapter of a national or state organi-
23 zation within this state, the membership of which consists exclusively of
24 individuals who qualify for membership because they were or are mem-
25 bers of the armed services or forces of the United States, or an auxiliary
26 unit or society of such a nonprofit veterans' organization the membership
27 of which consists exclusively of individuals who were or are members of
28 the armed services or forces of the United States, or are cadets, or are
29 spouses, widows or widowers of individuals who were or are members of
30 the armed services or forces of the United States, and of which no part
31 of the net earnings inures to the benefit of any private shareholder or
32 individual member of such organization, and has been determined by the
33 secretary of revenue to be organized and operated as a bona fide veterans'
34 organization and which has been exempted from the payment of federal
35 income taxes as provided by section 501(c)(4) or 501(c)(19) of the federal
36 internal revenue code of 1954, as amended, or determined to be organ-
37 ized and operated as a bona fide nonprofit veterans' organization by the
38 secretary of revenue.

39 (j) "Lessor" means the owner, coowner, lessor or sublessor of prem-
40 ises upon which a licensee is permitted to manage, operate or conduct
41 games of bingo, whether or not a written lease has been entered into and
42 submitted to the secretary of revenue as required in subsection (c) of
43 K.S.A. 79-4703 and amendments thereto, and includes all political sub-

divisions and other public agencies.

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

(l) "Lottery machine" means any machine or device that allows a player to insert cash, any form of credit or other consideration, and may deliver, as the result of an element of chance, regardless of the skill required by the player, a prize or evidence of a prize, including, but not limited to, interactive lottery machines and noninteractive lottery machines.

(m) "Interactive lottery machine" means a lottery machine in which the prize is determined by both chance and player or players' skill and in which the player or players can influence the prize through one-on-one interaction with the machine, including, but not limited to, machines on which lottery games, such as poker and blackjack, are played.

(n) "Noninteractive lottery machine" means a lottery machine in which the prize is determined only by chance, including, but not limited to, slot machines, bingo, keno ticket dispensers, lottery ticket dispensers, pull-tab dispensers and instant bingo dispensers.

Sec. 6. K.S.A. 74-8702 and 79-4701 and K.S.A. 1997 Supp. 74-8710, 74-8718 and 74-9802 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

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Fed & State
3-19-98
Atch # 3

HOUSE BILL No. 2999

By Committee on Federal and State Affairs

2-26

9 AN ACT concerning lottery machines; relating to the unlawful sale of
10 lottery tickets; amending K.S.A. 74-8702 and 79-4701 and K.S.A. 1997
11 Supp. 74-8710, 74-8718 and 74-9802 and repealing the existing
12 sections.
13

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

14 Section 1. K.S.A. 74-8702 is hereby amended to read as follows:
15 74-8702. As used in this act, unless the context otherwise requires:
16

17 (a) "Commission" means the Kansas lottery commission.
18 (b) "Executive director" means the executive director of the Kansas
19 lottery.

20 (c) "Gaming equipment" means any electric, electronic or mechani-
21 cal device or other equipment unique to the Kansas lottery used directly
22 in the operation of any lottery and in the determination of winners pur-
23 suant to this act.

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

26 (e) "Lottery retailer" means any person with whom the Kansas lottery
27 has contracted to sell lottery tickets or shares, or both, to the public.

28 (f) "Lottery" or "state lottery" means the lottery or lotteries operated
29 pursuant to this act.

30 (g) "Major procurement" means any gaming product or service, in-
31 cluding but not limited to facilities, advertising and promotional services,
32 annuity contracts, prize payment agreements, consulting services, equip-
33 ment, tickets and other products and services unique to the Kansas lot-
34 tery, but not including materials, supplies, equipment and services com-
35 mon to the ordinary operations of state agencies.

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

38 (i) "Prize" means any prize paid directly by the Kansas lottery pur-
39 suant to its rules and regulations.

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

41 (k) "Ticket" means any tangible evidence issued by the Kansas lottery
42 to prove participation in a lottery game.

1) "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) "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. "Lottery machine" means any machine or device that allows a player to insert cash, any form of credit or other consideration, and may deliver, as the result of an element of chance, regardless of the skill required by the player, a prize or evidence of a prize, including, but not limited to, interactive lottery machines and noninteractive lottery machines.

(o) "Interactive lottery machine" means a lottery machine in which the prize is determined by both chance and player or players' skill and in which the player or players can influence the prize through one-on-one interaction with the machine, including, but not limited to, machines on which lottery games, such as poker and blackjack, are played.

(p) "Noninteractive lottery machine" means a lottery machine in which the prize is determined only by chance, including, but not limited to, slot machines, bingo, keno ticket dispensers, lottery ticket dispensers, pull-tab dispensers and instant bingo dispensers.

Sec. 2. K.S.A. 1997 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, online and traditional games, but not including games on 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

ries 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 the amount of application fees to be paid by each.

(8) The amount and method of compensation to be paid to lottery retailers, including special bonuses and incentives.

(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.

(b) No new 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. 3. K.S.A. 1997 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 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 is a class A nonperson misdemeanor upon conviction for a first offense; and

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

Sec. 4. K.S.A. 1997 Supp. 74-9802 is hereby amended to read as follows: 74-9802. As used in the tribal gaming oversight act:

(a) "Class III gaming" means all tribal gaming activities defined as class III gaming by the Indian gaming regulatory act (25 U.S.C. 2701 *et seq.*), as in effect on the effective date of this act.

(b) "Executive director" means the executive director of the state

(c) It shall be a defense to a prosecution under this section if: (1) The defendant sold the lottery ticket to the person under 18 years of age with reasonable cause to believe that such person was 18 or more years of age; and (2) to purchase the lottery ticket, the person under 18 years of age exhibited to the defendant a driver's license, Kansas nondriver's identification card or other official or apparently official document, containing a photograph of such person and purporting to establish that such person was 18 or more years of age.

ning agency.

2 (c) "Tribal gaming" means any class III gaming conducted pursuant
3 to a tribal-state gaming compact. "Tribal gaming" does not include games
4 on ~~video~~ lottery machines, as defined by K.S.A. 74-8702 and amendments
5 thereto, that the Kansas lottery is prohibited from conducting under
6 K.S.A. 74-8704 and amendments thereto.

7 (d) "Tribal gaming commission" means a commission created by a
8 native American tribe in accordance with a tribal-state gaming compact.

9 (e) "Tribal gaming facility" means a facility where tribal gaming is
10 conducted or operated.

11 (f) "Tribal-state gaming compact" means a compact entered into be-
12 tween the state of Kansas and the Iowa Tribe of Kansas and Nebraska,
13 the Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas, the
14 Prairie Band Potawatomi Nation in Kansas or the Sac and Fox Nation of
15 Missouri in Kansas and Nebraska with respect to the tribe's authority to
16 engage in class III gaming on the tribe's reservation property in the state
17 of Kansas.

18 Sec. 5. K.S.A. 79-4701 is hereby amended to read as follows: 79-
19 4701. As used in this act, each of the following words and phrases shall
20 have the following meaning unless the context otherwise requires:

21 (a) "Bingo" means the games of call bingo and instant bingo *but shall*
22 *not include games played on a lottery machine.*

23 (b) "Call bingo" means a game in which each participant must pay a
24 charge and a prize or prizes are awarded to the winner or winners in
25 which each participant receives one or more cards or in which a card or
26 cards are included in a paper game program booklet each of which is
27 marked off into 25 squares arranged in five horizontal rows of five squares
28 each and five vertical rows of five squares each, with each square being
29 designated by number, letter or combination of numbers and letters, and
30 only the center square designated with the word "free" with no two cards
31 being identical, with the players covering squares as the operator of such
32 game announces a number, letter or combination of numbers and letters
33 appearing on an object selected by chance, either manually or mechani-
34 cally from a receptacle in which have been placed objects bearing num-
35 bers, letters or combinations of numbers and letters corresponding to the
36 system used for designating the squares, with the winner of each game
37 being the player or players first properly covering a predetermined and
38 announced pattern of squares upon the card or a card which is included
39 in a paper game program booklet being used by such player or players.
40 "Call bingo" does not include any game utilizing an electronic or com-
puterized card system.

41 (c) "Instant bingo" means a game: (1) In which each participant must
42 pay a charge; (2) in which a prize or prizes are awarded to the winner or
43

1 nners; (3) in which each participant receives one or more disposable
2 pull-tab or break-open tickets which accord a participant an opportunity
3 to win something of value by opening or detaching the paper covering
4 from the back of the ticket to reveal a set of numbers, letters, symbols or
5 configurations, or any combination thereof; (4) which is conducted by a
6 licensee under this act; (5) the conduct of which must be in the presence
7 of the participants; and (6) which does not utilize any dice, normal playing
8 cards, instant ticket with a removable latex covering or slot machines.
9 "Instant bingo" does not include any game utilizing electronically gener-
10 erated or computer-generated tickets.

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

14 (e) "Nonprofit religious organization" means any organization,
15 church, body of communicants, or group, gathered in common member-
16 ship for mutual support and edification in piety, worship, and religious
17 observances, or a society of individuals united for religious purposes at a
18 definite place and of which no part of the net earnings inures to the
19 benefit of any private shareholder or individual member of such organi-
20 zation, and which religious organization maintains an established place of
21 worship within this state and has a regular schedule of services or meet-
22 ings at least on a weekly basis and has been determined by the secretary
23 of revenue to be organized and created as a bona fide religious organi-
24 zation and which has been exempted from the payment of federal income
25 taxes as provided by section 501(c)(3) or section 501(d) of the federal
26 internal revenue code of 1954, as amended, or determined to be organ-
27 ized and operated as a bona fide nonprofit religious organization by the
28 secretary of revenue.

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

31 (1) The relief of poverty, distress, or other condition of public con-
32 cern within this state; or

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

35 (3) for conferring direct benefits on the community at large; and of
36 which no part of the net earnings inures to the benefit of any private
37 shareholder or individual member of such organization and has been de-
38 termined by the secretary of revenue to be organized and operated as a
39 bona fide charitable organization and which has been exempted from the
40 payment of federal income taxes as provided by sections 501(c)(3),
41 501(c)(4), 501(c)(5), 501(c)(6) and 501(c)(7) of the federal internal rev-
42 enue code of 1954, as amended, or determined to be organized and op-
43 erated as a bona fide nonprofit charitable organization by the secretary

revenue.

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

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

21 (i) "Nonprofit veterans' organization" means any organization within
22 this state or any branch, lodge, or chapter of a national or state organi-
23 zation within this state, the membership of which consists exclusively of
24 individuals who qualify for membership because they were or are mem-
25 bers of the armed services or forces of the United States, or an auxiliary
26 unit or society of such a nonprofit veterans' organization the membership
27 of which consists exclusively of individuals who were or are members of
28 the armed services or forces of the United States, or are cadets, or are
29 spouses, widows or widowers of individuals who were or are members of
30 the armed services or forces of the United States, and of which no part
31 of the net earnings inures to the benefit of any private shareholder or
32 individual member of such organization, and has been determined by the
33 secretary of revenue to be organized and operated as a bona fide veterans'
34 organization and which has been exempted from the payment of federal
35 income taxes as provided by section 501(c)(4) or 501(c)(19) of the federal
36 internal revenue code of 1954, as amended, or determined to be organ-
37 ized and operated as a bona fide nonprofit veterans' organization by the
38 secretary of revenue.

39 (j) "Lessor" means the owner, coowner, lessor or sublessor of prem-
40 ises upon which a licensee is permitted to manage, operate or conduct
41 games of bingo, whether or not a written lease has been entered into and
42 submitted to the secretary of revenue as required in subsection (c) of
43 K.S.A. 79-4703 and amendments thereto, and includes all political sub-

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isions and other public agencies.

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

(l) "Lottery machine" means any machine or device that allows a player to insert cash, any form of credit or other consideration, and may deliver, as the result of an element of chance, regardless of the skill required by the player, a prize or evidence of a prize, including, but not limited to, interactive lottery machines and noninteractive lottery machines.

(m) "Interactive lottery machine" means a lottery machine in which the prize is determined by both chance and player or players' skill and in which the player or players can influence the prize through one-on-one interaction with the machine, including, but not limited to, machines on which lottery games, such as poker and blackjack, are played.

(n) "Noninteractive lottery machine" means a lottery machine in which the prize is determined only by chance, including, but not limited to, slot machines, bingo, keno ticket dispensers, lottery ticket dispensers, pull-tab dispensers and instant bingo dispensers.

Sec. 6. K.S.A. 74-8702 and 79-4701 and K.S.A. 1997 Supp. 74-8710, 74-8718 and 74-9802 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

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