

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE.

The meeting was called to order by Chairperson Nancey Harrington at 10:30 a.m. on January 16, 2001 in Room 245-N of the Capitol.

All members were present.

Committee staff present: Russell Mills, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Nikki Kraus, Committee Secretary

Conferees appearing before the committee: Russell Mills, Legislative Research Department
Theresa Kiernan, Revisor of Statutes

Others attending: See Attached List

Chairman Harrington began the meeting by welcoming back everyone. The chairman then went on to say that the meeting today would primarily be a staff review of the history of the Kansas lottery.

Mr. Russell Mills presented a memorandum entitled "Kansas Lottery". (Attachment 1).

Mr. Mills added that state wide reappraisal used to be a big issue in Kansas and that approximately \$16 million had gone to county reappraisal.

Chairman Harrington asked if the Ways and Means committee had adjusted the funding.

Mr. Mills responded that the whole legislature had voted on it, not Ways and Means.

Senator John Vratil asked Mr. Mills if he had an estimate as to sales tax revenue generated by sales of lottery tickets.

Mr. Mills deferred to Mr. Julian Efird, who responded that it would be 5% of \$200 million.

Chairman Harrington asked if there were any additional questions, and there were none.

Mr. Mills went on to address EDIF spending and to conclude his testimony.

Chairman Harrington reminded the committee that the confirmation hearing of Mr. Ed Van Petten will be scheduled next week or the week after for his position as executive director of the lottery.

Chairman Harrington introduced Theresa Kiernan from the office of the Revisor of Statutes.

Ms. Kiernan then presented a memorandum entitled "Overview of the Kansas Lottery Act". (Attachment 2). She presented copies of K.S.A. 79-4801 and 79-4803. (Attachment 3). She presented copies of K.S.A. 74-8701, 8702, 8704, 8707, 8710, 8714, 8717, 8718, 8719, 8721, and 8722. (Attachment 4).

Chairman Harrington then asked for questions and recognized Senator Jim Barnett who asked about K.S.A. 74-8705 concerning background information and who would use that.

Ms. Kiernan responded that it would be the executive director, but that she was not sure if when the procurement committee is set up, whether it is all members or just the director, but that she would get back to the Senator on that.

CONTINUATION SHEET

Chairman Harrington then stated that such information would then be provided for the entire committee.

Senator Rip Gooch then asked if it was possible to identify who was doing that at this time.

Mr. Ed Van Petten, Acting Director of the Kansas Lottery, then stated that he was designated at this time.

Senator Gooch then asked if someone could explain how it was decided whether he wanted to be that person.

Ms. Kiernan then responded that it was the Executive Director or the Executive Director's designee, and then requested to direct Senator Barnett's question to Mr. Van Petten.

Mr. Van Petten stated that if there were any questions the lottery could determine whether or not they could enter into a state contract

Chairman Harrington asked whom is serving as the Director of Security currently.

Mr. Van Petten stated that the Director of Sales had resigned and that he had been replaced by Tom Hofts.

Chairman Harrington asked for any additional questions.

Senator O'Connor asked if there are certain security restrictions, and whether or not there is a background check on lottery commissioners.

Ms. Kiernan responded that those would be conducted by the Governor's Office.

Natalie Haag introduced herself from the audience as the Governor's chief legal counsel and said that she would get the statute to Senator O'Connor.

Chairman Harrington then introduced Tracey Diel from the Tribal Relations Committee and Acting Director of Casino Gambling.

Written testimony was submitted from the Office of Carla J. Stovall, Attorney General for the State of Kansas, concerning the gag order issued by Shawnee County District Judge Thomas Conklin. (Attachment 5).

Chairman Harrington then asked committee members if they would prefer to have additional time at the beginning of meetings or if they would prefer to leave early and they agreed to leave early.

Mr. Russell Mills stated that there was an additional matter that he would like to address concerning the lottery. Mr. Mills state that back in 1986-87, many people have said that all money from the lottery was to go to education, but that was inaccurate to his recollection. Mr. Mills then stated that he had asked the state library to pull all articles which pertained to the lottery from those years, and that out of the 86 articles, not one was about education, but all said that money from the lottery would go toward economic development.

Chairman Harrington reminded the committee that both the Legislative Division of Post Audit and Mr. Van Petten would be making presentations the following day.

The meeting adjourned at 11:22 a.m.

The next scheduled meeting will be at 10:30 a.m. on January 17, 2001.

**SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST**

DATE: January 16, 2001

NAME	REPRESENTING
Darlene Jean Skarne	League of Women Voters
Jean Batt	Division of Land Conservation ^{Gaming} Commission
Shelley King	KSPE / Jackson Braden Parker #5500
Deanna Johnson	Sen. Lyon Office Staff
Glenn Thompson	Stand Up For KS.
Peter Hausack	KPR
Patrick Murloj	GTECH
TOM PALACE	PUCA OF KS
John Milburn	Associated Press
Jim Edwards	KPCI
Jamie Masak	Senate Minority Office
Marche Atkinson	CWA
Keith Kocher	KS Lottery
ED VAN PETTEN	KS LOTTERY
Rebecca Zepke	Sen. Barnett
Ron Horn	Horn + Weir, Chd
Roger Franzke	KGF.

December 8, 2000

KANSAS LOTTERY

Summary

Kansas statutes provide for collection and allocation of revenue from three types of gambling: bingo, parimutuel wagering on dog and horse races, and the Kansas Lottery. In addition, the state is reimbursed for certain expenditures made under provisions of the tribal/state gaming compacts which regulate Indian casino gaming. Slightly over 30 percent of state revenue from gambling is used to operate the state agencies charged with licensing, regulating, and conducting (in the case of the lottery) legal gambling in Kansas.

Lottery History. In 1986, a constitutional amendment to provide for a state-owned lottery was approved by the voters of Kansas by a vote of 515,893 to 291,411. The 1987 Kansas Legislature approved implementing legislation which created a new state agency, the Kansas Lottery, to operate the state lottery. The legislation also established a five-member Lottery Commission to oversee the operation of the lottery; required that at least 45 percent of the money collected from ticket sales be awarded as prizes and at least 30 percent of the money collected be transferred to the State Gaming Revenue Fund (SGRF); exempted lottery tickets from the sales tax; and allowed liquor stores to sell lottery tickets.

The constitutional amendment also contained a sunset provision which would have prohibited operation of the state lottery in 1990 unless a concurrent resolution authorizing such operation was adopted by both chambers of the Kansas Legislature during the 1990 Session. 1990 SCR 1646 was adopted by the Legislature to continue operation of the state lottery.

The state lottery was scheduled for abolition under the Kansas Sunset Law in 1992. The Legislature approved 1992 SB 472 which continued the Kansas Lottery until 1996. In turn, the 1995 Legislature approved HB 2077 which continued the Kansas Lottery in existence until 2002. In order to give the Lottery a one-year "wind down" period if it is not extended, the 2001 Legislature will address the issue of continuing the Kansas Lottery in existence beyond July 1, 2002.

Kansas Lottery

Lottery Revenue. Receipts from the sale of lottery tickets are deposited by the Executive Director of the Kansas Lottery in the Lottery Operating Fund in the state treasury. Statutorily, moneys in that fund are used to support operation of the Lottery; pay prizes to

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Attachment 1-1

lottery winners (*via* a transfer to the Lottery Prize Payment Fund); and provide funding for correctional and juvenile facilities, and economic development *via* the SGRF.

A minimum of 45 percent of net monthly receipts from the sale of lottery tickets must be awarded as prizes. The Lottery Act requires that a minimum of 30 percent of net monthly receipts from the sale of lottery tickets must be credited to the SGRF. However, the Legislature has frequently transferred additional amounts to the SGRF. For FY 1997 and FY 1999, the Legislature set the transfer at a minimum of 30.75 percent. For FY 1998 the transfer was set at a minimum of 31.25 percent. For FY 2000 and FY 2001, the transfer was set at 30.00 percent. The remainder of sales receipts may be used to operate the Lottery and to pay commissions to merchants who sell lottery tickets.

Lottery revenue has been used for other purposes over the years. During the first year of Lottery operation, FY 1988, a statutorily required transfer was made from the Lottery Operating Fund to repay to the State General Fund the amount utilized to establish the Lottery. (K.S.A. 74-8712) In FY 1989, a transfer was made from the Lottery Operating Fund directly to the County Reappraisal Fund. That amount was in addition to the statutorily set amount of the SGRF used to cover a portion of the cost of statewide reappraisal. Every year from FY 1993 through FY 1997, transfers were made from the Lottery Operating Fund to the Kansas Bureau of Investigation (KBI) to finance the KBI's gaming investigation unit. (These transfers ended in FY 1997.) In FY 1998, the Legislature authorized the transfer of \$253,195 from the KBI to the SGRF to repay FY 1996 lottery and racing moneys.

The 2000 Legislature approved a total budget for the Kansas Lottery of almost \$140.0 million, of which \$21.6 million is for operating the lottery and \$118.4 million is for prizes and retailers' commissions. The approved staffing level for FY 2001 is 93.0 positions.

State Gaming Revenue Fund. Some state revenue from both the Lottery and parimutuel wagering is transferred to the SGRF. That fund is used essentially as a holding fund from which further transfers are made on a monthly basis. No more than \$50 million can be credited to the SGRF in any fiscal year. Amounts in excess of \$50 million are credited to the State General Fund. FY 1994 was the first year during which transfers to the SGRF exceeded \$50 million. Since then, the \$50 million cap on the SGRF has resulted in \$61.0 million being transferred to the State General Fund.

Beginning on July 1, 1995, statutory transfers from the SGRF were established as follows¹:

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

Economic Development Initiatives Fund. Under current state law, the first \$50.0 million credited to the SGRF each year is divided as follows:

- \$5.0 million to the Correctional Institutions Building Fund to help offset State General Fund (SGF) expenditures in constructing and maintaining state prisons;
- \$2.5 million to the Juvenile Detention Facilities Fund to help local governments pay the cost of confining local juvenile offenders; and
- \$42.5 million to the Economic Development Initiatives Fund (EDIF).

Gaming revenues in excess of \$50.0 million are credited to the State General Fund, with the exception of a transfer of \$80,000 to the new Problem Gambling Grant Fund. The approved budget for FY 2001 includes an estimated \$60.6 million from gaming revenues. Appropriations from gaming revenues in support of education related programs are made from the EDIF.

A portion of the EDIF expenditures are used to support education. Approved FY 2001 expenditures from the EDIF in support of education are summarized below:

- State Board of Regents—\$10.05 million;

¹ Distribution of moneys credited to the State Gaming Revenue Fund has changed since the fund's inception. Prior to June 30, 1990, 30 percent of the State Gaming Revenue Fund was used to defray a portion of costs incurred by counties during statewide reappraisal, for a total of \$15.9 million. (In addition, for each of fiscal years 1991-1995, the Legislature appropriated approximately \$3 million, \$14.9 million total, to the Department of Revenue from the Economic Development Initiatives Fund for county reappraisal aid.) At that time, 60 percent of the fund was used to finance economic development projects and 10 percent financed correctional facilities.

From FY 1991 until the end of FY 1995, 90 percent of Gaming Fund revenue was earmarked for the Economic Development Fund and 10 percent for the Correctional Institutions Building Fund (to finance adult correctional facilities). (K.S.A. 79-4804)

- Department of Commerce and Housing—\$4.38 million;
- Kansas Technology Enterprise Corporation—\$7.71 million; and
- Adjutant General—\$50,000.

Attached is a memorandum entitled "Current Utilization of Gaming Revenues for Education," which discusses these educational expenditures in more detail. This memorandum also includes a detailed table which indicates the total approved expenditures from the EDIF for FY 1999, FY 2000, and FY 2001.

November 8, 2000

To: Legislative Educational Planning Committee
From: Paul West, Senior Fiscal Analyst
Re: Current Utilization of Gaming Revenues for Education

Introduction

Since the creation in the mid-1980s of the Kansas Lottery and the legalization of parimutuel wagering in the state, the Kansas Legislature has chosen to use a significant portion of the net gaming proceeds to finance education related programs. This memorandum reviews the distribution of gaming revenues and education related programs financed by gaming revenues.

Where Does the Money Come From?

The proceeds from the sale of lottery tickets and taxes on parimutuel wagering, after paying prizes and the cost of administration, are credited to the State Gaming Revenue Fund. Under current state law, the first \$50.0 million credited to the State Gaming Revenues Fund is divided as follows:

- \$5.0 million to the Correctional Institutions Building Fund to help offset State General Fund (SGF) expenditures in constructing and maintaining state prisons;
- \$2.5 million to the Juvenile Detention Facilities Fund to help local governments pay the cost of confining local juvenile offenders; and
- \$42.5 million to the Economic Development Initiatives Fund (EDIF).

Gaming revenues in excess of \$50.0 million are credited to the State General Fund, with the exception of a transfer of \$80,000 to the new Problem Gambling Grant Fund. The approved budget for FY 2001 includes an estimated \$60.6 million from gaming revenues. Appropriations from gaming revenues in support of education related programs are made from the EDIF.

Where Does the EDIF Go?

The statutes governing the EDIF provide that it shall be used to finance programs ". . . supporting and enhancing the existing economic foundation of the state and fostering growth . . . to the state's economic foundation." With the exception of a statutory \$2.0 million transfer from the EDIF to the State Water Plan Fund, the Legislature annually appropriates the EDIF for individual projects and programs deemed to support and enhance the state's economic foundation. The attached table from the *2000-2001 Appropriations Report* summarizes the uses of the EDIF for fiscal years 1999 through 2001. The 2000 Legislature appropriated \$47.4 million from the EDIF for FY 2001, the difference from the \$42.5 million noted above being associated primarily with interest earnings and the liquidation of prior year encumbrances. Of this amount, \$22.1 million, or 46.7 percent of the available funding, was allocated to programs which may be viewed as supporting education.

The EDIF in Education

The following paragraphs provide a brief description of the FY 2001 appropriations from the EDIF which may be viewed as supporting education, either through a direct appropriation or through programs which are ultimately offered through an educational institution in the state or which enhance the knowledge base of Kansas citizens.

State Board of Regents. Some years ago a decision was made to shift certain appropriations for education to the EDIF in order to reduce overall expenditures from the SGF. The items selected generally pertained to area vocational schools and community colleges, the rationale being that the job training and retraining provided by those institutions bore a relation to the state's economic development effort and were appropriate expenditures from the EDIF.

All amounts shown below are approved for FY 2001.

- **Postsecondary Aid for Area Vocational Schools and Technical Colleges.** Postsecondary aid is appropriated to the State Board of Regents and is distributed on the basis of a statutory formula that results in a calculated local cost for each area vocational school and technical college. The local cost is divided by the number of hours taken by all students (secondary and postsecondary) to get a local cost per hour. This figure is multiplied by the number of hours enrolled in by postsecondary students and the state pays 85 percent of that amount. The postsecondary student pays the remaining 15 percent. (The costs incurred for secondary students are paid by the students' school districts.) The actual allocation of funding to the individual schools is made by the State Board of Regents, based on an approved operating budget for each school that is determined after it is known how much money is available. The total appropriation for postsecondary aid is split between the EDIF and the SGF. The total appropriation for FY 2001 is \$26.4 million, of which \$19.5 million is from the SGF and \$6.9 million is from the EDIF.

- **Vocational Education Capital Outlay Aid.** Vocational education capital outlay aid goes to area vocational schools, technical colleges, and community colleges that are designated area vocational schools. The statute that creates the program allows money to be spent for building construction and repairs and the acquisition of furniture and equipment, but the Legislature generally has restricted its use to instructional equipment. By proviso, state aid must be matched 50 percent at the local level. The approved amount for FY 2001 is \$2.7 million. (All money for the program is from the EDIF.)
- **Technology Innovation Grants.** The technology innovation program provides grants to area vocational schools, technical colleges, community colleges, and Washburn University for start-up support for innovative technical courses and programs in emerging technologies, manufacturing, and areas of skill shortages, and for internships for faculty of vocational education institutions to work in an industrial setting or for industrial employees to work at vocational education institutions. Receiving institutions must match the state grant 100 percent. The approved amount for FY 2001 is \$200,000. (All of the money for the program is from the EDIF.)
- **Comprehensive Grant Program.** The Comprehensive Grant Program provides need-based scholarship assistance to undergraduate Kansas students attending Kansas colleges and universities. The program is designed to provide up to one-half of the average tuition and fees of state educational institutions, but is subject to available appropriations. The approved budget for FY 2001 totals \$10.7 million, of which \$250,000 is from the EDIF. FY 2001 is the first year that EDIF financing has been utilized for this program.

Department of Commerce and Housing. As a part of its mission to assist in the growth of the state's economy, the Department of Commerce and Housing provides financial support to several programs designed to help focus the state's investment in human capital.

- **Kansas Industrial Training (KIT) and Retraining (KIR) Programs.** The KIT program provides grants to Kansas firms that are adding employees to help defray the costs of employee training. Similarly, the KIR program provides financial assistance for the training of employees of restructuring industries who are likely to be displaced because of obsolete or inadequate job skills. No matching funding is required of KIT participants while KIR grant recipients are required to provide a minimum match of 100 percent. Department of Commerce and Housing officials report that, on average, 90 percent of KIT and KIR grants are used to purchase services from community colleges and vocational education institutions. The approved FY 2001 budget for KIT and KIR is \$3.6 million, all of which is financed by the EDIF.

- **Training Equipment Grants.** The Training Equipment Grants program provides community colleges, area technical colleges, and area vocational technical schools with the means to acquire instructional equipment for training or retraining Kansas workers. (Successful applicants must provide a match of at least 100 percent of the state grant.) The approved FY 2001 budget for training equipment grants is \$277,500 from the EDIF.
- **Small Business Development Centers.** With locations at 22 universities and community colleges, the state's Small Business Development Centers (SBDCs) provide practical training and topical seminars for persons interested in operating a small business. The Department of Commerce and Housing's approved FY 2001 budget includes \$485,000 from the EDIF to support the SBDC network.

Kansas Technology Enterprise Corporation. As part of its mission to foster innovation in existing and developing businesses, the Kansas Technology Enterprise Corporation (KTEC) provides financial support to several programs designed to enhance the research capabilities of the state's universities.

- **Centers of Excellence Grants.** The Centers of Excellence are university-based research centers focusing on innovative research topics within each Center's area of specialization. The five Centers are located at Kansas State University, Wichita State University, Pittsburg State University, and the University of Kansas (which has two centers). The Centers have a diverse array of specialties, ranging from drug development to materials science to software development. In conjunction with research on potentially marketable products, the Centers provide education and compensation opportunities for university faculty and students. In FY 2000, the Centers of Excellence attracted \$27.2 million from nonstate sources. KTEC's approved FY 2001 budget includes \$3.5 million from the EDIF for core support of the Centers and \$797,785 from the Mid America Manufacturing Technology Center's EDIF allocation, for a total of \$4.3 million from the EDIF in support of the Centers of Excellence.
- **Experimental Program to Stimulate Competitive Research (EPSCoR).** Through EPSCoR, the State of Kansas and federal agencies provide joint funding to enhance the basic research capabilities of the state's universities in science and engineering. The state qualifies for federal EPSCoR funding by virtue of its universities historically receiving a disproportionately low per capita share of federal research funding. The federal funding match varies between specific projects but is at least 100 percent of the state's funding. In FY 2000, the EPSCoR program attracted \$5.5 million in federal and private sector support. For FY 2001, KTEC's approved budget includes \$3,200,000 from the EDIF to support EPSCoR.

- **Applied Research Matching Grant Program.** The Applied Research Matching Grant Program provides funding to companies seeking to turn new technologies into market driven products that will lead to the retention or expansion of the firm's market share and result in added skilled job opportunities in the state. KTEC officials estimate that 15 percent of the program awards are expended for contractual research at the state's universities for an estimated FY 2001 impact from the EDIF of \$186,900.
- **Graduate Intern Program.** KTEC offers graduate and undergraduate students in Kansas universities internships which are designed to provide the students an opportunity to gain real world business experience by interacting with KTEC client companies. Interns perform tasks such as market research, patent and trademark searches, financial analysis, and business plan editing and review. The approved FY 2001 budget for KTEC includes \$30,000 from the EDIF to support the internship program. In addition, KTEC officials report that at least five of KTEC's commercialization centers provide internship opportunities to Kansas university students, with an annual investment in interns of between \$8,000 and \$12,000 per year.

Adjutant General. The **National Guard Educational Assistance Program** provides state assistance for tuition and fees for eligible members of the Kansas Army National Guard and the Kansas Air National Guard who attend Kansas educational institutions. The approved FY 2001 budget for the program totals \$353,484, including \$50,000 from the EDIF. FY 2001 is the first year that EDIF financing has been utilized for this program.

Other Programs. The impact of the EDIF on education programs is not limited to the programs above. Other programs supported in whole or in part by the EDIF which could be viewed as contributing to the knowledge base of the state include research performed by Kansas, Inc; support for the State Fair, Public Television, and the Kansas Arts Commission; and grants to the Kansas Foundation for Agriculture, the Challenger Project, the Teachers Hall of Fame, the Eisenhower Museum, local libraries, and the Kansas Humanities Council. In addition, the State Water Plan Fund (which is financed in part by the EDIF) finances a broad range of environmental research, geographic information systems, and practical land use education. Finally, the EDIF has been used to offset all of the SGF financing which previously was allocated to economic development programs, thus freeing up these SGF resources for reallocation to other programs of state importance, which could include education.

TABLE F

**ACTUAL FY 1999, ESTIMATED FY 2000, AND APPROVED FY 2001
TRANSFERS AND EXPENDITURES FROM THE
ECONOMIC DEVELOPMENT INITIATIVES FUND**

Agency/Program	Actual FY 1999	Approved FY 2000	Approved FY 2001
Department of Commerce and Housing			
Agency Operations	\$ 7,928,640	\$ 7,006,215	\$ 8,609,757
Small Business Development Centers	525,000	485,000	485,000
Certified Development Companies	475,000	475,000	400,000
Kansas Industrial Training/Retraining	3,803,869	3,600,000	3,600,000
Trade Show Promotion Grants	219,460	150,000	150,000
Community Capacity Building Grants	250,000	197,000	197,000
Economic Initiative Opportunity Fund	8,075,546	5,000,000	3,500,000
Tourism Grants	602,100	952,100	1,052,100
Mid-America World Trade Center	50,000	41,889	42,000
Mainstreet Grant and Development Prog.	216,800	216,800	216,800
Existing Industry Expansion Prog.	695,763	800,000	500,000
Travel Information Centers	6,419	15,000	15,000
Training Equipment Grants	262,674	300,000	277,500
Film Industry Tax Refunds	26,673	75,000	75,000
Agriculture Products Dev.	540,000	540,000	540,000
Kansas Sports Hall of Fame	0	50,000	0
Eisenhower Museum Grant	0	300,000	300,000
Teachers Hall of Fame Grant	0	0	100,000
HOME Program	0	0	533,022
Subtotal - KDCH	\$ 23,677,944	\$ 20,204,004	\$ 20,593,179
Kansas Technology Enterprise Corporation			
Agency Operations	\$ 1,567,069	\$ 1,338,486	\$ 1,308,863
Centers of Excellence - Research	3,532,156	3,552,640	3,527,215
Research Matching Grants	1,378,500	969,196	1,246,000
Inventor Assistance	48,439	76,000	76,000
State Small Business Innovation Research Grants	375,000	300,000	300,000
Small Business Innovation Research Bridge Funds	42,560	140,000	140,000
Special Projects	50,593	79,303	79,303
Commercialization	1,660,000	1,490,000	1,156,664
Mid-America Manufac. Tech. Center (MAMTC)	1,000,000	1,000,000	950,931
Centers of Excellence - MAMTC	797,360	797,338	797,785
EPSCoR	3,693,735	3,200,000	3,200,000
Subtotal - KTEC	\$ 14,145,412	\$ 12,942,963	\$ 12,782,761
Kansas, Inc.			
Agency Operations	\$ 216,127	\$ 189,563	\$ 336,949
State Fair			
Operations	\$ 0	\$ 35,000	\$ 134,000
Capital Improvements	0	0	100,000
Subtotal - State Fair	\$ 0	\$ 35,000	\$ 234,000
Department of Education/Board of Regents			
Kansas Foundation for Agriculture	\$ 0	\$ 0	\$ 30,000
Challenger Project	0	0	50,000

Agency/Program	Actual FY 1999	Approved FY 2000	Approved FY 2001
Technical Innovation and Internship Grants	199,414	200,000	200,000
Postsecondary Aid—AVTS	6,683,567	6,716,110	6,916,110
Capital Outlay—AVTS	3,000,000	2,000,000	2,700,000
Comprehensive Grant Scholarship Assistance	0	0	250,000
Subtotal - Education/Regents	<u>\$ 9,882,981</u>	<u>\$ 8,916,110</u>	<u>\$ 10,146,110</u>
Historical Society			
Other Operating Expenditures Fund	\$ 1,560	\$ 0	\$ 0
Visitor Donation Match Fund	30,000	40,000	60,000
Cyclical Maintenance Projects Fund (Ft. Hays)	50,000	0	0
First Territorial Capitol Renovation Project Fund	71,000	0	0
Completion of Historic Sites (Kaw Mission)	100,000	0	0
Friends of the Free State Capitol Grant Fund	30,000	0	0
Kansas Humanities Council	0	0	0
Subtotal - Historical Society	<u>\$ 282,560</u>	<u>\$ 40,000</u>	<u>\$ 95,000</u>
Arts Commission			
State Operations	\$ 0	\$ 0	\$ 119,110
State Library	0	0	170,000
Grants to Local Libraries	0	0	170,000
Department of Administration	0	0	170,000
Public Television Grants	\$ 116,800	\$ 0	\$ 350,000
Wildlife and Parks	0	0	350,000
Local Government Outdoor Recreation	\$ 500,000	\$ 500,000	\$ 500,000
Regents Institutions	0	0	500,000
KSU-Ag Extension—Irrigation Field Study	\$ 90,000	\$ 0	\$ 0
Adjutant General	0	0	0
Kansas National Guard Educational Assist. Program	\$ 0	\$ 0	\$ 50,000
State Water Plan Fund	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000
TOTAL EXPENDITURES	\$ 50,911,824	\$ 44,827,640	\$ 47,377,109

EDIF Resource Estimate—FY 2000 - FY 2001

	Approved FY 2000	Approved FY 2001
Beginning Balance	\$ 3,672,000	\$ 3,643,508
Gaming Revenue	42,500,000	42,500,000
Other Income	2,250,182	1,200,472
Total Available	<u>\$ 48,422,182</u>	<u>\$ 47,343,980</u>
Less: Expend. and Transfers*	44,778,674	47,343,980
ENDING BALANCE	<u><u>\$ 3,643,508</u></u>	<u><u>\$ 0</u></u>

* May not equal expenditures noted above. Detailed expenditures include expenditures from prior year EDIF allocations.

HOW ARE KANSAS LOTTERY PROCEEDS DISTRIBUTED?



In Fiscal Year 2000, 30 cents of every dollar spent on a Kansas Lottery ticket was transferred to the state of Kansas. The State Gaming Revenues Fund receives transfers from receipts generated by the Kansas Lottery and the Kansas Racing and Gaming Commission.

Transfers of up to \$50 million are made from the gaming fund according to the following breakdown:

- 85 percent - Economic Development Initiatives Fund
- 10 percent - Correctional Institutions Building Fund
- 5 percent - Juvenile Detention Facilities Fund

Transfers for these purposes are limited to \$50 million in a given fiscal year. Any receipts above that amount are transferred to the State General Fund.

The Kansas Legislature determines how Lottery proceeds are distributed each year.

In Fiscal Year 2000, the Lottery transferred \$59,646,911 (unaudited) to the state of Kansas.

ECONOMIC DEVELOPMENT INITIATIVES FUND DISTRIBUTION AS BUDGETED FOR FISCAL YEAR 2000

Department of Commerce and Housing

Small Business Development Centers	\$485,000
Certified Development Companies	\$475,000
Kansas Industrial Training/Retraining	\$3,600,000
Trade Show Promotion	\$150,000
Capacity Planning Grants	\$197,000
Tourism Promotion	\$952,100
Wichita World Trade Center	\$41,889
Training Equipment.....	\$300,000
Agriculture Product Development	\$540,000
Travel Information Centers	\$15,000
Economic Opportunity Initiatives Fund.....	\$5,000,000
Existing Industry Expansion	\$800,000
Main Street Development Grants.....	\$216,800
Motion Picture/Television Tax Rebate	\$75,000
Operations	\$7,006,215
Subtotal Commerce and Housing	\$19,854,004

Board of Regents

Matching Grants - AVTS	\$200,000
Post-secondary Aid - AVTS	\$6,707,144
Capital Outlay - AVTS	\$2,000,000
Subtotal Board of Regents	\$8,907,144

DISTRIBUTION OF ECONOMIC DEVELOPMENT INITIATIVES FUND - FY 2000

PAGE 2

Kansas Technology Enterprise Corporation	
Research Matching Grants	\$1,260,000
Business Innovative Research Grants	\$516,000
Centers of Excellence	\$3,552,640
EPSCoR	\$3,200,000
Special Projects	\$79,303
Commercialization Grants	\$1,690,000
Mid-America Manufacturing Technology Center	\$1,797,338
Operations	\$1,338,486
Subtotal KTEC	\$13,433,767
State Water Plan	\$2,000,000
Kansas, Inc.....	\$189,563
Wildlife and Parks--Local Outdoor Recreation	\$500,000
Eisenhower Museum Grant.....	\$300,000
State Fair.....	\$35,000
TOTAL BUDGETED EDIF EXPENDITURES FOR FISCAL YEAR 2000 -	\$45,219,478

This report was taken from:

The Governor's Budget Report; Volume 1; Recommendations and Budget Schedules; Fiscal Year 2001

Kansas Lottery

Expenditure	Actual FY 1999	Approved FY 2000	Approved FY 2001
EXPENDITURES:			
State Operations	\$ 21,882,179	\$ 21,229,494	\$ 21,586,681
Prizes and Retailer Commissions	116,349,037	117,316,370	118,386,153
Total—Operating	<u>\$ 138,231,216</u>	<u>\$ 138,545,864</u>	<u>\$ 139,972,834</u>
FINANCING:			
All Funds	\$ 138,231,216	\$ 138,545,864	\$ 139,972,834
State General Fund	0	0	0
PERCENT CHANGE:			
All Funds	3.3%	0.2%	1.0%
State General Fund	0.0	0.0	0.0
FTE Positions	89.0	88.0	88.0
Unclass. Temp. Positions	2.0	5.0	5.0
Total	<u>91.0</u>	<u>93.0</u>	<u>93.0</u>
Transfers to the SGRF	\$ 60,333,464	\$ 59,400,000	\$ 60,000,000

The 2000 Legislature approved sales by the Kansas Lottery of \$198 million in FY 2000 and \$200 million in FY 2001. Payments for prizes, retailer commissions, and certain categories of state operations fees (online telecommunications, online service contract, and instant ticket printing) are linked to the sales estimates and increase as sales projections increase. In FY 2001, the expenditure limitation for agency operations totals \$9,010,196.

There is a statutory minimum of 30 percent of lottery sales reserved for transfer to the State Gaming Revenues Fund (SGRF). The 1999 Legislature approved that 30.0 percent transfer rate in order to provide additional funds for prizes in FY 2000, and the 2000 Legislature extended the SGRF transfer rate of 30.0 percent for FY 2001. Prior to FY 2000, higher transfer rates often were approved by the Legislature since any excess funds above \$50 million accrue to the State General Fund.

THE KANSAS LOTTERY

Executive
Director: Ed Van Petten

Address: (for all locations unless otherwise noted)
128 North Kansas Avenue
Topeka 66603-3638
Phone: (785) 296-5700

Division of Administration

Director: Dave Mackay
(785) 296-5782

Division of Security

Director: Darrell Pflughoft
Phone: (785) 296-5714

Division of Sales

Director: Harvey Malter
Phone: (785) 296-5725

Division of Marketing

Director: Tom Hofts
Phone: (785) 296-5778

A state operated lottery was approved by Kansas voters in the 1986 elections. Based upon the approval, the Kansas Legislature implemented legislation authorizing the creation and powers of a state agency called the Kansas Lottery. Governor Mike Hayden signed the legislation March 12, 1987 which as approved:

- Created a separate state agency called the Kansas Lottery and an executive director to administer the agency;
- Established a five-member Kansas Lottery Commission with regulatory, advisory and major contract approval responsibility;
- Set aside an amount not less than 45 percent of the money collected from ticket sales for prizes and an amount not less than 30 percent to the State Gaming Revenues Fund.
- Exempted lottery tickets from sales tax;

- Allowed liquor stores to sell lottery tickets; and,
- Subsequent legislation required all prizes of \$50 or more payable by the Lottery were to be subject to the state set-off procedures.

-- Division of Administration -- responsible for providing the budgeting, accounting, purchasing, computer and personnel support for all components of the Kansas Lottery.

-- Division of Security -- responsible for planning, directing, organizing and implementing activities including background investigations of employees, vendors, and retailers, physical security of all Lottery offices and operations, and draw security.

-- Division of Sales -- responsible for the planning, direction, organization and execution of the Kansas Lottery's Sales Division. The Division also oversees three regional offices located across the state to ensure maximum execution of the Sales program.

-- Division of Marketing -- responsible for the planning, organizing, directing, and implementation of the Lottery's advertising, media relations, retailer projects, public events, public relations and game development.

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EDITING AND PUBLICATION
LEGISLATIVE INFORMATION SYSTEM

COMPUTER INFORMATION STAFF
MARY O. CHENG, M.S.
RICHARD M. CHAMPNEY, B.S.

MEMORANDUM

TO: House Committee on Federal and State Affairs

FROM: Theresa Kiernan

RE: Overview of the Kansas Lottery Act

DATE: January 16, 2001

K.S.A. 74-8701 The statutes governing the state lottery are found in the Kansas lottery act or K.S.A. 74-8701 through 74-8723.

K.S.A. 74-8702 Defines words and phrases used in the lottery act.

K.S.A. 74-8703 Establishes the Kansas lottery as an independent agency. The overall management of the state lottery and control over the operation of its games rests solely with the Kansas lottery.

The Kansas lottery, under the supervision of the executive director, administers the state lottery. The executive director is appointed by the governor, subject to confirmation by the senate.

The executive director appoints a deputy executive director, director of security, director of administration, director of sales, director of marketing and other necessary employees.

K.S.A. 74-8704 Lists the powers of the executive director. Included is the power to:

- Supervise and administer the state lottery.

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- Employ lottery personnel.
- Enter contracts for advertising and promotional services, annuities for payment of prizes, data processing and other technical products, equipment, services and facilities needed to operate the lottery and the sale of lottery tickets.
- Examine any books, papers or other records of any lottery retailer to determine compliance with the act and any rules and regulations.
- Issue subpoenas to obtain any books, papers or other records of any lottery retailer or to compel the appearance of any lottery retailer or lottery retailer's employees to determine compliance with the act and any rules and regulations.

K.S.A. 74-8705 Governs the awarding of major procurement contracts which are contracts for any gaming product or service unique to the Kansas lottery such as facilities, advertising and promotional services, annuity contracts, prize payment agreements, consulting services, equipment and tickets. Materials, supplies, equipment and services common to the ordinary operations of state agencies are excluded.

Major procurement contracts may be awarded pursuant to K.S.A. 75-3738 through 75-3744, the process generally used by state agencies or by the use of a procurement negotiating committee composed of the executive director, the chairperson of the lottery commission and the director of purchases. The committee solicits bids or proposals on the contract and then may negotiate with one or more of the persons submitting the bids or proposals. Meetings of a negotiating committee are exempt from the open meetings act.

Before a contract is awarded to a vendor, a background investigation must be conducted of the vendor, all officers and directors of the vendor, all persons who own a 5% or more interest in the vendor, all persons who own a controlling interest in the vendor and any subsidiary or other business in which the vendor owns a controlling interest. A background investigation may be conducted on any person having a beneficial interest in the vendor. Upon request, the KBI and other criminal justice agencies shall provide all background investigation information of a vendor to whom a contract is to be awarded. Such information shall be confidential.

All major procurement contracts shall be subject to approval of the lottery commission.

K.S.A. 74-8706 Lists the duties of the executive director. Included is the duty to:

- Make and keep books and records of each day's transactions.
- Make quarterly and annual financial reports to the lottery commission, governor, state treasurer and the legislature.
- Engage an independent firm to conduct periodic security audits of the operation of the lottery.
- Engage an independent firm to conduct an evaluation of the effectiveness of marketing, promotion and public information programs used by the lottery and make recommendations which will enhance such programs.
- Prepare budgets and proposals for the operation of the lottery.
- Operate the lottery so that it is self-sustaining and self-funded.

K.S.A. 74-8707 Provides that the accounts and transactions of the Kansas lottery and the lottery

commission shall be subject to an annual financial audit and other audits as directed by the legislative post audit committee.

K.S.A. 74-8708 Governs the selection of lottery retailers by the executive director and lists the factors to be considered when making those selections. An application fee may be charged to persons applying to be a retailer. A retailer's license is valid for one year unless canceled or terminated sooner.

A lottery retailer must:

- Be at least 18 years of age.
- Have sufficient financial resources to support the activities required to sell lottery tickets.
- Be current in payment of all taxes, interest and penalties owed to any taxing subdivision where the retailer will sell lottery tickets.
- Be current in filing of tax returns and in payment of taxes, interest and penalties owed to the state, except those under formal appeal.
- Not be engaged in the exclusive sale of lottery tickets.

An individual person cannot be a retailer if such person:

- Has been convicted of a felony, unless 10 years have passed since completion of the sentence or probation.
- Has been convicted of illegal gambling.
- Has violated the lottery act or rules and regulations adopted thereunder.
- Is a vendor or an employee or agent of a vendor doing business in Kansas.
- Has made, knowingly, a material false statement to the Kansas lottery.

In the case of partnerships, corporations and associations, partners and individual owners and shareholders must meet certain conditions as listed for an individual.

The executive director may terminate the retailer's certificate of any retailer who fails to meet the statutory qualifications or standards or conditions agreed to by contract.

K.S.A. 74-8709 Creates the Kansas lottery commission which is composed of five members appointed by the governor, subject to confirmation by the senate. Commissioners are appointed for four-year terms and are required to meet at least four times each year. The commission consults and advises the executive director on the operation of the state lottery; assists the executive director in the establishment of policies and reviews and approves the proposed annual budget for the lottery. Major procurement contracts must be approved by the commission. The commission may enter into agreements to participate in the operation, marketing and promotion of multi-state lottery games.

K.S.A. 74-8710 Provides that, upon the recommendation of the executive director, the commission shall adopt rules and regulations governing the operation of the lottery and to carry out the lottery act. Temporary rules and regulations may be adopted by the commission.

New lottery games are required to be approved by the governor or the lieutenant governor in the absence or disability of the governor.

K.S.A. 74-8711 Establishes the lottery operating fund. Moneys from the sale of lottery tickets are remitted at least weekly to the state treasurer and credited to the lottery operating fund.

Moneys in the lottery operating fund are used for:

- Payment of expenses of the lottery.
- Compensation of lottery retailers.
- Transfers to the lottery prize payment fund.
- Transfers to the state general fund.
- Transfers to the state gaming revenues fund.
- Transfers to the county reappraisal fund.

K.S.A. 74-8712 Establishes the lottery prize payment fund. Moneys in such fund are used for:

- Payment of prizes to holders of winning tickets.
- Reimbursement of retailers who have paid holders of winning tickets.
- Purchase of nonmonetary prizes.
- Other purposes specified by law.

K.S.A. 74-8713 Provides that any transfer of general fund moneys to the Kansas lottery shall be considered a loan that is required to be repaid in one payment with interest within 24 months from the date of the transfer.

K.S.A. 74-8714 Provides that certain employees designated by the executive director are vested with the power and authority of law enforcement officers when enforcing the provisions of the lottery act.

K.S.A. 74-8715 Provides for the appointment of an assistant attorney general who shall be assigned exclusively to assist the Kansas lottery in the enforcement of the lottery act.

K.S.A. 74-8716 Establishes special conflicts of interest provisions for the executive director, members of the lottery commission, employees of the lottery and any person residing in the household of such persons. These are in addition to all other provisions of law relating to conflicts of interest of state employees.

K.S.A. 74-8717 Defines the crime of forgery of lottery tickets. Violation of this section is a severity level 8, nonperson felony.

K.S.A. 74-8718 Defines the crime of unlawful sale of lottery ticket. A first violation of this section is a class A nonperson misdemeanor. A subsequent violation is a severity level 9, nonperson felony.

K.S.A. 74-8719 Defines the crime of unlawful purchase of a lottery ticket. A first violation of this section is a class A nonperson misdemeanor. A subsequent violation is a severity level 9, felony.

Any person who purchases a lottery ticket thereby agrees to be bound by the lottery act and any rules and regulations adopted by the lottery commission.

K.S.A. 74-8720 Governs prizes. At least 45% of the total amount of sales of lottery tickets, computed annually, shall be allocated for payment of lottery prizes. The executive director or the retailer paying a prize adjudges who is the holder of a winning ticket. The right to a prize is not assignable. All prizes are taxed as Kansas source income and subject to all state and federal taxes.

Unclaimed prize money is added to the prize pool of subsequent lottery games.

Public disclosure of the identity of any person awarded a prize requires written authorization of that person.

K.S.A. 74-8721 Exempts all sales of lottery tickets from state and local retailers' sales taxes.

K.S.A. 74-8722 Prohibits the recruitment of persons under 18 years of age for the purpose of appearing in lottery advertisements or promotions.

K.S.A. 74-8723 Provides that the Kansas lottery, the office of executive director and the lottery commission is abolished on July 1, 2002.

K.S.A. 74-8731 Contains the interstate agreement creating the multi-state lottery.

K.S.A. 74-8732 Designates the executive director or the executive director's designee as the state's representative on the multi-state lottery board of directors.

79-4801. State gaming revenues fund; authorized uses; limitation on amounts credited thereto; transfers to state general fund. 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. All amounts credited to such fund in any one fiscal year which are in excess of \$50,000,000 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.

79-4803. State gaming revenues fund; transfers to juvenile detention facilities fund, administration and authorized uses; transfers to correctional institutions building fund. (a) After the transfer of moneys pursuant to K.S.A. 2000 Supp. 79-4806, and amendments thereto:

(1) An amount equal to 10% of the balance 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% of the balance of all moneys credited to the state gaming revenues fund shall be transferred and credited to the juvenile detention facilities fund.

(b) There is hereby created in the state treasury the juvenile detention facilities fund which shall be administered by the commissioner of juvenile justice. The Kansas advisory group on juvenile justice and delinquency prevention shall review and make recommendations concerning the administration of the fund. 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 commissioner of juvenile justice for juveniles under the supervision and custody of the commissioner but shall include payments to counties as and for their costs of operating the facility. The commissioner of juvenile justice 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 commissioner of juvenile justice or the commissioner's designee.

79-4804. Same; transfers to state economic development initiatives fund; authorized allocations and uses, accounts created; investment by director of investments, disposition of proceeds; transfers of moneys to state water plan fund. (a) After the transfer of moneys pursuant to K.S.A. 2000 Supp. 79-4806, and amendments thereto, an amount equal to 85% of the balance 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.

79-4805. Problem gambling grant fund and treatment grant program. (a) There is hereby established in the state treasury the problem gambling grant fund. All moneys credited to such fund shall be used only for the awarding of grants under this section. Such fund shall be administered in accordance with this section and the provisions of appropriation acts.

(b) All expenditures from the problem gambling grant fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved in the manner prescribed by law.

(c) There is hereby established a state grant program to provide assistance for the direct treatment of persons diagnosed as suffering from pathological gambling and to provide funding for research regarding the impact of gambling on residents of Kansas. Research grants awarded under this section may include, but need not be limited to, grants for determining the effectiveness of education and prevention efforts on the prevalence of pathological gambling in Kansas. All grants shall be made after open solicitation of proposals and evaluation of proposals against criteria established in rules and regulations adopted by the secretary of the department of social and rehabilitation services. Both public and private entities shall be eligible to apply for and receive grants under the provisions of this section.

(d) The secretary of the department of social and rehabilitation services is hereby authorized to receive moneys from any grants, gifts, contributions or bequests made for the purpose of funding grants under this section and to expend such moneys for the purpose for which received.

(e) All grants made in accordance with this section shall be made from the problem gambling grant fund. The secretary shall administer the provisions of this section and shall adopt rules and regulations establishing criteria for qualification to receive grants and such other matters deemed necessary by the secretary for the administration of this section. Such rules and

gulations shall include, but need not be limited to, a requirement that each recipient of a grant to provide treatment for pathological gamblers report at least annually to the secretary the grantee's measurable achievement of specific outcome goals.

(f) For the purpose of this section "pathological gambling" means the disorder by that name described in the most recent edition of the diagnostic and statistical manual.

74-8701. Title of act. K.S.A. 74-8701 through 74-8721 shall be known as and may be cited as the Kansas lottery act.

74-8702. Definitions. 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) "Kansas lottery" means the state agency created by this act to operate a lottery or lotteries pursuant to this act.

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

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

(g) "Major procurement" means any gaming product or service, including but not limited to 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 materials, supplies, equipment and services common to the ordinary operations of state agencies.

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

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

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

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

(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

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purchases, upon request of the executive director, shall make emergency purchases, other than purchases of major procurements, on behalf of the Kansas lottery pursuant to subsection (a)(5) of K.S.A. 75-3739 and amendments thereto when the timely implementation of the Kansas lottery requires the immediate delivery of supplies, materials or equipment or the immediate performance of services. The award of any contract for any such purchase shall be subject to the approval of the executive director.

74-8704. Executive director, powers. (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 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

business enterprises.

(b) The director may award any major procurement contract by use of a procurement negotiating committee. Such committee shall be composed of: (1) The executive director or a Kansas lottery employee designated by the executive director; (2) the chairperson of the commission or a commission member designated by the chairperson; and (3) the director of the division of purchases or an employee of such division designated by the director. Prior to negotiating a major procurement contract, the committee shall solicit bids or proposals thereon. The division of purchases shall provide staff support for the committee's solicitations. Upon receipt of bids or proposals, the committee may negotiate with one or more of the persons submitting such bids or proposals and select from among such persons the person to whom the contract is awarded. Such procurements shall be open and competitive and shall consider relevant factors, including security, competence, experience, timely performance and maximization of net revenues to the state. If a procurement negotiating committee is utilized, the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, shall not apply. Meetings conducted by the procurement negotiating committee shall be exempt from the provisions of the Kansas open meeting act, K.S.A. 75-4317 through 75-4320a, and amendments thereto.

(c) Before a major procurement contract is awarded, the executive director shall conduct a background investigation of: (1) The vendor to whom the contract is to be awarded; (2) all officers and directors of such vendor; (3) all persons who own a 5% or more interest in such vendor; (4) all persons who own a controlling interest in such vendor; and (5) any subsidiary or other business in which such vendor owns a controlling interest. The vendor shall submit appropriate investigation authorizations to facilitate such investigation. The executive director may require, in accordance with rules and regulations of the commission, that a vendor submit any additional information considered appropriate to preserve the integrity and security of the lottery. In addition, the executive director may conduct a background investigation of any person having a beneficial interest in a vendor. The secretary of revenue, securities commissioner, attorney general and director of the Kansas bureau of investigation shall assist in any investigation pursuant to this subsection upon request of the executive director. Whenever the secretary of revenue, securities commissioner, attorney general or director of the Kansas bureau of investigation assists in such an investigation

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 to the lottery operating fund, including the use of electronic funds transfers whenever possible.

74-8707. Audit of Kansas lottery. The accounts and transactions of the Kansas lottery and the Kansas lottery commission shall be subject to an annual financial-compliance audit, and such other audits as directed by the legislative post audit committee, under the legislative post audit act. The annual audit shall be conducted as soon after the close of the fiscal year as practicable. The auditor to conduct this audit work shall be specified in accordance with K.S.A. 46-1122 and amendments thereto. If the legislative post audit committee specifies under such statute that a firm, as defined by K.S.A. 46-1112 and amendments thereto, is to perform all or part of such audit work, such firm shall be selected and shall perform such audit work as provided in K.S.A. 46-1123 and amendments thereto and K.S.A. 46-1125 through 46-1127 and amendments thereto. The post auditor shall annually compute the reasonably anticipated cost of providing audits pursuant to this section, subject to review and approval by the contract audit committee established by K.S.A. 46-1120 and amendments thereto. Upon such approval, the Kansas lottery shall reimburse the division of post audit for the amount approved by the contract audit committee. The furnishing of audit services pursuant to this section shall be a transaction between the post auditor and the Kansas lottery and shall be settled in accordance

(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

operation of the state lottery, shall assist the director in the establishment of policies and shall review and approve the proposed annual budget for the Kansas lottery prepared by the executive director, subject to all state laws governing budget procedures for state agencies.

(f) The commission, in conjunction with the executive director, shall make an ongoing study of the operation and administration of lotteries in operation in other states or countries, of available literature on the subject, of federal laws and regulations which may affect the operation of the lottery and of the reaction of citizens of this state to existing or proposed features of lottery games, with a view toward implementing improvements that will tend to serve the purposes of this act.

(g) Major procurements recommended by the executive director shall be subject to the approval of the commission.

(h) The commission may enter into written agreements with one or more other states or corporations made up of representatives of one or more other states' lotteries and participate in the operation, marketing and promotion of a joint lottery or joint lottery games, conforming to the provisions of this act, which agreements shall not be subject to the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

(i) Subject to the limitations of appropriations therefor, members of the commission shall receive such compensation as determined by the governor. Members of the commission attending meetings of the commission or subcommittee meetings thereof approved by the commission shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. In addition, the chairperson of the commission, or the member of the commission designated by the chairperson to serve on a procurement negotiating committee, shall be paid amounts equal to amounts provided by K.S.A. 75-3223, and amendments thereto, for subsistence allowances, mileage and other expenses for attendance at meetings of a procurement negotiating committee pursuant to K.S.A. 74-8705, and amendments thereto.

74-8710. Rules and regulations; approval of new games. (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 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. 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) 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 in an amount certified monthly by the executive director and determined as follows, whichever is greater:

(1) 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) except for pull-tab lottery tickets and

Kansas lottery and other expenses incurred in connection with the conduct of lotteries pursuant to this act shall be considered a loan and shall be repaid with interest to the state general fund in one payment not later than 24 months from the effective date of the appropriation or transfer of such general fund moneys. 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.

(b) At the time of repayment of a loan pursuant to subsection (a), 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 lottery operating fund to the state general fund.

(c) Except as provided by subsection (a), moneys credited to the state general fund shall not be used or obligated to pay the expenses of the Kansas lottery or prizes of the lottery and no claim for the payment of an expense of the lottery or the payment of a lottery prize shall be made against any moneys other than moneys credited to the lottery operation fund, moneys credited to the lottery prize payment fund or moneys collected from the sale of lottery tickets or shares.

74-8714. Law enforcement powers, certain employees. (a) Employees of the Kansas lottery designated by the executive director are hereby vested with the power and authority of law enforcement officers in the execution of the duties imposed upon the executive director by this act and in enforcing the provisions of this act.

(b) Employees designated by the executive director pursuant to subsection (a) shall have the authority to:

(1) Make arrests, conduct searches and seizures and carry firearms while investigating violations of this act and during routine conduct of their duties as determined by the executive director or designee of the executive director;

(2) make arrests, conduct searches and seizures and generally to enforce all the criminal laws of the state as violations of those laws are encountered by such employees during the routine performance of their duties; and

(3) issue notices to appear pursuant to

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.

74-8717. Forgery of lottery ticket; penalty.

(a) It is unlawful to falsely make, alter, forge, pass or counterfeit, with intent to defraud, a lottery ticket or share, or receipt for the purchase thereof, issued or purported to have been issued by the Kansas lottery under this act.

(b) Violation of this section is a severity level 8, nonperson felony.

74-8718. Unlawful sale of lottery ticket; penalty. (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.

74-8719. Unlawful purchase of lottery ticket; penalty. (a) It is unlawful for any person to

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 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.

74-8721. Ticket sales exempt from sales tax. All sales of lottery tickets and shares shall be exempt from retailers' sales taxes imposed pursuant to K.S.A. 12-187 et seq., and amendments thereto, and from the tax imposed by the Kansas retailers' sales tax act.

74-8722. Lottery advertisements and

votes cast. This percentage will be based upon each lottery's average monthly sales experience for the twelve or proportionate calendar months preceding the vote.

Unless a different percentage is provided in this agreement, the percentage of votes necessary to allow action by the MUSL is 51% of the votes cast pursuant to both methods of voting.

The terms of this agreement cannot be changed without a 2/3 vote of all party lotteries cast pursuant to both methods of voting.

3. That the quorum necessary to hold an official meeting of the MUSL board shall be representation in person or by proxy from at least 51% of all party lotteries. However, unless a majority of the proportionate population votes, as defined in paragraph 2 of this agreement are also represented, any decisions adopted at any MUSL board meeting must subsequently be ratified within 14 days by a majority vote utilizing the proportionate percentage share allocation of votes.

4. That the director or designee, of each party lottery shall represent it on the board and may cast the votes allocated to it either in person or proxy.

5. That the board shall elect for a term as prescribed in its bylaws, a president, vice-president, secretary and two coordinators from its membership hereinafter to be called the executive committee.

6. That a percent of the gross sales as determined by the MUSL board and stipulated in MUSL rules from the MUSL game sales of each party lottery will be aggregated in a common prize pool.

7. That operating costs of the MUSL shall be paid by each party lottery proportionate to its percentage of MUSL game sales as compared with total MUSL game sales. The executive committee will advise the board of the budget and estimated expenditures of MUSL for each fiscal year. The budget proposal will specifically estimate the portion of the total budget to be paid to MUSL by each of the member lotteries based upon the percentage described.

8. That the revenues not allocated to prizes or operating cost as outlined above and generated within each party lottery shall remain in that lottery.

9. That the board's functions shall be performed and carried out by such advisory committees or panels, or both as the board may establish and by such officers and independent contractors as may be appointed by the board. All such officers, independent contractors, agents, consultants and employees shall serve at the pleasure of the board and the board shall

the ticket was purchased.

17. That MUSL shall continue in existence until this agreement is revoked by all of the party lotteries. The withdrawal of one or more party lotteries shall not terminate this agreement among the remaining lotteries. Upon termination of MUSL, any assets acquired by MUSL with the exception of the prize reserve fund, will be liquidated in a manner determined by the board. The proceeds from the liquidation will be divided among all of the lotteries which were members of MUSL in good standing at any time during the 12 months preceding termination. The amount of the proceeds received by each lottery will be calculated by use of the following formula:

$$\frac{\text{individual lottery MUSL sales during the twelve month period}}{\text{total MUSL sales during the 12-month period}} \times \text{proceeds available for distribution}$$

A party lottery wishing to withdraw from this agreement shall give the board a six months notice of its intention to withdraw. However, a lottery may terminate such agreement at any time without prior notice if authority to participate is withdrawn by executive or legislative action or if participation in the MUSL is in conflict with the constitution or statutes of any state. In addition, the MUSL can vote out a party lottery for cause with the consent of 2/3 of the party lotteries voting by both methods of voting as outlined in paragraph 2, except the party lottery being voted upon shall be excluded from the vote in that proceeding and in the calculations as outlined in paragraph 2. A lottery which withdraws or is voted out by MUSL more than 12 months prior to termination of MUSL will not be entitled to a share of the property or assets of MUSL, except for such lottery's proportionate share of the prize reserve fund.

In the event that a party lottery terminates, voluntarily or involuntarily, or MUSL is terminated by agreement of the parties, the prize reserve fund share of the party lottery or lotteries shall not be returned to the party lottery or lotteries until the later of one year from and after the date of termination or final resolution of any pending unresolved liabilities arising from transactions processed during the tenure of the departing lottery or lotteries. The voluntary or involuntary termination of a party lottery or lotteries does not cancel any obligation to MUSL which the party lottery or lotteries incurred before the withdrawal date.

18. That all intellectual property rights developed and approved by MUSL with respect to the



State of Kansas
Office of the Attorney General

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CARLA J. STOVALL
ATTORNEY GENERAL

October 10, 2000

Natalie Haag
Chief Counsel
Governor's Office
Fax: 296-2158

Ed Van Petten
Executive Director
Kansas Lottery
Fax: 296-5722

Re: Gag Order on State v. Knowlton

Dear Natalie/Ed:

Today, Shawnee County District Judge Thomas Conklin issued a strongly worded "gag" order in the above case. He directed me to inform all parties. Although you are not parties to the action, I thought you should know about the order as it applies to all state officials. He stated in the order that he did not want to see comments in the media about this case from anyone. Please give this order the widest possible circulation so all potential witnesses are informed.

If you have any questions, please feel free to contact myself or Mary Tritsch.

Very truly yours,

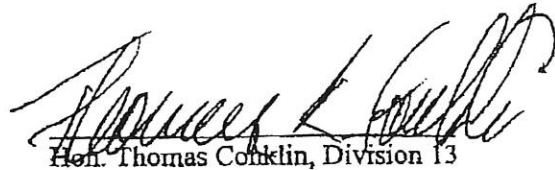
Stephen D. Maxwell
Assistant Attorney General

cc: Mary Tritsch

10/10/00 11:32

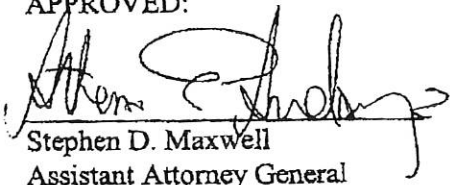
TX/RX NO. 3082

P01
Senate Fed+State
01-14-01
Attachment 5-1



Hon. Thomas Conklin, Division 13
Judge of the District Court

APPROVED:



Stephen D. Maxwell
Assistant Attorney General



William K. Rork
Attorney for Defendant