

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on January 14, 2004 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Russell Mills, Legislative Research
Dennis Hodgins, Legislative Research
Theresa Kiernan, Office of the Revisor
John Beverlin, Committee Secretary

Conferees appearing before the committee:

Tracy Diel, Executive Director, Kansas Racing and Gaming Commission
Tom Groneman, Executive Director, Alcoholic Beverage Control, Department of Revenue

Others attending:

See Attached List.

Chairperson Brungardt began the meeting by announcing a medicaid forum on Wednesday 21, 2004, at 11:30 a.m. for all committee members. He then welcomed Tracy Diel, Executive Director of the Kansas Racing and Gaming Commission.

Mr. Diel provided an agency overview of the Kansas Racing and Gaming Commission (Attachment 1).

Chairperson Brungardt asked the committee for questions.

Senator O' Connor asked about the purpose of the Tribal Gaming Fund on the Racing and Gaming Commission Fund Activity sheet included in the testimony from Mr. Diel.

Mr. Diel answered by stating that by statute, the State Gaming Agency is part of the Kansas Racing and Gaming Commission. He further stated that the agency's budget is approved by the commission.

Senator O' Connor asked about the Horse Fair Racing Benefit Fund and its administrative costs increase of 129.9 percent.

Mr. Diel answered by stating that 2002 was the first year that the commission charged all costs for running the race meets to the benefit fund.

Senator Vratil asked Mr. Diel why he was not continuing to perform the duties of the State Gaming Agency and why the Kansas Racing and Gaming Commission was formed.

Mr. Diel explained that a separate agency was created in July of 1996. He further explained that in December of 1996 he was hired to run the State Gaming Agency. In September of 2000, upon the retirement of the executive director of the Kansas Racing and Gaming Commission, the Governor's office asked Mr. Diel to direct both agencies until a decision was made about the future of the two agencies. Mr. Diel continued explaining by stating that 3 years later it was decided that two individuals were needed to run the agencies. The Governor asked him to direct the Kansas Racing and Gaming Commission.

Senator Vratil asked why the gaming agency was not listed on the organization chart contained in the testimony from Mr. Diel.

Mr. Diel explained that as a general rule, the commission attempts to keep the racing side separate from the gaming side.

Senator Vratil asked to whom Mr. McElroy reported.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on January 14, 2004 in Room 231-N of the Capitol.

Mr. Diel stated the Governor.

Senator Vratil stated that he thought the State Gaming Agency was a subdivision of the Kansas Racing and Gaming Commission.

Mr. Diel explained that prior to July 1, 1996, the Gaming Agency was a part of the Department of Commerce and Housing. He further explained that the Governor, at that time, did not want to add a separate agency. The Legislature, in the Tribal Gaming Oversight Act of 1996, took the State Gaming Agency and moved it to the Kansas Racing Commission and changed the commission's name to the Kansas Racing and Gaming Commission. He further explained that the act made the gaming agency responsible to the Kansas Racing and Gaming Commission for its budget, personnel, and arbitration authorization.

Chairperson Brungardt asked for additional questions and thanked Mr. Diel. The Chairperson then welcomed Tom Groneman, Director of Alcoholic Beverage Control.

Mr. Groneman presented an oversight of the Alcoholic Beverage Control (Attachment 2).

Chairperson Brungardt asked whether Mr. Groneman anticipated any changes with regard to the Alcoholic Beverage Control.

Mr. Groneman stated that he did not think the Alcoholic Beverage Control would have any new initiatives this session.

Chairperson Brungardt asked if there was an enforcement response to the issue of uniformity in liquor laws.

Mr. Groneman stated that currently new charter ordinances were being reviewed by the department, and unfortunately, they have not been able to go over the details of the ordinances.

Chairperson Brungardt asked committee members for questions.

Senator O' Connor stated that Leavenworth was experiencing difficulty with its charter. She stated that if the charter did not receive substitute language, Leavenworth could end up going dry. Senator O' Connor asked for the reason behind this problem.

Mr. Groneman explained that if Leavenworth chartered out, the county would no longer have a state license. Therefore, he explained, distributors would not be able to deliver into those cities and essentially they would go dry. Mr. Groneman explained that the problem could be interpreted differently, but that it was being reviewed.

Senator O' Connor asked if there was an effort to work with distributors in the local area to make sure that they are aware of the problem.

Mr. Groneman answered that there has been communication between the Alcoholic Beverage Control and the distributors.

Senator Gilstrap asked for the definition of "off premise."

Mr. Groneman answered that an example of "off premise" is a retail liquor store. He explained that "off premise" is a location that sells alcoholic beverages, but you do not consume the beverages on the premise.

Mr. Groneman addressed Senator Teichman about a question she asked on January 13th concerning cooperation between the Alcoholic Beverage Control and the Fire Marshal. He explained that there was communication between the agencies concerning fire violations. He stated that in 2003, there were 12 instances where Alcoholic Beverage Control agents contacted the Fire Marshal concerning fire violations. Chairperson Brungardt thanked Mr. Groneman and welcomed Theresa Kiernan to present an overview on uniformity in state laws.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on January 14, 2004 in Room 231-N of the Capitol.

Ms. Kiernan presented an edited memorandum that Mike Heim had prepared for the interim tax committee, that defined home rule (Attachment 3).

Chairperson Brungardt asked the committee for questions.

Senator Barnett asked how the home rule charter works when the license is directed to the establishment and not to the city or county.

Ms. Kiernan stated that Senator Barnett's question is the basic question before the Supreme Court. She explained that the state made several arguments, and that the court resolved three of the arguments. Ms. Kiernan stated that the state made an argument, that regardless of the fact that the act is nonuniform, the act does apply to cities; and they cannot, therefore, opt out of that provision. She further stated that this was the argument that is now up to the Supreme Court.

Senator Barnett asked if there was any history.

Ms. Kiernan said there was a case, and she referred to the second memorandum and the Brewster case on page five (Attachment 4).

Ms. Kiernan presented her second memorandum to the committee. She stated that she prepared the memorandum for the interim Judiciary Committee.

Chairperson Brungardt asked what it was about the Liquor Control Act that makes it nonuniform.

Ms. Kiernan stated it was the provisions that classify cities into class.

Chairperson Brungardt asked whether the act had to be uniform or whether it needs to be declared uniform.

Ms. Kiernan answered that the act has to be uniform. She further stated that the interim Judiciary Committee introduced Senate Bill 305 which is uniform and preemptive.

Senator Barnett asked if there were other statutes that could be at risk or subject of home rule.

Ms. Kiernan answered that anything that is not uniform is at risk. Including, she stated, campaign finance, nonuniform gaming bills, retail sales tax, and the municipal court act.

Senator Barnett asked whether strong preemptive language was necessary.

Ms. Kiernan answered no, that preemption would prevent cities and counties from doing things in addition. She explained that there have been several liquor cases where cities have made the rules more strict. She further explained, she thought, Sunday sales were the first issue where cities have made things easier.

Senator Barnett asked for the reason behind the preemptive provision.

Ms. Kiernan deferred the question to Senator Vratil.

Senator Vratil stated that he chaired the committee this summer that dealt with preemption. He further stated that it was his perception of the committee's intent that preemptive provision be added to make it clear to any local government that they cannot vary from the liquor control act.

Ms. Kiernan stated that the provision does resolve any doubt about whom is in control of the Liquor Control Act.

Senator Vratil stated that it was the intent of the committee to indicate that the legislature has exclusive control over the act.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on January 14, 2004 in Room 231-N of the Capitol.

Chairperson Brungardt asked if it was known when the Kansas Supreme Court would make its decision concerning home rule.

Don Moler, who was sitting in the audience, answered that he thought there would be a decision out of the Supreme Court in January or February.

Senator Vratil stated that the interim committee sent a message to the Supreme Court stating the legislature would appreciate an early decision.

Chairperson Brungardt asked the committee members for further comments. None were made.

The meeting was adjourned at 11:45 a.m. The next meeting is scheduled for January 15, 2004, at 10:30 a.m. in room 231-N.

Senate Federal and State Affairs Committee

Date: 09/14/2004

Name:

Representing:

Don Moler

LKM

Ron Seebor

The Law Firm

Tom Groneman

ABC

Mike Padilla

ABC

Tracy Diel

KRGL

Glenn Thompson

Stand Up For KS,

TUCK DUNCAN

KS. wine & spiritle who bscaters ASSH.

Pete Bodyk

ABC

Dan Maurer

Kansas Family Partnership

Brian P. Oliveras

Intern - Sen Betts

Marcia Davis

City of Beloit / KRPA

Judy Shaw

PMCA of KS

Lindsay Campbell

K. Damron

Marilyn Reese

KS Nurse Assoc

John Earl

Hesston Rec. Comm / KRPA

Clinton D. Longacre

Emporia State U.
Emporia, KS / KRPA

Aaron Estabrook

Senator Huelskamp

Jane Foltz

City of Abilene
Parks + Recreation Dept. / KRPA

Steve Frazier

City of Liberal Park + Rec / KRPA

Cindy Crandall

Deerfield Rec Comm / KRPA

Sonnie Smith

EMPORIA REC COMM / KRPA

Olivia Mayer

Shawnee County Parks & Rec / KRPA

Donna Rene

Lakin Recreation Commission / KRPA

Ernie Garcia

Lakin Recreation Comm. / KRPA

Senate Federal and State Affairs Committee

Date: 01/14/2004

Name:

Representing:

Cheri Froetscher

Budget

Robin Jenkinson

Ruffin Companies

Whitney Jackson

Kierston/Sac: Fox

Robert R.

SBWA, KCAA

Neal Whitaker

Ks Beer Wholesalers Assn

Philip Bradley

KLBA

Kimbra Cuywood

Kearney & Assoc.

Larry Waldrop

River Falls Entertainment LLC

James Estabrook

Senator Huelkamp



KANSAS

KANSAS RACING AND GAMING COMMISSION

KATHLEEN SEBELIUS, GOVERNOR

TO: Senate Committee on Federal and State Affairs

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

DATE: January 14, 2004

SUBJECT: Overview of the Kansas Racing and Gaming Commission

Senator Brungardt and members of the Committee, thank you for the opportunity to appear today and update you on the Kansas Racing and Gaming Commission (KRG/Commission).

The KRG has regulatory jurisdiction over the parimutuel racing industry in the State of Kansas. The Commission is responsible for issuing licenses to individuals involved in the greyhound and horse racing industry, animal health oversight, and assigning staff to oversee the live races offered at each parimutuel racetrack facility. The KRG employs and assigns certain staff to each racetrack facility that operates year round. These employees work for and report to the Commission. Three full-time judges are responsible for making sure that the races offered are conducted fairly and in accordance with the rules and regulations of the KRG. Two assistant animal health officers are responsible for ensuring that all animal health regulations of the KRG are followed. The auditor is responsible for verifying that all monetary issues regarding the wagering public and the State of Kansas are performed properly. The KRG is authorized 43 full-time positions which are spread out among the main office in Topeka and the field offices at the Woodlands and WGP. In addition, the Commission has several temporary positions that are filled during the county fair meets.

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

At the current time, there are two parimutuel racetracks operating in the State of Kansas that offer year-round racing. The Woodlands, located in Kansas City, Kansas, offers greyhound racing year round and a horse racing schedule in the fall. In 2003, the Woodlands offered 250 days of live greyhound racing with 321 live racing performances and 4,733 races, including 30 days of live horse racing. This was the longest live horse race meet since 1995. WGP, located in Valley Center, Kansas, also operates year round, but does not offer any live horse racing. During 2003, WGP offered 239 days of live greyhound racing with 286 live racing performances and 4,693 races. There are two county fair meet locations that offer limited parimutuel racing during the late spring and summer months. Eureka Downs, located in Eureka, Kansas, offers live horse racing and Anthony Downs, located in Anthony, Kansas, offers both horse and greyhound racing. During 2003, Eureka Downs offered 20 days of live horse racing and Anthony Downs offered six days of live horse and greyhound racing. All total, there were 495 live greyhound racing days and 56 live horse racing days offered in 2003. In addition, Camptown Greyhound Park, located in Frontenac, Kansas, previously opened for business in 1995 and 2000, but has been closed since November 2000.

The live parimutuel racing industry in the State of Kansas faced several challenges in 2003. Due to an outbreak of severe kennel cough on the East Coast, the racetracks in Kansas were placed under a quarantine by the KRGC in mid-April. This strain of kennel cough was such that it closed down several racetracks across the country for significant periods of time. The Commission was concerned that closing down a racetrack in Kansas at this time would be detrimental to kennel owners and trainers operating at Kansas tracks. The quarantine, in effect until mid-June, restricted the movement of greyhounds coming into the state and limited the ability of kennel owners to bring fresh greyhounds to the racetrack. This created a strain on the active greyhound list at each racetrack. Then, on July 10, 2003, WGP was hit by a severe storm which caused extensive damage to the racetrack. Live racing was canceled for three weeks due to the damage sustained. In addition to these factors, the overall parimutuel wagering handle has been down. The KRGC is in the process of compiling its annual report for calendar year 2003 detailing the parimutuel handle. Preliminary information shows the parimutuel wagering handle for 2003 totaled approximately \$100,626,497, compared with a total wagering handle of \$110,832,003 for 2002. Of the total for 2003, \$25,766,384 was from live greyhound and horse racing, with the remaining attributed to wagering on simulcast races received at the different racetracks. I am providing the Committee copies of the KRGC 2001-2002 Annual Report for your review and comparison.

The 2004 racing season has begun at the racetracks. For calendar year 2004, the Woodlands has been approved by the KRGC to again offer 30 days of live horse racing as well as 266 live greyhound racing days with 293 racing performances. The KRGC has approved WGP to offer 254 live greyhound racing days with 305 racing performances. The Commission has just begun the process for this year's county fair meets. Eureka Downs has requested 20 live horse racing days and Anthony Downs, celebrating its 100th year of horse racing this summer, has requested six days of live horse and greyhound racing.

This concludes my testimony today. Should you have any questions, I will attempt to answer them at this time.



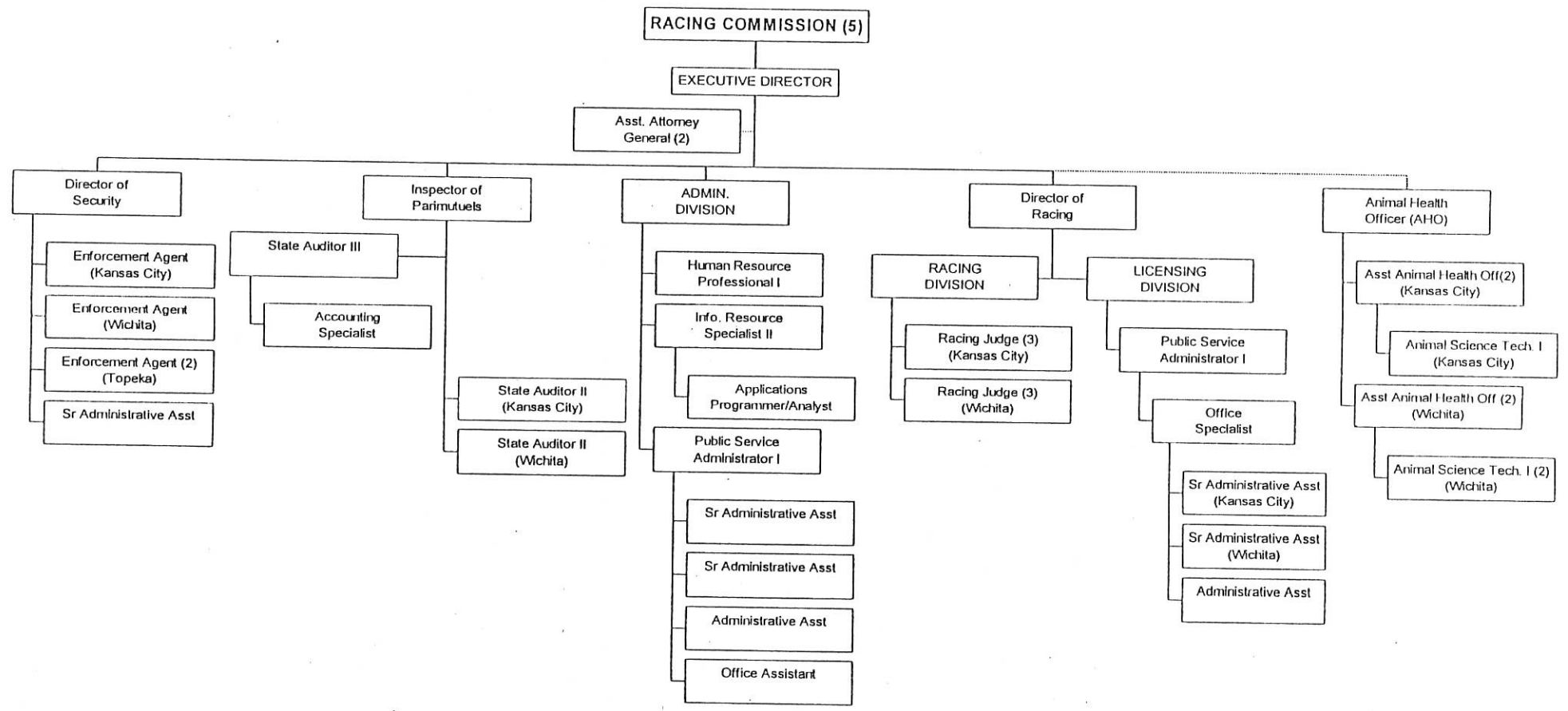
Racing and Gaming Commission Fund Activity
Fiscal Years 2001 and 2002



	State Racing Fund	Horse Fair Racing Benefit Fund	Horse Breeding Development Fund	Racing Investigative Expense Fund	Greyhound Breeding Development Fund	Racing Reimbursable Expense Fund	Racing Applicant Deposit Fund	Tribal Gaming Fund	Totals
FY 2001									
Beginning balance (7-1-00)	\$ 707,659	\$ 477,946	\$ 170,090	\$ 24,664	\$ 331,237	\$ 26,286	\$ 747	\$ 1,200,025	\$ 2,938,654
Prior period adjustments	10,479	-	-	-	-	618	-	13,176	24,273
Receipts									
Revenue	3,258,969	941,447	485,516	(4,772)	447,759	44,734	46	560,005	5,733,704
Operating transfer	76,418	-	-	-	-	-	-	-	76,418
General Fund transfer	-	-	-	-	-	-	-	450,000	450,000
Disbursements									
Operating expenditures	(3,153,002)	(816,951)	(459,046)	-	(306,825)	(40,702)	-	(1,115,475)	(5,892,001)
State Gaming Revenue Fund transfer	(426,605)	-	-	-	-	-	-	-	(426,605)
Operating transfer	-	(76,418)	-	-	-	-	-	-	(76,418)
Greyhound Tourism Fund transfer	-	-	-	-	(67,164)	-	-	-	(67,164)
General Fund transfer	-	-	-	-	-	-	-	(420,864)	(420,864)
Ending balance (6-30-01)	<u>\$ 473,918</u>	<u>\$ 526,024</u>	<u>\$ 196,560</u>	<u>\$ 19,892</u>	<u>\$ 405,007</u>	<u>\$ 30,936</u>	<u>\$ 793</u>	<u>\$ 686,867</u>	<u>\$ 2,339,997</u>
FY 2002									
Beginning balance (7-1-01)	\$ 473,918	\$ 526,024	\$ 196,560	\$ 19,892	\$ 405,007	\$ 30,936	\$ 793	\$ 686,867	\$ 2,339,997
Prior period adjustments	4,534	4,466	-	-	-	-	-	(214,241)	(205,241)
Receipts									
Revenue	3,074,887	951,528	480,161	3,840	347,356	26,445	22	907,551	5,791,790
Operating transfer	78,418	-	-	-	-	-	-	-	78,418
General Fund transfer	-	-	-	-	-	-	-	450,000	450,000
Disbursements									
Operating expenditures	(2,731,634)	(1,054,408)	(472,879)	(3,840)	(458,252)	(25,886)	-	(1,104,705)	(5,851,604)
State Gaming Revenue Fund transfer	(343,724)	-	-	-	-	-	-	-	(343,724)
Operating transfer	-	(78,418)	-	-	-	-	-	-	(78,418)
Greyhound Tourism Fund transfer	-	-	-	-	(53,103)	-	-	-	(53,103)
General Fund transfer	(4,839)	-	-	-	-	-	-	(302,083)	(306,922)
Ending balance (6-30-02)	<u>\$ 551,560</u>	<u>\$ 349,192</u>	<u>\$ 203,842</u>	<u>\$ 19,892</u>	<u>\$ 241,008</u>	<u>\$ 31,495</u>	<u>\$ 815</u>	<u>\$ 423,389</u>	<u>\$ 1,821,193</u>

Racing Program

KANSAS RACING AND GAMING COMMISSION



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

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

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



Racing Program Offices



Topeka Office

Kansas Racing and Gaming Commission
3400 S.W. Van Buren Street
Topeka, Kansas 66611-2228
Phone: (785) 296-5800
Fax: (785) 296-0900
Homepage: www.ink.org/public/krc
E-mail: kracing@cjnetworks.com

Field Offices

Kansas Racing and Gaming Commission
c/o The Woodlands
P.O. 12694
99th Street and Leavenworth Road
Kansas City, Kansas 66112
Phone: (913) 788-3621
Fax: (913) 788-3881
E-mail: kracing@kcinter.net

Kansas Racing and Gaming Commission
c/o Wichita Greyhound Park
P.O. Box 425
1500 East 77th Street North
Valley Center, Kansas 67147-0277
Phone: (316) 755-2736
Fax: (316) 755-3294
E-mail: racing@southwind.net



Racing Program Executive Staff



Tracy T. Diel
Acting Executive Director

Frances K. Snell
Director of Racing

David E. Johnson
Director of Security

D. Bryce Peckham, DVM
Animal Health Officer

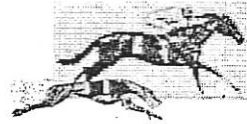
Debra L. Billingsley
Assistant Attorney General

Kit A. Bostrom
Director of Licensing

James Glackin
Assistant Attorney General



Departments of the Commission



Licensing

The Licensing Division ensures the integrity of racing and wagering in Kansas by identifying, licensing and conducting background checks on individuals who work at the racetrack facility and owners of the racing animals. These individuals are required to obtain an occupation license and undergo a background check before working or racing animals at the facility. In addition, licenses are granted to facility owners, facility managers, non-profit organizations, concessionaires, racing and wagering equipment and services, and simulcasting entities. Officers, directors and owners of these entities are subject to background investigations before the commission grants a license for the year.

Occupation Licenses

There were over 3,800 occupation licenses in 2001 and over 3,600 occupation licenses in 2002 issued to industry personnel and racetrack personnel during the license year. One-year and three-year occupation licenses were issued in different license categories for the race meets at the Woodlands, Wichita Greyhound Park and the county fairs. Over 1,300 sets of fingerprints in 2001 and over 600 sets of fingerprints in 2002 were submitted to the Kansas Bureau of Investigation for background checks. Licensees were able to participate in the fingerprint reciprocity program in lieu of submitting fingerprint cards. Licensees submitted over 500 reciprocity forms for 13 different racing jurisdictions in both 2001 and 2002 that were recognized by the commission. These reciprocity records were then verified with the specific jurisdiction in order to complete the background check on the licensee.

Registrations

Stable names, kennel names, corporations, partnerships, syndicates and other entities that own racing animals, which participated in racing in Kansas, were required to register with the commission. Entities filed over 350 registrations during the 2001 and over 400 registrations during the 2002 license years. Owners of these entities were required to obtain an occupation license.

Concessionaire and Racing and Wagering Equipment and Services Licenses

Concessionaire licenses are required before any entity may sell goods or services at a racetrack facility. There were 18 concessionaire licenses granted in 2001 and 115 concessionaire licenses granted in 2002 to entities providing animal feed, tack and supplies as well as food and beverage concessions and video and photo finish products. United Tote held a valid Racing and Wagering Equipment and Services license during the 2001 and 2002 racing seasons.



Departments of the Commission



Animal Health

The Kansas parimutuel racing act provides that the commission appoint an animal health officer and assistants to advise the commission in matters of veterinary medicine. At all times they are to serve and protect the health and well being of the racing animals. The animal health officer serves the commission staff in Topeka, and two assistants serve at each racetrack.

The animal health officers are responsible for conducting veterinary services for racing animals. This includes physical examinations prior to racing and observation for lameness, illness, or any other condition which would prevent the animal from racing to its potential. They are also responsible for treating emergencies of a veterinary nature encountered during the running of the race. In consultation with the judges or stewards, the animal health officers help determine which animals may be scratched from racing due to injury, disease, or disability.

Racing animals are subject to drug testing to deter the use of drugs to influence the outcome of a race. The animal health officer at each track is charged with obtaining blood and/or urine samples to be submitted to the official testing laboratory. A concerted effort is made to obtain the desired specimens from the animals and deliver them to the laboratory under strict chain of custody procedures so that a given specimen is unadulterated and from the identified animal.

During 2001 and 2002, the racing chemistry was performed by Truesdail Laboratories in Tustin, California. The results of their testing are as follows:

<u>Source</u>	<u>Urine</u>	<u>Blood</u>	<u>Total</u>	<u>Number of Positives</u>
2001				
Equine	894	885	1,779	12
Greyhound	9,572	0	11,331	9
2002				
Equine	852	889	1,741	3
Greyhound	10,060	0	10,060	12



Departments of the Commission



Racing Division

The Racing Division enforces the civil provisions of the parimutuel racing act and the rules and regulations of the commission. The division's goal is to instill and preserve public trust and confidence by ensuring the integrity of the race meets. The commission appointees serving as stewards or racing judges at each horse or greyhound race meet work towards achieving the goal by performing various duties such as observing monitors in the starting boxes and lock-out kennels, determining if sufficient cause has been provided to scratch a horse or greyhound from official races, observing during racing for proper racing, and determining correct finishing order.

During the 2001 race meet the stewards/judges had 715 findings in the 10,602 official races.

During the 2002 race meet the stewards/judges had 820 findings in the 10,699 official races.

Security Division

Security personnel are vested with the power and authority of law enforcement officers in the execution of the duties imposed upon the commission by the provision of the parimutuel racing act. The division's goal is to ensure licensees involved in racing activities are honest, to be proactive and responsive to confidential information concerning potential illegal activities, and to eliminate and/or reduce the potential for accidents. The commission appointees serving as security personnel work towards achieving the goal by investigating violations of the race act, conducting search and seizures, and enforcing all criminal laws of the State. The security personnel also conduct background investigations for various management positions within the racing industry as well as those for all commission employees.

During the 2001 race meets the security personnel conducted 104 background investigations and 850 breathalyzer tests.

During the 2002 race meets the security personnel conducted 37 background investigations and 741 breathalyzer tests.



Racing Program Fund Activity
Fiscal Years 2001 and 2002



	State Racing Fund	Horse Fair Racing Benefit Fund	Horse Breeding Development Fund	Racing Investigative Expense Fund	Greyhound Breeding Development Fund	Racing Reimbursable Expense Fund	Racing Applicant Deposit Fund	Totals
FY 2001								
Beginning balance (7-1-00)	\$ 707,659	\$ 477,946	\$ 170,090	\$ 24,664	\$ 331,237	\$ 26,286	\$ 747	\$ 1,738,629
Prior period adjustments	10,479	-	-	-	-	618	-	11,097
Receipts								
Revenue	3,258,969	941,447	485,516	(4,772)	447,759	44,734	46	5,173,699
Operating transfer	76,418	-	-	-	-	-	-	76,418
General Fund transfer	-	-	-	-	-	-	-	-
Disbursements								
Operating expenditures	(3,153,002)	(816,951)	(459,046)	-	(306,825)	(40,702)	-	(4,776,526)
State Gaming Revenue Fund transfer	(426,605)	-	-	-	-	-	-	(426,605)
Operating transfer	-	(76,418)	-	-	-	-	-	(76,418)
Greyhound Tourism Fund transfer	-	-	-	-	(67,164)	-	-	(67,164)
General Fund transfer	-	-	-	-	-	-	-	0
Ending balance (6-30-01)	<u>\$ 473,918</u>	<u>\$ 526,024</u>	<u>\$ 196,560</u>	<u>\$ 19,892</u>	<u>\$ 405,007</u>	<u>\$ 30,936</u>	<u>\$ 793</u>	<u>\$ 1,653,130</u>
FY 2002								
Beginning balance (7-1-01)	\$ 473,918	\$ 526,024	\$ 196,560	\$ 19,892	\$ 405,007	\$ 30,936	\$ 793	\$ 1,653,130
Prior period adjustments	4,534	4,466	-	-	-	-	-	9,000
Receipts								
Revenue	3,074,887	951,528	480,161	3,840	347,356	26,445	22	4,884,239
Operating transfer	78,418	-	-	-	-	-	-	78,418
General Fund transfer	-	-	-	-	-	-	-	-
Disbursements								
Operating expenditures	(2,731,634)	(1,054,408)	(472,879)	(3,840)	(458,252)	(25,886)	-	(4,746,899)
State Gaming Revenue Fund transfer	(343,724)	-	-	-	-	-	-	(343,724)
Operating transfer	-	(78,418)	-	-	-	-	-	(78,418)
Greyhound Tourism Fund transfer	-	-	-	-	(53,103)	-	-	(53,103)
General Fund transfer	(4,839)	-	-	-	-	-	-	(4,839.00)
Ending balance (6-30-02)	<u>\$ 551,560</u>	<u>\$ 349,192</u>	<u>\$ 203,842</u>	<u>\$ 19,892</u>	<u>\$ 241,008</u>	<u>\$ 31,495</u>	<u>\$ 815</u>	<u>\$ 1,397,804</u>



State Racing Fund Fiscal Years 2001 and 2002



Receipts:	FY 01	FY 02	% Increase/ (Decrease)
Parimutuel tax	\$ 1,105,546	\$ 915,214	(17.2)%
Simulcast tax	1,882,895	1,902,357	1.0%
Admissions tax	40,631	40,325	(0.8)%
License fees	56,470	52,909	(6.3)%
Fines	19,470	25,175	29.3%
Daily license fees	143,800	137,200	(4.6)%
Miscellaneous revenue	10,157	1,707	(83.2)%
Total receipts	\$ 3,258,969	\$ 3,074,887	(5.6)%
Disbursements:			
Salaries and wages	\$ (2,294,629)	\$ (2,039,860)	(11.1)%
Contractual services	(746,449)	(641,920)	(14.0)%
Commodities	(67,041)	(44,276)	(34.0)%
Capital outlay	(44,873)	(5,578)	(87.6)%
Miscellaneous	(10)	-	(100.0)%
Total disbursements	\$ (3,153,002)	\$ (2,731,634)	(13.4)%
Transfers:			
State Gaming Revenue Fund Transfer	\$ (426,605)	\$ (343,724)	(19.4)%
Horse Fair Racing Benefit Fund Transfer	76,418	78,418	2.6%
Total transfers	\$ (350,187)	\$ (265,306)	(24.2)%
FTE	51.0	43.0 *	(15.7)%

* Reduction due to elimination of Camptown employees.

State Racing Fund - K.S.A. 74-8826

All taxes on live parimutuel wagering, admissions tax, application fees, license fees, and fines that were collected by the Commission were credited to the State Racing Fund. Two-thirds of the parimutuel taxes on simulcast performances were credited to the State Racing Fund. All operating expenses of the Commission were paid from the State Racing Fund.



Horse Fair Racing Benefit Fund Fiscal Years 2001 and 2002



Receipts:	FY 01	FY 02	% Increase/ (Decrease)
One-third of simulcast tax	<u>\$ 941,447</u>	<u>\$ 951,528</u>	<u>1.1%</u>
Disbursements:			
Anthony Fair Association grant	\$ (158,000)	\$ (350,517) *	121.8%
Eureka Downs grant	(600,000)	(568,390)	(5.3)%
Administrative costs	(58,951)	(135,501) **	129.9%
Total disbursements	<u>\$ (816,951)</u>	<u>\$ (1,054,408)</u>	<u>29.1%</u>
Transfers:			
Operating Transfer - Salaries	<u>\$ (76,418)</u>	<u>\$ (78,418)</u>	<u>2.6%</u>

* \$180,000 for 2001 race meet and \$170,517 for the 2002 race meet.

** Funded additional Commission employees and expenses directly related to county fair meets.

Horse Fair Racing Benefit Fund - K.S.A. 74-8838

This fund's revenue is derived from one-third of the parimutuel taxes from simulcast races. The Commission distributes monies from the fund for expenses related to the conduct of a race meet conducted by a fair association or horsemen's nonprofit organization. Included in the Operating Transfer are the wages for Commission staff performing services at such race meetings.



Horse Breeding Development Fund Fiscal Years 2001 and 2002



Receipts:	FY 01	FY 02	% Increase/ (Decrease)
Breakage-live	\$ 12,332	\$ 10,453	(15.2)%
Breakage-simulcast	221,380	227,771	2.9%
Total breakage	<u>233,712</u>	<u>238,224</u>	<u>1.9%</u>
Outs-live	17,083	16,137	(5.5)%
Outs-simulcast	234,721	225,800	(3.8)%
Total outs	<u>251,804</u>	<u>241,937</u>	<u>(3.9)%</u>
Total receipts	<u>\$ 485,516</u>	<u>\$ 480,161</u>	<u>(1.1)%</u>
Disbursements:			
Purse supplements and breed awards	\$ (459,046)	\$ (466,959)	1.7%
Research grants	-	(5,920)	100.0%
Total disbursements	<u>\$ (459,046)</u>	<u>\$ (472,879)</u>	<u>3.0%</u>

Horse Breeding Development Fund - K.S.A. 74-8829

This fund's revenue is derived from breakage and unclaimed winning tickets from live and simulcast horse performances. The funds are distributed by the Commission for purse supplements, stakes races, and breed awards to animals registered in the Kansas Bred program. There are also equine research grants awarded by the Commission.



Racing Investigative Expense Fund Fiscal Years 2001 and 2002



Receipts:	FY 01	FY 02	% Increase/ (Decrease)
Investigative fees	\$ (4,772) *	\$ 3,840	180.5%
Disbursements:			
Investigative costs	\$ -	\$ (3,840)	100.0%

*Refunded Investigative fees

Racing Investigative Expense Fund - K.S.A. 74-8835

All expenses of investigation of an applicant's qualifications for an organization license, facility owner license or facility manager license are paid from this fund. Whenever another state agency assists the Commission in investigations and incurs costs in addition to those attributed to operations of the agency, those costs are paid from this fund. The applicant reimburses the Commission for all costs related to their investigation.



Greyhound Breeding Development Fund Fiscal Years 2001 and 2002



Receipts:	FY 01	FY 02	% Increase/ (Decrease)
Outs-live	\$ 293,314	\$ 210,087	(28.4)%
Outs-simulcast	154,445	137,269	(11.1)%
Total receipts	<u>\$ 447,759</u>	<u>\$ 347,356</u>	<u>(22.4)%</u>
Disbursements:			
Breed stakes race awards	\$ (215,499)	\$ (209,452)	(2.8)%
Research grants	(91,326)	(248,800) *	172.4%
Total disbursements	<u>\$ (306,825)</u>	<u>\$ (458,252)</u>	<u>49.4%</u>
Transfers:			
Kansas Greyhound Tourism Fund	<u>\$ (67,164)</u>	<u>\$ (53,103)</u>	<u>(20.9)%</u>

* Several grants from previous years were disbursed

Greyhound Breeding Development Fund - K.S.A. 74-8831

This fund's revenue is derived from unclaimed winning tickets from greyhound races. Funds are distributed by the Commission as follows:

Fifteen percent of the receipts are transferred to the Greyhound Tourism Fund.

Thirty-five percent of the receipts are used to fund research conducted within the State of Kansas relating to the prevention of injury and disease of greyhounds.

Fifty percent of the receipts are returned to the track where they were used to supplement stakes races for Kansas-whelped greyhounds.



Racing Reimbursable Expense Fund Fiscal Years 2001 and 2002



Receipts:	FY 01	FY 02	% Increase (Decrease)
Fingerprint fees	<u>44,734</u>	<u>26,445</u>	<u>(40.9)%</u>
Disbursements:			
KBI -fingerprint charges	<u>(40,702)</u>	<u>(25,886)</u>	<u>(36.4)%</u>

Racing Reimbursable Expense Fund - K.S.A 74-8827

As of December 1997, reimbursements for the services of assistant animal health officers, stewards, and racing judges at the Wichita and Kansas City racetrack facilities are no longer collected.



Racing Applicant Deposit Fund Fiscal Years 2001 and 2002



Receipts:	FY 01	FY 02	% Increase (Decrease)
Interest on deposit	<u>\$ 46</u>	<u>\$ 22</u>	<u>(52.2)%</u>

Racing Applicant Deposit Fund - K.S.A. 74-8828

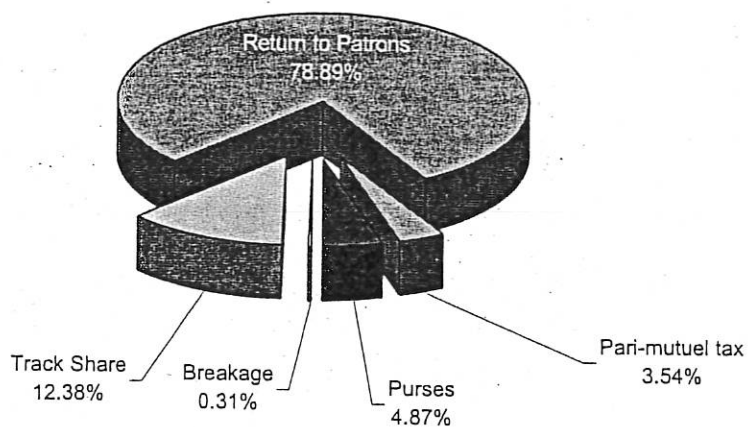
An applicant proposing to construct a racetrack facility is required at the time of making application to make a deposit. If the racetrack is constructed in accordance with the terms of the application, the deposit and interest are refunded. If the applicant fails to complete the racetrack facility in accordance with terms, the deposit and interest are forfeited by the applicant.



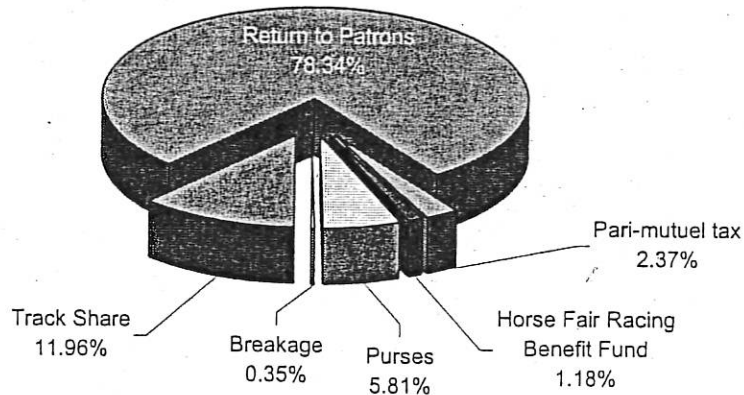
The Wagering Dollar



Live Racing - 2001



Simulcast Racing - 2001

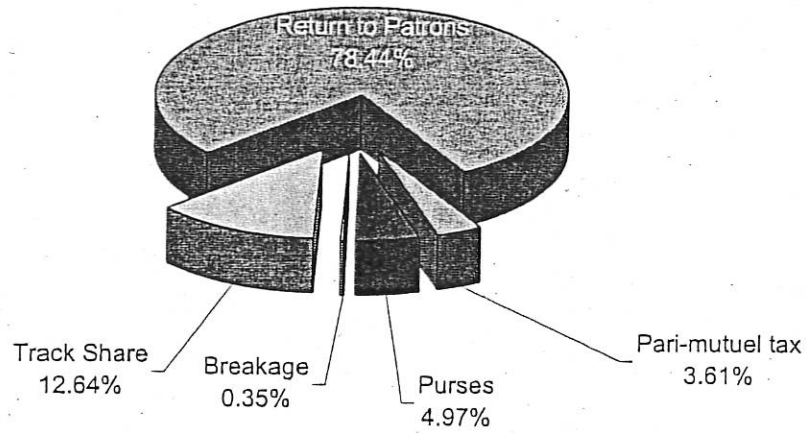




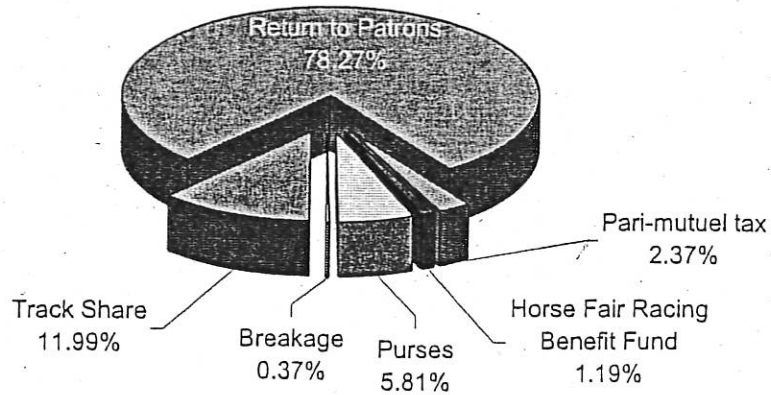
The Wagering Dollar



Live Racing - 2002



Simulcast Racing - 2002





Track Statistics

For Calendar Years 2001 and 2002



	Woodlands Kansas City, KS		Wichita Greyhound Park Valley Center, KS		Camptown Frontenac, KS
	2001	2002	2001	2002	n/a
Handle					
Live					
Horse	\$ 1,266,964	\$ 1,444,487	\$ -	\$ -	\$ -
Greyhound	12,477,138	13,636,774	12,204,006	11,610,357	-
Total live handle	13,744,102	15,081,261	12,204,006	11,610,357	-
Simulcast					
Horse	34,785,386	38,291,077	11,684,235	13,152,204	-
Greyhound	14,571,957	15,971,408	16,367,984	16,100,587	-
Total simulcast handle	49,357,343	54,262,485	28,052,219	29,252,791	-
Total handle	\$ 63,101,445	\$ 69,343,746	\$ 40,256,225	\$ 40,863,148	\$ -
Purses					
Live					
Horse	\$ 86,344	\$ 98,562	\$ -	\$ -	\$ -
Greyhound	584,259	645,294	585,398	556,664	-
Total live purses	670,603	743,856	585,398	556,664	-
Simulcast					
Horse	1,473,648	1,622,106	169,636	191,104	-
Greyhound	1,391,729	1,528,823	1,459,811	1,509,095	-
Total simulcast purses	2,865,377	3,150,929	1,629,447	1,700,199	-
Total purses	\$ 3,535,980	\$ 3,894,785	\$ 2,214,845	\$ 2,256,863	\$ -
Race days					
Live					
Horse	26	25	-	-	-
Greyhound	256	257	263	254	-
Total race days	282	282	263	254	-
Performances					
Live					
Horse	26	25	-	-	-
Greyhound	300	333	287	305	-
Total live performances	326	358	287	305	-
Simulcast					
Horse	3,776	3,573	2,382	4,153	-
Greyhound	3,166	3,894	4,534	6,468	-
Total simulcast performances	6,942	7,467	6,916	10,621	-
Total performances	7,268	7,825	7,203	10,926	-
Attendance					
Live/simulcast					
Horse	21,525	37,029	N/A	N/A	N/A
Greyhound	232,311	262,159	-	-	-
Total attendance	253,836	299,188	-	-	-



Track Statistics

For Calendar Years 2001 and 2002



Handle	Eureka Downs Eureka, Kansas		Anthony Downs Anthony, Kansas	
	2001	2002	2001	2002
Live				
Horse	\$ 349,440	\$ 291,934	\$ 94,044	\$ 88,261
Greyhound	-	-	49,299	80,136
Total live handle	<u>349,440</u>	<u>291,934</u>	<u>143,343</u>	<u>168,397</u>
Simulcast				
Horse	159,256	164,778	-	-
Greyhound	-	-	-	-
Total simulcast handle	<u>159,256</u>	<u>164,778</u>	<u>-</u>	<u>-</u>
Total handle	<u>\$ 508,696</u>	<u>\$ 456,712</u>	<u>\$ 143,343</u>	<u>\$ 168,397</u>
Purses				
Live				
Horse	\$ 23,498	\$ 19,542	\$ 6,367	\$ 5,990
Greyhound	-	-	2,278	3,754
Total live purses	<u>23,498</u>	<u>19,542</u>	<u>8,645</u>	<u>9,744</u>
Simulcast				
Horse	9,253	9,576	-	-
Greyhound	-	-	-	-
Total simulcast purses	<u>9,253</u>	<u>9,576</u>	<u>-</u>	<u>-</u>
Total purses	<u>\$ 32,751</u>	<u>\$ 29,118</u>	<u>\$ 8,645</u>	<u>\$ 9,744</u>
Race days				
Live				
Horse	20	20	6	6
Greyhound	-	-	6	6
Total race days	<u>20</u>	<u>20</u>	<u>12</u>	<u>12</u>
Performances				
Live				
Horse	20	20	6	6
Greyhound	-	-	6	6
Total live performances	<u>20</u>	<u>20</u>	<u>12</u>	<u>12</u>
Simulcast				
Horse	37	51	-	-
Greyhound	-	-	-	-
Total simulcast performances	<u>37</u>	<u>51</u>	<u>-</u>	<u>-</u>
Total performances	<u>57</u>	<u>71</u>	<u>12</u>	<u>12</u>
Attendance				
Live/simulcast				
Horse	7,668	6,416	1,922	2,181
Greyhound	-	-	1,923	2,181
Total attendance	<u>7,668</u>	<u>6,416</u>	<u>3,845</u>	<u>4,361</u>



Track Statistics

For Calendar Years 2001 and 2002



Handle	Overall Totals	
	2001	2002
Live		
Horse	\$ 1,710,448	\$ 1,824,682
Greyhound	24,730,443	25,327,267
Total live handle	<u>26,440,891</u>	<u>27,151,949</u>
Simulcast		
Horse	46,628,877	51,608,059
Greyhound	30,939,941	32,071,995
Total simulcast handle	<u>77,568,818</u>	<u>83,680,054</u>
Total handle	<u>\$ 104,009,709</u>	<u>\$ 110,832,003</u>
Purses		
Live		
Horse	\$ 116,209	\$ 124,094
Greyhound	1,171,935	1,205,712
Total live purses	<u>1,288,144</u>	<u>1,329,806</u>
Simulcast		
Horse	1,652,537	1,822,786
Greyhound	2,851,540	3,037,918
Total simulcast purses	<u>4,504,077</u>	<u>4,860,704</u>
Total purses	<u>\$ 5,792,221</u>	<u>\$ 6,190,510</u>
Race days		
Live		
Horse	52	51
Greyhound	525	517
Total race days	<u>577</u>	<u>568</u>
Performances		
Live		
Horse	52	51
Greyhound	593	644
Total live performances	<u>645</u>	<u>695</u>
Simulcast		
Horse	6,195	7,777
Greyhound	7,700	10,362
Total simulcast performances	<u>13,895</u>	<u>18,139</u>
Total performances	<u>14,540</u>	<u>18,834</u>
Attendance		
Live/simulcast		
Horse	31,115	45,626
Greyhound	234,234	264,340
Total attendance	<u>265,349</u>	<u>309,965</u>



Track Statistics

For Calendar Years 2001 and 2002



	Woodlands		Wichita Greyhound Park		Camptown
	Kansas City Kansas		Valley Center, Kansas		Frontenac, KS
	2001	2002	2001	2002	n/a
Pari-mutuel tax					
Live					
Horse	\$ 43,170	\$ 49,278	\$ -	\$ -	\$ -
Greyhound	438,071	483,845	438,926	417,372	-
Total live pari-mutuel tax	<u>481,241</u>	<u>533,123</u>	<u>438,926</u>	<u>417,372</u>	<u>-</u>
Simulcast					
Horse	1,172,500	1,275,164	410,181	470,999	-
Greyhound	547,437	608,293	617,515	613,196	-
Total simulcast pari-mutuel tax	<u>1,719,937</u>	<u>1,883,457</u>	<u>1,027,696</u>	<u>1,084,195</u>	<u>-</u>
Total pari-mutuel tax	<u>\$ 2,201,178</u>	<u>\$ 2,416,580</u>	<u>\$ 1,466,622</u>	<u>\$ 1,501,567</u>	<u>\$ -</u>
Outs					
Live					
Horse	\$ 9,758	\$ 11,888	\$ -	\$ -	\$ -
Greyhound	105,832	n/a	103,312	n/a	-
Total live outs	<u>115,590</u>	<u>11,888</u>	<u>103,312</u>	<u>-</u>	<u>-</u>
Simulcast					
Horse	167,905	n/a	50,968	n/a	-
Greyhound	65,663	n/a	71,606	n/a	-
Total simulcast outs	<u>233,568</u>	<u>-</u>	<u>122,574</u>	<u>-</u>	<u>-</u>
Total outs	<u>\$ 349,158</u>	<u>\$ 11,888</u>	<u>\$ 225,886</u>	<u>\$ -</u>	<u>\$ -</u>
Breakage					
Live					
Horse	\$ 9,553	\$ 9,929	\$ -	\$ -	\$ -
Greyhound	41,576	49,242	31,437	29,876	-
Total live breakage	<u>51,129</u>	<u>59,171</u>	<u>31,437</u>	<u>29,876</u>	<u>-</u>
Simulcast					
Horse	162,530	195,353	50,968	50,562	-
Greyhound	30,610	32,201	27,635	26,058	-
Total simulcast breakage	<u>193,140</u>	<u>227,554</u>	<u>78,603</u>	<u>76,620</u>	<u>-</u>
Total breakage	<u>\$ 244,269</u>	<u>\$ 286,725</u>	<u>\$ 110,040</u>	<u>\$ 106,496</u>	<u>\$ -</u>
Admission tax					
Live/Simulcast					
Horse	\$ 3,138	n/a	n/a	n/a	n/a
Greyhound	33,745	28,428	-	-	-
Total admission tax	<u>\$ 36,883</u>	<u>\$ 28,428</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Other taxes & fees					
Daily license fees	\$ 61,800	\$ 62,200	\$ 68,400	\$ 72,400	-
Licensing	26,702	33,119	12,135	10,618	-
Fines	10,691	8,855	8,282	11,456	-
Local ad valorem tax	-	-	-	-	-
Total other taxes & fees	<u>\$ 99,193</u>	<u>\$ 104,174</u>	<u>\$ 88,817</u>	<u>\$ 94,474</u>	<u>\$ -</u>



Track Statistics

For Calendar Years 2001 and 2002



	Eureka Downs		Anthony Downs	
	Eureka, Kansas		Anthony, Kansas	
	2001	2002	2001	2002
Pari-mutuel tax				
Live				
Horse	\$ 11,747	\$ 9,769	\$ 3,185	\$ 2,997
Greyhound	-	-	1,709	2,816
Total live pari-mutuel tax	<u>11,747</u>	<u>9,769</u>	<u>4,894</u>	<u>5,813</u>
Simulcast				
Horse	5,037	5,240	-	-
Greyhound	-	-	-	-
Total simulcast pari-mutuel tax	<u>5,037</u>	<u>5,240</u>	<u>0</u>	<u>0</u>
Total pari-mutuel tax	<u>\$ 16,784</u>	<u>\$ 15,009</u>	<u>\$ 4,894</u>	<u>\$ 5,813</u>
Outs				
Live				
Horse	\$ 5,051	\$ 5,273	\$ 1,329	\$ 1,002
Greyhound	-	-	944	838
Total live outs	<u>5,051</u>	<u>5,273</u>	<u>2,273</u>	<u>1,840</u>
Simulcast				
Horse	2,740	1,163	-	-
Greyhound	-	-	-	-
Total simulcast outs	<u>2,740</u>	<u>1,163</u>	<u>-</u>	<u>-</u>
Total outs	<u>\$ 7,791</u>	<u>\$ 6,436</u>	<u>\$ 2,273</u>	<u>\$ 1,840</u>
Breakage				
Live				
Horse	\$ 3,443	\$ 3,042	\$ 971	\$ 992
Greyhound	-	-	372	402
Total live breakage	<u>3,443</u>	<u>3,042</u>	<u>1,343</u>	<u>1,394</u>
Simulcast				
Horse	905	1,053	-	-
Greyhound	-	-	-	-
Total simulcast breakage	<u>905</u>	<u>1,053</u>	<u>-</u>	<u>-</u>
Total breakage	<u>\$ 4,348</u>	<u>\$ 4,095</u>	<u>\$ 1,343</u>	<u>\$ 1,394</u>
Admission tax				
Live/Simulcast				
Horse	\$ 1,328	\$ 1,106	\$ 475	\$ 533
Greyhound	-	-	476	533
Total admission tax	<u>\$ 1,328</u>	<u>\$ 1,106</u>	<u>\$ 951</u>	<u>\$ 1,066</u>
Other taxes & fees				
Daily license fees	\$ 2,000	\$ 2,000	\$ 600	\$ 600
Licensing	6,342	4,626	908	556
Fines	2,550	1,200	350	-
Local ad valorem tax	1,534	1,283	769	872
Total other taxes & fees	<u>\$ 12,426</u>	<u>\$ 9,109</u>	<u>\$ 2,627</u>	<u>\$ 2,028</u>



Track Statistics

For Calendar Years 2001 and 2002



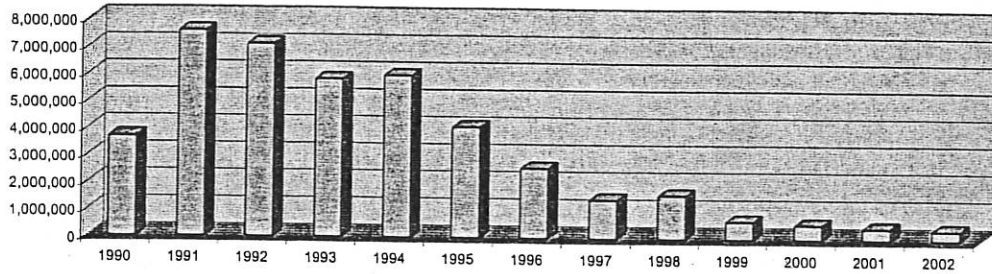
	Overall Totals	
	2001	2002
Pari-mutuel tax		
Live		
Horse	\$ 58,102	\$ 62,044
Greyhound	878,706	904,033
Total live pari-mutuel tax	<u>936,808</u>	<u>966,077</u>
Simulcast		
Horse	1,587,718	1,751,403
Greyhound	1,164,952	1,221,489
Total simulcast pari-mutuel tax	<u>2,752,670</u>	<u>2,972,892</u>
Total pari-mutuel tax	<u>\$ 3,689,478</u>	<u>\$ 3,938,969</u>
Outs		
Live		
Horse	\$ 16,138	\$ 18,163
Greyhound	210,088	n/a
Total live outs	<u>226,226</u>	<u>19,001</u>
Simulcast		
Horse	221,613	n/a
Greyhound	137,269	n/a
Total simulcast outs	<u>358,882</u>	<u>1,163</u>
Total outs	<u>\$ 585,108</u>	<u>\$ 20,164</u>
Breakage		
Live		
Horse	\$ 13,967	\$ 13,963
Greyhound	73,385	79,520
Total live breakage	<u>87,352</u>	<u>93,483</u>
Simulcast		
Horse	214,403	246,968
Greyhound	58,245	58,259
Total simulcast breakage	<u>272,648</u>	<u>305,227</u>
Total breakage	<u>\$ 360,000</u>	<u>\$ 398,710</u>
Admission tax		
Live/Simulcast		
Horse	\$ 4,941	\$ 1,639
Greyhound	34,221	28,961
Total admission tax	<u>\$ 39,162</u>	<u>\$ 30,600</u>
Other taxes & fees		
Daily license fees	\$ 132,800	\$ 137,200
Licensing	46,087	48,919
Fines	21,873	21,511
Local ad valorem tax	2,303	2,155
Total other taxes & fees	<u>\$ 203,063</u>	<u>\$ 209,785</u>



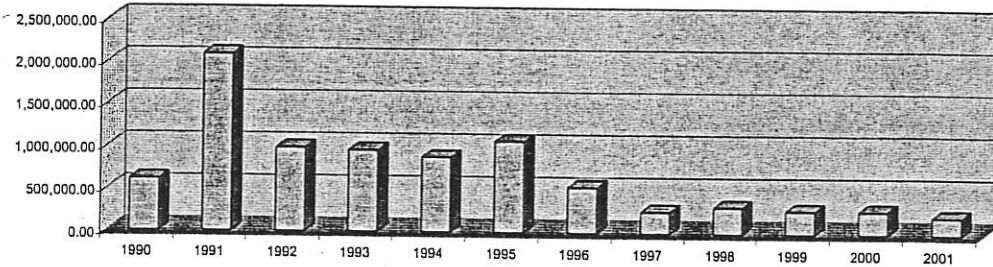
Benefits of Parimutuel Racing



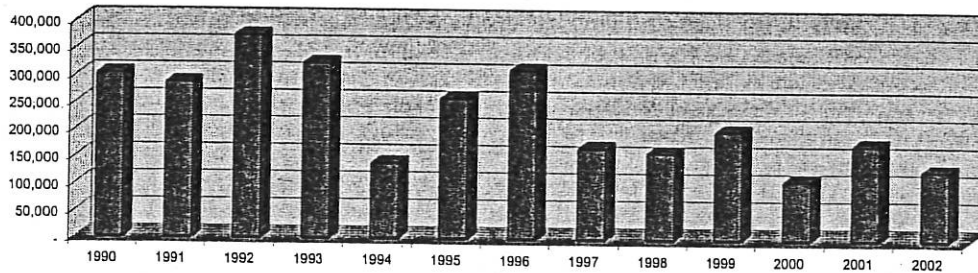
Transfers to State Gaming Revenue Fund



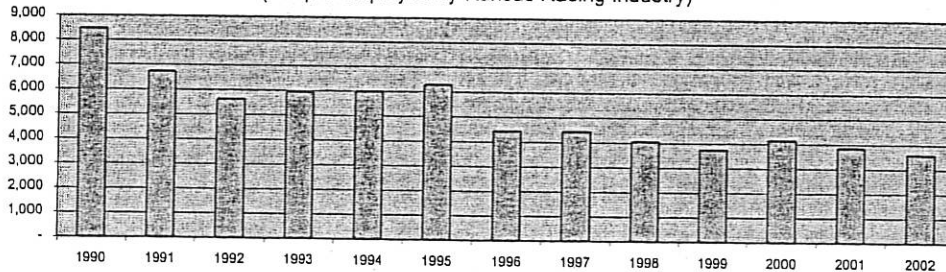
Charitable Contributions



Research Grants Funded

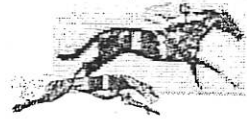


Occupational Licenses Issued (People Employed by Kansas Racing Industry)





Charitable Contributions



The Kansas parimutuel racing act directs that each organization licensee must distribute net earnings to 501(c)(3) nonprofits who are domiciled in and who will expend the monies in Kansas. The following schedule indicates the amount of charitable contributions by each organization licensee:

	Calendar Year	
	<u>2001</u>	<u>2002</u>
TRAK East	\$ 76,837	\$134,950
Wichita Greyhound Charities, Inc.	\$126,881	\$125,932

TRAK East is associated with the Woodlands Race Course and Woodlands Kennel Club. Wichita Greyhound Charities, Inc. is associated with Wichita Greyhound Park. The following reflects how these charitable distributions improve the quality of life for Kansans:

TRAK EAST, INC. - 2001

(15 CONTRIBUTIONS)

Alzheimer's Association – Heartland Chapter	\$5,000
Big Brothers/Big Sisters of Douglas County	2,400
Big Brothers/Big Sisters of Greater Kansas City	9,000
Big Brothers/Big Sisters of Manhattan, Inc.	3,500
CASA of the High Plains, Inc.	4,000
Catholic Housing of Wyandotte County, Inc.	8,000
Donnelly College	8,320
Duchesne Clinic	4,400
Economic Opportunity Foundation	5,000
Kansas Center for Canine Assistance	2,000
Kansas Jaycees Cerebral Palsy Foundation	1,528
Leavenworth Road Association	5,000
Salina Emergency Aid/Food Bank	3,500
Temporary Lodging for Children, Inc.	5,189
They Wyandotte County Parks Foundation	10,000
Total	<u>\$76,837</u>

TRAK EAST, INC. – 2002

(20 CONTRIBUTIONS)

Big Brothers/Big Sisters of Greater Kansas City	\$5,000
Big Brothers/Big Sisters of Manhattan	5,500
Boys & Girls Club of Lawrence	5,000
Cancer Action	3,000
Caritas Clinic	8,000



Charitable Contributions



Casa of the High Plains	2,500
Catholic Charities	8,485
Donnelly College	10,000
Economic Opportunity Foundation	6,500
Friends of Yates	18,311
Kaw Valley Center	10,000
Leavenworth Road Association	5,000
Mother to Mother Ministry of Kansas City, Kansas	2,724
National Multiple Sclerosis Society, Mid America Chapter	5,000
Salina Emergency Aid/Food Bank	6,500
Temporary Lodging for Children	10,000
The Children's Museum of Kansas City	2,230
The Wyandotte County Parks Foundation	15,000
Vernon Multi-Purpose Center	1,200
Youth Opportunities Unlimited	5,000
Total	<u>\$134,950</u>

WICHITA GREYHOUND CHARITIES, INC. – 2001

(33 CONTRIBUTIONS)

The ARC of Sedgwick County	\$1,850
CASA-Children Worth Saving, Inc.	730
Consumer Credit Counseling Service, Inc.	3,600
Dress for Success Wichita	5,000
Friends of the Sedgwick County Soldiers and Sailors Civil War Monument	5,000
Harvey County Historical Society, Inc.	5,000
Heartspring	5,000
Hospice, Inc.	3,000
Kansas Children's Service League	3,000
Kansas Humanities Council	2,500
Kansas Public Telecommunications Service, Inc.	5,000
Kansas Starbase	1,800
Kiowa Historical Society	2,586
Lindsborg Arts Council	3,200
Make-A-Wish Foundation of Kansas, Inc.	5,000
March of Dimes KS/Western MO Chapter	5,000
Metropolitan Ballet of Topeka	5,000
Muscular Dystrophy Association	2,500
Music Theatre of Wichita, Inc.	4,000
Newton Area Senior Center	4,000
Newton Meals on Wheels, Inc.	4,500
Orpheum Performing Arts Centre, Ltd.	5,000
Race The Wind Greyhound Adoption, Inc.	1,500
Rainbows United, Inc.	2,500
TLC Greyhound Adoption	2,500



Charitable Contributions



Tri-Valley Developmental Services	5,000
Via Christi Foundation	4,390
Wichita Black Arts Festival Association	3,500
Wichita Chamber Chorale, Inc.	3,870
Wichita Festivals, Inc.	14,100
Wichita Independents	2,000
Wichita/Sedgwick County Historical Museum	2,505
Wichita's Promise Youth Council	2,750
Total	<u>\$126,881</u>

WICHITA GREYHOUND CHARITIES, INC. – 2002

(29 CONTRIBUTIONS)

Augusta Arts Council	\$5,000
Boys and Girls Club of South Central Kansas	4,760
Cerebral Palsy Research Foundation of Kansas	5,000
Consumer Credit Counseling Service, Inc.	2,100
Dress for Success Wichita	5,000
Envision	7,000
Exploration Place	5,000
Family Service and Guidance Center, Inc.	2,500
Heartspring	5,000
Hesston College	730
Kansas Aviation Museum	2,500
Kingman County Council on Aging	1,222
Medical Service Bureau, Inc.	5,000
Metropolitan Ballet of Topeka	5,000
Metropolitan Ballet of Wichita	5,000
Newton Area Senior Center	5,000
Orpheum Performing Arts Centre, Ltd.	5,000
Paws-Up, Inc.	2,090
Race The Wind Greyhound Adoption, Inc.	3,000
Senior Services, Inc.	4,800
The Kansas African American Museum	5,000
The Leukemia & Lymphoma Society	5,000
The Wichita Convention & Sports Foundation	5,000
Three Trees, Inc.	4,970
Wichita Art Museum	5,000
Wichita Black Arts Festival Association	5,000
Wichita Jazz Festival, Inc.	5,000
Wichita/Sedgwick County Historical Museum	2,490
Winfield Arts and Humanities Council, Inc.	3,500
Total	<u>\$125,932</u>



K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL

KATHLEEN SEBELIUS, GOVERNOR

To: Senate Federal and State Affairs Committee
Honorable Pete Brundgardt, Chairman

From: Tom Groneman, Director
Alcoholic Beverage Control

Date: January 14, 2004

Subject: Kansas Department of Revenue
Alcoholic Beverage Control Division Overview

Mr. Chairman and Distinguished Members of the Committee, it is my pleasure to appear before you today to present you with a brief overview of the Alcoholic Beverage Control Division and introduce the new Chief Enforcement Officer, Mike Padilla, and myself to the Committee.

The number one priority of the Alcoholic Beverage Control Division of the Department of Revenue is to administer and enforce the liquor laws in Kansas to ensure compliance and to maintain a level playing field among all licensees. The division is divided into three organizational units: licensing, administration, and enforcement.

Licensing processes in excess of 3,500 renewal and new license applications annually for retail liquor stores, distributors, manufacturers, farm wineries, microbreweries, on-premise establishments (class "A" clubs, class "B" clubs and Drinking Establishments), caterers, non beverage users and temporary permit holders. Licensing serves as the first point of contact for new business owners desiring to sell alcohol products in Kansas. Licensing answered over 34,400 phone calls and assisted 2,178 walk-in customers with alcohol related questions during the last year.

Licensing monitors brand registrations and collects gallonage taxes, liquor drink taxes, liquor excise taxes, sales tax, withholding tax and administrative fines levied by the Director of ABC or his Designee. Licensing is functionally part of the Customer Relations Bureau within the Division of Tax Operations, but by statute is under the authority of the Director of ABC for issues related to liquor licenses. All liquor licenses are renewed on an annual basis.

The administrative branch performs staff support for the Director and Chief Enforcement Officer and related work such as budget preparation, personnel record keeping and coordination of the division's activities. Included in administration is the Background Investigation and Licensee Administrative Actions (LAA) units.

The Background Investigation Unit performs a KBI background check of all the owners, officers, and employees of a business seeking a liquor license. This is one of the statutory requirements before a new license can be issued. In addition, the Background Investigation Unit performs background checks on all new employees hired by a licensee throughout the year and on existing employees, owners, and officers every two years at the time of renewal. Last fiscal year approximately 20,000 background investigations were conducted.

The Licensee Administrative Action (LAA) section is headed by an Assistant Attorney General assigned to the ABC, who administratively prosecutes violations of the liquor laws before the Director or his designee. The Director and the Assistant Attorney General are responsible for the disposition of all liquor related administrative citations brought forth by the investigative activities of the Enforcement section and other law enforcement agencies. Citations are issued for violations such as: sale of liquor to a minor, minor in possession, open after hours, failure to timely pay liquor taxes and numerous other violations of state laws, rules and regulations. Also, the Assistant Attorney General represents the division at all appellate levels, assists in drafting administrative regulations, reviews agreements and provides legal counsel.

The Enforcement Branch provides investigative support for the ABC Director and Chief Enforcement Officer. Enforcement agents are certified law enforcement officers. They conduct criminal and administrative investigations to determine compliance with liquor laws. Field agents provide training to licensees and local law enforcement officers; conduct controlled buy operations and bar checks;

investigate complaints and hidden ownerships; and perform routine compliance checks. Enforcement agents work closely with local, state and federal law enforcement agencies as well as the Division of Taxation in carrying out these activities. Investigations resulting in violations are presented to the County or District Attorney for criminal prosecution and/or the ABC Assistant Attorney General for administrative action.

Over the years the ABC has been assigned other programs to administer, including the enforcement of laws prohibiting the sale of cigarettes to minors, enforcement of the cigarette tax laws and enforcement of the tax on illegal drugs.

EMPLOYMENT

1975-2003

Register of Deeds, Unified Govt of Wyandotte County/Kansas City, Ks

This is administrative and managerial work. Work is performed within the statutes of the laws of Kansas. Direct and supervise professional and support staff. Develop, implement, enforce, and evaluate office policies, procedures, strategies and goals; direct and coordinate department activities; prepare and administer budgets; perform strategic planning; work directly with county administrator and other senior level staff; act as liaison with other departments, organizations, agencies and the general public.

This is an elected position.

1974-1975

Adult Probation Officer, Wyandotte County District Court

Prepared pre-sentence investigation reports and made recommendations to the court regarding probation. Supervised probationers.

1969-1973

Vietnamese Linguist, United States Navy

1970-71 trained at the Defense Language Institute; 1971-72 assigned to Naval Communication Station, San Miguel, Philippines; attached to intelligence staff of COMCARDIV5/CTF77; received and distributed back channel communications classified secret, top secret, eyes only; 1972-1973 National Security Agency, made daily reports based on intelligence regarding North Vietnamese troop and ship movements.

EDUCATION

1965-1969

B.A. Business/Economics, Bethany College, Lindsborg, Ks.

1970-1971

Linguist, Defense Language Institute, Monterey, Ca.

1974-1976

30 hrs post graduate, Administration of Justice, Wichita State University

PERSONAL

Thomas W. Groneman, lifelong Wyandotte County resident, married 33 years Kay M. Groneman; two children Brooke and Jared. Appointed Register of Deeds in 1975: elected in 1976, 1980, 1984, 1988, 1992, 1996 and 2000. Served as president of Kansas Register of Deeds Assoc; Served on Board of Directors of the Kansas Association of Counties; Served as Director at Large for the International Association of Clerks, Recorders, Election Officials and Treasurers; member of Executive Board, same; Member, Kansas Historical Sites Review Board. Active in community.



K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL

KATHLEEN SEBELIUS, GOVERNOR

To: Senate Federal and State Affairs Committee
Honorable Pete Brundgardt, Chairman

From: Mike Padilla, Chief Enforcement Officer
Alcoholic Beverage Control

Date: January 13, 2004

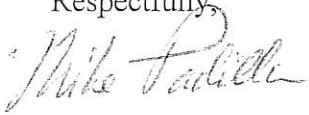
Re: Introduction

I am Mike Padilla, the recently appointed Chief Enforcement Officer for the Kansas Department of Revenue Alcoholic Beverage Control Division. I started my service with ABC on November 1, 2003. I am a lifelong citizen and resident of Topeka. Previously I was a police officer with the Topeka, Kansas Police Department. I retired from that agency after serving 33 years and achieving the rank of Major, Division Commander. During my career I served in every division of the police department at increasing levels of authority. Some of my duties included being a training officer, narcotics officer, internal affairs investigator, homicide investigator, district court liaison officer to the office of the District Attorney for Shawnee County, tactical team member and commander, special operations officer and training section commander. I also managed many of the agencies grant programs. I have been a member of the management team for the Topeka Police Department for 27 years of my career from field supervisor to command staff.

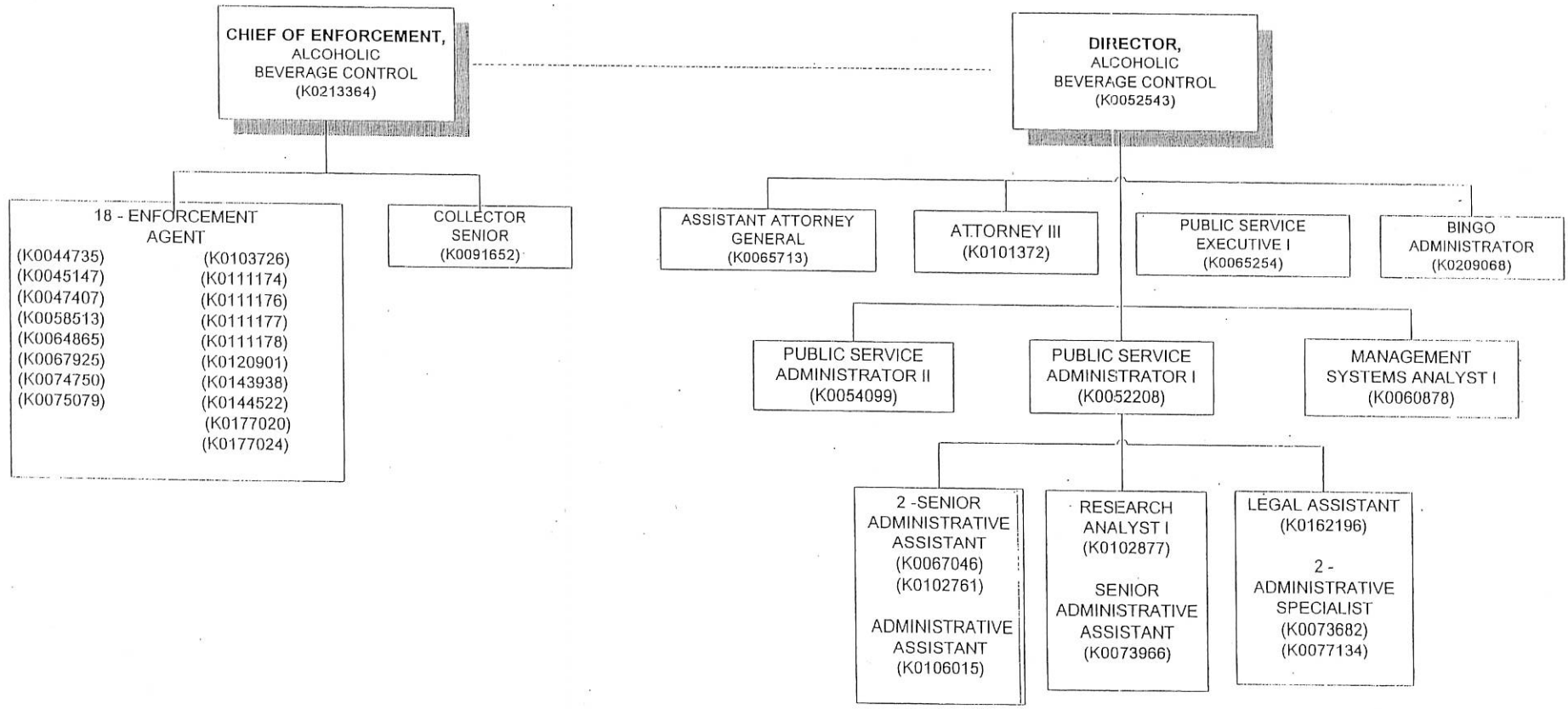
During my career I have made many friends and many working relationships outside of the "traditional law enforcement circle." One of my proudest associations has been with the community driven "Safe Streets" organization. Working with a fellow police officer, a minister, and a few community activists and then Mayor Wagnon, I became a co-founder of "Safe Streets" in Topeka. A study group with Kansas University has documented the positive community changes facilitated by "Safe Streets." In addition, the Koch Crime Commission and other national organizations have acknowledged the work of "Safe Streets," the police and the community in addressing crime, safety and quality of life issues in Topeka. I currently serve as the President of the Advisory Council to "Safe Streets."

I came to ABC with the intent to build on what is an important and necessary responsibility of the Department of Revenue. I fully believe in the "community policing" philosophy as a way of delivering service through education and cooperation combined with consistent application of policy. As with most any regulatory duty, the responsibility for success depends on both the regulators and those regulated. Being helpful rather than adversarial for all parties is the desired outcome. I am confident that my years of building diversified working teams, law enforcement and management experience can help guide the enforcement duties and activities of the ABC as directed by this legislative body, the Secretary Of the Department of Revenue and the Director of the Alcoholic Beverage Control.

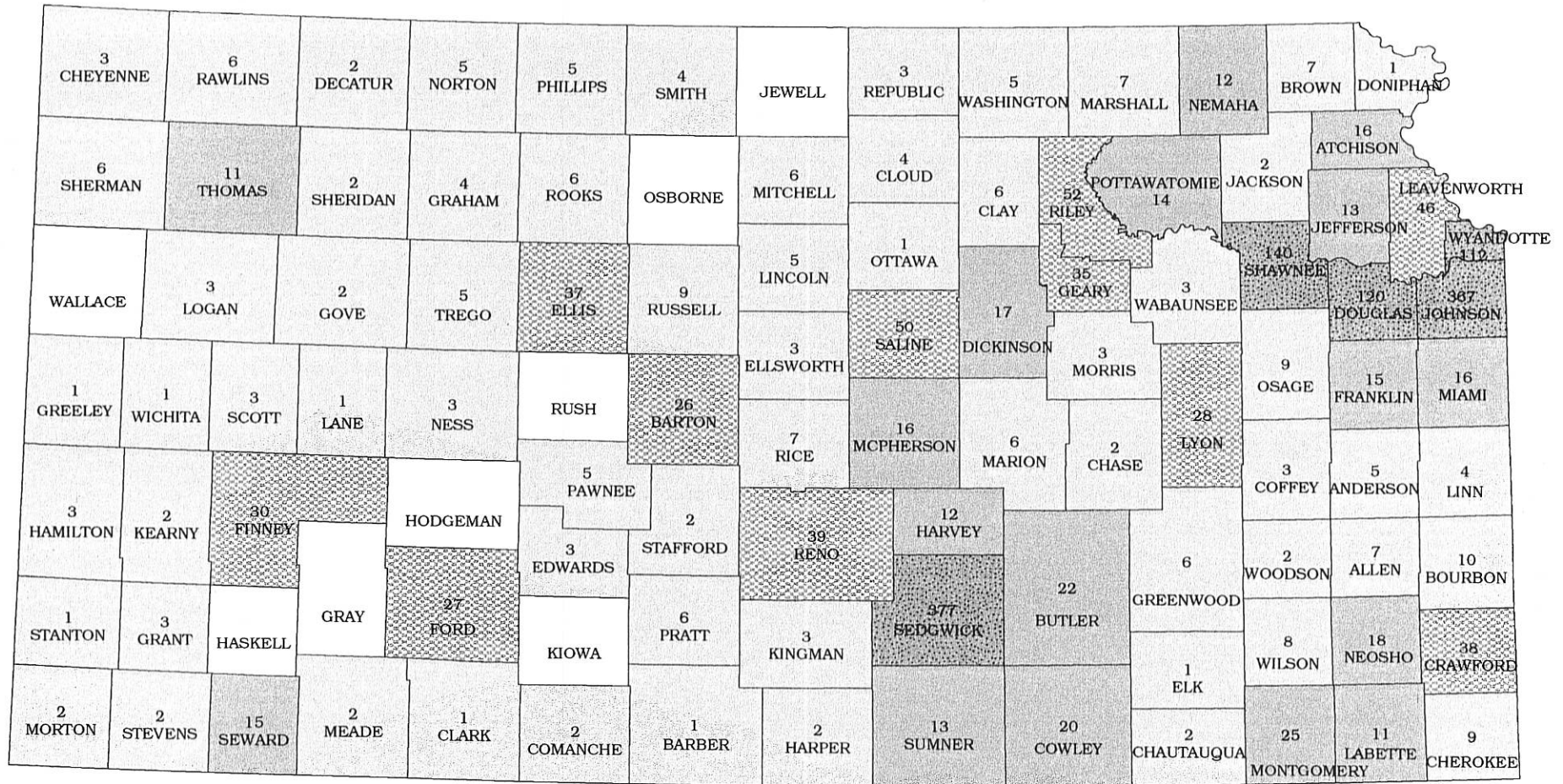
Respectfully,

A handwritten signature in cursive script that reads "Mike Padilla". The signature is written in dark ink and is positioned below the word "Respectfully,".

ORGANIZATION CHART
KANSAS DEPARTMENT OF REVENUE
 Division of Alcoholic Beverage Control (64000)
 Fiscal Year 2004 Authorized
 36 TOTAL POSITIONS
 Administration (64010) - 6 Positions
 Investigation & Criminal Enforcement (64630) - 30 Positions



Active Kansas On-Premise Licenses



of Counties

- (8)
- (64)
- (17)
- (11)
- (5)



of Licenses Per County

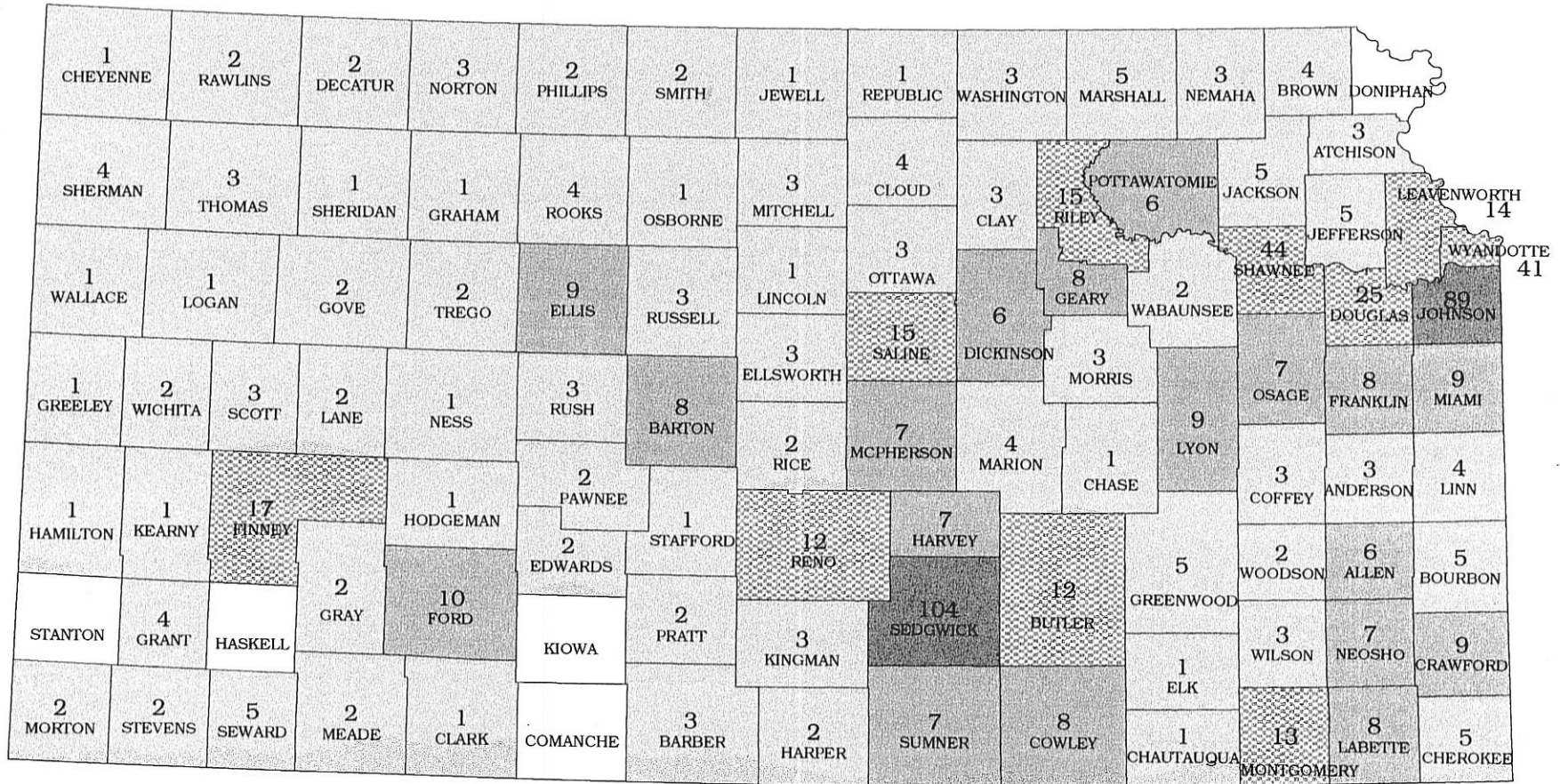
- 0
- 1 - 10
- 11 - 25
- 26 - 100
- 101 - 377

January 1, 2004
Map #AC04-001

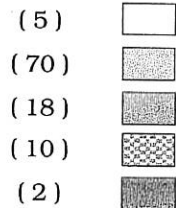
The data used for this map was derived from the Kansas Department of Revenue, Alcoholic Beverage Control Division, Liquor Licensing Database for January 2004

Total: 2,038 Active On-Premise Licenses

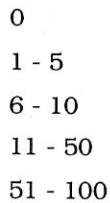
Active Kansas Off-Premise Licenses



of Counties



of Licenses Per County



January 1, 2004
Map #AC04-002

The data used for this map was derived from the Kansas Department of Revenue, Alcoholic Beverage Control Division, Liquor Licensing Database for January 2004

Total: 714 Active Off-Premise Licenses

ABC Fees Collected in FY 2003

License fees and revenue produced:	
Brand Registration fees	\$367,346.00
License Permits and Registration Fees	\$ 323,704.69
Suppliers Permit Fee	\$ 14,050.00
Club/Drink License Fees	\$ 1,976,956.15
Cereal Malt Beverages (\$0.18 per gallon)	
Tax	\$ 2,272,910.37
Retail Stamp	\$ 81,650.00
Fines	\$ 143,823.98
Liquor Enforcement Tax (8%)	\$ 38,833,089.51
Liquor Excise Tax (10%)	\$ 27,387,241.14
Liquor Gallonage	
Light Wine, alcohol 14% or less (\$0.30 per gallon)	\$ 729,880.74
Fortified Wine (\$0.75 per gallon)	\$ 61,474.21
Farm Winery (same as light or fortified)	\$ 9,327.79
Micro-Brewery (\$0.18 per gallon)	\$ 32,269.70
Beer, over 3.2% (\$0.18 per gallon)	\$ 7,796,304.61
Alcohol and Spirits (2.50 per gallon)	\$ 6,858,528.86
Liquor Gallonage, Enforcement and CMB tax is collected by the distributor.	
Liquor Excise is paid by the consumer at the retail location.	

Alcoholic Beverage Control Licensee Compliance FY 2003

Liquor Controlled Buys	
Attempts to Purchase	253
Violations	44
% of Compliance	82.60%
Tobacco Controlled Buys	
Attempts to Purchase	570
Violations	126
% of Compliance	77.90%

ABC Active Licensees

(as of 1-13-04)

License Type	Description	Count
01	Retail Liquor Store	714
05	Class A Vets, Fraternal Club	242
06	Class A Social Club 500+	18
07	Class A Social Club <500	59
09	Class B Club	172
10	Drinking Establishment	1410
11	Hotel Drinking Establishment	32
12	Caterer	24
13	Drinking Establishment/Caterer	64
14	Hotel/Caterer	14
15	Temporary Permit	283
16	Beer Distributor	43
17	Spirits Distributor	7
18	Wine Distributor	8
19	Supplier Permit	546
20	Microbrewery	7
21	Farm Winery	12
23	Non-Beverage User	7
25	Manufacturer	5

TOTAL

3667

NORMAN J. FURSE, ATTORNEY
REVISOR OF STATUTES
JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR



LEGAL CONSULTATION—LEGISLATIVE
COMMITTEES AND LEGISLATORS
LEGISLATIVE BILL DRAFTING
SECRETARY—LEGISLATIVE
COORDINATING COUNCIL
SECRETARY—KANSAS COMMISSION
ON INTERSTATE COOPERATION
KANSAS STATUTES ANNOTATED
EDITING AND PUBLICATION
LEGISLATIVE INFORMATION SYSTEM

OFFICE OF REVISOR OF STATUTES
300 SW TENTH AVE - STE 322, Statehouse—TOPEKA, KANSAS 66612-1592
PHONE (785) 296-2321 FAX (785) 296-6668
E-mail: Revisor'sOffice@rs.state.ks.us

MEMORANDUM

To: Committee on Federal and State Affairs
From: Theresa Kiernan, Senior Assistant Revisor of Statutes
Date: January 14, 2004
Re: City and County Home Rule

This memorandum will focus on city home rule powers granted by the people of the state of Kansas in Article 12 Section 5 of the constitution. County home rule powers were granted by the enactment of K.S.A. 19-101a. An important difference between the powers granted cities and those granted counties is that limitations may be placed on county powers through amendment of KSA 19-101a.

HOME RULE

Introduction

All local units of government must look to state constitutions or to state statutes for the source of their powers. Courts have rejected the theory that local governments enjoy any inherent right to local self-government. Under our system of federalism, states are sovereign not their local governments.

Local governments are considered creatures of the state as well as subdivisions of the state and as such are dependent upon the state for their existence, structure, and scope of powers. See *Hunter v Pittsburgh*, 207 U.S. 161, 28 S.Ct 40, 52 L.Ed 151 (1907).

State legislatures have plenary power over the local units of government they create, limited only by such restrictions they have imposed upon themselves by state law and by provisions of their state constitutions, most notably home rule provisions.

Dillon's Rule

Dillon's Rule, although formulated by the courts for cities, is a reflection of the general dependency of all local governments upon state legislatures absent a home rule grant of authority. Dillon's Rule states:

"It is a general and undisputed proposition of law that a municipal corporation possesses and can exercise the following powers, and no others: First, those granted in express words; second, those necessarily or fairly implied in or incident to the powers expressly granted; third, those essential to the accomplishment of the declared objects and purposes of the corporation—not simply convenient, but indispensable. Any fair, reasonable, substantial doubt concerning the existence of power is resolved by the courts against the corporation, and the power is denied . . . These principles are of transcendent importance, and lie at the foundation of the law of municipal corporations"

See Dillon, *Municipal Corporations*, Sec. 237 (5th ed. 1911).

Home Rule Reverses Dillon's Rule

A grant of home rule power to cities, counties, or other local unit of government particularly if the grant is contained in the state constitution changes the rules of dependency cited above. Home rule power constitutes both a grant of power to the local unit of government as well as a real limitation on state legislative power. See Sandalow, *The Limits of Municipal Power Under Home Rule: A Role for the Courts*, 48 Minn. L. Rev. 643 (1964). Home rule, in effect, reverses Dillon's Rule because a local unit of government may exercise power over its own affairs despite the lack of statutory authority.

City Home Rule—What Powers Are Granted

Key language of the city home rule constitutional grant of power is the following:

"(b) Cities are hereby empowered to determine their local affairs and government including the levying of taxes, excises, fees, charges and other exactions except when and as the levying of any tax, excise, fee, charge or other exaction is limited or prohibited by enactment of the legislature applicable uniformly to all cities of the same class: *Provided*, that the legislature may establish not to exceed four classes of cities for the purpose of imposing all such limitations or prohibitions. Cities shall exercise such determination by ordinance passed by the governing body with referendums only in such cases as prescribed by the legislature, subject only to enactments of the legislature of statewide concern applicable uniformly to all cities, to other enactments of the legislature applicable uniformly to all cities, to enactments of the legislature applicable uniformly to all cities of the same class limiting or prohibiting the levying of any tax, excise, fee, charge, or other exaction and to enactments of the legislature prescribing limits of indebtedness. . . ."

(c) (4) Each charter ordinance enacted shall control and prevail over any prior or subsequent act of the governing body of the city and may be repealed or amended only by charter ordinance or by enactments of the legislature applicable to all cities.

(d) Powers and authority granted cities pursuant to this section shall be liberally construed for the purpose of giving to cities the largest measure of self-government."

How and When City Home Rule is Exercised: "Ordinary" versus "Charter" Ordinances

"Ordinary" City Home Rule Ordinances. The term "ordinary ordinance" was coined after the passage of the home rule amendment but is not specifically used in the *Kansas Constitution*. The intent of using the term is to distinguish ordinances passed under home rule authority which are not charter ordinances from other ordinances enacted by cities under specific enabling acts of the legislature. Ordinary ordinances are those referred to in Article 12, §5(b), where it provides that ". . . cities shall exercise such determination (home rule) by ordinance passed by the governing body with referendums only in such cases as prescribed by the legislature. . ."

According to one commentator, Barkley Clark, "State Control of Local Government in Kansas: Special Legislation and Home Rule," 20 Kan. L.Rev. 631 at 658 (1972), the above language is the most significant aspect of the Home Rule Amendment since it gives Kansas cities the power to initiate legislation by ordinance without relying on enabling statutes. Clark's term for this power and procedure is "affirmative home rule."

Use of Ordinary Home Rule Ordinances. There are several instances where cities may use ordinary home rule ordinances as follows:

- **No State Law.** The first is when a city desires to act and there is no state law on the subject sought to be addressed by the local legislation. The regulation and licensure of massage parlors or adult entertainment studios by counties, upheld in *Moody v Board of Shawnee County Commissioners*, 237 Kan. 67, 697 P.2d 1310 (1985) is an illustration of the first situation. Another example of this type of home rule action is illustrated in the situation which a city became a limited partner in an enterprise to construct a wind turbine system and to sell electricity. See Op. Att'y Gen. 160 (1981). See also Op. Att'y Gen. 55 (2000) where cities and counties were said to have the power under home rule to prohibit ticket scalping at sporting or entertainment events on state and federal property if needed.
- **Local Supplement to a Uniform State Law.** The second instance where cities may enact ordinary home rule ordinances (resolutions) is when there is a uniform state law on the subject and the local government wants to supplement the state law, there is no conflict between the state law and the local addition or supplement, and the Legislature has not clearly preempted local action. In regard to the police power, this ability in reference to cities predates the home rule amendment.

The following are three examples of local supplemental legislation to state laws:

- See *Hutchinson Human Relations Commission v Midland Credit Management, Inc.*, 213 Kan. 308, 517 P.2d 158 (1973) where the court affirmed the ability of cities to establish local civil rights agencies despite the existence of a state civil rights commission and of state laws prohibiting acts of discrimination.

- The use of home rule was the underlying assumption of the court in *City of Junction City v Lee*, 216 Kan. 495, 499, 532 P.2d 1292 (1975) when the court upheld an ordinary home rule ordinance defining the crime of unlawful use of weapons as the carrying of both concealed and unconcealed weapons. A uniform state law made it a crime only to carry a concealed weapon. See KSA 21-4201.
- See also *Leavenworth Club Owners Association v Atchison*, 208 Kan. 318, 492 P.2d 183 (1971) where the court upheld an ordinance which established a 1:30 a.m. closing time for private clubs although state law provided a 3:00 a.m. closing time.
- **Alternative to Permissive Legislation.** A third instance where many believe ordinary home rule ordinances can be used involve situations where either uniform or nonuniform enabling or permissive legislation exists, but a city chooses not to utilize the available state enabling legislation but instead acts under home rule. This instance is different from the second example of the use of ordinary ordinances since the city would use its home rule authority as a complete alternative to what exists in the state enabling or permissive law.

See *Clark v City of Overland Park*, 226 Kan. 609, 617, 602 P.2d 1292 (1979) where the court rejected the argument that a charter ordinance should have been used in a situation where alternative statutory procedures for the enactment of a local sales tax existed and where there was not a substantive conflict between the state and local enactments.

See *Blevins v Hiebert*, 13 K.A.2d 318, 770 P.2d 486 (1989) wherein the Court of Appeals upheld an ordinary county resolution authorizing the issuance of general obligation bonds for a highway bypass project even though a nonuniform enabling act was available for use in Douglas County. See also Op. Att’y Gen. 90 (1985) reaching the same conclusion. The Kansas Supreme Court, in *Blevins v Hiebert*, 247 Kan. 1, 795 P.2d 325 (1990) however, held this third use of ordinary home rule city ordinances or county resolutions was improper and overruled the Court of Appeals case cited above. The *Blevins* case did not overrule *Clark* and the Supreme Court appears to have limited *Blevins* by later decisions.

Charter Ordinances

City Charter Ordinances. Several subsections of the Home Rule Amendment deal with charter ordinances—when these ordinances may be used, and the procedure to be used for their adoption. *Kansas Constitution*, Article 12, §5(c)(2) defines a charter ordinance as “an ordinance which exempts a city from the whole or any part of any enactment of the legislature and which may provide substitute and additional provisions on the same subject.” See also Article 12, §5(c)(1) which states that a city by charter ordinance may elect that the whole or any part of any appropriate legislative enactment applying to the city shall not apply to such city. Subsection (c)(1) specifies some of the circumstances when the use of charter ordinances is appropriate and when it is not.

Framework for Exercise of Home Rule

Several questions must be asked when analyzing whether a city may exercise home rule power in a given situation. First, is there a state law that governs the subject? Second, if there is a state law, is it uniformly applicable to all cities? Third, if there is a uniform state law, does it contain specific language which clearly preempts further action by cities under home rule? And fourth, if there is a uniform state law, and there has been no preemption by the Legislature, will the local regulation clearly conflict with the uniform state law?

Uniformity: What Does It Mean

Griffin Case. The key question is: What is meant by “enactments applicable uniformly to all cities”? The clearest statement by the court to date concerning what is a uniform enactment applicable to all cities is found in the city home rule case of *City of Junction City v Griffin*, 227 Kan. 332, 607 P.2d 459 (1980). The court determined that the entire Kansas Code of Procedure for Municipal Courts law (KSA 12-4101 through 12-4701) did not apply uniformly to all cities since one section of that act, KSA 12-4105, required municipal judges in cities of the first class to be attorneys but did not require the same of municipal judges in cities of the second or third class. The court noted that this section was one of the sections included in L. 1973, Ch. 61 and was clearly one of the sections comprising the legislative enactment. The court stated:

“The division into chapter, article and sections in the Kansas Statutes Annotated does not have the effect of making separate enactments of a single bill passed by the legislature of the state of Kansas.”

An enactment then is all sections of a single bill enacted by the Kansas Legislature. Every section of a bill must apply uniformly to all cities if the bill is to be a uniform enactment (at 335-336).

The court went on to state:

“Regardless of whether an enactment of the state legislature addresses a matter of statewide or a matter of local concern, a city may in either case act by charter ordinance to exempt itself from all or part of the enactment unless the state enactment applies uniformly to all cities” (at 337).

Earlier, the court had stated that statutory express intent to make a law uniformly applicable to all cities *cannot* supplant the constitutional requisite of uniformity.

Clafflin: Statutes *In Pari Materia* Another key ingredient in determining uniformity was expressed in the case of *Clafflin v Walsh*, 212 Kan. 1, 8, 9, 509 P.2d 1130 (1973). The court stated that all statutes on the same subject whether enacted at the same time or not were *in pari materia* and should be construed together to determine uniformity. The issue in the case was whether the city of Kansas City had the power to pass a charter ordinance providing for a different method of management of a Soldiers and Sailors' Memorial Building. The statute in question, KSA 73-407, was part of what the court described as a hodgepodge of statutes pertaining to memorials, monuments and grave markers with many exceptions pertaining to cities of various classes and counties of various sizes. The statute in question permitted three exceptions in its application to various cities.

See *General Building Contractors, LLC v Board of Shawnee County Commissioners*, ___ Kan. ___, ___ P.3d ___ (2003), where the court agreed with the district court analysis that held that KSA 19-101, KSA 19-3801 *et seq.*, and KSA 19-4101 *et seq.* when considered *in pari materia* provided the authority for Shawnee County to condemn property for economic development purposes under its home rule authority. See also *Home Builders Association v. City of Overland Park*, 22 KA 2d 649, 921P. 2d 234 (1996) which used the doctrine of *in pari materia* to find KSA 12-194 was part of the local sales tax act.

Moore Case: Permissive Laws Are Uniform Laws. A second area of confusion has been the effect of both uniform and nonuniform permissive state laws on cities. These laws enable cities to act in a particular area but do not require any action, *i.e.*, permissive enabling legislation. In *Moore v City of Lawrence*, 232 Kan. 353, 654 P.2d 445 (1982), the court described permissive laws as follows: "It is clear that initially these statutes are not uniformly applicable to all cities as they provide an optional procedure which may be adopted by any city as a means of governing matters pertaining to city planning and subdivision regulation." The opinion went on to say, though, that the statutes were uniform since the Legislature intended that they be uniform. Granted, the court's reasoning is less than clear but the case stands for the rule that a law which applies uniformly to all cities which authorizes the exercise of some power is considered a uniform law.

Bigs Case: County Option Uniformly Applicable—At Least for Liquor. The *Moore* permissive law analysis was extended by the court in *Bigs v City of Wichita*, 271 Kan. 455, 23 P.3d 855 (2001). At issue in *Bigs* was whether the Club and Drinking Establishment Act, KSA 41-2601 *et seq.* was a uniform law for cities. The law contains a section allowing drinking establishments in counties where the qualified electors of the county approved the liquor by the drink constitutional amendment at the election in November 1986 or where the county electors voted later in favor of liquor by the drink. See KSA 41-2642 and 41-2643. An earlier version of the law had a special provision for certain cities located in certain counties. This provision was repealed by the Legislature in 1988. The court extended the *Moore* rationale that giving the

cities the option to adopt provisions of an enactment did not create nonuniformity by stating that giving counties the option to be covered by a state law did not create nonuniformity. The *Bigs* court stated that the legislative intent was clear, and to allow counties who elect to adopt the provisions of the enactment to then opt out by charter ordinance defeats the intent and purpose of the Legislature. The court's use of the word "counties" was in error. The election for selling liquor under the state law is a county by county option—so it is the county making the election but it was the City of Wichita which opted out of what it considered a non-uniform state law due to the county option. Cities in these counties approving drinking establishments were given certain powers or authority not granted to other cities. Regardless of the confusing language, the court's conclusion was clear: that the county drinking establishment option law was applicable uniformly to all cities within the meaning of Article 12, §5 of the *Kansas Constitution*.

Note the *Bigs* case did not overrule either the *Home Builders* case nor the *Clark* case discussed below.

How to Cure Nonuniformity

The *Bigs* court addressed another uniformity issue: Can the Legislature cure or make a non-uniform state law uniform by amending the non-uniform section only or must it reenact the entire law for which it seeks to cure or fix the non-uniformity? The court held that it was sufficient to amend only the section that contained the non-uniform provision. The court further held that as a result of repeal of the nonuniform provision of the Club and Drinking Establishment Act, that this state law amendment was sufficient to cause the repeal of the City of Wichita's charter ordinance which provided the higher local license fee.

NORMAN J. FURSE, ATTORNEY
REVISOR OF STATUTES
JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR



LEGAL CONSULTATION—LEGISLATIVE
COMMITTEES AND LEGISLATORS
LEGISLATIVE BILL DRAFTING
SECRETARY—LEGISLATIVE
COORDINATING COUNCIL
SECRETARY—KANSAS COMMISSION
ON INTERSTATE COOPERATION
KANSAS STATUTES ANNOTATED
EDITING AND PUBLICATION
LEGISLATIVE INFORMATION SYSTEM

OFFICE OF REVISOR OF STATUTES
300 SW TENTH AVE - STE 322, Statehouse—TOPEKA, KANSAS 66612-1592
PHONE (785) 296-2321 FAX (785) 296-6668
E-mail: Revisor'sOffice@rs.state.ks.us

MEMORANDUM

To: Senate Committee on Federal and State Affairs
From: Theresa Kiernan, Senior Assistant Revisor of Statutes
Date: January 14, 2004
Subject: Review of the Liquor Control Act and Cereal Malt Beverage Laws

Section 10 of Article 15 of the Kansas Constitution provides that “the legislature may regulate, license and tax the manufacture and sale of intoxicating liquors, and may regulate the possession and transportation of intoxicating liquors.” The legislature has exercised the power granted by the Constitution through the enactment of various laws which are contained mainly in the Liquor Control Act, the Nonalcoholic Beverages Act, the Club and Drinking Establishment Act, the Keg Registration Act and the cereal malt beverage laws. The law prohibiting the furnishing of alcoholic beverages to minors is contained in the criminal code, and the laws relating to driving under the influence are contained in the uniform traffic code.

The Liquor Control Act

The Liquor Control Act (LCA) is contained in articles 1 through 11 of chapter 41 of the Kansas statutes. Alcoholic liquor is any liquid or solid which contains alcohol, spirits wine or beer, but does not include cereal malt beverage. Except as specifically delegated in the act, K.S.A. 41-208 states that the power to regulate alcoholic liquor is vested exclusively in the state. This section allows for the adoption of ordinances which are not in conflict or contrary to the act and requires that penalties for violations of such ordinances shall not be less than the minimum penalty nor greater than the maximum penalty imposed for violations of the liquor control act. The Supreme Court has ruled that an ordinance which is stricter than a state law is not in conflict with that state law.

There are several provisions in the LCA which are nonuniform: K.S.A. 41-301, 41-302, 41-303, 41-710 and 41-719. The Supreme Court has ruled that the legislative attempt to preempt of an area of law is defeated by a nonuniform enactment.

The Division of Alcoholic Beverage Control (ABC) which is part of the Department of Revenue is charged with the regulation of liquor and liquor licensees. The director of ABC and the agents and employees of the director are vested with the power to enforce the state liquor laws. (41-201) The LCA does not preclude enforcement of the liquor laws by other law enforcement agencies; the act specifically authorizes the director to call upon prosecutors and administrative and law enforcement agencies of the state and local units of government for information and assistance in carrying out the duties imposed upon the director by the LCA. (41-209)

The regulation of the manufacturing, transportation, distribution and sale of alcoholic liquor is based on a three-tier system. The tiers are composed of the manufacturer, the distributor and the retailer. Each tier of activity is licensed and with limited exceptions a person only may be licensed to conduct one tier of activity. (41-312) In general under the LCA: A manufacturer is the person who manufactures or stores alcoholic liquor and sells it to a distributor, nonbeverage users and certain persons outside the state; a distributor is the person who imports into the state or purchases alcoholic liquor from the manufacturer for sale to other distributors holding the same classification of license or to a retailer; and a retailer is a liquor store.

The classes of licenses and the rights of a license-holder are specified in K.S.A. 41-304 through 41-309. The amount of the annual state license fee for each classification of license is specified in K.S.A. 41-310. In addition to the state license fee, the city or township in which the licensed premise is located may impose an annual occupation or license tax on the licensee.

The qualifications and limitations for licensure are specified in K.S.A. 41-311 through 41-317. Applications for licensure and application fees are submitted to the director. The time limit for the approval or denial of a license is specified in K.S.A. 41-319.

All proceedings for the suspension or revocation of licenses are conducted before the director and are conducted in accordance with the Kansas administrative procedure act, and any order may be appealed to the secretary of revenue. Any action of the secretary is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. (41-320 through 41-323)

Except as provided by K.S.A. 41-303 for premises located in townships having a population of 5,000 or more, no retailer's license shall be issued for premises located outside the corporate limits of a city. Licenses cannot be issued in any city or township unless the voters have approved the retail sale of liquor. (41-302, 41-303)

The procedure for issuing permits for salespersons under the LCA is governed by K.S.A. 41-333 through 41-341.

K.S.A. 41-401 through 41-410 contain provisions relating to warehouses of manufacturers and distributors.

K.S.A. 41-501 through 41-510 contain the provisions relating to the gallonage tax which is the tax imposed on the person in this state who first manufactures, uses, sells, stores, purchases or receives alcoholic liquor or CMB.

Record-keeping and reporting requirements of licensees are found in K.S.A. 41-601 and 41-602.

Article 7 of chapter 41 contains numerous provisions relating to prohibited acts and penalties for violations. K.S.A. 41-710 prohibits the location of liquor stores, microbreweries or farm wineries within 200 feet of a school, college or church. K.S.A. 41-712 prohibits the sale of alcoholic liquor on Sunday and certain holidays. With certain exceptions, K.S.A. 41-719 prohibits the consumption of alcoholic liquor on public property.

K.S.A. 41-803 prohibits the operation of an open saloon. K.S.A. 41-805 and 41-806 provides that any place or property operated or used in violation of the LCA is a common nuisance and also provides a procedure for the abatement of such nuisance

General penalty provisions are found in article 9.

Provisions relating to prosecution of violations are found in article 10.

Article 11 of chapter 41 contains miscellaneous provisions. K.S.A. 41-1101 relates to discrimination in sales, services or prices. K.S.A. 41-1107 relates to the duty of the attorney general and county attorneys to prosecute violations. K.S.A. 41-1111 through 41-1121 relate to pricing and mark-ups of the price of alcoholic liquor.

Cereal Malt Beverage Laws

The state laws relating to the regulation of the retail sale of cereal malt beverages are found at K.S.A. 41-2701 through 41-2727. This series of statutes are uniform in application. Cereal malt beverage is any fermented but undistilled liquor which contains 3.2% or less alcohol by weight. A retailer may be a person who sells CMB for off-premise consumption (a grocery store) or on-premise consumption (a "3.2 tavern"). The local unit of government has the primary duty to enforce the CMB laws.

K.S.A. 41-2702 provides that an application for licensure and license fee shall be submitted to the governing body of the city in which the place of business is located. If the place of business is located outside the corporate limits of a city, the application and fee are submitted to the board of county commissioners. Application to sell CMB on railway cars shall be submitted to the director. In addition to the license fee, the applicant must pay a fee of \$25 to the director who issues a stamp to be affixed to the license.

K.S.A. 41-2703 contains the qualifications for licensure and specifies the term of a license shall be issued on an annual basis or for the calendar year.

K.S.A. 41-2704 restricts the days and hours of sale of CMB and also contains restrictions relating to the minimum age of persons who may consume, possess, dispense or sell CMB at a licensee's place of business.

K.S.A. 41-2708 contains the grounds and the procedure for the revocation or suspension of a license. Orders revoking or suspending a license may be appealed to the district court.

K.S.A. 41-2722 contains prohibited sales practices including serving free or unlimited numbers of drinks of CMB.

K.S.A. 41-2725 prohibits the consumption of CMB in the capitol or on the capitol grounds.

Other Laws Concerning Alcoholic Beverages

Under the Nonalcoholic Beverages Act, K.S.A. 41-342 through 41-347, retailers may sell nonalcoholic beverages which are beverages containing less than .5% alcohol by weight.

The licensure and regulation of the sale of liquor by the drink is contained in the Club and Drinking Establishment Act, K.S.A. 41-2601 et seq.

The Keg Registration Act, K.S.A. 41-2901 et seq, imposes certain duties on retailers under the LCA and CMB laws to affix keg identification numbers or tags to kegs of beer or CMB prior to the sale in containers having a capacity of four or more gallons. In addition records identifying the purchaser and the purchaser's age must be kept by the retailer until the container is returned or for six months following the sale. Penalties are provided for the removal or destruction of the keg identification number or tag or for the possession of a container not having an identification number or tag.

The liquor enforcement tax, K.S.A. 79-4101 through 79-4108, is a tax imposed at the rate of 8% upon the gross receipts received from the sale of alcoholic liquor by retailers, microbreweries or farm wineries to consumers and the sale of alcoholic liquor or CMB by distributors to clubs, drinking establishments or caterers. The purpose of the tax is to provide revenue to be used by the state, cities and counties in the enforcement of the liquor laws.

The liquor drink tax, K.S.A. 79-41a01 through 79-41a09, is a tax imposed at the rate of 10% upon the gross receipts derived from the sale of alcoholic liquor by any club, caterer, drinking establishment or temporary permit holder. Revenue derived from the proceeds of the tax are deposited in the state treasury and credited to the local alcoholic liquor fund. Moneys in the fund are allocated among the cities and counties for use as specified in K.S.A. 79-41a04.

State of Kansas v. The Unified Government of Wyandotte County/Kansas City, Kansas

Late in 2002, the governing bodies of the Unified Government and the city of Edwardsville each adopted charter ordinances exempting themselves from the provisions of K.S.A. 41-712 which prohibits the retail sales of alcoholic liquor on Sunday. The state filed an action challenging the cities' authority to use their Constitutional home rule authority to charter out of portions of the LCA.

The state argued that: Before a city could charter out of a statute, the statute must be "applicable" to cities, state law had reserved the area of liquor control exclusively to the state, the issue of liquor control is a matter of statewide concern making it less applicable to cities and the LCA is applicable uniformly to all cities in the state.

The cities argued that if any portion of the LCA is not uniformly applicable to all cities then all or any portion of the LCA is subject to charter ordinance.

The court discussed the provisions of the Home Rule Amendment to the Constitution and several court cases interpreting the power granted to cities by the amendment. The court pointed out that within a few limited exceptions specified in the amendment a nonuniform enactment is subject to home rule. Those exceptions are enactments which create not more than four classes of cities for prescribing limitations on taxes, excises, fees, charges or other exactions which may be levied by cities and enactments prescribing limits of indebtedness.

In addressing the state's argument that an enactment must be applicable to cities, the district court limited the application of the *Brewster* decision to the facts involved in that case since the case offered no assistance to him or other courts in rendering a decision on a different set of facts. In *Brewster*, the Supreme Court held that the threshold question for a court to consider in determining whether a city could exercise its home rule power is whether the enactment is applicable to cities. The Supreme Court went on to hold that the city could not charter out of a statute that granted a sales tax exemption to attorneys that pay a law library fee because the statute did not apply to cities.

In addressing the state's argument that state law reserved the area of liquor control to the state, the court discussed Section 10 of Article 15 of the Constitution which concerns intoxicating liquors. The court pointed out that the language of the amendment provides the authority to regulate liquor in terms of "may" as opposed to "shall". The court also pointed out that provision is made for local input on regulation by authorizing the voters by county to determine whether to allow liquor by the drink. The language of the amendment makes regulation of alcohol a matter of both statewide and local concern.

In construing the language of 41-208 which appears on its face to preempt the area of alcohol regulation, the court notes that a statute cannot limit the Constitutional grant of home rule authority. The legislature cannot preempt an area of law by a nonuniform enactment.

In addressing the state's argument that a city may not charter out of a statute in matters of statewide concern, the Supreme Court found that the construction of the KU Medical Center was a matter outside the purview of local affairs, but limited the application of the decision to that case (*State v. City of Kansas City*). In a subsequent case, the Supreme Court held that it was immaterial under a home rule analysis whether or not the issue was of statewide or local concern (*City of Junction City v. Griffen*).

In its decision, the district court held that the determinative issue revolves around whether the LCA applies uniformly to all cities. Since the LCA is not uniform in application, the court held that the cities had the authority under the Home Rule Amendment to charter out from the statutory ban on Sunday sales of alcohol.

The court also noted that the legislature has the last word and may prohibit the use of home rule authority by making the LCA uniformly applicable to all cities.

Following the rendering of the decision by the Wyandotte county district court, both the Senate and House Federal and State Affairs Committees followed the court's suggestion and attempted to "have the last word" on the issue. The Senate Committee introduced Senate Bill No. 273 which would make the LCA uniform and authorize the Sunday sales of alcoholic liquor on a county-option basis and Senate Bill No. 274 which would make the LCA uniform. The House Committee introduced House Substitute for Senate Bill No. 2 to make the LCA uniform and authorize the Sunday sales of alcoholic liquor on a county-option basis. The House bill was drafted in a manner to grandfather the action taken by the Unified Government and the city of Edwardsville. The senate bills remain in the senate committee and the house bill remains in conference committee.

Since the legislature has adjourned several cities have adopted charter ordinances authorizing the sale of alcoholic liquor on Sundays and in some instances on certain holidays.

The Home Rule Amendment provides that a charter ordinance may be repealed or amended only by another charter ordinance or by enactments of the legislature applicable to all cities. If the Supreme Court upholds the district court decision, the legislature still has the last word on the issue—as long as that word is uniform in application to all cities.

19-101a. Home rule powers; limitations, restrictions and prohibitions; procedure. (a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

(1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.

(2) Counties may not consolidate or alter county boundaries.

(3) Counties may not affect the courts located therein.

(4) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.

(5) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.

(6) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 271--74th congress, or amendments thereof.

(7) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.

(8) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.

(9) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.

(10) No county may levy ad valorem taxes under the authority of this section upon real property located within any redevelopment project area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay the principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.

(11) Counties shall have no power under this section to exempt from any statute authorizing or requiring the levy of taxes and providing substitute and additional provisions on the same subject, unless the resolution authorizing the same specifically provides for a portion of the proceeds of such levy to be used to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto.

(12) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

(13) Except as otherwise specifically authorized by K.S.A. 12-1,101 through 12-1,109, and amendments thereto, counties may not levy and collect taxes on incomes from whatever source derived.

(14) Counties may not exempt from or effect changes in K.S.A. 19-430, and amendments thereto.

(15) Counties may not exempt from or effect changes in K.S.A. 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

(16) (A) Counties may not exempt from or effect changes in K.S.A. 13-13a26, and amendments thereto.

(B) This provision shall expire on June 30, 2004.

(17) (A) Counties may not exempt from or effect changes in K.S.A. 71-301a, and amendments thereto.

(B) This provision shall expire on June 30, 2004.

(18) Counties may not exempt from or effect changes in K.S.A. 19-15,139, 19-15,140 and 19-15,141, and amendments thereto.

(19) Counties may not exempt from or effect changes in the provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-1260 through 12-1270 and 12-1276, and amendments thereto.

(20) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-211, and amendments thereto.

(21) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

(22) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated and any rules and regulations adopted pursuant thereto. Counties may not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.

(23) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and amendments thereto.

(24) Counties may not exempt from or effect changes in K.S.A. 79-1611, and amendments thereto.

(25) Counties may not exempt from or effect changes in K.S.A. 79-1494, and amendments thereto.

(26) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-202, and amendments thereto.

(27) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-204, and amendments thereto.

(28) Counties may not levy or impose an excise, severance or any other tax in the nature of an excise tax upon the physical severance and production of any mineral or other material from the earth or water.

(29) Counties may not exempt from or effect changes in K.S.A. 79-2017 or 79-2101, and amendments thereto.

(30) Counties may not exempt from or effect changes in K.S.A. 2-3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d 65-1,178 through 65-1,199 or K.S.A. 2002 Supp. 17-5909, and amendments thereto.

(31) Counties may not exempt from or effect changes in K.S.A. 2002 Supp. 80-121, and amendments thereto.

(32) Counties may not exempt from or effect changes in K.S.A. 19-228, and amendments thereto.

(b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper. If the legislation proposed by the board under authority of subsection (a) is contrary to an act of the legislature which is applicable to the particular county but not uniformly applicable to all counties, such legislation shall become effective by passage of a charter resolution in the manner provided in K.S.A. 19-101b, and amendments thereto.

(c) Any resolution adopted by a county which conflicts with the restrictions in subsection (a) is null and void.