

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Bill Mason at 1:30 p.m. on February 10, 2003 in Room 313-S of the Capitol.

All members were present.

Committee staff present: Russell Mills, Legislative Research Department
Mary Torrence, Revisor of Statutes
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Tracy T. Diel, Executive Director,
Kansas Racing and Gaming Commission and the Kansas State Gaming Agency

Others attending: See Attached

Without objection, a bill was introduced as requested by Representative Rehorn, concerning lotteries - electronic gaming at parimutuel race tracks .

Without objection, a bill was introduced as requested by Representative Burroughs, concerning lotteries - electronic gaming at parimutuel racetracks and electronic and casino gaming at other locations.

Tracy Diel, Executive Director of the Kansas Racing and Gaming Commission (KRGC) presented an overview of the Kansas Racing and Gaming Commission (Attachment 1). The Commission is made up of two separate agencies: the Racing Commission regulates parimutuel greyhound and horse racing and the Kansas State Gaming Agency (SGA) monitors and inspects the Native American Indian casinos operating in the State. The KRGC is funded through a tax on parimutuel wagering, fees charged for licensing, an admission tax and fines levied by the Commission. They currently have forty-three full-time positions and in 2002, the parimutuel wagering handle totaled \$110,832,003.

When the State of Kansas and four tribes entered into compacts to permit Class III gaming, the State Gaming Agency was established to carry out the duties of the State as set forth in state and federal law, as well as the Compacts. SGA is funded through an assessment process established by the Compact and is currently authorized to have twenty-one full-time employees.

HB 2040, the Freedom Restoration Act requires that before a governmental entity can substantially burden the free exercise of religion, it must first show a compelling interest.

Representative Williams made a motion that HB 2040 be passed out favorably. Representative Ruff seconded the motion.

Representative Rehorn made a motion to adopt the amendment suggested by the Kansas Department of Corrections, that would strike language on page 2, line 1 and 2, *The person is in custody in a correctional institution, as defined in K.S.A. 75-5202, and amendments thereto:* and substitute *The burden is related to the management and operation of the department of corrections:*. Representative Hutchins seconded the motion. The motion carried.

Representative Rehorn made a motion to amend Section 3 to strike the original sentence and substitute *A prevailing party against the state shall be entitled to reasonable attorney fees and costs.* Representative Peterson seconded the motion. The motion carried.

Representative Loganbill made a motion to amend line 40 on page 1, section 2 to include the phrase "*or groups*" after the word *person's*. Representative Ruff seconded the motion. The motion carried.

CONTINUATION SHEET

Representative Rehorn opposed **HB 2040** because he questioned the constitutionality of the law due to the separation of powers issues. They may be trying to legislate what essentially requires a constitutional amendment. Representative Williams responded that numerous other states have already passed this law, and have withstood judicial scrutiny. The argument that it could be unconstitutional could only be made if the Kansas courts would decide to step away from the established pattern.

Representative Williams made a motion to pass HB 2040, as amended. Representative Hutchins seconded the motion. The motion carried.

The meeting adjourned at 3:10 p.m. with the next meeting scheduled at 1:30 p.m. in room 313-S on February 12, 2003.

TO: House Committee on Federal and State Affairs

FROM: Tracy T. Diel, Executive Director
Kansas Racing and Gaming Commission and Kansas State Gaming Agency

DATE: February 10, 2003

SUBJECT: An Overview of the Kansas Racing and Gaming Commission and the Kansas State Gaming Agency

The Kansas Racing and Gaming Commission (KRGC) is made up of two separate and distinct agencies. The Racing Commission which regulates parimutuel greyhound and horse racing in the State of Kansas and the Kansas State Gaming Agency (SGA) which monitors and inspects the Native American Indian casinos operating in the State pursuant to the Gaming Compacts.

Currently, there are two parimutuel racetracks open and operating in the State of Kansas. These racetracks are the Woodlands located in Kansas City, Kansas and Wichita Greyhound Park located in Wichita, Kansas. In addition, Camptown Greyhound Park is located in Frontenac, Kansas. Camptown has previously opened for business in 1995 and 2000, but is not open at this time and has been closed since November 2000. The Woodlands offers greyhound racing year round and a horse racing schedule in the Fall. Wichita Greyhound Park operates year round, but does not offer any horse racing. However, parimutuel horse racing is offered at two county fair meet locations. Eureka Downs in Eureka, Kansas and Anthony Downs in Anthony, Kansas. Both county fair locations offer limited parimutuel racing during the late Spring and Summer months.

The KRGC exercises regulatory jurisdiction over all locations in the State of Kansas offering parimutuel wagering. This includes issuing licenses to individuals involved in the greyhound and horse racing industry, animal health oversight, track auditors, and racing judges who oversee the live races being offered at the racetracks. Each of the full-time racetracks have three racing judges who work for the KRGC. It is their responsibility to make sure the races being offered are done so fairly and in accordance with the rules and regulations of the KRGC. These same racetracks have two assistant animal health officers, whose have the responsibility of insuring that all animal health regulations of the KRGC are followed. These veterinarians work for the KRGC and report to the Commission. The KRGC has an auditor at each racetrack and it is their responsibility to insure that all monetary issues regarding the wagering public and the State of Kansas are performed properly. The KRGC also provides these same regulatory controls at the county fair meets when they are operating.

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Attachment # 1

Page 1

The KRGC is funded through a tax on parimutuel wagering, fees charged for licensing, an admission tax, where applicable, and fines levied by the Commission. In 2002, the KRGC received 3.61% of each dollar wagered on live greyhound or horse racing in the State of Kansas. In addition, it received 2.37% of each dollar wagered on simulcast greyhound and horse racing offered at Kansas parimutuel racetracks. These funds make up the operating revenue of the Commission. The Commission transfers funds in excess of the amount required for operating expenditures and adequate fund balance to the state gaming revenues fund. This money is then transferred into the Economic Development Initiative Fund (EDIF). The amount transferred by the KRGC varies from year to year. The KRGC does not receive any State General Fund money.

Currently, the KRGC is authorized forty-three (43) full-time positions. These positions are spread out between the main office in Topeka, and field offices at the Woodlands and Wichita Greyhound Park.

In 2002, the parimutuel wagering handle totaled \$110,832,003. Of this total \$27,151,949 was from live greyhound and horse racing, with the remaining \$83,680,054 attributed to wagering on simulcast races received at the racetracks. There was a total of 517 live greyhound racing days and 51 live horse racing days in 2002.

The State Gaming Agency came into existence through an executive order in August 1995 issued by Governor Graves. Its immediate goal was to address the need to have an organization as required under the Tribal-State Compacts. At that time the agency was made a part of the Department of Commerce and Housing. During the 1996 legislative session the agency was made a part of the KRGC through the passage of the Tribal Gaming Oversight Act. The act took effect on July 1, 1996 and the agency has functioned as a part of the KRGC since then. The agency was originally allocated five (5) full-time employees for Fiscal Year 1997. The agency is currently authorized twenty-one (21) full-time employees.

The State of Kansas and each of the four resident tribes located in Kansas have entered into compacts to permit Class III (casino style) gaming. These four (4) tribes are the Prairie Band of Potawatomi Nation, the Iowa Tribe, the Kickapoo Tribe and the Sac and Fox Tribe. In accordance with the Indian Gaming Regulatory Act (IGRA), all four of the compacts approved by the Kansas Legislature in 1995 were forwarded to the Bureau of Indian Affairs and were approved.

The compacts provide for the State of Kansas to establish the State Gaming Agency. The purpose of this agency is to carry out the duties of the State as set forth in state and federal law, as well as the Compacts.

At the present time, all four (4) tribes have opened and are operating a casino style gaming facility. The Kickapoo Tribe was the first to open a casino (the Golden Eagle Casino) in May 1996. The Prairie Band of Potawatomi Tribe opened a temporary facility shortly thereafter in October, 1996 and then later opened a permanent facility (Harrah's Prairie Band Casino) operated by the Harrah's Corporation in January 1998. The Sac and Fox Tribe opened the Sac and Fox Casino in February 1997. The Iowa Tribe opened a temporary facility in May, 1998 and then later opened a permanent facility (Casino White Cloud) in December 1998. All of the facilities, except Casino White Cloud, are open 24 hours a day.

Each of the gaming facilities vary in size and the number of electronic and live games they offer to the public. The Golden Eagle Casino has approximately 700 electronic gaming devices (slot machines) and 16 table games. The Harrah's Prairie Band Casino has approximately 1000 slot machines and 35 table games. The Sac and Fox Casino has approximately 475 slot machines and 16 table games. Casino White Cloud has 350 slot machines and six table games. As you can see, these operations together are smaller than a single river boat operation located in the Kansas City, Missouri area.

The Compacts define the relationship between the SGA and the different tribes. The actual day-to-day regulation at the gaming facilities is to be performed by the individual tribal gaming commissions. Although enforcement agents of the SGA, are in the facilities on a daily basis, they are not on-site 24 hours a day. Regulation by the gaming commissions is accomplished through the use of tribal gaming inspectors. These inspectors are required to work solely for the tribal gaming commission and to be free from interference by outside influences. A tribal gaming inspector is required to be present in the gaming facility at all times while the facility is in operation. In addition, each casino is governed by a set of internal controls. These internal controls are required to meet minimum federal standards and are required to be provided to the SGA for review prior to implementation. The SGA has the right to object to the internal controls, if it believes the rules do not protect the gaming public or are a violation of the law or the Compact.

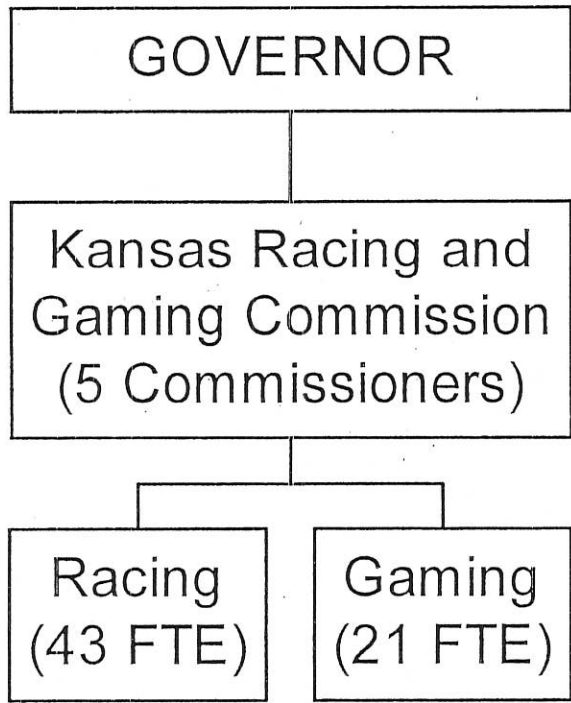
Pursuant to the Tribal-State Compacts, the SGA is to have free and unrestricted access to all areas of the gaming facility. This access includes the cage and vault areas, the surveillance room and any other area where public access is restricted. The SGA has the authority to inspect any and all slot machines within the gaming facility. The SGA is also involved in inspecting the dice used in table games as well as decks of cards. In addition, the tribal gaming facility is required to provide the agency access to all records which are kept within the gaming facility. This includes all personnel records, accounting records and incident reports which occur within the gaming facility.

The Compacts require the SGA to provide background investigations to the tribal gaming commissions. It is the agency's responsibility under the Compacts to conduct background investigations on all gaming employees, manufacturers and distributors of gaming supplies and equipment, as well as gaming management companies and gaming consultants. In the beginning, the Kansas Bureau of Investigation (KBI) conducted all these background investigations. However, it quickly became evident that this process would not work. The Compacts require the Tribe to wait until a background investigation is completed or 90 days has expired before issuing any type of gaming license. This time line could not be met by the State with the KBI performing the background investigations. Individuals who had not been backgrounded were being permitted to work in the different casinos through the Compact and the language of an arbitration panel's order. With each background investigation, the time lapse between the individual going to work in the casinos and the State providing any information on the individual applicant grew. Since switching the management of this process to the SGA, the time period has decreased significantly. Rarely, does a background investigation take more than 90 days. The average is approximately forty (40) days to complete the investigation, with the tribal gaming commissions receiving initial information on the applicant in less than thirty (30) days.

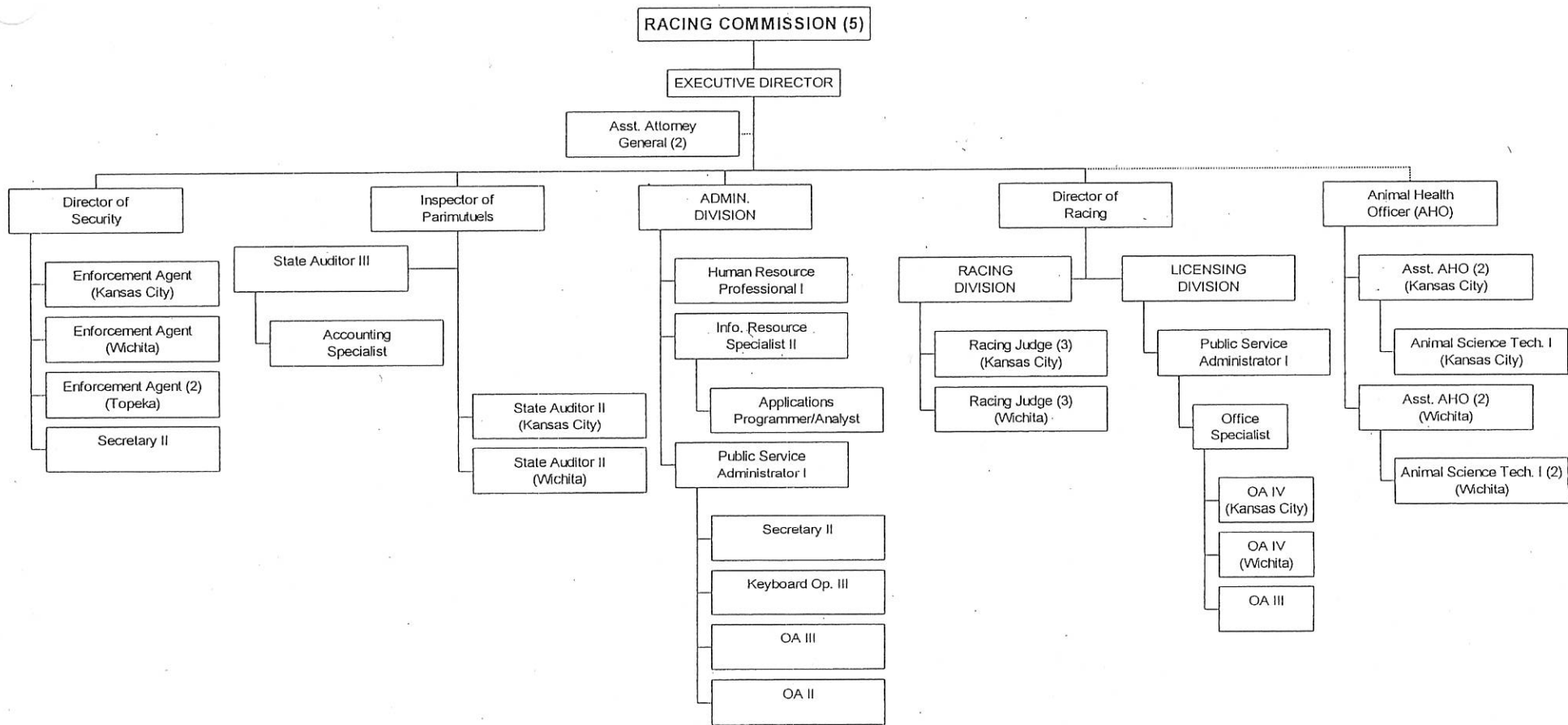
The State Gaming Agency (SGA) is funded through an assessment process established by the Compact. The assessment is split equally among the four tribes operating casinos in the State of Kansas. These assessments are to provide the State of Kansas reimbursement for the reasonable

and necessary costs it incurs for regulation. The process detailed in the Compact calls for the SGA to submit its approved budget and proposed assessment for the current fiscal year to the individual tribes on or before August 1st annually. The tribes have until August 31st to make objections to the proposed assessment. On September 1st after receiving any objections and making any changes it deems necessary, the State then makes its assessment to the tribes for the current fiscal year. The first assessment payment for each tribe is due on or before September 21st, with subsequent payments due on or before January 1st and April 1st. No other revenue is received from the tribes.

If the Committee has any questions, I would be glad to address them.



KANSAS RACING AND GAMING COMMISSION

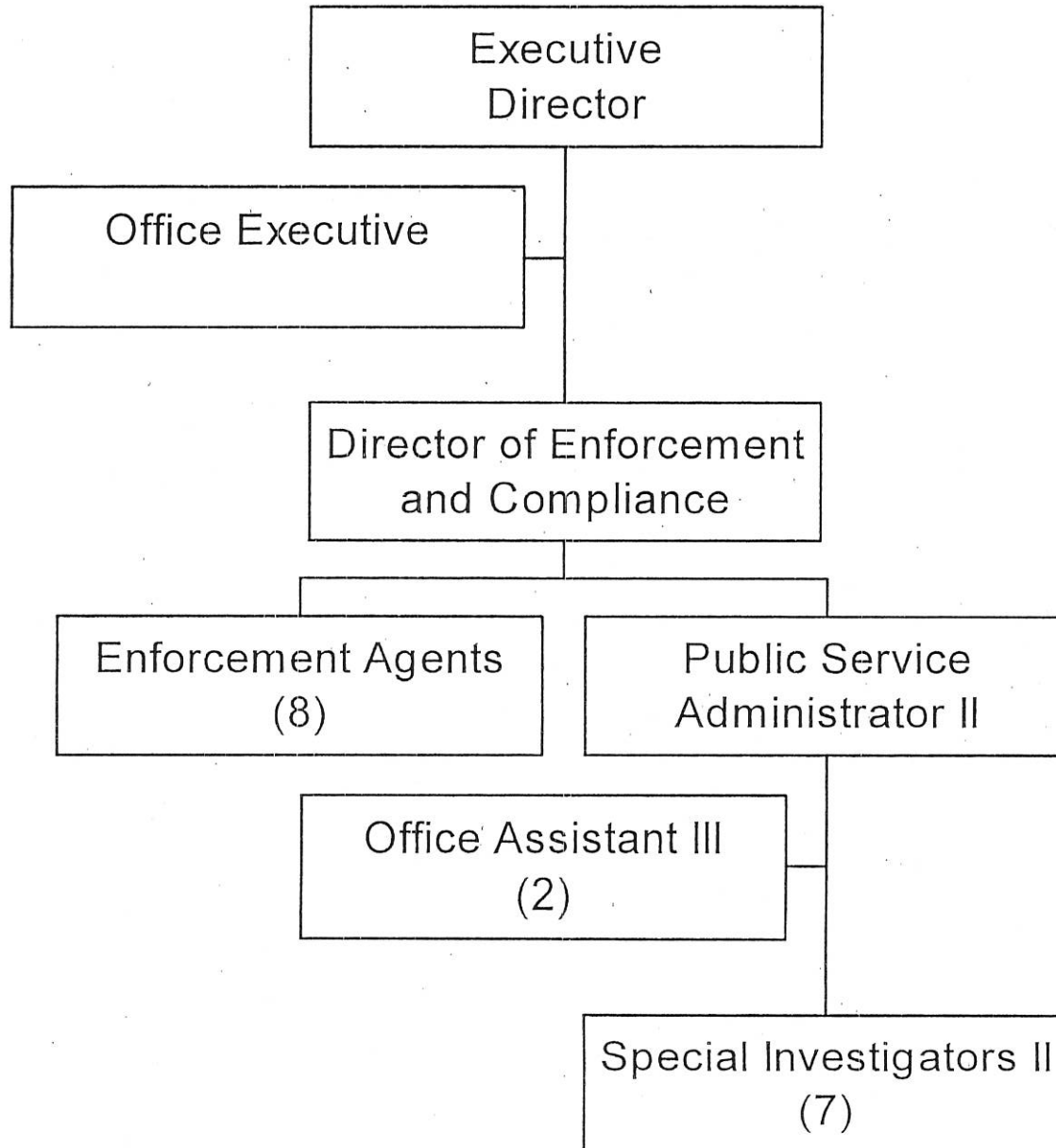


* The Assistant Attorney General positions report to the Attorney General's Office but are counted in the Racing Commission's FTE allotment. The Executive Director supervises the day-to-day legal operation duties.

** The Animal Health Officers are under the direction of the Racing Commission and supervised by the Executive Director.

Note: Camptown Greyhound Park in Frontenac, Kansas, ceased operations in November 2000.

STATE GAMING AGENCY

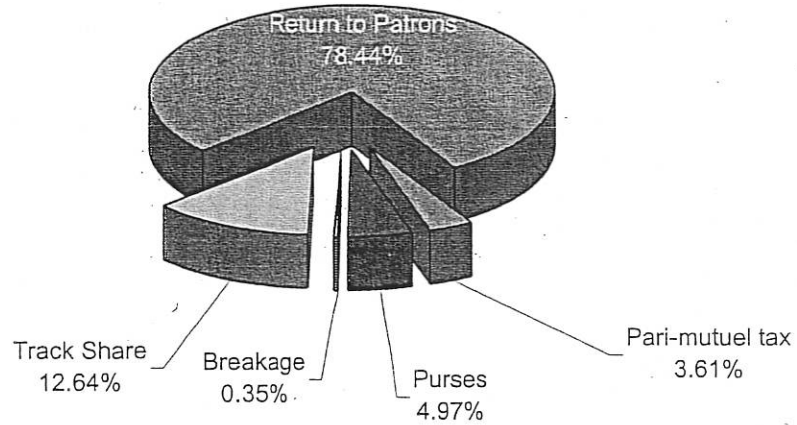




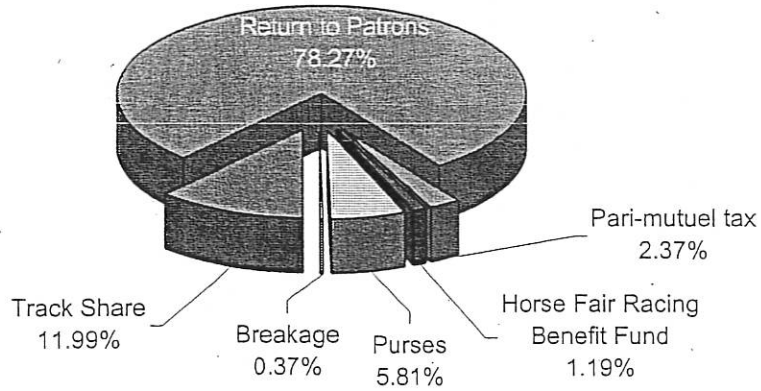
The Wagering Dollar



Live Racing - 2002



Simulcast Racing - 2002

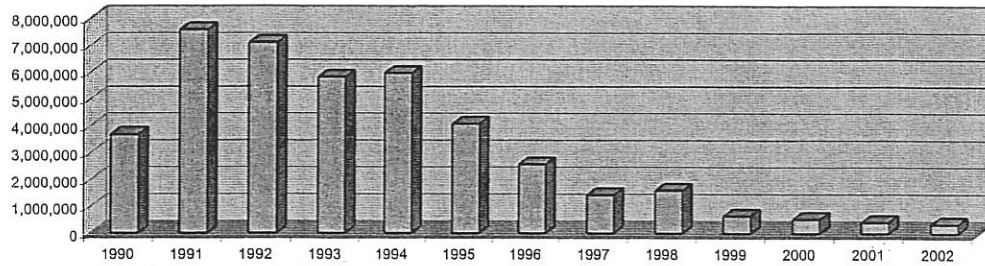




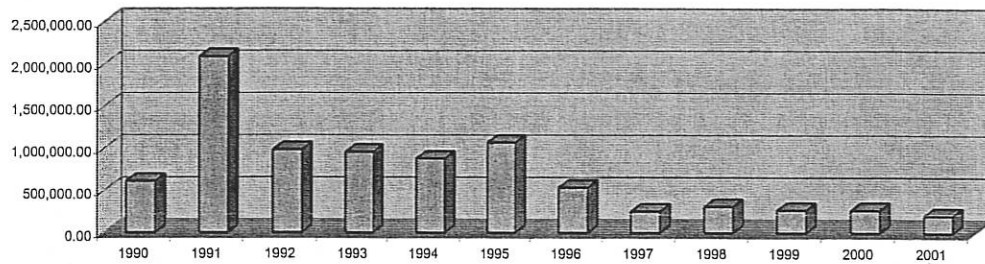
Benefits of Parimutuel Racing



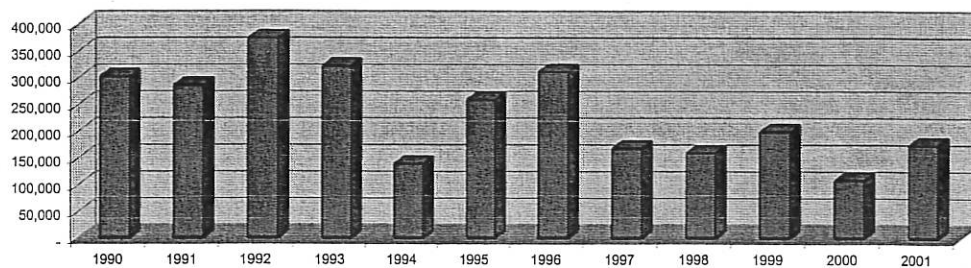
Transfers to State Gaming Revenue Fund



Charitable Contributions



Research Grants Funded



Occupational Licenses Issued (People Employed by Kansas Racing Industry)

