

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairperson Nancey Harrington at 10:45 a.m. on March 5, 2003 in Room 245-N of the Capitol.

All members were present except: Senator Barnett, excused
Senator Vratil, excused

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

Conferees appearing before the committee: Senator Lana Oleen

Others attending: Please see attached.

Chairperson Harrington opened the presentation on:

A Brief History of Gaming in the State of Kansas

Senator Oleen began her presentation by stating to the committee that in the many years she had been on or chaired the Senate Federal and State Affairs committee, each and every year, they had dealt with gaming issues, and this year was no different. She referenced two reports from the Kansas Legislature entitled: "Report of Special Committee on Gaming to the 1996 Kansas Legislature: Proposal No. 37" (Attachment 1) and "Report of Special Committee on Gaming to the 1996 Kansas Legislature: Proposal Nos. 36 and 37" (Attachment 2)

She stated that over time, the committee had agreed on three main findings: first, the Legislature should articulate its goals for legalization of gambling, not one interest group or another; secondly, the development of a program to address pathological gambling would be created, and, three years ago, the Kansas Lottery had established a fund in which a percentage of lottery ticket sales were used for treatment and a 1-800 number compulsive gamblers might call for help; thirdly, any proposed constitutional amendment to legalize gambling in Kansas should be put to a county option vote to approve it.

Senator Oleen went on to review the report entitled "A Brief History of Gaming in Kansas." (Attachment 3)

Senator Oleen stated that Kansas, unlike other states, put a sunset date on our state lottery. She stated that although a sunset rule no longer exists in the state, it used to mean that if a sunset date was in one specific year, the issue would have to be reconsidered the year prior to that date and be finished up by then.

She also stated that the push for the introduction of a lottery was from the business community in the interest of economic development. She stated that although many people had made statements that the Kansas lottery was designed to fund education, that had been disproven through research into documents from that time. She stated that there had been a great deal of confusion in the state because at the same time Kansas was considering a lottery, so was Missouri, and Missouri had heavily advertised it as benefitting education. As a result, she said, the lines between the two were blurred and confusing for some people.

After further discussion of the report, Senator Oleen stated that the state had made some accommodations for the expansion of gaming in the state, including allowing broadcasts at racetracks, although she recognized that river boats in Kansas City had hurt the parimutuel industry. After further discussion, she stated that the proposals that are before the Legislature now are not really about slots at the tracks; they are about casinos at the locations where the tracks are. She stated that the issue has changed from people who were involved with the horse and dog industry initially to people who are involved in the operation of casinos. She stated

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:45 a.m. on March 5, 2003 in Room 245-N of the Capitol.

that although she was trying not to show her bias, but that when you have a voting record on this issue that is difficult. She stated that the original kind of proposals that were submitted did deal with increasing participation at parimutuel organizations as well as trying to help those in that particular sector. Senator Oleen stated that the Legislature has seven or eight proposals that have been put up for consideration this year, and she doesn't know if there is going to be a coalescing of discussion of interest groups; she stated that she believes the Governor of the state of Kansas will propose expanding gambling this year as a way to address the budget. She stated that she would encourage this committee know that the Legislature's charge, referring to the reports from 1995, must be to ask the questions about what the goals of the Kansas Legislature are: to help one industry or several sides of the state, then so be it, if it is to add revenue to the state, then the Legislature has a different charge. She stated that whatever method the committee members felt was right, her advice was to simply be in charge of that without allowing some special interest set those parameters because this issue would remain in front of them as long as they have Legislative session.

She stated that as the Senators were aware, Kansas does have gaming in the state, but once certain decisions are made, they will not be asked about additional considerations.

Senator Oleen reviewed Indian casino gaming for the committee and went on to say that there have been border wars over economic development and gaming issues, but that the State Tribal Relations board had a positive working relationship with the four resident tribes of the state and that Kansas has a very good oversight process. She then asked the committee for any questions.

Senator O'Connor expressed interest in data on the state of Kansas' benefits from Indian gambling.

Senator Oleen stated that in Jackson County, there was a 26% increase in sales tax to the state from that county. Senator Oleen also stated that in another experience was that the increase in revenues for the tribes ended up helping the areas surrounding them, as well as benefitting the state through large percentage of non-tribal employees who pay payroll tax. She stated that although the state did not directly receive taxes, there are certainly positive effects felt.

Senator Gooch stated that if Kansas was going to have gaming, then he did not see what the difference was in having a little or a lot. He drew a comparison to alcohol legislation because although it is regulated, if it is allowed, people's behavior would not change. Senator Gooch went on to state that many people had contacted him and said that they knew they had voted for the lottery because the money was supposed to go for education. He stated that he has been concerned about who really benefits from lottery money because the term "economic development" has been stretched to include the expansion of prisons, which he does not see as economic development.

Following further discussion, Senator Oleen stated that the state is able to collect taxes on regular products such as gasoline and other goods. She stated that she had noticed that within the eight bills before the Legislature, most indicate the regulatory agency to be the lottery or the state's racing and gaming commission, yet neither of these bodies has proposed a bill. She again stated that the committee should keep in mind what the goal of the Legislature was in regard to this issue: to add revenue, to add entertainment, or to avoid raising taxes. She stated that she felt there were probably a variety of reasons, but that she thought it was interesting that these regulatory agencies have not been charged with coming up with a bill of their own. She stated that she felt the regulatory bodies should tell the Legislature how to write the bill, not those who would benefit from the bill.

Senator Gooch expressed concern with the meaning of the term "expanding gaming" and what that referred to exactly.

Senator Oleen stated that the state had already done some expansion through adjustments such as adding locations, making additions to others, and increasing the number and type of games available.

Chairperson Harrington stated that Senator Oleen had clarified that the Legislature, as policymakers, had a task before them this year to continue to look at those bills presented and decide how far the state wishes to expand beyond what it already has.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:45 a.m. on March 5, 2003 in Room 245-N of the Capitol.

Senator Oleen stated that she understood that they were dealing with a huge amount of dollars here and that everyone would like to have a share. She stated that she was not surprised at all that those who might benefit from a bill would certainly be in favor of it. She stated that in her experience as chair of Senate Federal and State Affairs, she had a great number of bills concerning gaming. Eventually, she said, she finally decided to combine things and put the state in charge of it all. She stated that, this done, the support for the expansion of gaming suddenly disappeared because the money was no longer big enough.

Staff provided the committee with an overview chart entitled "Comparison of Selected Bills Concerning Gaming." (Attachment 4)

Chairperson Harrington thanked Senator Oleen for her time and comments to the committee, and informed the committee that the following day they would be hearing a presentation on sexual predators.

The meeting was adjourned at 11:37 a.m. The next meeting will be at 10:45 a.m. on March 6, 2003 in Room 245-N.

Kansas Legislature

Report of
Special Committee
on Gaming
to the
1996 Kansas Legislature
Proposal No. 37



*Legislative Research Department
December, 1995*

Senate Fed & State
Date: 03 / 05 / 2003
Attachment # 1

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Proposal No. 37

STUDY TOPIC: Gambling regulation and supervision, including the matter of combining all, or certain elements, of gambling regulation in a single agency and, generally, proposing administrative structures to implement more efficiently various aspects of the state's gambling laws.*

EXECUTIVE SUMMARY

The issue of combining some or all gambling regulatory functions in Kansas has been discussed by the Legislature many times in recent years. The topic has been raised most recently in connection with the need to designate an agency to implement state responsibility under state/tribal gaming compacts that were approved by the Legislature and the Legislative Coordinating Council (LCC) in 1995.

The Committee held three meetings to receive testimony and background information on this topic: September 14, October 26-27, and November 27-28, 1995. The Committee met on December 28 to finalize its report and recommendations. Conferees who provided testimony on this topic included representatives of the Kansas Lottery, the Kansas Racing Commission, the Kansas Department of Revenue, the Kansas Bureau of Investigation (KBI), and the Department of Commerce and Housing. A representative of the Governor presented to the Committee a concept for consolidation of certain gambling oversight functions. In addition, officials of some other states addressed the issue of structure and organization of their agencies. Among them were the Executive Directors of the Rhode Island and West Virginia lotteries, Missouri Gaming Commission, Iowa Racing and Gaming Commission, and the Administrative Officer of the Montana Gaming Control Division. Finally, the Chair of the Governor's Indian Gaming Implementation Group presented to the Committee a draft bill that would

codify policies adopted in the 1995 tribal/state gaming compacts.

The Committee recommends that all gambling regulation and enforcement be consolidated and conducted by a single agency. That agency would have authority over all parimutuel wagering, Indian gaming, bingo, the Kansas Lottery and any forms of gambling legalized in the future. The agency would not have any administrative responsibility for the day-to-day operations of the Kansas Lottery or any other state-sponsored gambling enterprise.

The Committee also recommends introduction of legislation that would codify policy adopted in state/tribal gaming compacts approved in 1995.

* Introduction of one bill was recommended. A number had not been assigned to it by the time this report went to press.

An examination of the structure of gambling regulation was last conducted by the standing House Committee on Federal and State Affairs during the 1993 interim. That Committee held hearings on the subject, but did not recommend any change. At the conclusion of the interim the Committee identified a need for additional information and requested an audit of gambling regulatory agencies to determine whether enforcement of civil and criminal laws is adequate. Subsequently, that request was not approved by the Legislative Post Audit Committee and the issue was not formally addressed again until the Special Committee on Gaming was given this charge in the summer of 1995.

COMMITTEE ACTIVITY

The Special Committee on Gaming held three meetings to receive testimony and background information on this topic: September 14, October 26-27, and November 27-28, 1995. Conferees who provided testimony on this topic included representatives of the Kansas Lottery, the Kansas Racing Commission, the Kansas Department of Revenue, the Kansas Bureau of Investigation (KBI), and the Department of Commerce and Housing. A representative of the Governor presented to the Committee a concept for consolidation of certain gambling oversight functions. In addition, officials of some other states addressed the issue of structure and organization of their agencies. Among them were the Executive Directors of the Rhode Island and West Virginia lotteries, Missouri Gaming Commission, Iowa Racing and Gaming Commission, and the Administrative Officer of the Montana Gaming Control Division. Finally, the Chair of the Governor's Indian Gaming Implementation Group presented to the Committee a draft bill that would codify policies adopted in 1995 tribal/state gaming compacts.

Copies of all Research Department memoranda presented to the Committee can be obtained from the Department. Copies of testimony presented

to the Committee are filed with Committee minutes and can be obtained from the Office of Legislative Administrative Services.

State Government's Role With Respect to Gambling

States generally carry out four functions in regard to legal gambling: regulation, promotion, enforcement, and collection of taxes and other revenue. The four functions are defined as follows:

1. regulation – to control or direct conduct of a nongovernmental entity by administrative rule or law; one common method of exercising regulatory authority is through licensure by which the state controls the location, amount, and conduct of gambling;
2. promotion – to encourage the existence and expansion of gambling; this could include advertising and marketing, as with state-owned and operated gambling, or provision of technical assistance and subsidies;
3. enforcement – to compel obedience to laws and to impose a course of action (sanctions) to ensure compliance with civil and criminal laws; and
4. collection of taxes and revenue – in this context, mechanisms used by agencies with statutory responsibility to obtain revenues due to the state.

Current Organization of Gambling Oversight in Kansas

Three state agencies in Kansas are authorized by statute to exercise primary oversight of legal gambling activities: the Lottery, the Racing Commission, and the Department of Revenue. Most recently, the Department of Commerce and Housing also became part of the state's gambling regulatory structure. In August, the Governor designated the Department as the temporary State Gaming Agency, with responsibilities identified in tribal/state gaming compacts approved in 1995.

Executive Order No. 95-177) Other state agencies, most prominently the Kansas Bureau of Investigation (KBI), also exercise some oversight authority. Each agency assigned a role in regard to gambling is structured differently.

Department of Revenue

The Secretary of Revenue is required to adopt and enforce rules and regulations to license tax, and regulate the management, operation, and conduct of bingo games and participants in those games, and to properly administer and enforce bingo laws. (K.S.A. 79-4701, *et seq.*) The Secretary also must adopt rules and regulations relating to leasing premises for the management, operation, and conduct of bingo games. In addition, the Department is involved with enforcement of criminal gambling laws on the premises of clubs and drinking establishments licensed by the Department. In contrast to the Lottery and the Racing Commission, the Department of Revenue has many regulatory and tax collection responsibilities in addition to those associated with gambling.

The Department of Revenue licenses and collects bingo taxes through its Division of Taxation and enforces the bingo statutes through the Division of Alcoholic Beverage Control (ABC). Applicant background checks, compliance inspections, and other enforcement or administrative activities are conducted by the ABC. In its enforcement capacity, the Division audits and inspects bingo licensees. Department of Revenue field representatives in the ABC perform unscheduled on-site inspections to ensure compliance with statutory and regulatory requirements and to ensure that the proper amount of tax revenue is remitted to the state.

Under the bingo statutes, the Department of Revenue is directly involved in three of the four state gambling functions – regulation, enforcement, and tax collection. The state does not directly promote bingo games, except to the extent that permitting those games can be interpreted to be promotion. Promotion by licensees and operators is restricted to some extent by statute.

According to the representative of the ABC who presented testimony at the Committee's September meeting, bingo enforcement is an integral part of the Division's operations. Approximately three FTE positions (Liquor Control Investigators I) conduct most of the inspections and audits in connection with enforcement of bingo laws. The Division also has an attorney and two clerical positions assigned to support bingo enforcement efforts. Like the field staff, these support positions also serve the drug tax and criminal fraud activities of the Division. Registration and tax collection functions conducted by the Division of Taxation also are assigned to personnel who have other duties. According to the testimony, the Department of Revenue does not have any positions solely dedicated to bingo enforcement.

Bingo-related activities of the Department are funded by expenditures from the State Bingo Regulation Fund. (K.S.A. 79-4710) All license and registration fees and one-third of taxes collected on bingo sales are credited to that Fund for state-level enforcement. Tax receipts to that Fund in FY 1995 totaled \$366,072. Additionally, approximately \$8,000 was realized from license and registration fees.

Testimony provided to the Committee indicated that the Department places highest priority on its tax collection responsibilities under the bingo statutes. However, the testimony also said that the Division recognizes that ". . . a firm, consistent enforcement presence greatly enhances voluntary compliance with the law." (Attachment No. 13, minutes of the Special Committee on Gaming, September 14, 1995, page 1)

In regard to the Department's involvement with enforcement of criminal gambling statutes, the testimony indicated that enforcement of Kansas' liquor laws leads to enforcement of gambling laws. That is because a gambling conviction is grounds for denial of a liquor license, and because gambling on the premises of a club or drinking establishment is a basis for sanctions against the licensee. The ABC places investigation of gambling and other "morals" violations second only to enforcement of laws regarding provision of liquor to minors and liquor tax laws. The Division's involvement in enforcement of criminal gambling laws ranges from isolated

investigations to cooperative efforts with the KBI, FBI, and IRS. According to the testimony, the Department does not have a specific statutory mandate [other than agents' status as law enforcement officers] or specific funding to conduct these criminal investigation activities.

The Lottery

In Kansas, the state is the only entity constitutionally authorized to own and operate a lottery other than bingo and parimutuel wagering on horse and dog racing.¹ The Legislature established a free-standing agency, the Kansas Lottery, to administer and conduct lottery games. (K.S.A. 74-8701, *et seq.*) Since the Lottery is state owned and operated, there is no licensure function, as there is with bingo and parimutuel wagering.

The Executive Director of the Lottery is appointed by the Governor and confirmed by the Senate. That position must administer the Lottery in accordance with statute and must be financially accountable to the Governor, Legislature, State Treasurer, and Kansas Lottery Commission. The Legislature also has imposed mandatory periodic reviews of the Lottery, initially in the *Constitution*, and since 1990 in statute. The lottery amendment to the *Constitution* required that the Lottery be reauthorized by the 1990 Legislature. Since then, the Lottery was subject to expiration in 1992 and 1996. Under current law, the Lottery

¹ Since passage of the lottery amendment to the *Constitution*, the precise meaning of the term lottery in the *Kansas Constitution* has been a matter of debate. That debate became more heated with emergence of tribal gaming and related questions about the scope of gambling permitted in Kansas. In accordance with 1993 S.R. 1844, the Attorney General filed a petition for writ of *mandamus* and *quo warranto* seeking an interpretation of the constitutional provision. The Supreme Court's opinion issued January 27, 1994 stated that "lottery," as used in the *Kansas Constitution*, means any game involving the three elements of chance, consideration, and prize (*State, ex rel. Stephen v. Finney*, 254 Kan. 632 (1994)).

will be abolished in 2002. (L. 1995, Ch. 261, §2)

The Lottery Commission is composed of five members appointed by the Governor and confirmed by the Senate to serve four-year terms. (K.S.A. 74-8709) Appointments of members are subject to Senate confirmation. The Commission has an advisory role with respect to the Lottery's operations and policies; however, it must approve the Lottery's proposed annual budget and all major procurements recommended by the Executive Director.

The Executive Director selects and contracts with retailers who must meet qualifications enumerated in statute. Those retailers are the only entities from which Lottery tickets can be purchased. There is nothing in statute to preclude bingo licensees or licensees of the Racing Commission or the ABC from being Lottery retailers.

The Lottery Commission is authorized to adopt rules and regulations. However, temporary rules and regulations, the bulk of the Lottery's rules, are not subject to the state's statutory rule and regulation oversight process established in K.S.A. 77-415, *et seq.* Rules and regulations may include specified information about the implementation of Lottery games and the awarding of prizes. The 1995 Legislature imposed direct gubernatorial oversight on the Lottery's initiation of games by establishing a requirement that the Governor approve all new Lottery games. (L. 1995, Ch. 261 §1)

A significant difference between the bingo and lottery statutes is that the former are much more prescriptive about the treatment of prizes, operation of games, and the nature of premises for games than are the latter. Many specifics regarding implementation of bingo games are set forth in statute, whereas lottery statutes leave specifics of games to be articulated in rules and regulations (which, in this case, are less regulatory than descriptive as to which games and how they will be conducted). The disparate treatment might be attributed to the fact that bingo is conducted by private entities regulated by the Secretary of Revenue, while the Lottery is conducted by the state. As was previously noted, the Lottery is not a licensing agency and conditions on third-party

ctions are primarily included in contracts with vendors and retailers. To some extent, differences in the games themselves (essential elements of call and instant bingo are static and thus can be defined in statute, whereas Lottery games may take several forms) may account for the dissimilar treatment in statute.

Promotion is clearly the major function of the Kansas Lottery, as evidenced by the statutory requirement that the Executive Director select as Lottery retailers "... such persons as deemed best able to serve the public convenience and promote the sale of tickets or shares in accordance with marketing plans developed by the Kansas Lottery." (K.S.A. 74-8708(a)) The Lottery currently contracts with over 1,900 retailers to sell Lottery games in Kansas. According to testimony provided to the Committee by the Lottery Director, "... our purpose and highest priority is to generate revenue for the uses statutorily identified" (Attachment No. 14, minutes of the Special Committee on Gaming, September 14, 1995, page 1) Also according to that testimony, half of the Lottery's 97 FTE employees directly conduct sales and marketing functions, with all the others supporting those functions. The budget of the Lottery also reflects those priorities. "Twenty-three percent of administrative expenditures are allocated to direct sales and marketing functions, with the remaining 77.0 percent used in support of these functions." (*Ibid*, page 2)

To ensure that promotion activities are optimally effective, the Executive Director is specifically authorized by the Act to engage a firm experienced in research marketing analysis to evaluate marketing effectiveness and make recommendations to enhance marketing programs. The Kansas Lottery Commission is also authorized to enter into written agreements with one or more states or corporations for joint lottery activities, and to participate in the operation, marketing, and promotion of such activities. That is the statutory authorization for Kansas participation in the multi-state lottery, the interstate agreement for which is codified in K.S.A. 74-8731.

As the ultimate goal of the Lottery is to produce revenue for the state, its function as a revenue collection entity is integral to its promotion function. In contrast to state proceeds from bingo and

parimutuel wagering, state revenue from Lottery games is not generated from a tax. (The state does not tax a product it sells to the public. Indeed, Lottery tickets are exempt from the state sales tax; see K.S.A. 74-8721.) Since the Lottery has no licensing authority, no revenue is generated from license fees. However, applicants for Lottery retailer contracts must pay an application fee. The bulk of Lottery revenues are generated from ticket sales. Each contract between the Lottery and a retailer requires that the retailer have the capacity to relay electronically to the Lottery proceeds from ticket sales.

The Lottery has some law enforcement authority under the Act. That authority is consistent with the Lottery's need to ensure the integrity of its games in order to maximize revenue. Enforcement authority created by the Lottery Act rests largely, but not exclusively, with the Executive Director and Lottery employees. Among the Executive Director's enforcement powers are the ability to require Lottery retailers to furnish proof of financial stability; examine any materials of a retailer to document compliance with the Act; issue subpoenas to gain access to retailer records; and administer oaths and take depositions. Employees designated by the Executive Director as law enforcement officers are authorized to: make arrests, conduct searches and seizures, and carry firearms while investigating violations of the law or in the course of routine conduct of their duties; and issue notices to appear in court. Enforcement responsibilities also are assigned by statute to an Assistant Attorney General who works exclusively with the Lottery to enforce criminal and civil provisions of the Act.

The Racing Commission

The Kansas Racing Commission, created by the Kansas Parimutuel Racing Act, exercises regulatory and enforcement responsibilities over licensees that conduct horse or greyhound races. The Commission is composed of five members appointed by the Governor and confirmed by the Senate for four-year terms. Statutory authority granted the Racing Commission includes more direct policymaking authority than is provided the Lottery Commission. The Executive Director of the Racing Commission is also appointed by, and

ives at the pleasure of, the Governor, under the direct supervision of the Commission. Like Commissioners, the Executive Director is subject to Senate confirmation². Much of that position's direct statutory authority relates to personnel matters. In contrast, the Executive Director of the Lottery has, by statute, considerable independent administrative and contractual power beyond the scope of personnel matters.

Differences between the statutory powers of the Executive Director positions in these agencies represent two different policy approaches on the part of the Legislature. The Lottery Director operates an enterprise. The Director of the Racing Commission heads the administrative staff of a Commission that has quasi-legislative and quasi-judicial powers. The authority provided to the Racing Commission by Kansas law is very similar to that found in other states' racing statutes.

Testimony of the Racing Commission was that the Commission's regulation/enforcement function is to "... ensure the integrity of racing and wagering and to provide for the humane treatment of racing animals." (Attachment No. 12, minutes of the Special Committee on Gaming, September 14, 1995, page 3) In that testimony the Commission also identified as one of its roles that of mediator in the resolution of economic and other issues that arise between competing interests in the racing industry. Examples were cited of recent situations in which the Commission had to play the role of mediator: disputes over allocation of simulcast purse money and breed funds, and the election of recognized owners groups.

The Racing Commission is required to adopt rules and regulations, as necessary, to implement and enforce the Act. The Racing Commission adopts

² From 1987, when the Racing Commission was created until 1990, the Governor appointed the Executive Director. The 1990 Legislature amended the Act to have the Executive Director appointed by the Racing Commission. The 1995 Legislature shifted that appointment authority back to the Governor. (L. 1995, Ch. 255) The Director of the Racing Commission has always been subject to Senate confirmation.

much of its procedure for implementation of those laws in the form of rules and regulations.

The Racing Commission's functions are primarily enforcement and regulation of the racing industry in Kansas. In its testimony before the Committee, the Commission identified its regulatory and enforcement functions as its most important roles. The Racing Act also places tax collection responsibilities with the Commission, but to the extent that the primary goal of the Act is not revenue generation, that function is incidental to other functions of the Commission.

When display and betting on simulcast races was authorized by the Legislature, the Act was amended to give the Commission what might be seen as limited promotional responsibility. K.S.A. 74-8838 requires that one-third of taxes paid on the takeout from parimutuel pools for simulcast races be credited to the Horse Fair Racing Benefit Fund. Moneys from that Fund are to be used to defray a variety of race-related and licensure expenses of the Commission and county fair associations. The statute does not specifically give the Racing Commission a role in promoting those races. However, dedication of revenue to facilitating the expansion of parimutuel racing might be interpreted as promotional.

In its testimony to the Committee, the Commission identified as one of its roles that of "... encouraging the growth of the horse and greyhound breeding industry in Kansas." (Attachment No. 12, minutes of the Special Committee on Gaming, September 14, 1995, page 4) However, activities included as part of that discussion in the testimony, like administration of the Horse Fair Racing Benefit Fund, are all statutory responsibilities of the Commission as administrator of a number of funds created by the Legislature as financing mechanisms for research, prizes, and tourism. For the most part, the Commission does not have explicit authority to directly engage in promotional activities.

The Commission's testimony included the following allocation of personnel resources by function:

**Racing Commission Personnel
by Function**

Function	FTE
Licensing	6
Regulation/Enforcement	29
Revenue/Tax Collection	6
Clerical Support	10
TOTAL	51

Source: Attachment No. 12, minutes of the Special Committee on Gaming, September 14, 1995.

**Department of Commerce – State
Gaming Agency**

The state has the option of exercising authority granted under provisions of tribal/state gaming compacts approved by the Legislature and the Legislative Coordinating Council (LCC) during the Spring and Summer of 1995. Those compacts provide that if the state does not choose to be involved in tribal gaming activities, as described in those compacts, tribal entities will conduct all regulatory and enforcement functions enumerated themselves. In August, 1995, the Governor designated the Department of Commerce and Housing to be the State Gaming Agency under the compacts. The Executive Order making that designation states that it is a temporary designation until the 1996 Legislature makes a permanent designation. Appendix A lists the state's responsibilities as enumerated in those tribal/state compacts.

The Secretary of the Department of Commerce and Housing hired a Director to handle most of the State Gaming Agency's work until the Legislature reconvenes. In addition, the Department hired a former KBI agent who has been assigned to the Gaming Unit for several years. In testimony before the Committee, the Secretary explained that the Governor had given him two goals: to ensure that the state's obligations under the tribal/state gaming compacts are fulfilled and to hold the cost of fulfilling those obligations to a minimum. The Secretary explained that under terms of the compacts the Native American tribes are responsible for reimbursing the state for any

expenditures it incurs in implementing its part of the compacts.

The initial nine-month budget for the State Gaming Agency presented by the Secretary showed total anticipated expenditures of \$146,082. Three FTE positions and operating expenditures would be financed by that amount. Of the total, \$18,944 was budgeted for capital outlay for office furniture and equipment. The Secretary informed the Committee that the Department did not plan to seek a supplemental appropriation to finance this function until reimbursements begin coming from the tribes.

Tribal/State Gaming Compacts. The Committee received testimony from the Chairman of the Governor's Indian Gaming Implementation Group (IGIG) regarding a proposed bill that would codify policies adopted when the tribal/state gaming compacts were approved. The bill does not designate or create a state gaming agency. According to the Chairman, the bill's content is based on input from the Attorney General's Office, the Department of Revenue, the KBI, the State Gaming Agency, and the Native American tribes with which the state has gaming compacts. The IGIG's draft bill was accepted by the Governor and presented for the Committee's consideration. The Committee was informed that the Governor intended to submit this proposal as part of his legislative package, and would be amenable to the Committee introducing the bill.

Kansas Bureau of Investigation

The KBI has general authority as a law enforcement agency to enforce criminal and civil laws and to investigate suspected violations of laws in Kansas. Both the Lottery Act and the Racing Act specify that certain activities supportive of those agencies' central roles may be conducted by the KBI.

Specifically, the Executive Director of the Lottery is authorized to submit fingerprints of certain employees and other persons in sensitive positions to the KBI or the FBI for purposes of verifying the identity of such persons and obtaining criminal records. In addition, the KBI, among other state agencies, may be contacted by the

Executive Director of the Lottery for assistance in background investigations of vendors.

Under the Racing Act, specific statutory provisions speak to the enforcement relationship between the KBI and the Racing Commission. While the bulk of enforcement responsibilities are vested in the Commission, the KBI specifically is required under the Act to:

... conduct, or assist the security division of the commission or other law enforcement agencies in conducting investigations of criminal violations of this act and violations of the rules and regulations [of the Commission]. Such duty may be performed independently of or in conjunction with employees of the commission designated pursuant to this section. (K.S.A. 1994 Supp. 74-8807)

The statute also requires employees of the KBI and Racing Commission to report violations of law or regulations to one another.

In addition, the Racing Commission is required to submit to the KBI or FBI fingerprints of virtually all license applicants and employees for criminal history or background checks. The Commission is specifically authorized to receive from the KBI and other criminal justice agencies any information related to criminal and background investigations as needed to determine qualifications of applicants for licenses or employment.

According to testimony provided to the Committee, the KBI established a Gaming Unit in the Special Services Division in 1988 to conduct background investigations and other investigations related to parimutuel wagering and the Lottery. As stated in that testimony, "the goal of the Gaming unit is to protect the wagering public, the Pari-mutuel Industry and the State Lottery, against criminal, corrupt and fraudulent practices." (Attachment No. 16, minutes of the Special Committee on Gaming, September 14, 1995, page 1) The testimony indicated that since approval of tribal/state gaming compacts, Native American casinos also were included in the goal.

The representative of the KBI indicated that 9.0 FTE positions are engaged in activities of the Gaming Unit. Those positions include: a supervisor, three agents, and a clerical position in

Topeka; two agents in Wichita who are assigned to the Wichita, Eureka, and Anthony tracks; and two agents in the Overland Park office who cover the Woodlands and the Camptown tracks. The testimony stated that any of the Gaming Agents would be assigned to any location as needed.

The Gaming Unit in the KBI is financed by transfers from the State Racing Fund and the Lottery Operating Fund. The current operating budget is financed approximately 75 percent from racing tax revenue and 25 percent from Lottery proceeds. Transfers totaled \$433,331 in FY 1995.

Governor's Proposal for Regulatory Consolidation

At the Committee's first meeting, a representative of the Governor presented the Governor's position regarding consolidation of gambling oversight functions. In that testimony the Governor stated that he favored consolidation, and hoped the Committee would develop specific recommendations. The Governor's only specific recommendation was that he did "... not favor combining the Kansas Lottery with agencies that regulate gaming" (Attachment No. 2, minutes of the Special Committee on Gaming, September 14, 1995, page 3). As explained in the written testimony, inclusion of the Lottery in a regulatory agency would confuse the missions of both the Lottery and the regulatory arm of the agency and potentially harm both. He did recommend that the Committee study consolidation of the Racing Commission, the State Gaming Agency, bingo regulation, and perhaps other related functions.

At the Committee's November meeting, the Director of the State Gaming Agency appeared before the Committee with the recommendation of the Secretary of the Department of Commerce and Housing to the Governor regarding the permanent location of functions of the State Gaming Agency. That recommendation was, "specifically, ... that the current racing commission would become the State Gaming Commission with expanded duties of monitoring bingo and tribal gaming as well as continuing their current functions of licensing and regulating

parimutuel gaming." (Attachment No. 44, minutes of the Special Committee on Gaming, November 28, 1995, page 1). The Committee learned in that testimony that the Chair of the Governor's Indian Gaming Implementation Group had endorsed the consolidation to the Governor. That position was characterized as being contingent on the understanding that each type of gambling continue to finance, through taxes or reimbursements, the regulatory and enforcement functions as is the case under existing law.

The testimony presented to the Committee emphasized that the consolidation recommendation was for a structural change, not for alteration of existing policy regarding regulation of gambling in Kansas. The testimony also indicated that specifics regarding the structure of the State Gaming Commission were not part of the recommendation. The Committee was asked to support the consolidation. With that support the Governor would proceed to develop the details of the reorganization.

Gambling Regulation in Other States

States structure gambling regulation in a variety of ways, but most have created separate agencies or semi-autonomous divisions of umbrella agencies for oversight of different types of gambling. Commonly, state lotteries are operated by a free-standing or nearly free-standing agency. Parimutuel wagering also is commonly regulated by an agency or division that has a single focus. In many cases bingo is regulated by the state tax collection agency. Charitable gambling, which takes many forms, may be regulated by the tax collection agency, the state's law enforcement agency, the state lottery, or a separate gaming agency. In short, the structure of gambling regulation in most states is very similar to that found in Kansas.

In many cases it appears that the structure of gambling oversight reflects, at least in part, the evolution of gambling in a state. The structure also may reflect the function or functions of primary importance to policymakers, e.g., oversight by a division of the state law enforcement agency might reflect a concern about criminal

involvement in gambling while oversight by the tax agency may reflect an emphasis on tax/revenue collection.

Some states have reexamined their structure for gambling oversight in recent years. The impetus for that reexamination in at least some cases has been the expansion or possible expansion of types of legal gambling – generally the advent of commercial casinos – either tribal or nontribal. In other cases, structural changes may be accompanied by changes in regulatory policy.

Studies in Other States. There does not appear to be many studies that address the theoretical basis for an effective regulatory structure. One can only assume that in this area, as in many others, the most appropriate structure is the one that works best in the context of the regulated industry and law enforcement operations in the state. However, elements of good regulation – regardless of the organizational structure – have been identified. That matter is a different discussion.

Because gambling oversight tends to be relatively decentralized, states that consider a change tend to look at some level of consolidation. However, the definition of consolidation appears to be slightly different from state to state. For example, the 1992 report of the Wisconsin Governor's Blue Ribbon Task Force on Gambling recommended a single regulatory authority with criminal laws enforced by a separate agency. However, in making that recommendation the Task Force specifically did not "... advocate dismantling or eliminating the existing regulatory boards." (Wisconsin, 1992, page 16)

In a 1988 report to the Governor of New Jersey, the Governor's Advisory Commission on Gambling endorsed that state's existing "two tiered" casino regulation/enforcement structure that places investigation and enforcement responsibilities with the Department of Law and Public Safety under the Attorney General and administrative/licensure functions with the semi-autonomous Casino Control Commission in the Department of Treasury. In addition to two agencies involved in regulation of casino operations, New

sey also has a separate agency that regulates parimutuel wagering on horse races, and a separate state lottery. The New Jersey Legalized Games of Chance Control Commission oversees municipal licensure of bingo games and raffles.

A 1992 study by the Connecticut Legislative Program Review and Investigations Committee was initiated because of questions about the existing oversight agency's regulatory performance at a time when the Legislature was considering authorization of additional types of gambling in the state. That study identified "... the inherent conflict in acting both as regulator and an agency that operates gaming" (Connecticut, 1992, page 3) The recommendation of that study was that regulation be separated from promotion and that the state cease to be involved in gambling as an operator of off-track betting parlors and lottery. In the case of the state lottery, a quasi-public governmental entity was recommended. The study recommended that the state cease altogether direct operation of off-track betting parlors. The latter recommendation was adopted by the Legislature which authorized the sale of the off-track betting system in 1993 (\$12-571).

One might conclude from this relatively small sample of analyses that there are commonly held opinions about the usefulness of separating some functions of gambling oversight whether those functions are implemented by one or more agencies. Thus, one frequently finds the enforcement function, both of criminal laws and of prohibited acts under specific gambling statutes, delegated to a single purpose law enforcement agency. Similarly, law enforcement agencies are frequently required to conduct prelicensure background investigations. (However, in many state statutes, the licensing entity is designated as a law enforcement agency for purposes of conducting background checks and for purposes of conducting searches of licensed facilities.) Likewise, it is unusual to find a state lottery, a primary function of which is promotion, operated by a licensure/regulatory agency.

The table in Appendix II displays a brief summary of statutory structures of gambling regulation in Connecticut, Wisconsin, Iowa, Missouri, and Montana. Those states were chosen because they

have legalized more types of gambling than has Kansas and because they utilize oversight structures different from those found in Kansas – and thus represent options for legislative consideration in the context of the potential for expanded legal gambling. These examples were not chosen because they have been determined to be particularly effective regulatory structures, but rather because they are different, to some extent, from the structure currently in place in Kansas.

The Committee received testimony from officials of gambling regulatory agencies in Iowa, Missouri, and Montana. All three addressed at least some regulatory and structural issues in their remarks to the Committee.

Iowa Racing and Gaming Commission. The Administrator of the Iowa Racing and Gaming Commission presented information to the Committee about the Commission's organization and relationship with other state agencies. The Iowa Racing and Gaming Commission is within the Department of Inspections and Appeals. The five Racing and Gaming Commissioners are appointed by the Governor and confirmed by the Senate to serve staggered, three-year terms. No more than three members can be from the same political party. Commissioners receive a \$6,000 annual salary.

The Administrator is appointed by the Commission to a four-year term and is confirmed by the Senate. The Commission has broad powers and discretion which include authority to promulgate rules, conduct background investigations of applicants, and license tracks and casinos. In addition, the Commission is authorized to issue occupational licenses to all participants in racing and gaming. The Commission is charged with enforcement of the racing and gaming statutes and rules.

The Iowa Racing and Gaming Commission licenses and regulates racing with parimutuel wagering, track casinos, river boat casinos, and bingo. The Iowa Lottery is a Division of the Department of Revenue and Finance. Indian gaming compacts are negotiated and implemented by the Department of Inspections and Appeals.

The Division of Criminal Investigation (DCI) is the key support agency for the Commission. The DCI's most important function is background investigations of license applicants. The Commission does not employ its own investigators. The Division's experience has been that it is much easier to exchange criminal history information and intelligence information between law enforcement agencies than between law enforcement and administrative agencies. Very detailed background information is required for licensure. Investigators must be able to examine business history, references, tax returns, and other similar information in addition to criminal history information.

The DCI also is involved directly in the enforcement function. Two DCI agents and three Commission Gaming representatives are assigned to each racetrack casino. Additional Commission Gaming representatives oversee racing operations at tracks. If DCI agents observe regulatory violations, they are reported to the Gaming representative who takes appropriate action to impose a fine or suspend the license.

Other state agencies assist the Racing and Gaming Commission with regulation of river boats and racetrack casinos. The Department of Agriculture is responsible for registration of breeds and farm inspections. The Iowa State University Diagnostic Lab is used as the racing chemist. The Commission works closely with the state Gambling Treatment Program. A private laboratory, Gaming Laboratories International, located in New Jersey, tests slot machines for the Commission.

Missouri Gaming Commission. The Director of the Missouri Gaming Commission provided testimony to the Committee regarding the regulatory structure in Missouri. He informed the Committee that the Missouri law was modeled after that of Illinois. The Commission is an independent agency under the Department of Public Safety. The statute that created the Commission specifically states that the Director of the Department has no supervisory authority or control over the decisions of the Commission. The Gaming Commission is composed of five members appointed by the Governor and confirmed by the Senate for three-year terms. Members have a two-term limit. The Governor designates the chair of

the Commission. No more than three members can belong to the same political party. The Commission must include persons with experience in law enforcement, civil and criminal investigation, and financial principles. The Commission is required to meet at least quarterly; however, it usually meets more often. Commission members receive compensation of \$100 per meeting.

The Commission has two statutory divisions, one that regulates river boat gambling and one that regulates bingo. Prior to July 1, 1994, bingo was regulated by the Department of Revenue. When the Commission was created in 1993, it assumed responsibilities for river boat regulation that had originally been placed with the State Tourism Commission. The Gaming Commission hires the Director and any other employees necessary to implement the Act.

Among the statutory powers of the Missouri Racing Commission are authority to:

- enter into agreements with the FBI, IRS, or any other state, federal, or local agency;
- enter into certain agreements with private entities;
- investigate and prioritize license applicants;
- license river boat casinos to sell liquor;
- enforce the \$500 per excursion gambling loss limit;
- assess administrative penalties against licensees; and
- inspect the operator or the river boat at any time. (Attachment No. 6, minutes of the Special Committee on Gaming, November 27, 1995)

Montana Gaming Control Division. The Administrative Officer of the Montana Department of Justice Gambling Control Division provided testimony to the Committee. The Division is responsible for the statewide regulation of all forms of gambling except the Montana Lottery

and horse racing. Since 1993, the Division also has been responsible for liquor license investigations and coordination of investigation of violations of liquor laws.

The Division is the primary state agency responsible for enforcing the state's gambling laws. In that role it regulates live keno and bingo, live poker, video gambling devices, sports and Calcutta pools, and other games. It also licenses the following individuals and corporations:

- gambling operators;
- card dealers;
- card room contractors;
- gambling device manufacturers, distributors, and route operators;
- manufacturers of gambling devices for export;
- sports tab card manufacturers;
- electronic live bingo and keno equipment manufacturers; and
- antique slot machine dealers.

The Division is organized along the lines of its major responsibilities:

- Investigation Bureau with 22 employees responsible for regulatory and criminal investigations of all gambling activities and all investigative matters performed on behalf of the Department of Revenue Liquor Division;
- Licensing Section with five employees who issue licenses and permits;
- Tax/Audit Section with seven employees who conduct field and desk audits, collect and distribute gambling taxes, and conduct financial reviews/investigations on all license applicants;
- Technical Services Section with four employees who evaluate and test gaming machines,

and administer the Division's computer network and database; and

- Administrative Unit with five employees who provide general operational support, conduct administrative hearings, draft rules, and conduct tribal/state gaming compact negotiations.

Two Lottery Directors provided testimony to the Committee regarding the structure in their states.

Rhode Island. The Director of the Rhode Island Lottery stated that the Lottery was established by the Rhode Island General Assembly as a free standing state agency. The Division of Racing and Athletics in the Department of Business Regulation oversees boxing, parimutuel wagering, and greyhound racing. The state police regulate bingo.

The Lottery Commission consists of nine members: three are members of the Senate, three are members of the House; and three are members of the public appointed by the Governor. The Senators on the Commission are appointed by the Majority Leader. The House members on the Commission are appointed by the Speaker of the House. No more than two of the legislators from each chamber can be from the same political party. Commissioners serve three-year terms and annually elect the chair from among the members. The Commission meets at least once a month. Members are not paid salaries, but are allowed reimbursement for reasonable expenses. According to the Director, the structure of the Lottery Commission gives the Legislature insight and control of the Lottery operation through legislative appointments. The Director of the Lottery is appointed by the Governor, with majority approval of the Commission and serves at the pleasure of the Commission.

According to the Lottery Director, the Rhode Island Division of Racing and Athletics, which regulates other legal gambling in the state, has approximately 90 employees. A single agency that regulates all forms of gambling is a bad idea in his opinion. His concern in that regard is for the integrity of the Lottery that might be damaged if the regulatory agency becomes involved in scandal or questionable practices, even if those

events do not directly involve the Lottery. He advised the Committee that if the Lottery is doing very well the structure should not be changed.

West Virginia. The Director of the West Virginia Lottery provided information to the Committee. The West Virginia Lottery is a separate free-standing agency. The Lottery Commission is composed of seven members who must have specified qualifications:

- one a lawyer;
- one a certified public accountant;
- one with at least five years experience in law enforcement;
- one computer expert;
- one qualified by experience and training in marketing; and
- the other two members must be representative of the public at large.

At least two Commission members must be appointed from each of the state's three congressional districts. No more than half of the Commission can be from any one political party. Commissioners are appointed by the Governor and confirmed by the Senate to staggered five-year terms. The Commission designates the chair from among the membership. Members are paid \$100 dollars, plus expenses, for each day spent on business of the Lottery. The Commission must meet at least once per month.

According to the Director, the Lottery Commission controls most of the video lottery program because video lottery is more of a regulatory program than it is a traditional lottery program. He explained that the traditional lottery is involved in promotion and marketing of products.

In West Virginia, parimutuel wagering on horse and dog races is regulated by the West Virginia Racing Commission.

CONCLUSIONS AND RECOMMENDATIONS

The Committee finds that the 1996 Legislature should consolidate gaming policy and enforce-

ment in one commission, the Racing and Gaming Commission, a statutory successor to the current Racing Commission. This Commission would have regulatory and enforcement authority over all forms of parimutuel betting, Indian gaming, bingo, the Kansas Lottery, and any other future forms of gaming. The Racing and Gaming Commission's duties would not include any administrative responsibility for the day-to-day management and operations of the Kansas Lottery or any other state sponsored gaming enterprise.

The Committee recommends introduction of legislation that would codify policy adopted in tribal/state gaming compacts approved in 1995. The following paragraphs summarize major provisions of the bill:

- amendment of criminal gambling statutes to exempt gaming conducted pursuant to a compact currently in effect;
- amendment of expungement statutes to allow disclosure of convictions of state law or city ordinances when disclosure is necessary to determine qualifications for employment by the state gaming agency, a tribal gaming agency or a gaming operation or qualifications of a manufacturer-distributor or management contractor under a compact;
- amendment of the Open Records Act to exempt records required by a compact to be kept confidential;
- amendment of existing law to authorize tribal law enforcement officers to attend the state law enforcement training center and require them to pay tuition;
- amendment of the Open Meetings Act to provide for matters required by a compact to be discussed in a closed or executive meeting;
- a requirement that the state gaming agency obtain fingerprints from all persons employed by the state gaming agency, the tribal gaming agency, and certain employees and contractors of the tribal gaming operation in order to verify identity and qualifications in accordance with the compact; and a requirement

that those fingerprints be submitted to the KBI and FBI;

- amendment of existing law to authorize a tribal gaming agency or the state gaming agency to receive criminal history record information, criminal intelligence information, and information from background investigations to determine qualifications of one of their employees or an employee of a gaming operation or qualifications of a manufacturer-distributor or management contractor under a compact;
- amendment of existing law to authorize issuance of a temporary membership, with an exemption from the fee and waiting period usually required for membership, in a Class B club at a tribal gaming facility;
- a provision requiring the KBI to conduct or assist in conducting investigations of criminal violations at tribal gaming facilities and violations of compacts and rules and regulations adopted under a compact; and
- a provision authorizing tribal gaming agencies, the KBI, and the state gaming agency to enter agreements with the FBI, the IRS, the attorney general, or any federal, state or local agency and to recover cost in accordance with the applicable compact.

APPENDIX I

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REGULATION OF GAMBLING – KANSAS AND SELECTED STATES

State	Types of Gambling	Commission/Agency	Enforcement
Connecticut (Sec. 12-557b-12-578)	Lottery, parimutuel racing, jai-alai, off-track betting, charitable games, tribal gaming	Division of Special Revenue. Executive Director appointed by Governor/confirmed. Gaming Policy Board – five members appointed by Governor/confirmed; four-year terms.	Special Police in Division of Special Revenue and Legalized Gambling Unit in Division of State Police responsible for criminal enforcement.
Wisconsin (15.64 et seq. and Ch. 561-565 and 569)	Parimutuel racing, bingo, raffles, crane games, lottery, and tribal gambling	3-member commission appointed by Governor. Divisions: Administrative Services, Gaming Security, Racing, Lottery. Subunits: Council on Charitable Gaming; Indian Gaming.	Gaming Security reports suspected criminal activity to Department of Justice. Department of Justice has primary enforcement role.
Iowa (Ch. 99A, 99B, 99D, 99E)	Parimutuel, riverboats, amusement concessions, bingo, raffles	State Racing and Gaming Commission (part of Department of Inspections and Appeals). Five-member commission appointed by Governor; Senate confirmations; 3-year terms. Commission appoints administrator, Senate confirmation.	Department of Inspections and Appeals and Division of Criminal Investigation Racing and Gaming Commission
Iowa (Ch. 99E)	Lottery	Lottery Division of Department of Revenue and Finance. Lottery Commissioner and five-member Lottery Board appointed by Governor; Senate confirmation.	Division of Criminal Investigation through contract with Lottery.
Iowa (Ch. 10A.102, 10A.104)	Indian Gaming (negotiation and implementation)	Department of Inspections and Appeals. Director appointed by Governor, confirmed by Senate every four years.	Under provisions of compacts.
Missouri (1993 S.B. 10 and S.B. 11)	Riverboat casinos; bingo (as of July 1, 1994); two separate divisions	Missouri Gaming Commission (Division of Department of Public Safety, but Department Director has no oversight or control responsibilities). Five members appointed by Governor; confirmed by Senate. Three-year terms/two-term limit. Commission appoints Executive Director and other employees.	Commission authorized to conduct background investigations. Commission may contract with federal, state, or local agencies. Criminal justice records available to Commission.
Missouri (313.200)	Lottery	Three-member Commission appointed by Governor, confirmed by Senate; six-year terms; Commission appoints Director.	Attorney General provides legal services (no outside counsel permitted). Commission may request Attorney General to investigate. Highway Patrol may initiate investigation and report to prosecuting authorities.
Missouri	Parimutuel racing (no commercial tracks have been established in Missouri)	Racing Commission	
Montana (23-4-101 et seq.)	Parimutuel racing.	Board of Horse Racing. Five members appointed by Governor; confirmed by Senate; three-year terms. Under Department of Commerce. Director appoints Executive Secretary who hires staff subject to Board approval.	Not directly addressed in statute.

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State	Types of Gambling	Commission/Agency	Enforcement
Montana (23-5-110 et seq.)	Commercial card games, VLTs, sport pools, bingo, keno, calcutta pools, and casino nights.	Department of Justice, headed by Attorney General. Gaming Advisory Council, nine members: 1 Senator, 1 Representative, 1 public, 2 local government, 1 Native American, 3 gaming industry representatives (no regulatory duties).	Department of Justice is law enforcement agency. Violations reported to County Attorneys; if not prosecute, Attorney General does.
Montana (23-7-101 et seq.)	State lottery.	Commission – five members appointed by Governor (under Department of Commerce for administrative purposes). Governor appoints Director of Lottery who is supervised by Commission.	Lottery Security Division is designated law enforcement agency. Reports violations to Attorney General, State Auditor, or other law enforcement.
Kansas (74-8701 et seq.)	Lottery.	State Lottery – five-member commission appointed by Governor, confirmed by Senate; four year terms. Executive Director appointed by Governor; confirmed by Senate. Executive Director hires all Lottery staff.	Employees designated by Executive Director have law enforcement authority. KBI may be involved under its general law enforcement authority.
Kansas (74-8801 et seq.)	Parimutuel racing.	Racing Commission – five members appointed by Governor; confirmed by Senate. Commission appoints Executive Director who hires most other employees for positions approved by the Commission.	Employees designated by Executive Director have law enforcement authority. KBI may be involved under its general law enforcement authority.
Kansas (79-4701 et seq.)	Bingo	Secretary of Revenue administers Act. Secretary is appointed by Governor; confirmed by Senate.	Secretary has civil enforcement authority, including subpoena power under Act.

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APPENDIX II

TRIBAL/STATE COMPACTS – STATE RESPONSIBILITIES¹

I. STATE AUTHORITY

A. Designate a state agency to act as the State Gaming Agency. §5(AB)

1. Notify the tribe in writing of the designation of a State Gaming Agency which has all responsibility of the state provided for in the compact. §29(A)
2. Notify the tribe in writing that notices are to be sent to the State Gaming Agency rather than the Governor or the Attorney General. §30

B. Investigation/Compliance

1. Assist, if requested, in any investigation initiated by the Tribal Gaming Commission. §10(B)(3)
2. Provide, if requested, any services to insure proper compliance with the compact and applicable law. §10(B)(3)

C. Monitoring

1. Gaming agency and KBI, to ensure compliance with compact. §12(A)
 - a. Building and safety codes. §26(A)
 - b. Alcohol laws. §26(C)
 - c. Requirements for unemployment and workers compensation coverage for employees. §26(D)
2. Copy and review all records during normal business hours. §12(B)
3. Consult with independent auditors before or after any audits or periodic checks of procedures that may be conducted by the auditors. §23
4. Require retention of surveillance tapes for a period longer than the 7/30 days required in the compact. App. A 6 VI.F.
5. Conduct an annual audit at state expense, as long as that audit does not interrupt normal business practices of the tribe. §23
6. Utilize the monitoring room in the establishment as necessary. App. A VI.B.3.

¹ Section references are to tribal/state compacts adopted in 1995.

D. Submit written or oral comments or suggestions for improvements regarding the accounting and audit procedures of the gaming activities. §23

E. State Law Enforcement Agencies

1. Work in consultation and agreement with the tribe in development of a plan for public safety and physical security of patrons at the gaming facility. §10(D)
2. Criminal jurisdiction over Indians and non-Indians pursuant to applicable federal law. §13(A) and (B)
3. Cross deputization agreements as permitted by law. §15

II. REQUIRED ACTIONS (Assuming a State Gaming Agency has been designated)

A. Reporting/notification to the Tribal Gaming Commission/Tribe.

1. Any suspected violation of the compact or law. §10(B)(4)
2. Criminal history and background information compiled by KBI on prospective key or standard employees, and prospective management contractors, primary management officials and principal, or manufacturer/distributors (for contracts of \$10,000 or more) within 90 days of application to the extent such reporting is permitted by state and federal law. §16(B) and §17(B)
3. Any determination that disciplinary action taken by the Tribal Gaming Commission was inadequate in the case of a violation of the compact or law. §10(C)
4. Copies of any reports of investigations or inspections must go to the Tribal Gaming Commission with recommendations of action. §12(C)

B. Reporting to the BIA

1. Criminal history information compiled by KBI on prospective key or standard employees, to the extent such reporting is permitted by state and federal law. §16(B)

C. Approvals

1. Concurrence with any revisions of the gaming regulations found in Appendix A and rules found in Appendix B unless those proposed revisions are found to have a material adverse impact on the public interest in the integrity of the gaming or are contrary to the compact or state or federal law. §7(B)
 - a. Any disagreement must be filed in writing with the Tribal Gaming Agency within 60 days.

b. State and tribe must meet to attempt to resolve the differences, and if unsuccessful, utilize the compact's dispute resolution mechanism.

2. Agree with the Tribal Gaming Commission on the minimum supervisory staffing for each gaming table. §7(B)(5)

D. Communication

1. Meet at least quarterly with representatives of the Tribal Gaming Commission at a jointly selected location. §11

a. Prior to or during meeting disclose any concerns, suspected activities, or pending matters believed to be violations of the compact. §11

2. Consultation with the tribe and local governments regarding maintenance and safety of roads, bridges, and other infrastructure necessitated by the compact. §26(E)

E. Dispute Resolution

1. Use best efforts to negotiate amicable resolution of any dispute under the compact. §31(A)

2. Participate in arbitration of disputes if required by the compact. §31(B)

3. Pay expenses of tribe if the state loses a dispute that goes to arbitration or judicial enforcement. §31(D)

F. Background Investigations

1. State Gaming Agency provides for the conduct of background investigations for every key or standard gaming employee applicant, and prospective management contractors, primary management officials and principal, or manufacturer/distributors (for contracts of \$10,000 or more). §16(B) and §17(B)

a. Accept deposit of \$3,000 for the background investigation of each prospective key employee, management contractor, primary management official and principal, or manufacturer/distributor (for a contract of \$10,000 or more). §16(B) and §17(B)

b. Background investigations must be conducted in accordance with standards in Appendix C. §16(C)

(Determination by the State Gaming Agency that a license applicant has present or prior activities, criminal record, or reputation, habits, and associations that pose a threat to the public interest to the regulation of gaming, or create or

enhance the dangers of unsuitable, unfair, or illegal practices in the conduct of gaming shall result in denial, revocation, or suspension of a license by the Tribe. If the Tribe declines to revoke or deny a license for this or any other reason, the disagreement would be resolved utilizing the compact's dispute resolution procedures. §21(G) and §22(H))

2. State Gaming Agency provides written report of pre-employment background check on prospective key and standard gaming employees, and prospective management contractors, primary management officials and principal, or manufacturer/distributors (for contracts of \$10,000 or more) to the tribe within 90 days of application. §16(B) and §17(B)

G. Assessment for Costs of Oversight

1. State is to annually assess the Tribes for "reasonable and necessary costs" of regulating gaming under the compact. On or before August 1 each year the state must provide a detailed expense statement for the preceding fiscal year. §25(B)
Allowable costs include:

- a. all necessary regulatory costs of the State Gaming Agency and the KBI;
and
- b. the cost of tuition, room, board, and instructional supplies and material for tribal members attending the Law Enforcement Training Center, and the Highway Patrol Training Center. §25(A)

2. For the first year of the compact the assessment is to be prospective, and based on a *pro rata* allocation of costs. §25(B)

H. Consultation and agreement between tribe and state and local governments regarding the tribe paying for increased police patrol and necessary road improvements related to the operation of the class III facility. §27

**STATE GAMING AGENCY TO RECEIVE INFORMATION
FROM THE TRIBAL GAMING COMMISSION/TRIBE/
GAMING OPERATION REGARDING:**

- Any suspected violation of the compact or law reported by tribal gaming inspectors. §10(B)(2) and (B)(4)
- Reports of investigations of suspected violations and disposition. §10(B)(4)
- Any discrepancy in any gaming activity or operation and any violation of the compact or law. §10(D)
- Notification of the dismissal of any nongaming employees upon determination that the employee's conduct poses a threat to the effective regulation of gaming. §16(D)
- Copies of the proposed management contract as submitted to the Indian Gaming Commission with all correspondence and other documentation; and copies of the statement of approval or disapproval of the management contract from the Indian Gaming Commission. §20
- The gaming operation's system of internal procedures and administrative and accounting controls prior to the commencement of gaming operations. App. A III. A.
- Audited financial statements (two copies no later than 120 days after the end of the calendar or fiscal year). App. A V.C.
- Copies of all reports of gaming winnings filed with the IRS. §32(C)
- Persons barred from the gaming facility (list prepared weekly). §7(B)(2)
- Floor plan and closed circuit television system from the gaming operation. §7(B)(9)
- Location of storage for records. App. A IV. C.2.
- Standards and specifications for chips and other gaming equipment used in the gaming operation. App. A XVIII.B.

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Kansas Legislature

Report of
Special Committee
on Gaming
to the
1996 Kansas Legislature
Proposal Nos. 36 and 37



*Legislative Research Department
December, 1995*

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Report of the
Special Committee
on Gaming
to the
1996 Kansas Legislature

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Senator Mike Harris

Vice Chairperson
Representative Ray L. Cox

* Senator Jerry Moran chaired the Committee until September 27, 1995

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Senator Richard Rock
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Representative Doug Mays
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Representative Doug Spangler
Representative Shari Weber

December, 1995

Kansas Legislature

Report of
Special Committee
on Gaming
to the
1996 Kansas Legislature
Proposal No. 36



*Legislative Research Department
December, 1995*

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Proposal No. 36

STUDY TOPIC: *Study and evaluate the economic and social impact of gaming enterprises on the geographic areas in which gaming activities are located and upon the state as a whole; as part of such study, review the economic and regulatory experiences of other states with gaming activities and the current body of research in the area.*

EXECUTIVE SUMMARY

The impetus for this study is the large number of proposals that have been before the Legislature in recent years for legalization of additional forms of gambling in Kansas. These discussions in Kansas parallel the proliferation of gambling across the country.

The number of legalized gambling opportunities across the country and the recent legalization of riverboat casinos in Missouri have raised concerns regarding the impact of gambling on the economy, broadly defined, and on individuals and families that comprise this society. As the 1995 Kansas Legislature debated and considered resolutions and bills that would place Kansas among those states with legal casino-style gambling, both proponents and opponents presented evidence of direct and indirect social and economic impact. None of the evidence presented to legislative committees was definitive. Little prospective impact analysis cited by either side of the debate appeared to be based on circumstances analogous to those existing in the Kansas City market, which is unique because of the proximity of a wide variety of established gambling venues and other entertainment facilities. Finally, some evidence presented to committees participating in this debate appeared to be contradictory.

The Special Committee on Gaming held three meetings during the 1995 interim to receive testimony and background information on this topic. The Committee was briefed by staff of the Legislative Research Department regarding policy considerations involved in the question of whether to legalize additional forms of gambling.

The Committee heard proposals for expansion of gambling in Kansas from several sources. The Committee also received extensive oral and written testimony regarding the social and economic impact of gambling in Iowa, Illinois, Missouri, Montana, Rhode Island, West Virginia, and Louisiana. The Committee received testimony from the U.S. Attorney for Kansas regarding operation of illegal gambling machines in the state. The Committee also received testimony from Solomon Brothers, an investment banking firm that has done research on the gambling market. Finally, the Committee held an evening public comment meeting during which written and oral testimony was received from 33 conferees. Most conferees at that hearing spoke in favor of expanding gambling at racetracks. Written testimony submitted at all Committee meetings is included with the Committee minutes on file with Legislative Administrative Services.

The Committee was informed at its first meeting that bills that would establish a mechanism for the conduct of a nationwide study of the impact of gambling in the United States had been introduced in Congress.

At its last meeting on December 28, the Committee developed several findings and conclusions. The Committee also made the following recommendations:

- The Legislature should articulate goals for legalization of additional gambling.
- The state should develop a program modeled after the Iowa program to address pathological gambling. That program should be financed with gambling proceeds whether or not additional forms of gambling are legalized.
- Any proposed constitutional amendment to legalize additional gambling should provide for a contiguous county option vote to approve additional gambling in a locality.

Brief History of the Evolution of Gambling in Kansas

Even prior to the adoption of the *Kansas Constitution*, persons setting up or keeping a table or gambling device “. . . adapted, devised and designed for the purpose of playing any game of chance, for money or property, and [who] shall induce, entice, or permit any person to bet, or play at or upon any game played at or by means of such table or gambling device, or on the side or against the keeper thereof, . . .” were guilty of a crime. The penalty for violation of that law was a maximum one year in jail and a maximum fine of \$1,000. Persons who placed bets were fined between \$10 and \$100. The 1857 Territorial Laws also prohibited a number of other activities related to gambling, including betting on the results of elections or on any vote in an election. (*Territorial Laws 1857*, Ch. 28)

When the voters of Kansas adopted the *Constitution* at the election on October 4, 1859, that document contained the provision that is Art. 15 §3: “Lotteries and the sale of lottery tickets are forever prohibited.”

In 1887, the Legislature added to anti-gambling laws adopted prior to statehood a specific prohibition against keeping a place or room for the purpose of playing any game of cards for money or property or allowing anyone to play any game of chance by means of cards. (L. 1887 Ch. 149 §1) In 1895 a specific prohibition against the sale of lottery tickets was created in statute. (L. 1895, Ch. 152 §§1-6, codified at G.S. 1909 §§2856-2861; at G.S. 1949, 21-1501 through 21-1506)

The Kansas prohibition of gambling was consistent with policies adopted in many states, beginning in the 1830s. At that time, lotteries, which were commonly used to raise money for public purposes, fell into disrepute. The public associated lotteries with moral corruption, fraud, economic suffering, and compulsive gambling. After the Civil War some southern states tried to use lotteries to raise funds. However, public rage engendered by scandals in lotteries brought that era of lotteries to an end in 1895 when Congress

prohibited all lottery activity in interstate commerce which effectively ended the last remaining lottery located in Louisiana. That lottery secured over 90 percent of its revenue from outside the state. (Clotfelter, 1989)

There is some evidence, beyond old-west lore, that despite constitutional and statutory prohibitions, gambling was an accepted part of social activity in certain parts of Kansas. In particular, in Kansas’ cattle towns – notably, Abilene, Ellsworth, Wichita, Caldwell, Newton, and Dodge City, professional gamblers arrived seasonally to help relieve cowboys of their pay at the end of the drive. One historian who examined gambling in Kansas prior to the beginning of the Twentieth Century concluded that enforcement of anti-gambling laws coincided with the decline of cattle drives and the rise of farmers as the dominant economic interest in these towns. The society that developed was one in which gambling would have to be among residents – large numbers of transients with several months’ cash wages at hand no longer arrived every summer. With that change, county and city officials became serious about enforcing laws that had been in existence for some time. “Much of the long-standing tolerance of gaming had been based upon the widespread opinion that it was at the very worst a victimless crime. Now it was perceived as quite the contrary, with society itself being deemed the repeated victim.” (Cunningham, 1982; page 21)

In the years between adoption of the *Kansas Constitution* and the present, three specific exceptions to the general prohibition against gambling have been adopted as amendments to Article 15 §3. At the general election in November 1974, voters approved by 499,701 to 210,052 an amendment that authorized the Legislature to provide for certain nonprofit organizations to conduct bingo. (Art. 15 §3a) That section was subsequently amended at a 1995 election to provide for those organizations also to conduct “instant bingo.” In 1986 two more exceptions were adopted when Article 15 was amended to authorize the Legislature to enact laws providing for a state-owned and operated lottery and for parimutuel betting on horse and dog races. (Art. 15 §3b and §3c) The lottery amendment was approved by voters 515,893 to 291,441. The

rimutuel amendment was approved 483,944 to 324,143.

As with the statehood era prohibition, Kansas followed a number of other states into the business of using gambling as a means of raising public funds in the mid-1980s. The first modern state-owned and operated lottery was established by New Hampshire in 1963. Since then, 35 states have created lotteries. Here, as in most other states, the rationale for legalizing this form of gambling was generation of state revenue. Kansas was also quite late to join those states with legal betting on animal racing. In this case, the state revenue argument for legalization was less direct than in the case of the lottery. While proponents expected the state to impose a tax on wagering, they argued that the real benefit to the state would be realized through income and sales taxes collected from individuals and businesses connected with racing. In addition, proponents pointed out that local units of government where tracks were built would realize property tax revenue from the facilities.

Testimony presented between 1969 and 1985 to legislative committees considering legalization of a state lottery and parimutuel wagering clearly identified economic development as the objective – although an unambiguous definition of economic development does not appear in that testimony. When the Legislature finally adopted resolutions to amend the *Constitution* in 1985, it also enacted a law that directed disposition of state revenues over and above those used to operate the lottery and regulate racing with wagering.¹ That law earmarked the vast majority of those state gambling revenues for use in economic development projects. (L. 1986, Ch. 365; K.S.A. 79-4801, et seq.) In practice, the definition of economic development has been created through the appropriation process as each Legisla-

¹ The state's share of Lottery and parimutuel wagering revenue is established in the Racing and Lottery Acts, so it was not known to voters at the time of the election. State revenue from the Lottery is a minimum of 30 percent of total ticket sales. State revenue from parimutuel wagering is approximately 3 percent of the amount wagered, plus some fees.

ture has utilized those funds to finance a variety of projects.

The Kansas Supreme Court first interpreted the constitutional prohibition in 1891 when it prohibited "playing policy." A series of cases culminated in 1955 with the Supreme Court's relatively simple definition of lottery as any activity that involves the three elements of chance, consideration, and prize. That opinion was reaffirmed in 1994 when the Supreme Court in *State v. Finney* (254 Kansas: 632) noted that under the current authority of Art. 15 §3c the Legislature is empowered to create any kind of state-owned and operated gambling activity. That opinion makes it clear, however, that the only privately-owned and operated gambling allowed in Kansas are bingo and parimutuel wagering on dog and horse races.

Expansion of Gambling in Kansas

Almost every year since 1987 when the Lottery and Racing Acts were enacted, there has been discussion of allowing new forms of and venues for legal gambling in the state. The Legislature has considered allowing the Lottery to operate video lottery games and river boats. Discussions also have included a state-owned and operated casino. Beginning in 1991, the major subject of discussion of expanded gambling opportunities was in regard to tribal gaming. The state was involved in the process of negotiating compacts with four Native American tribes that have reservations in Kansas from 1991 until the summer of 1995 when the fourth compact was approved by the LCC. Also during that time, opportunities to gamble at racetracks were increased. There are now three year-round tracks in Kansas, the newest of which opened in May 1995 at Frontenac in the southeast corner of the state. In addition, the Racing Commission has licensed two county fair-type meets in the state. Tracks in Kansas can also display and accept bets on races simulcast from tracks outside Kansas.

During the last three legislative sessions, attempts have been made to either further amend the *Constitution* to permit establishment of one or more privately-owned casinos in Kansas or to statutorily establish a state-owned and operated casino. During the same period there have been

Proposals to authorize the Lottery to operate games on video machines. (Under existing law, the Lottery cannot conduct games on certain electronic equipment that is defined by statute.) These most recent efforts to expand gambling share with earlier proposals the objective of raising money. However, the direct, immediate beneficiaries of these proposals would not have been charitable organizations or the state, but the owners of tracks in Kansas, and to a lesser extent, the associations that represent owners and trainers of racing animals. The stated objective of proponents of these bills is to preserve the opportunity to race dogs and horses at the Woodlands track in Kansas City. That track has experienced declining attendance and handle almost every year since it opened, but the situation has worsened since river boat casino gambling began in Missouri.

The proliferation of legalized gambling opportunities across the country, and the recent legalization of river boat casinos in Missouri have raised concerns regarding the impact of gambling on the economy, broadly defined, and on individuals and families that comprise this society. As the Kansas Legislature debated and considered resolutions and bills that would place Kansas among those states with legal casino-style gambling, both proponents and opponents presented evidence of direct and indirect social and economic impact. None of the evidence presented to legislative committees was definitive. Little of the prospective impact analysis used by either side of the debate appeared to be based on circumstances analogous to those existing in the Kansas City market, which is unique because of the proximity of a wide variety of established gambling venues and other entertainment facilities. Finally, some evidence presented to committees participating in this debate appeared to be contradictory.

Committee Activity

The Special Committee on Gaming met to receive information on this topic and on Proposal No. 36 at three meetings: September 14, October 26-27, and November 27-28. The Committee was briefed by staff of the Legislative Research Department regarding policy considerations involved in

the question of whether to legalize additional forms of gambling. The Committee heard proposals for expansion of gambling in Kansas from several sources. A summary of the only proposal presented in the form of a bill draft is included as Appendix I. The Committee also received extensive oral and written testimony regarding the social and economic impact of gambling in Iowa, Illinois, Missouri, Montana, Rhode Island, West Virginia, and Louisiana. The Committee received testimony from the U.S. Attorney for Kansas regarding operation of illegal gambling machines in the state. The Committee also received testimony from Solomon Brothers, an investment banking firm that has done research on the gambling market. Testimony and written information received by the Committee is summarized as Appendix II. Finally, the Committee held an evening public comment meeting during which written and oral testimony was received from 33 conferees. Most of those conferees supported additional gambling at racetracks. A list of conferees is included as Appendix III. Written testimony submitted at all Committee meetings is included with the Committee minutes on file with Legislative Administrative Services.

The Committee was informed at its first meeting that bills that would establish a mechanism for the conduct of a nationwide study of the impact of gambling in the United States had been introduced in Congress. A summary of H.R. 497, the only one of those bills reported from a congressional committee prior to preparation of this report, is included as Appendix IV.

The Committee received a summary of provisions of state laws that authorize electronic gambling at racetracks in states that do not have statewide electronic gambling. The summary also included relevant provisions of the proposed bill presented to the Committee. That summary is included as Appendix V.

Overview of Policy Considerations

After reviewing literature regarding gambling proliferation and regulation in the United States, staff outlined for the Committee a number of possible reasons for legalization of additional

ms of gambling. Sources reviewed by staff are listed in the Bibliography at the end of this report.

Perhaps the first question is: Why is this issue before the Legislature? Clearly, it is because gambling is currently a highly regulated industry in this country. Some type of gambling legally exists in 48 states because their state constitutions and state laws permit it to exist. Only Utah and Hawaii completely prohibit gambling.

Why is gambling regulated? Generally, restrictions placed on gambling take the form of:

- protecting customers from unscrupulous game operators;
- protecting game operators from unscrupulous players; and
- protecting society, at large, from the crime and other social problems associated with gambling.

A high level of regulation sets gambling apart from most other objects of discretionary consumer spending, one notable exception being liquor. In much of the literature that presents economic arguments for and against expansion of gambling, the focus is on determining whether the money made from gambling – directly and indirectly – offsets social costs. There is little debate about the existence of some social cost. The heart of the debate, therefore, is the magnitude and the acceptability of those costs. (Grinols, 1995; Grinols and Omorov, 1995; Long, 1994; Kindt, 1994; Goodman, 1994; Thompson, et al., 1995; Sternlieb, 1983; Eadington, 1993)

At least in theory, if the state has an overriding interest in maximizing or maintaining the revenue-generating potential of this regulated industry, it should be prepared to respond to market changes and customer demands in order to fulfill that potential. (Hogan, 1995; Long, 1994; Turner, 1994; Orwall, 1995) Admittedly, there may be other public policy goals, but proponents of many gambling proposals considered by the Kansas Legislature have identified as a desired outcome maximization of revenue to the state. Another commonly cited goal of legal-

ization of gambling is support of an existing industry that is in decline. That was at least part of the argument for legalizing parimutuel wagering on dog and horse races in Kansas in 1987, and is proponents' most visible current argument for legalizing additional types of gambling at racetracks.²

When it entered the gambling market by instituting the state Lottery, Kansas made an explicit decision to participate actively in promoting and selling a product. Neither the provision in the *Kansas Constitution*, nor the original Lottery Act placed limitations or restrictions on the Lottery's ability to develop and market products in a manner that maximizes profit. In the eight years the Lottery has been in operation, the only significant

² The Kansas Legislature has frequently been asked by industries and businesses to enact laws that would enable them to amass greater profits. Indeed, much of the legislation enacted and appropriations made under the rubric of economic development are intended to realize that goal. Frequently, such legislation takes the form of amendments to the tax code. Examples of 1995 legislation that might assist specific businesses or industries include: establishment of the Small Business Innovation Research Bridge Financing Fund to assist in the creation of technology-based enterprises (L. 1995, Ch. 126); authorization for creation of a technology-based venture capital fund administered by KTEC (L. 1995, Ch. 127); sales tax exemption for labor used in new construction and utilities consumed in certain manufacturing processes (L. 1995, Ch. 118); various other sales and motor fuels tax exemptions (L. 1995, Ch. 242); and various appropriations through the Economic Development Initiatives Fund from which state revenue from the Lottery and parimutuel wagering taxes are allocated. Another example is the Kansas Economic Opportunity Initiatives Fund (KEOIF) created in statute specifically as a funding source for activities ". . . involved in securing economic benefits or avoiding or remedying economic losses related to: . . . (4) the departure from Kansas or the substantial reduction of the operations of a major employer; . . ." (K.S.A. 74-50.151). KEOIF is financed by gambling revenue through the Economic Development Initiatives Fund.

marketing restriction imposed by the Legislature is the prohibition against the use of video lottery machines included in the Lottery Act in 1992. (K.S.A. 74-8710) While not a restriction on marketing *per se*, the 1995 Legislature imposed more oversight on the Lottery by requiring that the Governor approve all new Lottery games (L. 1995, Ch. 261, §1(b).)

Since its founding, the Lottery's marketing strategy has been to introduce new games to attract players and to maintain current players' interest. Continually adding to the player base, whether through new products or by making existing products more accessible, results in maximum sales revenue. Thus, the Lottery finds it must quickly respond to customers' demands for new and more exciting products to deter existing customers from finding another outlet for their discretionary spending. The Lottery is a unique creature of the state in that regard. The processes of regulation and licensure, which are generally applied to private, legal gambling enterprises, frequently embody the opposite approach – each new promotion or attempt to attract new gamblers must be presented and approved by a regulatory body and this is often not a speedy process. There are exceptions, most notably the State of Mississippi's policy that has allowed for virtually unlimited proliferation of river boats within a regulatory structure. (Turner, 1994) But, other than bankruptcy for at least one Mississippi boat, the long-term economic and social implications of those exceptions are not completely apparent.

Arguably, legalization of parimutuel wagering and bingo was aimed at different goals than those established for the Lottery. The licensing and regulation rationale that extends from the *Kansas Constitution* to the implementing statutes and regulations for bingo and parimutuel wagering implies goals of raising funds for charities; generating limited state revenue in the form of taxes; and controlling the proliferation of opportunities to participate in these forms of gambling. For both parimutuel wagering and bingo, the public policy goal has not been one of maximizing revenue – to the state or to charities. Instead, a series of controls were instituted to ensure the honesty and integrity of these forms of legalized betting and to control aggressive competition among licensed promoters. Examples of controls

on competition in bingo include limitations on the number of days on which games can be played and the size of prizes. In the case of racing, control of the industry is delegated to the Racing Commission which is authorized to limit the number of licensees in a geographic area and the number of days on which racing with wagering can be conducted, the size of purses, and a number of other elements that impact the attractiveness of the opportunity to gamble.

In the case of tribal gambling, the state's policy has also pursued these two goals to the extent allowed by federal law. State/tribal gaming compacts with Kansas resident tribes provide for gambling only on land held by those tribes prior to enactment of the federal Indian Gaming Regulatory Act. Those compacts also articulate a policy that has been implicit since 1986, *i.e.*, direct competition with the state Lottery is prohibited. By providing for a large number of different games, those compacts also are consistent with a policy of maximizing profits for the governmental units, *i.e.*, the tribes, using gambling to raise revenues for public purposes. (The legal question of whether the state could have refused the tribes' requests for such a wide scope of games remains unanswered by the courts.) Consistent with a revenue maximization policy, such as that implemented through the Lottery Act, state involvement in tribal gaming as described in those compacts is to ensure the integrity of the games (without which the public will not participate) and the safety and security of the public.

These two seemingly contradictory policy positions, *i.e.*, maximum governmental revenue from governmental gambling operations and limitations on private gambling, exist side by side in most states currently involved in gambling. Generally, the goal of state-owned and operated gambling enterprises is maximization of state revenue. The goal of legalization of various forms of privately conducted gambling is generally to produce some, but seldom the maximum possible, amount of revenue for philanthropic purposes, and to control the proliferation of gambling (generally by establishing state sanctioned monopolies through the licensing process).

Policy Questions

Staff formulated the following questions for Committee consideration.

- What public good is achieved by legalization of additional forms of gambling in Kansas?
- Would additional types of gambling result in increased revenue for the state and its subdivisions that could not be obtained in another way?
- Would legalization and regulation of additional types of gambling generate revenue for socially desirable purposes and provide entertainment at low cost (direct and indirect) to the state without causing harm or diverting revenue from other desirable purposes?
- Is there evidence that illegal gambling could be reduced through legalization of additional types of gambling?
- Is there a significant determinable unmet demand in Kansas for additional legal gambling?

Gambling as Economic Development

Recent Discussion. During the 1993, 1994, and 1995 sessions, proponents of expanding legalized gambling implicitly answered some of those questions listed above by describing several expected economic benefits of legalizing additional forms of gambling:

- job preservation at parimutuel wagering facilities (and ancillary businesses);
- subsidy of parimutuel wagering facilities;
- retention in Kansas of gambling profits that are currently going to other jurisdictions; and
- incidental bolstering of the property tax base and sales tax collections in those counties where parimutuel facilities are located.

In the 1993-1995 gambling proposals, those objectives would have been accomplished by using proceeds from slot machines to subsidize racetracks. With the question of expanded gambling thus framed the argument is about the need to subsidize a particular industry rather than an argument about legalization of gambling. With attention fixed on a localized need for an influx of large amounts of cash, rather than on the need for additional gambling as an element in the entertainment mix in the state, a certain logic can develop that equates an anti-gambling position with an anti-[name the industry] position.

The 1995 debate over continuation of the state Lottery is a pertinent recent example of this substitution phenomenon. Most of the testimony by proponents of the Lottery presented to committees considering extension of the Lottery focused on the use of Lottery proceeds, rather than on the merits of the Lottery as a function of state government. Neither was the issue of the efficiency of the Lottery as a revenue-generating mechanism explored to any extent. Opponents of the Lottery focused on the impact of the Lottery on social and economic well being in the state.

Determination of the need for gambling and the best way of using gambling as a means of restoring depressed local economies, requires a different analysis. The analysis used for that purpose is seldom as easy as analyses used to consider adding another entertainment attraction.

Gambling As a Means of Economic Revitalization. In the context of "gambling as economic restorative" arguments, the Legislature may wish to consider the following question:

- Are Kansas counties with racetracks the most economically needy in the state, and is subsidizing racetracks the most efficient (maximum wealth creation at minimum cost) way in the long term for the state to foster economic development in those counties?

Determining the efficiency of this or any other method of catalyzing economic development requires detailed analysis. Answers to a number of questions are relevant to a determination of the

Efficiency of gambling as a spur to economic development:

- Where would gambling money come from? Economic analyses frequently find that recycling the disposable income of residents of the jurisdiction in which gambling is located does little to add to the net wealth of the area and that regional gambling centers, unlike tourist resorts, are vulnerable to competition and fluctuations in the economy. (Rohs, 1993; Kinsey, 1994; Grinols, 1995; Goodman, 1994; Gold, 1995) The question can be asked regarding social and economic subpopulations as well as populations within a geographic area, *i.e.*, does gambling money come in disproportionate amounts from certain socio-economic groups? There is evidence that many types of gambling, including state lotteries, may be a regressive means of raising government revenue. (Mobilia, 1992; Johnston, 1992; Clotfelter, 1989; Abt, 1985; Thompson, 1994)
- Would the total cost – direct and indirect – to both the public and private sectors be less than total revenue generated from gambling, *i.e.*, would the additional gambling activity be profitable? If not, the result could adversely affect economic development by leaving the area more needy than it was prior to expansion of gambling. (Johnston, 1992; Long, 1994; Sternlieb, 1983; Teske, 1991; Grinols, 1995; Abt, 1985)
 - Obvious costs are those incurred in the regulatory process. Those costs can be controlled to some extent as a matter of policy. If the state is interested in tight regulation and the limitations implicit in that approach, the cost may be higher. If, on the other hand, the regulatory and enforcement climate is relaxed, direct costs for those functions may be reduced. However, because large amounts of cash change hands in gambling operations, there is some lower limit of regulation and enforcement beyond which the “leakage” from the system must be included in cost calculations. (Legislative Auditor, 1994; Thompson, 1994)
 - Other direct costs are incurred by the jurisdictions in which gambling establishments are located. Those include the obvious streets, roads, and sewers that may be built or improved to support the development of gambling facilities. Police and fire protection may have to be supplemented to accommodate the increased number of people in the area. If, as is sometimes predicted, there is an influx of new residents to take jobs in the gambling facility and in associated businesses, there also may be impacts on schools, health care facilities, and other publicly supported services. (Long, 1994; Sternlieb, 1983; Johnston, 1992)
 - Indirect costs may include, but might not be limited to: reduction of other entertainment in the area; reduced sales tax revenue; movement of nongambling related businesses and industry from the area; and movement of residents from the area. (Long, 1994; Abt, 1985; Johnston, 1992)
 - Societal costs, which are also indirect, but tend to be discussed separately, primarily include crime and problem gambling. (Long, 1994; Grinols, 1995; Kindt, 1995; Thompson, 1994)
- Would any costs be exported? The answer here should be examined at several levels. Would any costs be passed to other jurisdictions in the state? Would any costs be exported to other states? Obviously, answers to both questions would be revealed to some extent by knowing where gamblers come from and where employees of gambling facilities would live. (Impact on schools and other public services that would result from additional residents may be “exported” to communities near the gambling facility.) (Hakim, 1989; Thompson, 1995; Long, 1994)
- Likewise, would any economic benefits be exported? Clearly, since Kansas does not have a local pool of entrepreneurs in the gambling industry, one would expect corporate profits to be exported. However, other

benefits might accrue to jurisdictions outside the locality where gambling facilities are located. Atlantic City provides an example of benefits in the form of employment accruing primarily to suburban residents outside Atlantic City proper. In the case of Kansas City, some of those benefits might go out of state. (Johnston, 1992; Thompson, 1994; Long, 1994)

If gambling is determined to be the most efficient means of developing the economies of depressed areas, the state would in all likelihood want to maximize the attractiveness of gambling opportunities in order to dominate the market. (McGowan, 1994) Without achieving at least regional domination, which in Kansas City might require the establishment of casinos, the population base may be too small to generate the new wealth necessary for stable economic recovery. Competitors would be other forms of entertainment, gambling and entertainment in other states, tribal gambling, charitable bingo, and the state Lottery.

As with the Lottery, the state could develop a vested interest in developing and maintaining the gambling industry to the extent it continued to be a mechanism through which a desired end would be met. (McGowan, 1994; Long, 1994; Abt, 1985) The purpose of supervision and regulation could change from the traditional one of limitation and control to one of industry support. In this scenario it might even make sense for the state to be the owner and operator of gambling facilities, thus maximizing its ability to obtain the outcome it desires and retain both direct and indirect benefits. If the state did not want to enter the market directly, a key question would be whether sufficient private capital could be attracted to enable local facilities to dominate the market in this region. The state's recent experience with the Oz theme park may indicate that without casino gambling as a major source of profit, the largest concentration of population in the state is not sufficient to attract investors to a major entertainment enterprise (testimony of Wayne Wilson, Robert Kory, Larry Barcus, and Craig Tompkins before the House Committee on Federal and State Affairs, March 21, 1994). Finally, the Legislature may wish to explore

whether proposals under consideration would generate enough revenue to accomplish the goals articulated.

Proposals Discussed With the Committee

The Committee was presented with essentially four proposals for the expansion of gambling in Kansas related in some way to providing a subsidy to the racing industry. Written testimony provided by proponents of these proposals is filed with Committee minutes.

- The racing industry, via horse and dog owners and breeders, presented a proposal similar in most respects to bills considered during the 1995 Session. (See Summary in Appendix I.)
- The Governor presented his proposal for a resolution to amend the *Constitution* to legalize privately-owned and operated electronic gaming at dog and horse racing tracks in Kansas. While the Committee was not presented with the specific language of the proposed resolution, the Governor's written testimony indicated that those electronic gambling devices would be operated by the tracks and that a portion of any revenue realized would be used for higher education. (Attachment No. 2, minutes of the Special Committee on Gaming, September 14, 1995.)
- A former owner of the Woodlands track in Kansas City proposed amending the *Constitution* to legalize full scale, unlimited casino gambling at parimutuel facilities and electronic gambling devices in clubs and bars. The proposal also included a one-year transition during which the Kansas Lottery would be authorized to conduct games on electronic gambling devices at tracks. Expansion of gambling in any county would be subject to a county option vote. (Attachment No. 1, minutes of the Special Committee on Gaming, October 26, 1995.)
- The Wyandotte County Private Club Owners and Associates Association proposed to amend the *Constitution* to legalize slot machines in class A and B clubs, on premises of bingo licensees, at racetracks, and at certain

tourist attractions such as Dodge City's Front Street, Wichita's Cowtown, and Old Abilene Town. Under that proposal a portion of the state revenue would be earmarked for dog and horse race purses. This proposal included a county option provision. The gambling operation would be state-owned and operated under this proposal. (Attachment No. 6, minutes of Special Committee on Gaming, September 14, 1995 and memorandum from Rebecca Rice to Special Committee on Gaming, October 13, 1995.)

Constitutional Framework

In order to legally have gambling other than parimutuel wagering at tracks in Kansas, the Legislature will have to amend the *Constitution* to permit privately conducted gambling, or the Legislature will have to provide in statute for additional types of state-owned and operated gambling at tracks. State-owned and operated gambling could be part of the existing state Lottery operation or alternatively could be part of another state-owned and operated enterprise. The essential element, under the current constitutional constraint, is state ownership and operation.

Revenue Estimates

None of the conferees before the Committee presented specific estimates of revenue that would be generated from implementation of their proposals. However, during the 1995 Session, the Division of the Budget's fiscal note on the introduced version of H.B. 2547, which was the original bill proposing to authorize the Kansas Lottery to operate electronic gambling at the tracks, predicted net machine revenue of \$27.4 million, of which the tracks' share was \$23.3 million and the state's share, \$4.1 million.

One representative of a Kansas track presented projections of revenue from electronic games of chance to a Senate committee during the 1995 Session. That projection was based on a total statewide wager of \$877.5 million (approximately \$343 wagered per capita based on the 1994 estimate of Kansas population) with resultant net

machine income of \$87.8 million. The distribution of net income depicted in that projection was based on an amended version of the tracks' proposal. It showed the tracks' share to be \$51.8 million. The state's 20 percent share, at \$17.6 million, would all have been divided among the Regents' institutions, \$12.3 million; Washburn University, \$4.4 million; and community colleges, \$878,000. That projection also showed an allocation of 1 percent of net machine income, \$878,000, to the largest city in the county in which the games would be operated, and 20 percent, \$17.6 million, to horse and greyhound purses. This allocation of revenue apparently anticipated either that the State Lottery would not incur any operating expenses, or that any operating expenses of the Lottery would be paid by the tracks from the 59 percent of net machine income allocated to them. While this projection included an allocation for horse and greyhound purses, the bill being considered at that time did not include any language that would have required any particular amount be used for purses.

The Special Committee on Gaming reviewed calculations of FY 1995 electronic gambling revenue figures from states that have electronic gambling at tracks. Those states are Iowa, Rhode Island, and West Virginia (see Table I). In Rhode Island and West Virginia, state lotteries operate video gambling machines exclusively at the tracks. In Iowa, slot machines are operated on riverboats on the Missouri and Mississippi rivers as well as at three tracks. However, the Iowa figures presented in this table do not reflect the effect of riverboats operating in close proximity to track-based casinos. Two tracks that operate slot machines in Iowa, at Dubuque and Council Bluffs, have or soon will have riverboat competition in very close proximity. It will be several months before an analysis of the impact of the competition can be done. There is currently no other state with electronic gambling at racetracks that also does not have statewide electronic gambling. Table I displays figures reviewed by the Committee.

Table I also displays simple extrapolations from slot machine and video lottery revenue of those states to the allocation of revenue that would exist under the racing industry proposal presented to

Special Committee on Gaming. These extrapolations are not based on a detailed analysis that identified or factored into the Kansas revenue estimate the myriad variables that impact gambling revenues. Those variables include propensity of the population to gamble, competition from other types of gambling and other kinds of entertainment, population density in the locale of the track, amount of tourism, advertising, and so on. What this table presents is a starting point for discussion based on experiences of other jurisdictions. An accurate estimate of potential revenues will require more precise analysis.

The first figures on the table are the amount of "cash-in." That represents the amount of new cash players spent on these games. It does not include any credits or winnings that are played as they are won. The total of all new cash and credits played is the total amount wagered, and is significantly higher in each instance. "Cash-in" is used here because it is equivalent to Lottery sales figures with which the Legislature is familiar. The third line on the table displays cash-in per capita which provides a sense of how much is theoretically spent by residents of these states on these games. The figure is theoretical to the extent that it attributes expenditures to nonplayers and to the extent that some players come from out of state.

The "net machine income" figure has slightly different names in various state laws. Whatever it is called, it is the amount of money left after all prizes are awarded. In nearly all instances, that net figure is the basis for calculating the state's share of revenue (or tax in the case of privately operated machines) and distributions for various other purposes. Net revenue as a portion of cash-in ranges from 24.1 percent in West Virginia to 42.4 percent in Iowa. These percentages are within an expected range based on national averages. In 1994, players lost an average of 26.7 percent of money played in video gaming devices in the United States (La Fleur, 1995a). The "net per capita" figure represents the theoretical amount that each person in the state lost on these games during FY 1995.

The Budget Division's fiscal note containing the estimate of state revenue for 1995 H.B. 2547 (the original 1995 "slots at tracks" bill) was based on

76 percent of the West Virginia Lottery's per capita wager. Making an adjustment based on an indicator of "propensity to gamble," such as per capita wager, is one way to account for differences of behavior among residents of different states. However, adjusting for an indicator of only one variable does not necessarily improve the accuracy of the projection. For purposes of comparison with the 1995 fiscal note, the final column of Table I displays the calculations discussed above if Kansans lost 80 percent of the amount lost by players in West Virginia. In FY 1994, total per capita sales of the Kansas Lottery represented 80 percent of total per capita sales of the West Virginia Lottery (*Ibid*). This figure represents the theoretical low of the range of estimates presented here. Applying the same logic to the Iowa figures would reduce the top of the range of net revenue to \$208.1 million and reduce allocations by 17.8 percent from those displayed in Table I.

The bottom portion of the Table I displays the revenue distribution that would result from the proposal presented to the Special Committee if per capita net revenue in Kansas is the same as in the other four states. So, if players in Kansas lose as much per capita as players in Iowa, the state share, city share, and track share would be \$50.6 million, \$2.5 million, and \$200 million, respectively (unadjusted for the "propensity to play" factor discussed above). Because the proposal presented to the Special Committee does not specify any other allocation of funds, it is not possible to extend these calculations to other entities, e.g., racing animal owners or charities that receive a portion of parimutuel wagering revenue.

Under the proposal, the state portion of revenue would be used to finance any costs accruing to the Lottery with the remainder allocated to institutions of higher education. In the fiscal note on 1995 H.B. 2547, which included many similar provisions to the proposal presented to the Special Committee, first year costs for the Lottery were estimated to be slightly over \$2 million. That estimate included the cost of the central computer system, background checks, and personnel with associated operating costs. Approximately \$1,605,000 of that amount was identified as being a one-time cost. The fiscal note did not

ention ongoing costs of hardware and software maintenance and support, so ongoing costs might be expected to exceed the \$443,000 estimated ongoing personnel expenses. The last section of Table I displays the allocation of state revenue for Lottery operations during the first year and to institutions of higher education, assuming a \$2 million operating expenditure by the Lottery.

Representative Ray Cox, Vice-Chair of the Committee, presented a proposal for allocation of any new state revenue realized by expanded gambling. That revenue would be placed in a proposed Special Gaming Fund for Education. The purpose would be to establish a means of stabilizing cash flow to education and ensuring continued ability to use those funds even if gambling revenue declines. According to the memorandum provided to the Committee ". . . this fund could easily mean as much as \$1 Billion for Kansas education." (Attachment No. 46, November 28, 1995 minutes of the Special Committee on Gaming) The memorandum described how the fund would work as follows:

1. The state's share of expanded gaming revenue would be invested in a KPERS managed investment fund until the value is over \$500 million. Annually, 10 percent would be taken out of the fund for use for education.
2. According to the attached³ "Hypothetical," \$300 million invested over five years resulted in a balance of over \$500 million.
3. This example shows a payout period of 15 years with over \$1 billion going to education and an account balance of over \$887 million!
4. The funds designation could have a sunset clause so that future legislatures could review the funding based on the state's needs. (*Ibid*)

³ The table referred to in the description is filed with the memorandum as part of the minutes of the November 28 Committee meeting.

COMMITTEE FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

- I. The Legislature, in order to make a reasoned decision on gaming issues, must define and develop clearly the goals it seeks in proposed law changes. Some reasons to support expanded gaming in Kansas, and countervailing arguments against, that have been advanced in the Committee's hearings are:

Reasons to Support	Countervailing Argument
To assist the existing parimutuel industry, thereby preserving jobs and benefiting the Kansas economy.	The existing Kansas parimutuel industry cannot be saved with slot machines alone because Missouri already has casino gaming. Even if the parimutuel industry could be saved, it does not deserve special treatment above and beyond that of any other legitimate business.
To derive additional tax dollars for the State of Kansas to benefit education, enhance general revenue, or to go into a savings account for future needs.	Serious social costs will be incurred due to pathological gambling that could outweigh the revenue gains made.
To assist the dog and horse breeding and racing industries in Kansas.	If you try to save the existing Kansas parimutuel industry by legalizing slot machines or other gaming, you endanger other Kansas businesses such as restaurants, bowling alleys, bars, and so forth, from which consumers' discretionary spending dollars will be drained.
To promote tourism.	Experiences of some states indicate that gaming is an unstable method of raising revenue and promoting tourism.

- II. The issue is not whether to have gaming, but rather whether to expand it. Kansas already has legalized gaming by way of bingo, Kansas Lottery games, and Indian gaming. Kansas also has substantial illegal gaming by way of illegal video poker, blackjack and slot machines which exist in bars, private clubs, drinking establishments and fraternal clubs throughout the state. Although the state has adequate laws against such devices, they continue to flourish because of spotty and weak law enforcement efforts to eradicate them. Where establishment owners and operators and players are not prosecuted, there is little deterrent to such behavior.
- III. Problem and pathological gambling exist in Kansas and will increase if gaming is expanded. A small but persistent and predictable percentage of gamblers will become "addicted" and be unable to control their gambling patterns and habits, thereby incurring social costs to the state. The state, whether it does or does not expand gaming, should pass laws setting aside revenue from gaming proceeds to establish an agency dealing with pathological gambling. The Committee recommends the setup of the State of Iowa as a model to be followed in dealing with this problem.
- IV. Gaming should be expected to impact only the local population base and it would be naive to expect that Kansas can attract significant out-of-state revenue with expanded gaming. For a Kansas-

based gaming facility to efficiently compete with Missouri riverboats; it should be land-based, a monopoly license, and of an unrestricted nature in terms of size and location.

Kansas will soon have casino gaming on Indian reservations. Currently, a portion of Kansas' discretionary spending occurs in Missouri casinos. Salomon Brothers expects this to approach \$180 million per year at maturity. As long as Kansas has no competitive product, this flow of funds across state lines will continue. It is difficult to assess how much of the potential Kansas City metropolitan market could be captured in a Kansas facility. If Kansas were to approve casino gaming, the structure and limitations would determine market share. Missouri would likely drop its current political constraints on its riverboats of loss limits and simulated cruising.

- V. If the Legislature decides to follow the approach of a constitutional amendment to allow casino gaming in Kansas, it must decide whether to draft the amendment in such a way as to allow a competitive advantage to the three existing racetracks, or whether to permit the establishment of casinos in other venues. There are substantial drawbacks and advantages to both approaches. However, the Committee recommends that any proposed constitutional amendment include a requirement for a county option vote in the county where gambling would be conducted and in all contiguous counties to approve additional gambling in a locality.
- VI. In 1986 a constitutional amendment to allow parimutuel horse and greyhound racing was passed. There are currently three facilities in Kansas licensed to conduct year-round parimutuel greyhound or horse racing, the Woodlands in Kansas City Kansas; Wichita Greyhound Park, located a few miles north of Wichita; and Camptown Race Track located near Pittsburg, Kansas. Of the three, only Wichita Greyhound Park remains profitable.
- VII. The Committee requested an audit of the racing industry in Kansas that should provide the Legislature with additional information regarding the size of that industry. Results of that audit are anticipated to be available for legislative review in March 1996.

APPENDIX I

Racing Industry Electronic Gambling Proposal

The following paragraphs summarize major provisions of the electronic gambling at tracks proposal presented by racing interests to the Special Committee on Gaming during the 1995 interim. The proposal is similar in some ways to 1995 S.B. 27 that was referred to the Senate Committee on Federal and State Affairs after it was passed by the House and ruled materially changed upon its return to the Senate. The bill remained in the Senate Federal and State Affairs Committee at the end of the 1995 Session. The proposal is also similar to 1995 H.B. 2457, which contained the original version of the concept.

Section numbers refer to the proposal in bill format as presented to the Committee. (Attachment No. 3, minutes of the Special Committee on Gaming, September 14, 1995.)

The proposal is to amend the Kansas Lottery Act to permit the Lottery to conduct electronic games of chance at licensed racetracks under certain circumstances. Existing law prohibits the use of video games by the Lottery.

The Kansas Lottery would be authorized to conduct lottery games on electronic game of chance machines located at parimutuel licensee locations. Electronic games of chance could only be conducted in counties where voters approved, at a special countywide election, operation of those games at a parimutuel racetrack in that county. (New Sec. 12)

The question to approve or disapprove operation of these electronic games in a county could be placed on the ballot by a resolution of the county commissioners or by a petition. Any petition to place the question on the ballot would have to be signed by a number of qualified voters equal to at least 10 percent of voters in that county who voted for the office of Secretary of State at the last preceding general election for that office. The special election on the question would have to be held at least 90 days after adoption of the resolution or filing of the petition. Any local option ballot to permit or prohibit electronic games of chance would have to specify that slot machines and video poker, among other games, are covered by the vote. (New Sec. 12)

An "electronic game of chance" would be defined to be any game played on an electronic game of chance machine. (Sec. 1(b)) Those machines would be defined to include electronic, mechanical, or computerized game machines authorized by the Lottery Commission as activated to play by the insertion of cash, tokens, or a cash voucher. Electronic game of chance machines would enable the player to play a game of chance and to receive winnings in the form of cash, tokens, or credits that could be redeemed for cash. The definition in the bill specifically includes, but is not limited to, mechanical or video slot machines. (Sec. 1(c))

Electronic games of chance could only be played on days when live or simulcast racing is conducted or displayed at a track other than a fair association track. No other restrictions regarding days of operation of those machines could be imposed. At fair association tracks, electronic games could be played provided a live race was scheduled during the same calendar year at that track. The number of days on which those games could be played could not exceed twice the number of authorized simulcast race days. (New Sec. 8(e)(2))

The "parimutuel licensee location" where the electronic game of chance machines could be located could either be a new or existing facility located on the real estate of the parimutuel licensee where live horse or dog racing is conducted pursuant to the Kansas Parimutuel Racing Act. (Sec. 1(1))

Electronic game of chance machines could be placed in structures where all races are displayed on video terminals and parimutuel windows are installed for parimutuel wagering on live horse or greyhound races. (New Sec. 8(a))

A "parimutuel licensee" would be defined to be a facility owner and manager, a nonprofit organization that owns its track, or those organizations that conduct races at Anthony or Eureka Downs, licensed under the Kansas Parimutuel Racing Act. (Sec. 1(k)) Conditions governing selection of Lottery retailers under existing law would pertain to parimutuel licensees under this bill. (Sec. 1(g)(2) and Sec. 3) Any application fee charged to persons applying to become Lottery retailers would have to be sufficient to pay costs of processing the application. The Executive Director of the Lottery would be authorized to charge a different application fee to parimutuel licensees to cover the costs of processing applications. (Sec. 3(b))

The Executive Director of the Lottery could enter into one or more agreements with a parimutuel licensee to operate electronic game of chance machines at parimutuel licensee locations. (Sec. 2(a)(4) and Sec. 8(a)) The Executive Director of the Lottery would be authorized, but not required, to contract with one or more parimutuel licensees to install electronic game of chance machines and electronic games of chance at parimutuel licensee locations. (New Sec. 8(a)) Electronic game of chance machines would have to be:

- certified by the Executive Director of the Lottery prior to operation (New Sec. 8(g));
- display the certificate (or be considered contraband and a public nuisance subject to confiscation) (New Sec. 8(g));
- equipped to pay out an average of not less than 90 percent and not more than 97.5 percent of the amount wagered (New Sec. 8(i)(1)); and
- would have to be linked under a central communications system to provide auditing program information, as approved by the Commission (New Sec. 8(i)(2)).

The bill would prohibit the Commission from excluding any electronic game of chance machine manufacturer by either the cost of implementing the necessary program modifications to communicate with the central system or the inability to communicate with the central system. The bill would contain specific language that the requirement for connection to a central communication system could not be construed to require an electronic game of chance machine to be on-line or in constant communication with a central computer. (New Sec. 8(g) and (l))

Electronic game of chance machines would have to be installed, operated, managed, owned, or leased by a parimutuel licensee subject to the ultimate control and operation of the Lottery. Specific games of chance played on game of chance machines operated at parimutuel licensee locations must be approved by the Kansas Lottery in accordance with rules and regulations. (New Sec. 8(b)) The Lottery Commission would be authorized, upon the recommendation of the Lottery Director, to adopt rules and regulations regarding electronic games of chance played on electronic game of chance machines at parimutuel licensee locations. The bill would make these, and all other, rules and

gulations of the Lottery Commission subject to all provisions of the Rules and Regulations Filing Act. (Sec. 4)⁴

The contract between the Executive Director and a parimutuel licensee would have to provide for the Kansas Lottery to receive a minimum of 20 percent of net machine income; be for an initial term of at least five years; and be renewable at the option of the parties. (New Sec. 8(c)) Of the revenue received by the Lottery, any amount in excess of the amount necessary to administer electronic games of chance, as determined by the Executive Director of the Lottery, would be apportioned as follows: 70 percent to the State Education Building Fund; 25 percent distributed equally to community colleges; and 5 percent to Washburn University. (New Sec. 8(j))

Contracts between the Lottery and parimutuel licensees to operate electronic game of chance machines would also have to designate that the governing body of the most populous city of the county in which electronic game of chance machines are located would receive an amount equal to 1.0 percent of net machine income from machines operated in the county. Those funds could only be used to provide low interest loans to business and industry for urban redevelopment in blighted areas of the city. (New Sec. 8(d))

The bill specifies certain items that may be included in contracts between the Lottery and parimutuel licensees, including accounting procedures to determine net machine income, unclaimed prizes, and credits; the times of operation and location of machines; and minimum requirements for a parimutuel licensee to provide qualified oversight, security, and supervision of the machines. (New Sec. 8(e))

The Lottery could not contract with a parimutuel licensee to operate electronic game of chance machines unless the licensee had reached and maintained a written agreement with three named racing animal organizations regarding the distribution of an unspecified percentage of net machine income to those associations and the extent of live racing to be conducted at each parimutuel facility. (New Sec. 8(f))

Intentional manipulation of the outcome, pay-off, or operation of an electronic game of chance machine would be a level 8, nonperson felony. (New Sec. 9) The same penalty would apply to a person who operates a machine that has not been certified by the Executive Director of the Lottery. (New Sec. 8(g)) Allowing a minor to play an electronic game of chance, knowing that person to be under 18 years of age, would be a class A nonperson misdemeanor for the first offense and a severity level 9 nonperson felony for subsequent offenses. (Sec. 6(a)(4)) That is the same penalty that accrues for the sale of any Lottery ticket to a minor.

The bill would specifically provide that machines transported to and from parimutuel licensee locations within the state under the Act are exempt from the federal prohibition against transportation of gambling machines. (New Sec. 11)

The bill would take precedence over any conflicting state law or rule and regulation, or any local ordinance. (New Sec. 10)

⁴ Under existing law, temporary rules and regulations of the Commission are not subject to that Act, but must be approved by the Attorney General, filed with the Secretary of State, and published in the *Kansas Register*. A 1995 amendment of the Lottery Act requires that the Governor approve all new games begun after July 1, 1995.

APPENDIX II

Summary of Testimony Received by the Committee

The following summary of testimony presented to the Special Committee on Gaming is organized by topic. Thus, testimony provided by a single conferee at a single hearing may appear in several places depending upon the number of topics addressed by the conferee. In addition, several conferees addressed the issue of gambling regulatory structure. A summary of any such testimony is included in the report on Proposal No. 37.

Cost-Benefit Analysis

Dr. Earl L. Grinols, Department of Economics, University of Illinois, who began researching the economic impact of gambling on local economies in Illinois in the early 1990s has found that ". . . casino gambling is profitable to developers and private casino owners." Dr. Grinols reviewed with the Committee recent research that he presented at Congressional hearings during the fall of 1995. (Attachment Nos. 1 and 2, minutes of the Special Committee on Gaming, November 27, 1995, page 5.) His most recent research attempts to develop a cost-benefit analysis of casino gambling. Dr. Grinols uses three analogies to conceptualize his analysis:

- First, casinos can act as factories by exporting products to buyers outside their immediate environment and bringing in new money.
- Second, casinos also may act as restaurants, selling their service to local residents. In this instance, since no new dollars are attracted from outside the immediate environment, the effect is to redistribute money in the local economy.
- Third, casinos may act as toll houses, collecting money from both local residents and persons outside the region. However, the activity of the toll house has no positive effect on the local economy because the money collected leaves the area. The local economy may be damaged by the toll house to the extent that it takes out more than it brings in.

Dr. Grinols' research completed during the summer of 1995 used state and county employment and unemployment figures from eight casino locations in Illinois. The conclusion of that research is that economic development benefits had not materialized in the period between 1991 (when the first riverboat opened in Illinois) and 1994. In three instances there was some positive impact on employment that could be attributed to casinos. "The areas that showed employment effects were characterized by a low population [in both areas county employment was less than 12,000] and close access to a larger population base." (*Ibid*, Attachment 1, page 3) While not part of this study, Las Vegas and Tunica, Mississippi were cited by Dr. Grinols as other examples of localities in which casinos have had a positive impact on employment because in both cities there was virtually no other economic base prior to development of casinos. Professor Grinols equated the absence of an impact on employment in all other areas examined as being consistent with the toll house and restaurant models. In Dr. Grinols' opinion, the larger the local population, the more likely a casino will act like a restaurant.

Dr. Grinols' assessment of the social cost of gambling is based on the premise that most of those social costs are the result of actions of the 1 to 5 percent of the population that becomes

thological gamblers. Their cost to society is \$315 to over \$1,100 per member of the workforce. According to Dr. Grinols, these costs are only attributable to pathological gamblers and do not include costs attributable to problem gamblers. Moreover, the social costs of suicide, increased traffic accidents, and family disintegration commonly associated with pathological gambling were not included in the calculation. Dr. Grinols noted that there is a need for additional data and analysis of the social cost of problem and pathological gambling, but that the figures he used are consistent with the best data currently available.

Dr. Grinols included in the calculation of the benefit of casinos the value to the average adult of having a casino within 35 miles. He determined that convenience to be worth \$80. That amount, plus additional taxes from gambling and profit to casino owners, resulted in his determination that the annual value of additional casino gambling is \$110 per adult. He compared that benefit figure to the \$110-\$340 per adult social cost of legalized gambling to conclude that costs outweigh benefits.

Dr. Grinols' conclusion is also based on his assessment that casinos depend heavily on gambling by problem and pathological gamblers. He combines "evidence from pathological gamblers about how much they lose in casinos . . . with data about average casino gross revenues per adult from those living near casinos . . ." to determine that the casino industry relies surprisingly heavily on losses of these two categories of players. (*Ibid*, page 4) Based on those data, Dr. Grinols contends that there is no way to have legalized gambling without incurring the costs associated with pathological gambling. Thus, "if the choice is between prohibiting casino gambling or allowing its expansion, the evidence says we are better off prohibiting it as most states have done until recently." (*Ibid*, page 6)

Problem Gambling

Missouri. Tom Irwin, Director, Missouri Gaming Commission, provided information to the Committee regarding both some social impact issues and structure of the regulatory agency. For discussion of the latter, see the report on Proposal No. 37. Mr. Irwin observed that there are social and economic problems associated with gambling. The biggest problem is those gamblers who become problem gamblers. [Mr. Irwin did not apparently use the term "problem" in the clinical sense and did not make a distinction between pathological gamblers and those whose behavior might not be as severe.] He stated that some states have taken the attitude that since experts say problem gamblers comprise only 2 percent of the population, only the needs of the 98 percent who can gamble without developing a problem will be addressed.

Missouri decided to take a proactive position regarding problem gambling by ensuring adequate resources for problem gamblers. Within a year and a half of the start of casino operations, the Department of Mental Health, which is the principle state-level entity that deals with problem gamblers, had certified the first group of counselors for problem gamblers. The Commission also has encouraged all cities and counties that are dock site communities to expend some of their gambling tax revenue on programs that address the needs of problem gamblers. The Commission's initial fear was that with eight dock site communities, there would be eight different programs and that people in other cities would be without services. The Commission anticipates that by January, 1996 a total of \$300,000 will be available from dock site communities for the statewide problem gambling program administered by the Missouri Department of Mental Health.

Iowa. Several conferees from Iowa addressed the issue of problem gambling. They included the Executive Director of the Iowa Gambling Treatment Program and directors of two regional treatment programs. A 1995 study of problem gambling in Iowa shows that the number of lifetime probable pathological gamblers in Iowa has increased from 0.1 percent (\pm 0.2 percent) of the population

er the age of 18 in 1989 to 1.9 percent (± 0.6 percent) in 1995.⁵ The latter percentage equates to between 26,700 and 51,400 persons.⁶ The portion of the adult population categorized as lifetime problem gamblers has increased from 1.6 percent (± 0.8 percent) in 1989 to 3.5 percent (± 0.9 percent) in 1995. Based on that finding, the number of lifetime problem gamblers in Iowa in 1995 was estimated to be between 53,500 and 90,500. The combined lifetime prevalence of probable pathological and problem gamblers was 1.7 percent (± 0.9 percent) in 1989 and 5.4 percent (± 1.1 percent) in 1995.⁷ (Volberg, 1995)

Comparisons of current problem gamblers in 1989 and 1995 were not possible due to differences between the surveys. The 1995 survey showed that current problem gamblers comprise 2.3 percent (± 0.7 percent) of the population and current probable pathological gamblers comprise 1.0 percent (± 0.5 percent) of the population. Those percentages translate to between 32,900 and 61,700 adults who are problem gamblers, and between 10,300 and 30,900 who are probable pathological gamblers. See Table II for a comparison of Iowa figures with those of other states. (Volberg, 1995)

The state treatment program in Iowa provides outpatient counseling to families and gamblers experiencing excessive gambling and provides information, referral, education, and preventive services. The state also operates a toll-free telephone help line. The state program is financed by a tax on wagers. The tax is 0.3 percent of:

- total state lottery sales;
- adjusted gross receipts from gambling on the riverboats; and
- adjusted gross receipts from slot machines at racetracks.

⁵ The survey upon which the 1995 figures were based was conducted between February and March, 1995, so it did not measure the impact of slot machines at racetracks in Iowa. The latter form of gambling began at Bluffs Run in Council Bluffs in mid-March, 1995 and at the Prairie Meadows horse track in early April, 1995. At the time of the 1995 study, legal gambling in Iowa included: social gambling; charitable bingo; sports pools; a state lottery; parimutuel betting on live and simulcast horse and dog races at three dog tracks and one horse track; six riverboat casinos with table games, slot machines, and video gambling devices; and three tribal casinos. At the time of the 1989 prevalence study, legal gambling in Iowa consisted of social gambling, charitable bingo, sports pools, parimutuel betting on live horse and dog races, and a state lottery.

⁶ The study used the 1990 U.S. Census count of 2,057,575 persons over the age of 18 in Iowa.

⁷ "The National Council on Problem Gambling uses [the] term [problem gambling] to indicate **all of the patterns of gambling behavior that compromise, disrupt or damage personal, family or vocational pursuit.**" The American Psychiatric Association describes pathological gambling as follows: "**The essential features of pathological gambling are a continuous or periodic loss of control over gambling; a progression, in gambling frequency and amounts wagered, in the preoccupation with gambling and in obtaining monies with which to gamble; and a continuation of gambling involvement despite adverse consequences.** In prevalence surveys, individuals are categorized as **problem gamblers** or **probable pathological gamblers** on the basis of their responses to the questions included in the South Oaks Gambling Screen. . . . The term **probable** distinguishes the results of prevalence surveys, where classification is based on responses to questions in a telephone interview, from a clinical diagnosis. . . . In prevalence surveys conducted since 1990, a distinction is also made between 'lifetime' and 'current' problem and probable pathological gamblers. **Lifetime** problem and probable pathological gamblers are individuals who have, at some time in their lives, met the South Oaks Gambling Screen criteria for problem or pathological gambling. **Current** problem and probable pathological gamblers are individuals who have met these criteria in the past year." (Citations omitted. Emphasis in original.) (Volberg, 1995; page 2)

Data provided by the state treatment program indicate that with the removal of betting limits and the expansion of types and locations of gambling in 1994, service providers began to see an increase in the number of persons seeking assistance. In FY 1995, the first fiscal year during which unlimited gambling was legal on riverboats and the first slot machines were operated at racetracks, the number of clients was 562 compared to 383 during the previous year. In the first quarter of FY 1996, 241 clients have been served compared to 184 during the same period of FY 1994.

The Committee received testimony from directors of two regional gambling treatment centers in Iowa: one in the Quad Cities area in eastern Iowa where two riverboat casinos are operating on the Iowa side of the Mississippi; the other in Des Moines, near the Prairie Meadows racetrack and casino.

The Director of the Eastern Iowa Center cited caseload increases of over 600 percent since the advent of casino gambling. The Director observed that the rapidity with which bets can be made on slot machines and video gambling machines makes these forms of gambling more of a problem than other types of gambling. Seven out of ten clients of the Eastern Iowa Center are addicted to slot machines. The age range of clients at that Center has increased from primarily 30-40 years of age to the current range of 16-90 years of age. The number of women exhibiting problem gambling behavior has also increased. With slower forms of gambling, such as bingo, lottery, and parimutuel wagering, it took three to four years for a problem to manifest. With greater availability and faster games it takes only three to six months. Currently, most of the casinos' customers are from a 40-50 mile radius and most are from the metropolitan Quad City area.

The Director of the Des Moines treatment program stated that he has been treating compulsive gamblers since prior to legalization of riverboats. Before parimutuel betting and casino gambling was legalized, most of his clients had trouble with bingo and the lottery and he saw eight to ten clients a year. As more gambling opportunities have become available with the opening of Prairie Meadows casino in April, 1995, the number of clients has increased to over 215. The Director now sees between 30 and 35 new clients per month. The average gambling debt of those clients is between \$10,000 and \$20,000. The vast majority of clients have family relationship problems due to a loss of trust and the impact of gambling debt. Some clients feel they have to gamble to pay off the debt. Ten percent of the Center's clients in the last ten months are in the process of or have gotten a divorce. Fifty percent or more of the clients have been involved in illegal activity connected to gambling, usually writing bad checks. Generally, clients who write bad checks believe they can win and pay the debt quickly. The general public may be endangered by people who gamble for 24-36 hours without a break, eat very little, then drive home without sleep. Average recovery cost is \$500 per person.

Kansas. A representative for Stand Up For Kansas, a group that has voiced opposition to gambling in Kansas for a number of years, presented testimony to the Committee that included an estimate of the number of persons in Kansas who might be compulsive gamblers. According to the testimony, that estimate was based on percentages of the population estimated to be compulsive gamblers in a Wisconsin study of the impact of Native American gambling in that state. (Thompson, et al, 1995) "Applying this information to Kansas and using the Kansas 1993 adult population of 1,763,930, the number of compulsive gamblers now in the state is approximately 12,348 (0.7 percent of 1,763,930). (Emphasis in original.) (Attachment No. 7, minutes of the Special Committee on Gaming, September 14, 1995, page 3.)

The testimony goes on to project that "if slot machines are legalized this number would increase between 0.7 and 4.0 percent. Using three levels to represent this range of estimates . . . the

umber of adult compulsive gamblers would increase 12,248 (low), 41,452 (medium), and 70,557 (high)" (*Ibid*)

Applying estimates from the Wisconsin study of the cost to society of each compulsive gambler of \$13,000 to \$56,000 led to the conclusion that "the increase in social costs resulting from legalizing slot machines in Kansas ranges from \$161 million per year . . . to \$3.7 billion per year." (*Ibid*, page 4.)

Illegal Video Gambling in Kansas

Randy Rathbun, United States Attorney, testified regarding the prosecution of illegal video gambling businesses in Kansas. Mr. Rathbun told the Committee that illegal gambling is prevalent in Kansas and is a very lucrative business. Video gambling machines are found throughout the state primarily in membership clubs, fraternal organizations, and private clubs. Mr. Rathbun told the Committee that if there is a video poker machine in a private club, it is paying off.

Written material provided by Mr. Rathbun indicated that investigations of operation of illegal gambling machines had resulted in issuance of search warrants in Coffeyville, Parsons, Dennis, Independence, Fredonia, Caney, Cherryvale, Moran, Iola, Neosho Falls, Erie, Lawrence, and Kansas City. According to Mr. Rathbun, illegal gambling machines have been confiscated in all areas of the state. Federal, state, and local law enforcement agencies generally work together on investigations and execution of search warrants in these cases.

Written material also documented a conviction in Wichita in 1994. In that case a Greensburg couple netted at least \$375,000 from their illegal operation between 1990 and 1992. Their machines were found in Great Bend, Halstead, Dodge City, Wellington, and Hutchinson. In a case involving the Fraternal Order of Eagles and the Jet Lag Lounge, both in Lawrence, settlement agreements were reached that resulted in the Eagles forfeiting \$200,000 in addition to \$37,841 seized by law enforcement officers. The Jet Lag Lounge forfeited \$8,000.

According to Mr. Rathbun, gambling machines found in illegal operations in Kansas are usually 5 cent or 25 cent machines with one consistent characteristic, currency changers. They usually accept \$1.00 to \$100.00 bills. The payout rate ranges from 97 percent to 99 percent. Payouts of \$1,000 have been documented.

Other Criminal Activity

One objection to expansion of gambling that is often cited by opponents is the resultant increase in crime. The Committee reviewed written material regarding crime associated with gambling in Atlantic City, received a report prepared by the Attorney General of Maryland assessing the impact of casino gambling on crime, received copies of many newspaper and magazine reports of crime associated with gambling, and heard testimony on the subject from Rafael Goyenche, Managing Director, New Orleans Metropolitan Crime Commission. Material provided to the Committee is filed with Committee minutes in the office of Legislative Administrative Services. None of the lottery directors, or regulators who provided testimony to the Committee indicated any notable increase in crime in areas near casinos.

Maryland. The report by the Maryland Attorney General cited increases in a number of crime statistics in areas where casinos are legal.

In the last year, crime on the Mississippi Gulf Coast has increased in every category, with murder, rape, robbery and car theft at least doubling. Juvenile violent crime has shot up 65 percent in the last two years, alcohol-related accidents increased 101 percent in the first half of 1994, and police describe a staggering increase in fraud and embezzlement.

In the first 15 years Atlantic City had casinos, violent crime rose by 199 percent, and larceny skyrocketed 481 percent. In Black Hawk, Colorado, calls for service went from about 25 a year before gaming, to between 15,000 and 20,000 today. In Deadwood, South Dakota, arrests have increased 262 percent since the advent of casinos. (Curran, 1995, page E-2)

Attorney General Curran also cited testimony presented to the U.S. House of Representatives Judiciary Committee at hearings on H.R. 497 in which a self-identified member of organized crime described his involvement in illegal gambling in Chicago from 1975 until 1989. According to his testimony, from the time the Illinois Legislature legalized the first form of gambling "... there always existed one solid and dependable constant to those of us in organized crime - any new form or expansion of existing State-controlled licensed gambling always increased our market share." (Jahoda, 1995, page 3) In that testimony, Mr. Jahoda referred to the Illinois Legislature as organized crime's "... ambitious, though naive, ally . . ." (Ibid.)

In addition to violent crime and white collar crime that he identified with the advent of legal gambling, the Maryland Attorney General posed a warning about the potential for political corruption. "The gambling industry makes astronomical sums of money and has astronomical sums of money at stake in decisions regarding legalization. Once legalized, the industry then has enormous stake in how it is regulated. This combination of casino wealth and the regulatory power of government can lead to extraordinary influence-peddling and, at its worst, to political corruption." (Curran, 1995, page 45) He cited recent examples of elected and appointed officials being bribed to help further the interests of gambling companies in Louisiana and Chicago. Short of describing actual bribery, the report cites examples from South Dakota and Louisiana where gambling interests have become extremely influential in the legislative process. The Attorney General also referenced observations that the impact of lobbying extends to local elected officials resulting in "... virtually every decision at city hall [being] made based upon what is best for the gaming industry," according to testimony provided by Jeffrey Bloomberg, State's Attorney, Lawrence County South Dakota, to the U.S. House Small Business Committee in 1994. (Bloomberg, 1994)

The Maryland Attorney General's conclusion is that:

... the surge in crime would be greater than that which would result from a new Disney park because crime increases from casinos are attributable to more than simply heightened tourism. Crime would rise because of the crime-related problems of compulsive gamblers, the constant exposure of casino workers to substance abuse and other social ills, the pervasive availability of alcohol to casino patrons, and the growing problem of teenage gambling addiction

Whatever dubious financial benefits might flow from casino gaming are outweighed by the tremendous social costs. Casinos would forever damage the quality of Maryland life

In a day and age when a paramount concern of our citizens is crime, it is nothing short of incredible to think that our state would seriously consider opening its arms to an industry that would only increase this terrible problem. (Curran, 1995, pages E-2 - E-4)

Atlantic City. A 1989 study of the incidence of crime in and near Atlantic City, New Jersey examined the relationship between the amount of crime and distance from the casinos. That study concluded that the incidence of all crimes examined – burglary, larceny, auto theft, robbery, and violent crime (including rape, murder, and aggravated assault) – were higher after casinos opened. The locus of crime was shown to be the casinos. “The further the locality from Atlantic City, the lower the level of imported crimes, with the level of local crime generation variables kept constant.” (Hakim, 1989, page 414) The study also showed that a 1 percent increase of distance from the casinos was associated with a greater reduction in crime than was a 1 percent increase in spending for law enforcement. The largest increase in crime after the casinos opened was in violent crime and car thefts. The authors concluded:

The study shows the possible casino-related export of crime from Atlantic City to localities in its vicinity. This is a real cost imposed on these localities, which is ignored in studies conducted by states that are considering casino gambling for their dilapidated recreational regions. Such states should consider regionwide cost-benefit analysis, which includes, among other things, the anticipated costs of interjurisdictional crime spillover, before they choose to legalize casino gambling. (*Ibid*, pages 414-415)

Louisiana. Testimony was provided to the Committee by Rafael Goyenche, the Managing Director of the New Orleans Metropolitan Crime Commission. The Commission is a 43-year-old citizens’ watch dog group in the metropolitan New Orleans area. During the 1980s, the Commission conducted extensive research about the impact of gambling in Louisiana. The focus of that research was the impact of gambling on local and state government and the criminal justice system. The Commission is on record stating it would be a mistake for Louisiana to legalize gambling because it would create tremendous problems that would outweigh any economic gains.

In 1991 the Louisiana Lottery was authorized by a constitutional amendment adopted by voters. Other forms of gambling were subsequently legalized by statute. Mr. Goyenche described for the Committee some events that have occurred in Louisiana and Mississippi since riverboat casinos and video gambling have been legalized.

- There has been corruption within the New Orleans Police Department. The Deputy Chief of Police accepted a \$325,000 payment from a video poker company.
- FBI investigations found that state legislators received disguised campaign contributions from video poker operators.
- Many senior members of the Louisiana State Legislature decided not to run for reelection in 1995. Several others that sought reelection, including the Speaker of the Senate and the longest tenured state legislator in the United States, were defeated in early November 1995. All of this was attributed to the publicity surrounding the video poker investigations.
- New Orleans is beginning to manifest increased street crime but because casino gambling is relatively new, statistics do not yet reflect the increases.
- In Gulfport, Mississippi, the Mississippi Crime Commission has been tracking and reporting increased crime since casinos were legalized. When the period January to August, 1994 is compared to the same period in 1993, the number

of murders increased 75 percent, rapes increased 200 percent, robberies increased 311 percent, assaults increased 64 percent, larcenies increased 91 percent, burglaries increased 100 percent, vehicle theft increased 160 percent, and arson increased 158 percent. The total increase in crime was 92 percent in Gulfport.

Mr. Goyenche described data from the Nevada Department of Prisons that the Crime Commission thought was illustrative of the degree to which gambling might attract street criminals from other areas. The annual statistical report for the Nevada Department of Prisons reported the people placed in their Department of Corrections by the length of time they had resided in the state. In 1989, 22.8 percent of convicts in the state penitentiary system were listed as nonresidents. Another 24.7 percent had resided in Nevada 12 months or less at the time of their incarceration. Thus, in 1989, 47.5 percent of the people in Nevada prisons were either nonresidents or short-term residents at the time they were incarcerated. In 1990 the figure was 41 percent.

Economic Impact

Existing Racing Industry in Kansas. Currently in Kansas there are three year-round racetracks and two county fair-type tracks. A 1993 study entitled *Economic Flows From Kansas Pari-Mutuel Racing and Breeding* prepared by Racing Resource Group, Inc. was presented to the Committee. The finding of that report was that "the pari-mutuel racing and breeding industry contributes an estimated \$222 million each year to the economy of Kansas." (*Racing Resources Group*, 1993, page 1) Data used for this study was for calendar years 1991 and 1992. At that time there were two year-round tracks operating in Kansas, the Woodlands in Kansas City, and Wichita Greyhound Park in Wichita. Both tracks hosted greyhound races. In addition, the Woodlands had a live horse racing meet annually.

According to the study, the annual impact is composed of \$96.6 million in direct expenditures and \$125.6 million indirect impact, based on a multiplier of 2.3. Calculation of the annual impact does not include capitalization of the two racetracks, nor capitalization of animal breeding facilities. The parimutuel industry was estimated to have created 3,868 direct jobs in Kansas. A copy of the report can be obtained from the Legislative Research Department.

Kansas Gambling Market Factors. Mr. W. Bruce Turner, Vice-President and Gaming Equity Analyst, Solomon Brothers, Inc., told the Committee that gambling is a form of socially interactive entertainment with elements along a spectrum from lotteries at the low end of interactivity to casinos at the high end. Consumers gravitate toward greater interactivity. Consumer entertainment spending has increased twice as fast as the total spending rate. This trend is driven by demographic factors and should continue. Mr. Turner stated that 92 percent of the public views casino gambling as acceptable.

According to Mr. Turner, there is room for increased gambling in the U.S. based on a comparison of the portion of disposable income spent on gambling in the U.S. with the portion of disposable income spent on gambling in Australia. In the U.S., casino gambling represented 0.3 percent of disposable income in 1994. In Australia, which has more types of gambling available in more locations, approximately 1.4 percent of disposable income is spent on gambling. The conclusion is that gambling in the U.S. could triple or quadruple.

Mr. Turner identified what he characterized as a key point – that expanded gambling in Kansas will only impact the local population. "Do not naively expect that Kansas can attract significant out-of-state revenue. It is highly unlikely to happen." (Attachment No. 3, minutes of Special Committee

Gaming, November 27, 1995, page 1) He discussed with the Committee the assessment of market potential, excluding the overnight market.

In outlining the basic market forecasting variables, Mr. Turner noted that locally supported casino gambling markets are finite. Mr. Turner cautioned that forecasting casino markets and the behavior of those markets is a relatively new activity, and that the history of observations upon which the assumptions are based is very limited. There are three basic forecasting variables each of which is greatly impacted by competitive and structural issues: demographic penetration, visit frequency, and spending per visit. Local markets generally draw customers from a radius of 150-200 miles. Within that radius, penetration rates, the likelihood that a single consumer will visit a casino once per year, range from 60 percent to 10 percent. Thirty percent to 40 percent is the "normal" market-wide average. The visit frequency variable refers to the average annual visitation rate among targeted customers. The range of visitation rates is from 25 times per year to two times per year. The average for the normal market area is approximately 12 visits per year. The spending per visit average is \$20 per hour in other markets. Average daily win (revenue to the casino) in local markets is \$50 per customer.

In regard to competition, Mr. Turner observed that supply constrained markets, monopoly or oligopoly, tend to inhibit realization of maximum revenue and that overlapping geographic markets will split gambling demand. A number of structural issues, largely political in nature, impact market size:

- supply – limited or unlimited numbers of license;
- format – land-based or riverboats with cruising requirements; and
- limitations on play – bet or loss limits

Mr. Turner also identified some specific elements as relevant to a forecast of the Kansas City metropolitan area market. By late 1996 there will be five riverboat casinos, representing a total investment of approximately \$500 million, operating in the Kansas City area. That level of investment is equivalent to the anticipated market revenue of \$475 million to \$500 million. Using as a guide the rule of thumb of one dollar of investment to each dollar of revenue, the market appears to be set at its maximum for Missouri. The Solomon Brothers' projection is that when the Kansas City market reaches maturity, anticipated to be in 1998, approximately \$180 million of casino revenue per year will come from Kansas. Mr. Turner did not predict how much of that revenue could be captured by a casino in Kansas. However, he stated that the structure and any limitations imposed on gambling in Kansas would determine market share. "A competitive facility in Kansas would require an investment exceeding \$100 million. This could likely only be achieved from a competitive bid for a monopoly license For a Kansas-based gaming facility to efficiently compete with Missouri riverboats, it should be land-based, a monopoly license, and of an unrestricted nature in terms of size and location Of course, you have many other options, a variety of possible permeations [sic]. Any final choice will naturally flow directly from your final choice along your political spectrum." (*Ibid*, page 3)

Mr. Turner told the Committee that ultimately the decision regarding expansion of gambling must grow from a defined political goal. Without that, discussion of structure is premature.

Impact on the State and Surrounding Communities. Mr. Irwin, Director of the Missouri Gaming Commission, did not present any empirical evidence regarding the impact of casinos on surrounding businesses. His opinion was that some negative economic impact is experienced by those businesses. He stated that one of the most misunderstood economic assumptions about the gambling industry is the "substitution effect." The theory is that if jobs are created and new investments are being made, they are coming from somewhere else in the economy, *i.e.*, new jobs and investments

substituted for other jobs that no longer exist and investments that are no longer made in existing businesses. He expressed concern that some studies that purport to document this effect may not be intellectually honest. In Missouri, by the end of 1996, over a billion dollars will have been invested in construction of casino facilities. In his experience, the elasticity of the construction industry is such that those dollars are new money in the state's economy.

In regard to consumer spending, Mr. Irwin explained that everyone has a certain amount of disposable income and if consumers make conscious choices to spend \$100 a month on a riverboat, then clearly that \$100 is not being spent on another form of entertainment. There is no documentation of the existence of any substitution effect in Missouri because casino gambling has not been legal long enough for relevant data to be generated. Mr. Irwin noted that anecdotal information gathered during the relicensure process completed during the summer of 1995 for those facilities that had been operational for a year, shows that traditional economic indicators such as business permits, and employment, are up.

In Mr. Irwin's opinion the tribal casinos in Kansas will have some impact on casinos in Kansas City. That is because the first criterion for persons seeking a gambling venue is convenience. People will go to the most convenient casino unless there is a special attraction elsewhere. He did not have any estimate of the magnitude of the impact, but observed that the Missouri \$500 loss limit and cruising schedule would put the Kansas City casinos at a competitive disadvantage *vis a vis* tribal casinos.

In regard to tax revenue to the state, Missouri receives 90 percent of the tax on gambling. The state tax revenue is earmarked for education. The remaining 10 percent goes back to the dock site community. In FY 1995, approximately \$56 million of gaming tax revenue was available for the education fund. Fiscal year 1996 tax collections through the first week of November, 1995 totaled \$33 million.

Gambling regulation in Missouri is primarily supported by fees. The \$2 admission fee that is charged for every customer is equally divided between the Gaming Commission and the home dock site community. The cost of applicants' background investigations are borne by the applicants. The Commission also is reimbursed for the cost of State Highway Patrol troopers on the boats. Start-up expenditures for the Commission were financed by a \$2 million loan from the State General Fund, which the Commission paid back from fees two years ahead of schedule.

Impact on Small Businesses. Mr. Tom Timmons, Vice-President of Parimutuel Operations at the Prairie Meadows Racetrack, told the Committee that the Prairie Meadows track near Des Moines has amenities in addition to betting opportunities. Breakfast, lunch, and dinner are served at the track seven days a week, including a \$3.95 breakfast buffet and \$6.95 prime rib dinner. In addition, there are various other concessionaires at the track. The show lounge has live entertainment. Mr. Timmons said that media reports have included stories that businesses have closed due to competition from the track. He said that there is no documentation of the impact of the casino on other businesses. He noted that some new businesses have opened near the track, a McDonald's, a Pizza Hut, and three motels. A new Hardee's, Taco Bell, and another motel are being built.

Mr. Timmons told the Committee that while there has not been a formal study, parking lot surveys at the track show that 80 percent to 90 percent of track customers come from within a 50-mile radius of the track. Mr. Timmons described the casino's Players Club with 55,000 members. The club's membership information is the data base used to develop player profiles. The average player's age is probably approximately 45. "Senior Tuesday" promotions attract senior citizens.

Owners of two small businesses in Iowa, one representing Iowa Operators of Music and Amusement Association, and the other a bowling center owner, provided information regarding the

impact of casino gambling on their businesses. The owner of the amusement game company in Des Moines stated that his 1995 monthly income through October was down \$250,493.15, compared to the 1990-1994 monthly average. In his opinion, consumers were spending their entertainment dollars at the casinos. His company had 32 employees at the beginning of the year. As of November it had 17 employees. He has not invested in any new equipment this year, which has an impact on his suppliers, and he has reduced the number of vehicles he leases. He noted that in the Des Moines area, churches report that food bank reserves are down and requests for assistance are nearly as high as they were during the 1993 floods. He reported that banks have told him that the number of bad checks received by businesses are up 35 percent, and that defaults on mortgages and other loans have increased. He cited examples of small businesses that are either failing or have had to lay off employees. Many of the examples cited were businesses located near Prairie Meadows. He cited examples of the track selling mixed drinks for \$1 or giving them away during special entertainment promotions. He observed that small restaurants and bars find it impossible to compete against those prices. In his opinion, it may be too early for complete documentation of the impact on businesses in the Des Moines area, but the evidence is present in the community.

The bowling center owner noted that his business is in Cedar Rapids, an east-central Iowa town with a population of approximately 150,000, where there are no tracks or riverboats. However, casino gambling is available within 45 miles. He told the Committee that bowling revenues at his center have declined over 12 percent since the casino gambling opened. He noted that the impact is felt by other nonprofit organizations and cited an example of a fraternal organization in Cedar Rapids that ceased having bingo games when the riverboats opened. Written testimony received from a bowling center in Des Moines reflected a 15 percent decrease in open bowling since the casino at Prairie Meadows opened.

Competition Among Types of Gambling

Iowa. Iowa currently has more legal forms of gambling than any other state. In 1974 Iowa legalized charitable bingo and social gambling with a \$50 limit in a 24-hour period. Iowa legalized parimutuel wagering on horse and dog racing in 1983 and subsequently three greyhound tracks and a horse track were licensed by the Iowa Racing and Gaming Commission. In 1985 the state lottery was established and began selling tickets; sports pools with \$5 per chance and \$500 payout limits were legalized; and parimutuel wagering on dog races began. Riverboat gambling with bet and loss limits was legalized and horse racing began in 1989. Unlimited simulcasting of races was authorized in 1991. Also in 1991, five riverboats were licensed to operate with \$5 bet limits and \$200 loss limits. Later, two of those initially licensed riverboats left the state seeking a state without bet and loss limits. In 1992, three tribal casinos opened in Iowa.

In 1994, partially in response to competition between Iowa and Illinois riverboats, and between tribal casinos, tracks, and riverboats within the state, the Iowa Legislature removed the loss and bet limits from gambling on riverboats. At the same time, the Legislature legalized operation of slot machines at any currently licensed racetrack.

There are now nine licensed riverboats in Iowa, four racetracks, three racetrack casinos, and three tribal casinos. The racetrack casino at Dubuque, which opened its slot machine operation in late November, 1995, is within a short distance of a riverboat casino. In January, 1996 two riverboat casinos are scheduled to begin operation near the Council Bluffs racetrack/casino.

Mr. Timmons told the Committee that Prairie Meadows race track opened in March 1989 and by June of that year started failing financially. The county, which had issued bonds for the track, assumed the finances of Prairie Meadows. The track's debt was approximately \$60 million: \$40 million

struction cost, and \$20 million for equipment. Live racing continued in 1990 and 1991, but attendance and handle declined every year.

The track filed bankruptcy in November, 1991. There was no live racing in 1992, but there was betting on simulcast races. Live racing was brought back in 1993 under pressure from the Racing and Gaming Commission. However, it was a limited effort with purses totaling \$1.2 million for a 60-day meet. The meet was successful, and no outside financing was used to support the operation. That meet generated only \$600,000 over expenses with which to reduce the track's debt.

The only solution that was identified for the track's financial problems was legalization of slot machines at the track. There was a two-pronged goal: to relieve taxpayers of debt and improve horse racing.

After operation of slot machines at racetracks was legalized, Polk County borrowed \$26 million and remodeled Prairie Meadows to create the casino area. That raised the indebtedness to nearly \$90 million. The casino opened in early April, 1995 and the live race meet started on April 27.

In 1992 and 1993 there were 200 employees when there was no live racing and 400 employees when there was live racing. There are currently 1,200 employees full-time, year-round. Bets are accepted on simulcast horse and dog races when there is no live horse racing. According to Mr. Timmons, the casino is open 24 hours per day in order to be competitive with the tribal casino that is approximately 50 miles away.

The first six months of combined casino gambling and horse racing at Prairie Meadows has been financially successful for the track, according to Mr. Timmons. Initial revenue projections for slot machines were conservative. The win for the first six-month period per machine per day was: \$130 planned, \$325 actual. Live horse race purses were \$1.2 million in 1993 and 1994 and \$2.2 million in 1995. Purses are projected to be \$3.4 million in 1996. Handle on live races increased from \$4.7 million in FY 1994 to \$4.9 million in FY 1995, approximately a 4 percent increase, according to information provided by the Iowa Racing and Gaming Commission. In addition, \$1.4 million was bet in FY 1995 on simulcast races sent from Prairie Meadows. No races were simulcast from the track in FY 1994. The track had originally projected a 20 percent decrease in handle for 1995. Track management had planned to pay Polk County \$8 million by December 31, 1995. The actual payback was \$33 million during the first six months. The plan was to pay the entire \$90 million back in five years. At the current rate, the entire debt may be repaid in a year.

Rhode Island. According to John Hawkins, the Director of the Rhode Island Lottery, the reason Rhode Island legalized video lottery was at least in part to provide additional revenue for racetracks that were experiencing financial difficulties. In Rhode Island, video lottery is also permitted at a Jai Alai fronton at which parimutuel wagering is legal. According to the Rhode Island Lottery Director, limiting locations for video lottery machines was more politically acceptable than authorizing statewide video lottery.

In Rhode Island the video lottery operation started with four poker games and one black jack game. The income from those games was about \$300,000. After about a year, they added video machines with reel-type games that simulate mechanical slot machines. According to unaudited Rhode Island Lottery sales figures for FY 1995, gross sales of video lottery games totaled \$192 million. Of that amount, \$32.2 million (16.8 percent) went to video vendors (tracks) and \$24.8 million went to the State General Fund. The Rhode Island Lottery now operates six poker games, one black jack game, one keno game, and three reel games on video machines. Most video lottery machines in Rhode Island can be programmed to play 20 games, but none are currently programmed to play more than ten games.

Mr. Hawkins stated that marketing of instant lottery games in Rhode Island has changed so that more games are available to players at one time. As a result, despite the advent of video lottery, instant game sales went from approximately \$11 million in FY 1993 to \$21 million in FY 1995. Keno, which started during the same fiscal year that video lottery began has shown declining sales each year. According to the Lottery Director, additional advertising of Powerball, when high jackpots were reached during FY 1994, accounted for the increased sales over FY 1993 (see Table III). Other gambling competition for the Rhode Island Lottery includes the Foxwoods tribal casino in Connecticut. However, the Lottery Director did not think that the casino had an effect on lottery sales.

West Virginia. According to Richard Boyle, Director of the West Virginia Lottery, video lottery was legalized at tracks in that state in order to bolster revenue for racetracks. In West Virginia, a video lottery pilot project was begun in 1990 at Mountaineer Park, a horse race track where racing had been conducted continuously since 1951. That track was the first animal racetrack in the country to be the sole location of video lottery in a state. After legislation was enacted to authorize video gambling at other tracks, the system was implemented at two other tracks in September 1994. The West Virginia Legislature specifically did not authorize a statewide video lottery.

In West Virginia, the horse racing track has 800 video lottery machines, some of which are located in the lodge facility, and some of which are at the track. The two dog tracks where video lottery terminals are installed have 500 machines each. Those machines are programmed to accept wagers on races as well as bets on video games. The games played on video lottery machines in West Virginia include black jack, poker, and keno. Keno outsells the other two games by about two to one, according to the Director of the West Virginia Lottery.

According to Mr. Boyle, the live handle at all West Virginia tracks was declining prior to introduction of video gambling. When the fall of 1994 is compared with the same period in 1995, the horse race track's live handle shows essentially no change. It appears that video gambling at that track may have stopped the decline of live racing handle. At the two greyhound tracks where video lottery machines are in operation, live handle in FY 1996 through October 7 has decreased approximately 15 percent and 30 percent when compared with the same period in FY 1995.

Simulcast handle at all three tracks has continued its previous upward trend. At the horse racing track the increase is approximately 48 percent. At the two dog tracks the simulcast handle in FY 1996 increased 45 percent and 36 percent over the same period in FY 1995.

Attendance is the other factor that might be impacted by video lottery. West Virginia's historical track attendance data may not be completely reliable, according to the Lottery Director, because of the method used to estimate attendance. At the horse racing track there is a reported 16 percent increase in attendance. At one dog track attendance is estimated to be up 5 percent over the same period in FY 1995 and at the other the estimate is a 10 percent decrease in attendance.

There is no Indian gaming in West Virginia nor any significant competition from contiguous states for the video lottery. There are no casinos in any of the states contiguous to West Virginia. The closest casinos are in Atlantic City which is probably eight or nine hours by car from the capital of West Virginia. According to the West Virginia Lottery Director, traditional lottery sales have not declined as the result of video lottery. Mr. Boyle did not present any evidence, but stated that it appears that charitable bingo and raffles may be suffering in West Virginia as a result of video lottery.

Mr. Boyle provided the Committee with copies of a study of the pilot project which began in 1990, that placed video lottery machines (VLT) at a West Virginia horse racetrack. The study was conducted by the Equine Industry Program at the University of Louisville. (Thalheimer, 1995) Under terms of the agreement between the track and the West Virginia Lottery, VLTs could be played

the track when live racing was conducted, and at the hotel (lodge) at the track on other days. Shortly after VLT play began at the track, the first simulcast races were received at Mountaineer Park.

The study involved development of models to determine the effect of video gaming devices on wagering and revenues. Demand for the following products were measured:

- live-race wagering;
- full-card simulcast wagering; and
- VLT wagering.

Three product demand models were used to simulate the impact of changing the number of VLTs on handle and revenues. The demand models included a number of variables that could impact demand for each of the products. The estimation period for the analysis was 1989-1991, thus included the year before and the year after VLTs were installed at the track.

Based on a configuration of a maximum of 150 VLTs located at the track, the demand models showed that in 1991:

- total (live and full-card) parimutuel *handle* was 25.2 percent lower than it would have been in the absence of VLT's;
- total *handle* from all sources (parimutuel plus VLT) was 21.4 percent higher than it would have been in the absence of VLT's; and
- total *revenue* from all sources was 2.2 percent higher than it would have been in the absence of VLT's. (Emphasis in original.) (Thalheimer, 1995, page iii)

The discrepancy between the increase in handle and the increase in revenue is explained by the difference in price of the two gambling products.

The price of parimutuel wagering is referred to as the takeout rate. This is the amount withheld from each winning wager for payment to government, racetrack and horsemen The takeout rate for VLT wagering is not a fixed deduction from each wager but rather is based on the long-run odds of winning and the payoffs associated with those odds. The VLT takeout rate, or win percent, is positive in the long-run because the payoff for each type wager is less than the payoff required to make the expected value of the wager equal to the amount invested. (*Ibid*, page iii)

The takeout rates at Mountaineer Park were 20.5 percent for live racing, 19.3 percent for simulcast racing, and 11.9 percent for VLTs. Thus, any foregone parimutuel wagers that end up in VLTs supplement total handle, but result in fewer dollars of revenue. Thalheimer warns, however, that raising the takeout in order to increase revenue may be counterproductive.

The result of the slight increase in revenue in 1991 is that more money was available for distribution to government, track, horsemen, and the simulcast host track. But not all potential recipients shared equally in the increased revenue because of the differences between allocation of parimutuel revenue and allocation of VLT revenue.

Initially, under terms of the provisional agreement between Mountaineer Park and the West Virginia Lottery, VLT revenues were divided 20 percent to the West Virginia Lottery and 80 percent to the racetrack with nothing being allocated to the horsemen. The formula was revised on July 22, 1991 such that 20 percent of net terminal revenues would go to the state, 70 percent to the racetrack, and 10 percent to horsemen at the track. (*Ibid*, page v)

In 1991 the government realized 95.7 percent more in revenues than would have been expected without addition of VLTs at the track. The track's revenue was 17.7 percent more than what would have been expected without VLTs. Horsemen, however, realized 18.8 percent less than the amount of revenue they would have received without VLTs. The simulcast host track "lost" the most at 29.5 percent. Thalheimer notes that these estimates actually understate the "estimated loses to the horsemen . . . since they received no revenue from the VLT's until July 1991. For the same reason, the estimated gain to the racetrack is understated." (*Ibid*)

Under each of the other two scenarios used in this study, a maximum of 165 VLTs and a maximum of 200 VLTs, parimutuel handle was estimated to decrease 28.8 percent and 34.6 percent, respectively. Government and racetrack revenue was estimated to be greater in each scenario with revenue to horsemen in each case estimated to be less than what was expected without VLTs.

The study determined "break-even revenue shares" for each of the revenue recipients, *i.e.*, government, track, and horsemen. Under the 1991 scenario, the break-even revenue shares would have been: 4.3 percent for government, 40.9 percent for the track, and 40.9 percent for the horsemen. The break-even share would have exactly compensated each revenue recipient for the loss of revenue caused by the shift of handle from parimutuel wagering to VLTs. After distributing the break-even revenue share under this scenario, there would have been nearly 14 percent for extra compensation to one or more recipients. The break-even share, however, would not have compensated the track for its investment in VLT hardware. That would have required an additional 23.9 percent of the revenue under the 1991 scenario. The report noted that the increased expense associated with the purchase of VLTs by the track would have been at least partially offset by some operating cost reductions for the track. None of those reductions were included in the calculations as reported above.

Montana. The Committee received testimony and written material from Mr. Wilbur W. Rehmann, Administrative Officer of the Gambling Control Division of the Montana Department of Justice. That agency licenses and regulates gambling in Montana. The Division does not operate the state lottery.

According to Mr. Rehmann, "video gambling completely dominates the Montana market." (Attachment No. 10, minutes of the Special Committee on Gaming, November 28, 1995, page 2) Video gambling wagers represented 87.8 percent of total wagers in the state in FY 1994, overshadowing the state lottery (7.4 percent of total wagers) and betting on live and simulcast horse races (2 percent of the total).⁸ Mr. Rehmann expressed the opinion that video gambling will dominate the market where it is introduced. In addition to those types of legal gambling, Montana has legalized:

⁸ There are approximately 15,000 video gambling devices at 1,700 locations in Montana. Video gambling can only be conducted in establishments with on-premise liquor licenses. State law limits each establishment to 20 devices. Legal video games include poker, bingo, and keno. The maximum allowable payout is \$800. The minimum allowable payback is 80 percent. The minimum age at which a person can legally play video gambling games is 18.

- betting on nonbanking, live card games, including bridge, cribbage, hearts, panguingue, pinochle, pitch, poker, rummy, solo, and whist;
- live bingo;
- live keno;
- sports tabs;
- sports pools;
- raffles;
- Calcutta pools;
- limited casino nights;
- fantasy sports leagues (played among members of groups who pay an entrance fee with winners determined by performance of fictitious sports teams);
- shake-a-day (dice game limited to one maximum 50 cent-per-day play);
- shaking for drinks or music (played between a customer and an employee of an establishment to determine who will pay for drinks or a maximum of \$2 worth of music from a jukebox);
- fishing derbies; and
- wagering on natural occurrences.

Montana has compacts with four Native American tribes to conduct Class III gambling. Those compacts, for the most part, include all games that are legal in the state.

Background Information

In addition to conferees' testimony and background memoranda prepared by Committee staff, the Committee reviewed a number of studies of gambling. The following paragraphs briefly outline those background materials. Copies of materials provided to the Committee are filed with Committee minutes in the office of Legislative Administrative Services.

"Gambling: Impact, State Laws and Regulation." (1995) Unpublished paper by Beccy Swanwick and Stephanie Dennis. University of Kansas School of Law, Public Policy Clinic.

The report provides an overview of how gambling is regulated, state laws that govern legalized gambling and the impact of gambling on society. Among the issues examined in the paper are the history of gambling in the United States, with an emphasis on the history in Kansas; current proposals to expand gambling in Kansas; arguments for and against expanding the availability of gambling; the administrative structure of gambling regulation in Kansas; economic and social impact that might be expected from expansion of gambling with examples from Deadwood, South Dakota and Tunica County, Mississippi. Finally, a number of policy questions are raised.

"Economic and Tax Impacts of a Proposed Racing Complex in Wyandotte County/Kansas City, Kansas." (no date) by Coopers and Lybrand, CPA., Kansas City, Missouri.

Prepared for Sunflower Racing, Inc. prior to construction of the Woodlands racetrack, this projection was replicated in 1991, using actual construction and operating expenditures by the University of Kansas Institute for Public Policy and Business Research (see below). The original projection was that construction impact would be \$93.2 million and that operating impact (1990) would be \$45.2 million annually. Construction was to involve 2,081 jobs for 12 months. Operation of the racetrack was estimated to involve 2,387 FTE jobs. Tax revenue from the construction phase was projected to be \$1.1 million. Taxes during operation were projected to total \$8.1 million annually. The complex was projected to generate \$351,000 annually for the Horse Breeding Development Fund, and \$204,000 for the Greyhound Breeding Development Fund.

"Economic and Tax Impact of the Woodlands Racing Complex on Wyandotte County in Kansas City, Kansas and the State of Kansas: A Comparison Between the Forecast Impact and Current Impact." (1991) by Dawn McKinney, Research Assistant, for Anthony L. Redwood, Professor of Business, Executive Director, University of Kansas Institute for Public Policy and Business Research.

This follow-up to the Coopers and Lybrand projection concluded that impacts on local income were significantly larger than the original projection. Construction impact was shown to be \$116.3 million. Impact of racetrack operation (unspecified year) on income was shown to be \$49 million. Impacts on local employment were found to be smaller than the Coopers and Lybrand projection. Construction employment was shown to be 1,482, while operation involved 2,387 jobs. Differences in methodology account for some of the discrepancy. Sales taxes paid during the construction phase were shown to be \$1.3 million, approximately \$200,000 more than the projection. Operation added \$9.5 million to state and local tax revenues. Actual handle was shown to be greater than the projection. Revenue to the Horse Breeding Development Fund was \$351,000 and revenue to the Greyhound Breeding Development Fund was \$700,000. In both instances, actual revenue exceeded the projection.

The Economic Impact of Native American Gaming in Wisconsin." (1995) by William Thompson, Ricardo Gazel, and Dan Rickman for the Wisconsin Policy Research Institute. *Wisconsin Policy Research Institute Report*, Vol. 8, No. 3.

The study provides much background on the evolution of tribal gaming in Wisconsin and critiques earlier impact studies. The study is based on a casino customer survey conducted in late 1994. The methodology, which is explained in the report, was used to determine how much money was extracted from the economy so that an input-output analysis could be conducted. The survey involved 697 people at three tribal casinos. Findings included: 80 percent of casino revenue comes from residents of Wisconsin; areas within 35 miles of casinos cumulatively realize \$338.63 million net gain from gaming revenue and other visitor spending, less the outflow of money from those areas and a low estimate of social costs; the state realizes a net gain of \$166.25 million when economic gains are reduced by a low estimate of social costs of compulsive gambling (with mid-range estimate of social costs, the net gain to the state becomes negligible); the balance of the state (areas without casinos) transfers \$223.94 million into areas with casinos, considering the low estimate of social costs of problem gambling, the balance of the state loses \$318.61 million to gambling; the typical gambler is between 50 and 70 years of age and is retired or has a blue-collar job; and average household income of gamblers is between \$20,000 and \$30,000 per year.

Wagering in Illinois: A Report Updating the Economic Impact of Gambling Activities. (1994) by Illinois Economic and Fiscal Commission.

Illinois has legal parimutuel wagering on horse races and a state lottery. In addition, river boat gambling is legal in Illinois and competition with Illinois is frequently cited as a factor that motivated the Iowa Legislature to repeal many of the limits on river boat gambling that were initially included in statute. The report attempts to determine the effect current forms of gambling in Illinois have on each other and discusses the probable future for gambling revenues in the state. Major findings include: gambling revenue at an all-time high in FY 1993; slowed growth of gambling revenue as market saturation is approached and as surrounding states offer more forms of gambling; a shift of parimutuel racing handle from on-track to off-track facilities, and a stable level of parimutuel handle in recent years; reduced lottery sales for the second time in three years in FY 1993; an increase in drinking and eating sales attributable to taverns and restaurants associated with river boats in smaller communities; no measurable effect of river boats on larger communities; and no identifiable increase in general merchandise sales in river boat communities.

Gambling in Minnesota: Who? What? Where? (1994) A Study by the Minnesota State Lottery with the Assistance of the St. Cloud State University Survey.

In addition to parimutuel wagering on races and a state lottery, numerous tribal casinos are located in Minnesota. The report focuses on the prevalence of gambling in the state. The report presents the results of a statewide survey of 2,443 persons conducted in June and July of 1993 by the Minnesota Lottery and St. Cloud University. Main findings of the study include: 87 percent of state residents have gambled; 71 percent gambled in the two months preceding the survey; the average state resident has wagered on four gambling activities during his or her lifetime; the state lottery is the most popular form of gambling in the state; residents age 65 and older are less likely than younger persons to gamble; lower income residents are less likely to gamble than those from middle or upper income households; the lottery is the most popular form

of gambling in the state based on historical play; and more than 80 percent of state residents have wagered on something other than the lottery.

Legalized Gambling as a Strategy for Economic Development. (1994) by Robert Goodman, Director, United States Gambling Study.

This study has received much attention since its publication, and is often referred to as the "Ford Foundation study." The purpose of the study was to examine the public and private economic consequences of gambling and to improve the decision-making process for legislators, business leaders, media representatives, and citizens. The study methodology included analysis of existing research and political processes involved in the expansion of gambling and interviews with researchers, government, and business leaders involved in the process. The major conclusions of the study were: that there is no popularly based movement for expansion of legalized gambling – the impetus for expansion is the result of lobbying by the gambling industry and initiatives by government officials; and that research that public officials and the media rely upon is often conducted by the gambling industry resulting in dissemination of inflated estimates of benefits and understated estimates of cost. The study concludes with a series of recommendations.

Gaming in South Dakota: A Study of Gambling Participation and Problem Gambling and Statistical Description and Analysis of Its Socioeconomic Impacts. (1991) by Dr. Rachel A. Volberg and Randall M. Stuefen for the Business Research Bureau, University of South Dakota.

The study reports findings based on a statewide survey of gambling involvement and gambling problems in South Dakota (n=1,560) and compares findings with results of similar surveys conducted in other states. Findings include: a lifetime prevalence rate of problem gambling in South Dakota of 1.8 percent and a lifetime prevalence rate of pathological gambling of 1.0 percent of the adult population. Those figures are equivalent to between 5,620 and 12,290 adults in the state who have been problem gamblers at some time in their lives. In addition, between 2,490 and 7,460 adults in the state are estimated to have been pathological gamblers at some time. The current rate of problem gambling was estimated to be 0.8 percent and the current rate of pathological gambling was estimated to be 0.6 percent of the adult population. Those percentages translate to between 3,980 and 9,900 adults being current problem or pathological gamblers. Lifetime prevalence rates of problem and pathological gambling in South Dakota were lower than those found in Northeastern states, but higher than in Iowa or Minnesota. Greatest monthly expenditures on gambling were for video lottery and slot machines. The highest amounts wagered on a monthly basis were on card games, slot machines, and video lottery.

APPENDIX III

Conferees at Public Comment Meeting

The Special Committee on Gaming held an evening hearing on November 27, 1995 at which any member of the public could appear. Both proponents and opponents of the expansion of gambling addressed the Committee. Many conferees presented written as well as oral testimony. Copies of any written testimony are on file with the Committee minutes in the office of Legislative Administrative Services.

The following people testified in favor of expanded gambling:

Kelly Clark, race horse owner and trainer, Cimarron
Lillian Pike, Pretty Prairie
Robert Rodgers, Quarter Horse breeder, Hesston
Ellen Snell, Arkansas City Arts Council, Arkansas City
Janice Jaworsky, Kansas Newman College, Wichita
Jan Ramsey, Leukemia Society of America, Kansas Chapter, Wichita
Marilyn Potts, Catholic Charities, Wichita
Steven Vancuren, employee of Wichita Greyhound Park, Peabody
Gene Mudd, Kansas Special Olympics, Wichita
James R. Swanson, D.V.M., member of Piper School Board (Wyandotte County), Kansas
City
J. J. Swanson, D.V.M., President, Leavenworth Road Association, Kansas City
Betty Swanson, Kansas City
Marshall Barber, Topeka
Pam Word, employee of Woodlands, Kansas City

The following submitted only written testimony as proponents of expanded gaming:

Kathleen Jackson, Administrator, Emergency Aid Food Bank, Salina
Patricia Greenway, Executive Director, Make-A-Wish Foundation, Wichita
Bill Acree, Kansas Specialty Dog Service, Washington
Martha Slater, President, First Generation Video Marketing, Inc., Hutchinson
Jean Barbee, Executive Director, Travel Industry Association of Kansas
Jan Guthrie, Associate, Director, Kansas Coalition Against Sexual and Domestic
Violence, Topeka
Marie Mareda, President, Goodwill Industries, Easter Seal Society of Kansas, Inc.,
Wichita
Sister Stella Rosenhamer, Director, Center of Hope, Wichita
Anthony Hunt, Radio Kansas, Hutchinson Community College, Hutchinson
Connie Wulf, Director of Social Services, Professional Care, Wichita
James and Mabel Hicks, Wichita

The following people testified in opposition to expanded gambling:

Glenn O. Thompson, Stand Up For Kansas, Wichita
Lester L. Lawson, President, Wyandotte County Private Club Owners and Associates,
Kansas City

Mike Dalsing, Owner, Wyandotte Music Co., Inc., Kansas City
Marvin E. Smith, Topeka
Bruce Bartelli, Frontenac
Mark Y. Blum, Jr, President, United Distributors, Inc.
Conrad Miller, Jr., Kansas Bowling Proprietors, Shawnee Mission

Written testimony in opposition:

Kevin Neuman, member, Retired Greyhounds As Pets, Overland Park

APPENDIX IV

Substitute H.R. 497, as Reported by U.S. House Judiciary Committee, November 8, 1995

The bill would enact the National Gambling Impact and Policy Commission Act and establish the National Gambling Impact and Policy Commission. The Commission would be composed of nine members qualified by training and experience to perform duties assigned in the Act. Members of the Commission would serve for the two-year life of the Commission. Three members each would be appointed by the Speaker of the House, the Majority Leader of the Senate, and the President. The appointing authorities would be required to consult with one another prior to making appointments to ensure that Commission composition reflects a fair and equitable representation of various points of view. Appointments to the Commission would have to be made within 60 days of enactment of the bill. The Speaker of the House and the Majority Leader of the Senate would designate the chair and vice-chair of the Commission.

The Commission's duty would be to ". . . conduct a comprehensive legal and factual study of . . .":

- gambling in the United States, including state-sponsored lotteries, casino gambling, pari-mutuel betting, and sports betting; and
- existing federal, state, and local policy and practices with respect to the legalization or prohibition of gambling activities.

The Commission would be charged with formulating and proposing any changes in policies and practices that the Commission deems appropriate.

The Commission would study the positive and negative economic impact of gambling on the United States, states and their political subdivisions, and Indian tribes, and on other businesses. A number of other specific areas for Commission attention are enumerated in the bill, but the list is not exclusive.

Under the bill, the Commission would assess:

- and review political contributions and their influence on the development of public policy regulating gambling;
- the relationship between gambling and crime;
- the impact of pathological, or problem gambling on individuals, families, social institutions, criminal activity, and the economy; and
- many aspects of the effect of advertising concerning gambling.

The Commission would also review:

- the demographics of gamblers;

- the effectiveness of existing practices in law enforcement, judicial administration, and corrections to combat and deter illegal gambling and illegal activities related to gambling;
- the costs and effectiveness of state and federal gambling regulatory policy, including as it relates to Indian gambling;
- gambling that uses interactive technology including the Internet;
- the extent to which casino gambling provides economic opportunity to residents of economically depressed regions and to Indian tribes; and
- the effect of revenues derived from state-sponsored gambling on state budgets.

At the end of its study the Commission would submit a report to Congress and to the President that would set out findings and conclusions along with recommendations for legislation and any administrative action determined to be appropriate.

The Commission would be empowered to hold hearings, administer oaths, receive testimony and evidence, and issue subpoenas as necessary to obtain testimony and materials the Commission determines to be necessary. Federal agencies would be required to provide information requested by the Commission.

The Chair of the Commission would be authorized to appoint an Executive Director and other personnel necessary to perform the Commission's duties. The Executive Director would be subject to confirmation by the Commission. Any expenditures by the Commission would be subject to appropriations for that purpose.

Two members of the Kansas congressional delegation are among the 125 cosponsors of H.R. 497. The Kansas cosponsors are Representatives Brownback and Tiahrt.

A similar bill (S. 704) sponsored by Senators Simon and Lugar with others, has been introduced and heard in the Senate, but as of December 1, that bill remained in the Senate Governmental Affairs Committee. Kansas' Senator Kassebaum is a cosponsor of the Senate bill.

APPENDIX V

Comparison of Video Lottery at Tracks – State Laws

2-47

	DRAFT BILL (9/14/95)	IOWA	WEST VIRGINIA	RHODE ISLAND	DELAWARE
Constitutional provisions	Article 11, Sec. 3c authorizes the Legislature to provide for a state-owned and operated Lottery. (Interpreted by the Kansas Supreme Court to include any kind of gambling, i.e., anything including chance, consideration, and prize.)	No provision in <i>Iowa Constitution</i> . By statute, the Lottery Board is prohibited from authorizing video lottery games (99E.9, Sec. 3 (b)(1)).	Article VI, Sec. 36 authorizes the Legislature to authorize lotteries (including video lottery games) which are regulated, controlled, owned, and operated by the state.	Article 6, Sec. 15 authorizes lotteries (schemes or plans with three essential elements – consideration, chance, and prize) operated by the state subject to prescription and regulation by the Rhode Island General Assembly.	Article II, Sec. 17 authorizes lotteries (games of pure chance and games of chance in which chance is the dominant determining factor) under state control and operation for the purpose of raising funds.
Who is responsible for operating and owning slot machines?	The Lottery Director would be authorized to contract with "parimutuel licensees" (facility managers and owners and organization licensees that own tracks, including the Greenwood and Anthony Downs licensees) to place electronic game of chance machines at the racetracks (Sec.2 (a)(4)). Ultimate control and operation of the machines would reside with the Lottery. Machines would be installed, operated, managed, owned, or leased by parimutuel licensees (Sec. 8(b)).	The Racing and Gaming Commission shall license a parimutuel dog or horse racetrack licensee to operate gambling games at a racetrack subject to rules and regulations (99F.4A). Statutes do not expressly address the ownership of gambling machines. As noted previously, the <i>Iowa Constitution</i> contains no provisions regarding lotteries. Licenses to operate gambling games can be granted only to parimutuel licensees holding a valid license on 1/1/94.	Video lottery "games" are Commission-approved, owned, and controlled (29-22A-3(v)). The Lottery Commission requires video lottery terminals to be connected to the Commission's central control computer by an on-line or dial-up communication system (29-22A-3 (y)). The terminals must be registered with, and approved by, the Lottery Commission (29-22A-5 (a)).	The Lottery Commission shall license technology providers capable of interfacing with a central communications system controlled by the Commission. All video lottery machines must be linked under a central communications system to provide auditing program information. All aspects of games are established by Commission in rules and regulations (42.61.2-3). The central communications licensee may provide a maximum of 50 percent of lottery terminals (42-61.2-1(a)).	The Lottery Commission must own or lease all video lottery machines and those machines must be obtained from licensed video lottery manufacturers (Title 29, Sec. 4820 (a)). Video lottery machines must be connected to the Lottery's central computer system (Title 29, Sec. 4819 (c)).

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8h-7

	DRAFT BILL (9/14/95)	IOWA	WEST VIRGINIA	RHODE ISLAND	DELAWARE
at forms of video gaming are permitted at the tracks?	"Electronic games of chance" would be any games played on, among others, mechanical or video slot machines (Sec. 1 (d)). Specific games would be approved by the Lottery in rules and regulations (Sec. 8(b)).	Any games of chance authorized by the State Racing and Gaming Commission, excluding table games of chance, video lottery, or sports betting. (Slot machine "fruit" games are authorized) (99F.1 (9)).	Video lottery games, excluding game themes associated with casino gambling (roulette, dice, baccarat card games etc., or a video display depicting symbols that appear to roll on drums to simulate a classic casino slot machine) (29-22A-3 (v) (7)).	Any video lottery games played on video lottery terminals controlled by the Commission (42-61.2-1(f)). Video lottery terminals must be activated by cash and may not dispense coins, cash, or tokens (42-61.2-1(g)).	Any lottery conducted with video lottery machine. Lottery machines may be vated by bills, coins, tokens, or an electronic credit system. The machines may use spinning reels, video displays, or both, and may or may not dispense coins or tokens (Title 29, Sec. 4803 (f) and (g)).

36-42

8h-7

	DRAFT BILL (9/14/95)	IOWA	WEST VIRGINIA	RHODE ISLAND	DELAWARE
<p>at percentage of net machine income goes to or is retained by the state?</p>	<p>20 percent of net (total wager, less prizes) machine income (Sec. 8(c) and Sec. 1(j)). Any portion of the 20 percent in excess of the amount needed by the Lottery for its contractually related expenses would be credited: 70 percent to the Kansas Educational Building Fund; 25 percent to community colleges; and 5 percent to Washburn University (Sec. 8(c) and (j)).</p>	<p>Since games are not operated by the state, a tax is imposed on adjusted gross receipts (gross receipts less winnings) to generate state revenue; 5 percent of first \$1 million; 10 percent of next \$2 million; 20 percent of any amount over \$3 million. Beginning January 1, 1997, from gambling games at racetracks, 22 percent, increasing 2 percent per year to a maximum of 36 percent. From the state tax, an amount equal to 0.3 percent of the adjusted gross receipts goes to the gamblers assistance fund; the balance to the State General Fund (99F.11). For FY 1995, 50 percent of revenues in excess of \$11.1 million is credited to the cash reserve fund with the first \$299,369 to the Department of Public Safety for five parimutuel law enforcement officers. The state also receives \$.50 per admission. Those funds are deposited in the State General Fund. Cities and counties in which tracks are located, divide equally 1 percent of adjusted gross receipts.</p>	<p>All gross terminal income (total wager, less prizes) is remitted to the Commission via electronic transfer. The Commission retains a maximum of 4 percent for administrative expenses. The result is "net terminal income." 30 percent of net terminal income is transferred to the State General Fund (effectively, a total of 28.8 percent of "net," as defined in the draft bill) (29-22A-10 (b) and (c)(1)).</p>	<p>A minimum of 46 percent of net terminal income for administrative purposes and to State General Fund (42-61.2-7 (a)).</p>	<p>All net proceeds are electronically transferred daily to the Lottery Fund, to be allocated as follows:</p> <ul style="list-style-type: none"> (a) 12.5 percent of the average daily win (the amount remaining after all payouts to players) not exceeding \$25,000; (b) 15 percent of the average daily win in excess of \$25,000 to \$50,000; (c) 20 percent of the average daily win in excess of \$50,000 to \$75,000; (d) 30 percent of the average daily win in excess of \$75,000 (Title 29, Sec. 4815 (b)(2)). From that amount, the Lottery retains revenue to cover its operating expenses (including equipment costs) and associated law-enforcement and security activities of the Attorney General and Delaware State Police. The greater of \$100,000 or 1 percent of proceeds returned to the state is used for compulsive gambling programs, and the remainder goes to the State General Fund. (e) From the amount remaining, the state deducts a reimbursement for equipment costs for each video lottery agent for a proportional share of the cost of the central computer.

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	DRAFT BILL (9/14/95)	IOWA	WEST VIRGINIA	RHODE ISLAND	DELAWARE
What is the distribution of machine income to parties other than the state?	A maximum of 79 percent of the net machine income would go to the parimutuel licensee, a portion of which would be allocated through contracts with the Kansas Thoroughbred Association, the Kansas Quarter horse Racing Association, and the Kansas Greyhound Kennel Owners Association. Amounts would be delineated in contracts between the parimutuel licensees and the associations. (The bill does not specify the use of those funds by the associations) (Sec. 8(f)). Pursuant to the contract between the parimutuel licensee and the Lottery, the most populous city in the county where the track is located would receive 1 percent of net machine income (Sec. 8(d)).	If a parimutuel licensee at a horse track has unpaid debt from the racetrack operation, the first receipts, minus expenses, taxes, etc. must be used to pay annual indebtedness. After such payment has occurred, the State Racing and Gaming Commission must authorize the parimutuel dog or horse racing licensee to use receipts from games at tracks to supplement purses, pursuant to agreements negotiated between licensees and representatives of the dog or horse owners. Purse supplements are to be used particularly for Iowa-bred horses and to facilitate the development and promotion of Iowa greyhound racing dogs (99F. 6 (4) (a) and (b)).	The remaining 70 percent of "net terminal income" is apportioned as follows: 14 percent – payment of regular purses; 2 percent – counties where terminals are located; 0.5 percent – payment for pensions of employees of licensed racing associations; 1.5 percent – to be shared equally by West Virginia Thoroughbred Development Fund and the West Virginia Greyhound Breeding Development Fund to support a breeders' program; 1 percent – West Virginia Thoroughbred Breeders Classic for purses; 47 percent – track; 3 percent – Tourism Promotion Fund; and 1 percent – Veterans Memorial Program (until the memorial is completed; then used for regular purposes) (29-22A-10).	After the minimum 46 percent is allocated to the Lottery and State General Fund, the remaining net terminal income is apportioned as follows: 31 percent – track licensee; 6 percent – dog kennel owners under contract with a licensee; 16 percent – technology provider, of which no more than 3 percent may go to the communications system provider; and 1 percent – city or town in which the licensed video retailer is licensed. A total of \$5 million goes to the distressed community relief fund. The following amounts are deducted from the amounts above: Lincoln Park Greyhound track – \$767,687; Newport Jai Alai Fronton – \$384,996; Kennel owners – \$218,579; Technology providers – \$628,737; State General Fund – \$3 million (42-61.2-7)	For purses paid by video lottery agents licensed to conduct racing meets and harness racing meets, a specific formula applies which is different for each (maximum 10 percent of net); the formula also is different for agents who were licensed before and after January 1, 1993. After payment of purses, the remainder is paid to video lottery agents (tracks) as commission for a maximum of three years (maximum 60 percent of net). (The statute specifies that this is a temporary provision and that a different distribution will be enacted before the three-year limit expires) (Title 29, Sec. 4815). Any licensed track that elects to forego becoming a video lottery agent receives \$75,000-\$100,000 per year from all video lottery agents under certain circumstances. In order to receive those payments, the tracks must conduct at least 90 percent of the number of races conducted in 1992 and award an average purse per race that is at least as great as the average awarded in 1992 (Title 29, Sec. 4821).

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15-2

	DRAFT BILL (9/14/95)	IOWA-	WEST VIRGINIA	RHODE ISLAND	DELAWARE
What is the percentage paid in prizes?	An average of not less than 90 percent and not more than 97.5 percent of the amount wagered (Sec. 8(i)(l)).	The Racing and Gaming Commission makes that determination through rules and regulations (99F.4(16)). Receipts from gambling games, less reasonable expenses, charges, taxes, fees, and allowable deductions must be distributed as prizes or to charitable uses defined in statute (99F.6(4)).	80-95 percent of amount wagered during the expected lifetime of the terminal. Special permission from the Commission is required for machines programmed for payout over 92 percent (29-22A-6(c)(1)).	The Lottery Commission is to make that determination through rules and regulations (42-61.2-3(d)).	Payouts between 87 percent and 95 percent of total proceeds on an average annual basis, greater than 95 percent with the approval of the Lottery Director (Title 29, Sec. 4805 (a) (15)).
What are the locational and scheduling requirements for tracks that have slot machines?	The bill provides that contracts between the Lottery and parimutuel licensees include the times of operations of machines and the facilities in which machines will be located at the tracks. At tracks other than fair association tracks, electronic games could be operated only on days when live or simulcast races are conducted. At fair association tracks, electronic games could be operated only during a calendar year when live racing was scheduled. Fair associations could be authorized to operate those games on a maximum of twice the number of simulcast race days authorized by the Racing Commission (Sec. 8(e)(2)).	Licenses to operate gambling games can be issued only to parimutuel licensees licensed on January 1, 1994 (99F.4A(2)). The Commission must authorize licensees to conduct games at greyhound racetracks at Waterloo and Dubuque if the tracks schedule at least 130 performances of 12 live races each day during a 25-week season. The licensee at Council Bluffs may conduct gambling games if the licensee schedules at least 290 performances of 12 live races each day during a 50-week season (99F.6(4)(b)).	A licensee must allow video lottery games to be played only on days when live racing is being conducted or simulcast racing is displayed. Video lottery terminals must be: continuously monitored by closed circuit television; in areas where access is restricted to persons 18 years of age or older; only located in an area approved by the Commission; and only located in the area of the grandstand building where parimutuel wagering is permitted. Security personnel must be present during all hours of video lottery operation. A maximum of 400 terminals can be located at a track without special authorization from the Commission (29-22A-12).	Video lottery terminals may only be installed and operated at parimutuel licensee facilities which are specifically approved by the Lottery Director subject to approval by the Commission (42-61.2-2 (b)). Video lottery games may be played at the licensed facilities with the approval of the Lottery Commission even if the facility is not conducting a parimutuel event (42-61.2-6).	Video lottery machines may only be located on existing racetrack property on which horse race meets or harness race meets were conducted in 1993. Machines may not be located in a hotel, motel, or other overnight sleeping facility. Video lottery machines may not be played on Christmas, Easter, between 2:00 a.m. and 1:00 p.m. on Sundays, or between 2:00 a.m. and 8:00 a.m. on other days (Title 29, 4819)). As a precondition for maintaining video machines on licensed racetracks, the licensee must conduct live racing operations on at least 90 percent of the number of days for which live racing days were awarded for and conducted in 1992 and employ a minimum of 50 additional employees during live racing operations than the average daily number employed during the most recent racing meet held prior to July 16, 1994 (Title 3, Sec. 10048).

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	DRAFT BILL (9/14/95)	IOWA	WEST VIRGINIA	RHODE ISLAND	DELAWARE
<p>here a local option for qualified voters of a county vote to permit operation of slot machines at parimutuel racetracks within that county?</p>	<p>Yes. Electronic games of chance could be operated only in counties where their operation has been approved by voters at a countywide special election. A resolution to approve or disapprove operation of electronic games of chance could be placed on the ballot either by the county commission or by a petition (Sec. 12).</p>	<p>Yes. If a majority of county electorate vote for gambling games at tracks, the same proposition will be submitted to the voters in 2002 and at eight-year intervals thereafter (99F.7 (10) (c)).</p>	<p>Yes. If a majority of county electorate vote for the option, another election on the issue may not be held for a period of five years. If a majority vote "no," another election on the question may not be held for two years (29-22A-8).</p>	<p>No local option.</p>	<p>No local option.</p>

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TABLE I

Per Capita Electronic Gambling Revenue

FY 1995	Iowa*	Rhode Island	West Virginia**	80% of West Virginia Per Capita
Total Cash-In (million \$)	\$675.6	\$192.0	\$134.6	
Population (millions)	2.829	0.997	1.822	
Annual Per Capita Expenditure (\$)	\$238.8	\$192.6	\$73.9	\$59.1
Net Machine Revenue (million \$)	\$286.6	\$57.0	\$32.4	
Net Per Capita (\$)	\$101.3	\$57.2	\$17.8	\$14.2
Kansas Estimate Based on Other States' Per Capita Performance				
Total Cash-In (million \$)	\$597.0	\$481.4	\$184.7	\$147.8
Net Machine Revenue (million \$)	\$253.2	\$142.9	\$44.5	\$35.6
State Share at 20% (million \$)	\$50.6	\$28.6	\$8.9	\$7.1
City Share at 1% (million \$)	\$2.5	\$1.4	\$0.44	\$0.36
Track Share (million \$)	\$200.1	\$112.9	\$35.1	\$28.1
Allocation of State Revenue				
First Year Lottery Operating Expenditures (million \$)	\$2.0	\$2.0	\$2.0	\$2.0
70% Educational Building Fund (million \$)	\$34.1	\$18.6	\$4.8	\$3.6
25% Community Colleges	\$12.2	\$6.6	\$1.7	\$1.3
5% Washburn University	\$2.4	\$1.3	\$0.3	\$0.3
Total to Postsecondary Educational Institutions	\$48.6	\$26.6	\$6.9	\$5.1

* Annualized from April-August, 1995 Revenue Figures

** Annualized from Ten Months' FY 1995 Revenue Figures

Sources: Iowa Racing and Gaming Commission, Rhode Island Lottery, West Virginia Lottery

TABLE II

Problem/Pathological Gambling Prevalence – Comparison of States

	Iowa (N = 1,500)	Montana (N = 1,020)	North Dakota (N = 1,517)	South Dakota (N = 1,560)	Texas (N = 6,308)	Washington State (N = 1,502)
Demographics of Sample						
Male	47%	49%	41%	44%	46%	49%
Under 30	13%	16%	15%	17%	23%	19%
Non-Caucasian	3%	4%	3%	4%	31%	10%
Not Married	42%	36%	35%	34%	40%	40%
Less than High School	9%	8%	11%	13%	18%	14%
Annual Household Income under \$25,000	42%	41%	40%	46%	29%	30%
Gambling Involvement of Sample						
Lifetime Participation	88%	86%	82%	86%	76%	91%
Infrequent Gamblers	16%	11%	9%	*	28%	11%
Past-Year Gamblers	48%	49%	60%	*	37%	54%
Weekly Gamblers	24%	25%	13%	*	12%	26%
Average Age Started Gambling	27	26	39	*	31	29
Average Monthly Expenditure	\$ 40	\$ 51	\$ 25	\$ 23	\$ 78	\$ 53
Spend \$100+/Month	9%	9%	6%	*	11%	10%
Proportion of Total Expenditures	70%	72%	55%	*	90%	76%

* Detailed data on gambling and problem gambling in the general population of South Dakota were collected in 1991 and 1993 by the University of South Dakota Business Research Bureau. Patterns of gambling and problem gambling similar to patterns detected in other jurisdictions were identified in South Dakota. However, permission to include South Dakota in analyses for other jurisdictions has been denied.

	Iowa (N=81)	Montana (N=36)	North Dakota (N=53)	South Dakota (N=44)	Texas (N=299)	Washington State (N=76)
Lifetime Prevalence	5.4%	3.6%	3.5%	2.8%	4.8%	5.1%
Current Prevalence	3.3%	2.2%	2.0%	1.4% *	2.5%	2.8%
Demographics of Problem Gamblers						
Male	68%	53%	55%	61%	60%	63%
Under 30	64%	33%	24%	32%	40%	35%
Non-Caucasian	14%	6%	7%	9%	49%	18%
Not Married	61%	33%	36%	64%	55%	59%
Less than High School	11%	6%	9%	14%	20%	21%
Annual Household Income under \$25,000	40%	47%	43%	59%	30%	38%
Gambling Involvement of Problem Gamblers						
Weekly Gambling	62%	64%	41%	*	47%	66%
Average Age Started Gambling	20	21	20	*	24	22
Average Monthly Expenditure	\$197	\$208	\$164	*	\$473	\$244

** In South Dakota, the current South Oaks Gambling Screen items were framed as "past six months" rather than as "past year." The current prevalence rate in South Dakota is not comparable to current prevalence rates identified in other jurisdictions.

Source: *Gambling and Problem Gambling in Iowa: A Replication Survey*. Rachel A. Volberg, July, 1995.

TABLE III
Rhode Island Gambling Revenue
FY 1991-FY 1995
(millions \$)

Games	Lottery Sales				
	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
Instant games	\$ 12.1	\$ 11.2	\$ 11.0	\$ 11.3	\$ 20.9
Daily Numbers	33.8	34.1	33.3	32.3	31.2
Lotto	9.8	8.7	8.4	6.6	8.1
Powerball	10.1	10.6	21.6	40.6	57.5
Keno	0.0	0.0	30.8	28.4	25.0
Total Sales	\$ 65.8	\$ 64.6	\$ 105.1	\$ 119.2	\$ 142.7
Prizes	\$ 31.0	\$ 32.1	\$ 71.0	\$ 59.5	\$ 72.5
Gross Revenue	\$ 34.8	\$ 32.5	\$ 34.1	\$ 59.8	\$ 70.2

	Video Lottery		
	FY 1993	FY 1994	FY 1995
Cash-In	\$ 32.7	\$ 76.7	\$ 192.0
Prizes	NA	49.1	135.0
Net Income	NA	27.6	57.0
Government Income	NA	13.1	24.8

	Total Gambling Handle				
	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
Greyhound Racing	\$ 136.3	\$ 106.6	\$ 80.2	\$ 115.0	NA
Jai Alai	18.6	17.1	13.4	15.8	NA
Lottery	65.8	64.7	105.1	119.2	142.7
VLTs	-	-	32.7	76.7	192.0*
Total Handle	\$ 220.7	\$ 188.4	\$ 231.5	\$ 326.7	

* Total VLT sales are equivalent to total Lottery sales figure.

Sources: *LaFleur's 1995 World Gambling Abstract*, 3rd Ed. (1995), and Rhode Island Lottery unaudited financial report.

TABLE IV
West Virginia Gambling Revenue
FY 1991 - FY 1995
(million \$)

Games	Lottery Sales				
	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
Instant Games	\$ 35.2	\$ 44.4	\$ 46.0	\$ 52.5	\$ 61.1
Three-Digit Numbers	11.3	11.8	11.4	11.1	11.6
Four-Digit Numbers	4.2	4.8	4.6	4.4	4.8
Cash Lotto	6.7	6.4	5.2	6.4	9.0
Keno	-	-	14.2	17.4	14.9
Powerball	21.3	22.2	32.7	44.9	50.6
Total Sales	<u>\$ 78.7</u>	<u>\$ 89.6</u>	<u>\$ 115.0</u>	<u>\$ 136.7</u>	<u>\$152.7</u>
Prizes	\$ 40.6	\$ 48.0	\$ 61.9	\$ 75.9	N/A
Gross Revenues	\$ 38.1	\$ 41.6	\$ 53.1	\$ 60.8	N/A

	Video Lottery				
	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
Cash-In	\$ 21.7	\$ 32.9	\$ 38.9	\$ 47.8	112.2 ¹⁾
Prizes	19.1	29.1	35.4	42.3	84.1
Net Income	2.6	3.9	4.5	5.5	27.0
Government Profit	1.0	0.8	0.9	1.6	1.0

	Total Gambling Handle				
	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
Greyhound Racing	\$ 152.5	\$ 135.0	\$ 122.6	\$ 129.4	\$ 97.2
Horse Racing	143.5	130.6	123.0	120.5	38.5
Lottery Sales	78.7	89.6	115.0	136.7	152.7
VLTs Cash-In	21.7	32.9	39.9	47.8	112.2
Total	<u>\$ 396.4</u>	<u>\$ 388.1</u>	<u>\$ 400.5</u>	<u>\$ 434.4</u>	<u>\$400.6</u>
Annual per Capita Bets	\$ 218	\$ 213	\$ 220	\$ 238	\$220

1) Two of the three tracks with video lottery terminals had those games in operation for nine months of FY 1995.

Sources: *La Fleur's 1995 World Gambling Abstract*, 3rd Ed., and West Virginia Lottery, and *International Gaming and Wagering Business*, October, 1995, page 124.

TABLE V
Iowa Total Gambling Activity
FY 1991-FY 1995
(million \$)

Game	Lottery Sales				
	FY 1991	FY 1992	FY 1993	FY 1993	FY 1995
Instant	\$75.5	\$81.3	\$96.7	\$99.2	\$103.9
Pull Tab	17.6	20.8	36.9	35.3	32.4
Powerball	20.6	27.5	38.1	44.5	48.9
In-State Lotto	34.8	27.2	24.3	17.8	12.6
Daily Lotto	2.7	11.7	11.2	10.1	9.7
Total Sales	<u>\$151.2</u>	<u>\$168.5</u>	<u>\$207.2</u>	<u>\$206.9</u>	<u>\$207.5</u>
Prizes	\$86.4	\$92.9	\$116.8	\$116.5	\$112.5
Gross Revenue	\$2,055.8	\$2,067.6	\$2,083.4	\$2,083.4	\$2,090.0

Game	Parimutuel Wagering			
	1991	1992	1993	1994
Greyhound Handle	\$120.6	\$96.6	\$88.3	\$64.2
Bettor Return	106.2	87.5	61.9	44.9
Gross Revenue	14.4	9.1	26.4	19.3
Govt. Revenue			2.7	2.5
Horse Handle	35.9	38.4	23.9	37.0
Bettor Return	28.9	30.6	30.8	29.0
Gross Revenue	7.0	7.8	(6.9)	8.0
Total Handle	<u>\$156.5</u>	<u>\$135.0</u>	<u>\$112.2</u>	<u>\$101.2</u>

Game	Charity Gambling			
	1991	1992	1993	1994
Bingo	\$47.2	\$52.4	\$52.9	\$49.7
Raffles	16.9	5.4	5.0	5.9
Casino Nights			0.6	1.5
Other			0.8	
Total Handle	<u>\$ 64.1</u>	<u>\$ 57.8</u>	<u>\$ 59.3</u>	<u>\$ 57.1</u>
Prizes		41.2	42.6	38.6
Gross Revenues		16.6	16.8	18.5
Govt. Revenues				2.9

TABLE V (continued)

Game	Casino Gambling			
	1991	1992	1993	1994
Slot Handle	\$ 513.1	\$ 628.6	\$ 462.2	\$ 970.6
Table Drop	10.4	9.8	18.2	92.4
Total Handle	<u>\$ 523.5</u>	<u>\$ 638.4</u>	<u>\$ 480.4</u>	<u>\$ 1,063.0</u>
Slot Drop	\$ 67.9	\$ 77	\$ 53.6	\$ 120.5
Table Drop	10.4	9.8	18.2	92.4
Total Drop	<u>\$ 78.3</u>	<u>\$ 86.8</u>	<u>\$ 71.8</u>	<u>\$ 212.9</u>
Slot Win	\$ 54.2	\$ 59.5	\$ 38.7	\$ 79.7
Table Win/Loss	10.4	9.8	6.6	25.1
Total Win ¹	<u>\$ 64.6</u>	<u>\$ 69.3</u>	<u>\$ 45.3</u>	<u>\$ 104.8</u>
Tax to City	0.3	0.3	0.2	0.5
Tax to County	0.3	0.3	0.2	0.5
Tax to Gamblers' Treatment	2.0	2.1	1.4	1.2
Wagering Tax (to SGF)	7.6	10.1	6.2	16.3
Admission Tax (to SGF)	0.7	1.4	1.1	0.8
Total Taxes	<u>\$ 10.9</u>	<u>\$ 14.2</u>	<u>\$ 9.1</u>	<u>\$ 19.3</u>

Game	Total Gambling Handle				
	1991	1992	1993	1994	1995
Casino	\$523.5	\$638.4	\$480.4	\$1,063.0	NA
Charity	64.1	57.9	59.3	57.1	NA
Greyhound	120.6	96.6	88.3	64.2	NA
Horse	35.9	38.4	23.9	37.0	NA
Lottery ²	151.2	168.5	207.2	206.9	207.6
Total Handle	<u>\$895.3</u>	<u>\$999.8</u>	<u>\$859.1</u>	<u>\$1,428.2</u>	<u>NA</u>
Annual Per Capita Bets	\$316.0	\$353.0	\$304.0	\$505.0	

- 1) Slot and table game "win" is synonymous with "gross revenues" in other tables, i.e., total bets less prizes.
- 2) The Iowa Lottery reports Lottery sales on a fiscal year basis. All other gambling figures prior to FY 1996 were reported on a calendar year basis. Annual totals for 1991 through 1995 in this table therefore, are not precise.

Sources: *LaFleur's 1995 World Gambling Abstract*, 3rd Edition and the Iowa Lottery

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State of Kansas

LANA OLEEN
SENATOR, 22ND DISTRICT
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COMMITTEE ASSIGNMENTS
CHAIR: CONFIRMATION OVERSIGHT
STATE-TRIBAL RELATIONS
VICE CHAIR: ORGANIZATION, CALENDAR & RULES
MEMBER: STANDING & JOINT COMMITTEES

Majority Leader Kansas Senate

SENATE CHAMBER, STATE CAPITOL
TOPEKA, KANSAS 66612-1504

March 4, 2003

To: Senate Committee on Federal and State Affairs
From: Senator Lana Oleen
Re: A Brief History of Gaming in Kansas

Overview

Kansas statutes currently provide for the collection and allocation of revenue from three types of gambling: the Kansas Lottery, parimutuel wagering on dog and horse races, and charitable bingo. 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 Kansas Lottery) legal gambling in Kansas.

Kansas Lottery

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 Revenues 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 to continue the operation of the lottery.

Senate Fed & State

Date: 03 / 05 / 2003

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has been subject to sunset in 1992, 1996, and 2002. In each instance, the Kansas Legislature addressed the issue of continuing the lottery. The most recent extension occurred when the 2001 Legislature extended the lottery until 2008. The bill also required that a security audit of the Kansas Lottery be conducted at least once every three years; responsibility for these security audits was placed under the Legislative Post Audit Act. The 2001 legislation also placed several limitations and restrictions on the operation of the 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 the operation of the lottery; to pay prizes to lottery winners; and to provide funding for correctional facilities, juvenile facilities, and economic development via transfers to the SGRF. A minimum of 45 percent of net monthly receipts from the sale of lottery tickets must be awarded as prizes, and at least 30 percent of net monthly receipts must be credited to the SGRF. Past legislatures have frequently transferred additional amounts to the SGRF.

Lottery revenues have been used for various purposes over the years. Most notably, transfers of lottery revenue were made to support statewide reappraisal in the 1980s. For a five-year period, transfers were made from the Lottery Operating Fund to finance the Kansas Bureau of Investigation's gaming investigation unit. Some state revenue from both the State Lottery and parimutuel wagering is transferred to the SGRF. 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.

The 2000 Legislature modified the transfer slightly by mandating a transfer to the new Problem Gambling Grant Fund. Beginning in FY 2001, the amounts to be transferred are as follows:

- Economic Development Initiatives Fund—\$42,432,000
- Correctional Institutions Building Fund—\$4,992,000
- Juvenile Detention Facilities Fund—\$2,496,000
- Problem Gambling Grant Fund—\$80,000

Appropriations from gaming revenues in support of education-related programs are made from the Economic Development Initiatives Fund (EDIF). Approved FY 2003 expenditures from the EDIF in support of education are summarized below.

- Department of Education/State Board of Regents—\$8.89 million
- Kansas Technology Enterprise Corporation—\$11.59 million
- Adjutant General Educational Assistance Program—\$243,342

The approved FY 2003 budget for the Kansas Lottery includes 87.8 FTE positions and expenditures of \$145.2 million, which is composed of \$20.9 million for operating the lottery and \$124.3 million for prizes and retailer commissions. Over the 15-year existence of the Kansas Lottery and parimutuel wagering, a total of \$85.5 million in regular and special transfers has been transferred to the State General Fund. Total regular gaming transfers from the SGRF over that period exceed \$680.5 million, which includes transfers to the EDIF (\$507.4 million); County Reappraisal Fund (\$15.9 million); State General Fund (\$79.5 million); Juvenile Detention Fund (\$17.5 million); Correctional Institutions Building Fund (\$60.1 million); and Problem Gambling Grant Fund (\$160,000).

Parimutuel Wagering

Parimutuel Wagering History. The voters of Kansas approved a constitutional amendment in 1986 by a vote of 483,944 to 324,123 to authorize the Legislature to permit, regulate, license, and tax the operation of horse and dog racing by *bona fide* nonprofit organizations and parimutuel wagering thereon. The following year the Legislature enacted implementing legislation, the Kansas Parimutuel Racing Act. The act created the Kansas Racing Commission, composed of five Kansas residents, which is authorized to license and regulate all aspects of racing and parimutuel wagering in Kansas. The act grants the Commission broad authority to regulate the racing industry and establishes a number of prohibited acts. Under the act, only nonprofit organizations may be licensed to conduct races and the licenses may be for an exclusive geographic area. The act also created a rather complex formula for taxing the wagering; the formula uses as a tax base a portion of the moneys wagered; and also imposes an admission tax.

The Kansas Racing and Gaming Commission (KRGC) is made up of two separate agencies. The Racing Commission regulates parimutuel greyhound and horse racing; while the State Gaming Agency (SGA) monitors the Native American casinos operating under the tribal-state gaming compacts.

Currently, there are two parimutuel racetracks operating in Kansas: the Woodlands located in Kansas City and the Wichita Greyhound Park in Wichita. The parimutuel track located in Frontenac, Camptown Greyhound Park, has been closed since November 2000. Parimutuel horse racing is also offered at two county fair locations: Eureka Downs in Eureka and Anthony Downs in Anthony.

The KRGC exercises regulatory power over all locations in the state which offer parimutuel wagering. This regulation includes issuing licenses to individuals, overseeing the operation of the races, and auditing all monetary issues related to the wagering. KRGC is funded through a tax on parimutuel wagering, fees charged for licensing, an admission tax, and fines levied by the Commission. Currently, the Commission is authorized 43.0 FTE employees.

A 1992 amendment to the Parimutuel Racing Act provided for simulcasting of both interstate and intrastate horse and greyhound races in Kansas, and allowed parimutuel wagering on simulcast races. The term "simulcast" means a live audio-visual broadcast of

an actual horse or greyhound race at the time it is run. The Commission is given broad authority to regulate simulcast racing and wagering. In 2002, the parimutuel wagering handle totaled \$110.8 million. Of this total, \$27.2 million was from live greyhound and horse racing, and the remaining \$83.6 million came from wagering on simulcast races received at the racetracks.

Tax revenues generated by parimutuel wagering have generally been in decline in recent years. In FY 1996, the parimutuel tax generated \$5,232,000; in FY 2000 this figure totaled \$4,239,000. The tax in FY 2001 was \$3,973,000 and had declined to \$3,813,000 in FY 2002.

Another provision of the parimutuel act provides for the transfer of tax revenues from the State Racing Fund to the SGRF of any moneys in excess of amounts required for operating expenditures. This transfer to the SGRF reached an historical high in FY 1991 of \$7.577 million, but has declined sharply in recent years. For FY 2001, the transfer was \$426,605, and for FY 2002 had fallen to \$343,724.

Charitable Bingo

Charitable Bingo History. A constitutional amendment was approved by the voters of Kansas (499,701 to 210,052) in 1974 to authorize the Legislature to regulate, license, and tax the operation and conduct of games of bingo by certain nonprofit organizations. The groups must be *bona fide* nonprofit religious, charitable, fraternal, educational, or veterans organizations. The Legislature adopted implementing legislation the following year to regulate, license, and tax charitable bingo games. The bingo constitutional amendment was again amended in 1995 to authorize games of "instant bingo."

The general administration of the bingo statutes is vested with the Secretary of Revenue, who may adopt rules and regulations to enforce the act. The Director of Taxation is charged with specific duties related to the taxation of bingo. A 2000 amendment to the bingo statutes created the new position of Administrator of Charitable Gaming to oversee enforcement of the bingo laws.

There are three types of regulated entities in the charitable bingo industry: licensed nonprofit organizations; registered premises lessors; and registered bingo card distributors. A nonprofit organization is a group which is eligible to conduct bingo games, such as an American Legion post or a church group. A premises lessor is the owner or lessor of premises where a nonprofit organization may conduct bingo games. A bingo card distributor is a person or entity that sells instant bingo tickets and bingo cards/disposable bingo faces to nonprofit organizations.

The bingo laws provide stringent criteria in regard to what type of nonprofit organization can be awarded a license. Also, the bingo laws and associated rules and regulations cover many aspects of the operation of bingo games, including the frequency of games, limits on prizes awarded, and detailed required recordkeeping. There are both civil and criminal penalties for operating bingo games in violation of the law.

2000 Bingo Amendments. Substantial amendments were made by the 2000 Legislature through the enactment of Sub. for HB 2013. The bill created a new position of Administrator of Charitable Gaming, and generally phased out the use of hard cards over a three-year period. The bill also phased out the prior bingo tax of 3 percent on gross receipts, in favor of a new tax on disposable paper bingo faces at 0.2 cents per face. This tax is collected and paid by the distributor, who may retain 2 percent of the tax due as an administrative payment.

The allocation of bingo tax revenue was changed from a formula which allocated equal shares to the State General Fund, the Department of Revenue, and local units; the new formula allocates two-thirds to the State General Fund and one-third to the Bingo Regulation Fund. The bill also mandated use of \$20,000 annually from the Bingo Regulation Fund for a problem gambling program. The bill also phased out the state and local sales tax on licensees. Finally, the bill authorized several new types of bingo games and drawings for door prizes.

Bingo tax revenues have, in general, been declining in recent years. In FY 1997, the bingo enforcement tax generated \$1,055,000. In FY 1999, this figure had dropped to \$979,000. The bingo tax generated \$778,000 in FY 2001 and \$680,000 in FY 2002.

Indian Casino Gaming

History of Indian Casino Gaming. In the mid-1990s, the State of Kansas and each of the four resident tribes in Kansas entered into tribal-state gaming compacts to permit Class III (casino) gaming at tribal casinos. In accordance with the federal Indian Gaming Regulatory Act, all four of the compacts approved by the Kansas Legislature in 1995 were forwarded to the Bureau of Indian Affairs and were approved. At the present time, all four resident tribes have opened and are operating a casino gaming facility. The Kickapoo Tribe was the first to open a casino (the Golden Eagle Casino) in May 1996. The Prairie Band Potawatomi Nation opened a temporary facility in October 1996, and then later opened a permanent facility (Harrah's Prairie Band Casino) 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 casinos varies in size and the number of games they offer to the public. The Golden Eagle Casino has approximately 700 electronic gaming devices (slot machines) and 16 table games. Harrah's Prairie Band Casino has approximately 1,000 slot machines and 35 table games. The Sac and Fox Casino has approximately 475 slot machines and six table games. Casino White Cloud has 350 slot machines and six table games. Financial information concerning the operation of the four casinos is confidential.

The SGA was created by executive order in August 1995 as required by the tribal-state gaming compacts. During the 1996 Legislative Session, the agency was made a part of the KRGC through the passage of the Tribal Gaming Oversight Act. The SGA currently is authorized 21.0 FTE positions. The gaming compacts define the relationship between the

SGA and the tribes—the actual day-to-day regulation of the gaming facilities is performed by the tribal gaming commissions. Enforcement agents of the SGA are also in the facilities on a daily basis and have free access to all areas of the gaming facility, as well as access to all records kept in the facility. The compacts also require the SGA to conduct background investigations on all gaming employees, manufacturers of gaming supplies and equipment, and gaming management companies and consultants.

The SGA is funded through an assessment process established by the compacts to reimburse the State of Kansas for the costs it incurs for regulation of the casinos. The assessments are split equally among the four tribes. This procedure is currently in arbitration as the smaller tribes believe that it is inequitable.

COMPARISON OF SELECTED BILLS CONCERNING GAMING

	SB 108	SB 207	SB 208	SB 226
Games Authorized	Video lottery games	Electronic gaming machines	Electronic gaming machines	Electronic gaming machines
Authorized Locations	Lottery retailers	Parimutuel tracks; plus an unspecified number of "at-large" facilities	Parimutuel tracks; one "at-large" facility	Parimutuel tracks
Regulatory Agencies	Kansas Lottery	Kansas Lottery; Racing and Gaming Commission	Kansas Lottery; Racing and Gaming Commission	Kansas Lottery; Racing and Gaming Commission
County Election Required	No	Yes	Yes	Yes
Required Payout	At least 87 percent	At least 87 percent	At least 87 percent	At least 87 percent
Limits on Number of Machines	5 per retailer	No	No	No
Sales Tax Exempt	Yes	Yes	Yes	Yes
Effective Date	Statute Book	Kansas Register	Kansas Register	Kansas Register
Disposition of Net Gaming Revenue	Technology Provider 20.0% Retailer 30.0% Lottery Operating Fund 50.0% 100.0% Also, annual transfer of 1/10 of 1% of video lottery moneys to the Problem Gambling Grant Fund	Parimutuel Licensees: Machine Operators 66.0% Problem Gambler 0.5% State General Fund 20.0% Nonprofit Organizations 1.0% City 1.0% County 1.0% Dog Supplements 4.0% Horse Supplements 6.0% Regulation 1.0% 100.5% At-Large Facilities: Gaming Contractor 60.0% Problem Gambler 0.5% State Tourism Fund 10.0% State General Fund 25.0% City/County (if contract) ? Regulation 1.0% 96.5%	Parimutuel Licensees: Regulation 1.5% Gaming Revenue Fund 1.5% Problem Gambler 0.5% County 1.5% City 1.0% Nonprofit Organizations 0.5% Dog Supplements 5.0% Horse Supplements 5.0% State General Fund 25.0% Machine Operators 58.5% 100.0% At-Large Facilities: Regulation 1.5% Gaming Revenue Fund 1.5% Problem Gambler 0.5% State Tourism Fund 2.0% Dog Supplements 5.0% Horse Supplement 5.0% State General Fund 36.5% Machine Operator 48.0% 100.0%	Parimutuel Licensees: Regulation 1.0% Problem Gambler 0.5% County 1.5% City 1.5% State General Fund 20.0% Horse Supplements 3.5% Dog Supplements 3.5% Nonprofit Organizations 1.0% Machine Operators 67.5% 100.0%

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COMPARISON OF SELECTED BILLS CONCERNING GAMING

	SB 249	HB 2340	HB 2372	HB 2405
Games Authorized	Electronic gaming machines; other lottery games	Electronic gaming machines	Electronic gaming machines	Electronic gaming machines
Authorized Locations	Parimutuel tracks; "at-large" facilities	Parimutuel tracks; "at-large" facilities	Boot Hill Gaming, Ford County	Parimutuel Tracks
Regulatory Agencies	Kansas Lottery; Racing and Gaming Commission	Kansas Lottery; Racing and Gaming Commission	Kansas Lottery; Racing and Gaming Commission	Kansas Lottery; Racing and Gaming Commission
County Election Required	Yes	Yes	Yes	Yes
Required Payout	At least 87 percent	At least 87 percent	At least 87 percent	At least 87 percent
Limits on Number of Machines	No	No	No	No
Sales Tax Exempt	Yes	Yes	Yes	Yes
Effective Date	<i>Kansas Register</i>	<i>Kansas Register</i>	<i>Kansas Register</i>	<i>Kansas Register</i>
Disposition of Net Gaming Revenue	Parimutuel Licensees: Machine Operators 65.5% Problem Gambler 0.5% State General Fund 20.0% Nonprofit Organizations 1.0% City 1.0% County 1.0% Dog Supplements 4.0% Horse Supplements 6.0% Regulation 1.0% <u>100.0%</u> At-Large Facilities: Machine Operator 73.5% Regulation 1.0% Problem Gambler 0.5% State Tourism Fund 5.0% State General Fund 20.0% City/County (if contract) ? %	Parimutuel Licensees: Problem Gambler 0.5% City 1.0% County 1.0% Dog Supplements 4.0% Horse Supplements 6.0% Nonprofit Organizations 1.0% State General Fund 20.0% Machine Operators 66.0% Regulation 1.0% <u>100.5%</u> At-Large Facilities: Machine Operator 60.0% Regulation 1.0% Problem Gambler 0.5% State Tourism Fund 10.0% State General Fund 25.0% City/County (if contract) ? 96.5%	Machine Operators 65.0% Problem Gambler 0.5% Tourism Fund 5.5% State General Fund 25.0% City 1.5% County 1.5% Dog Supplements 3.5% Regulation 1.0% <u>100.0%</u>	Problem Gambler 0.5% State General Fund 20.0% Nonprofit Organizations 1.0% City 1.5% County 1.5% Dog Supplements 3.5% Machine Operator 71.0% Regulation 1.0% <u>100.0%</u>

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