

**MINUTES**

**HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS**

July 15-16, 1993  
Room 526-S -- Statehouse

**Members Present**

Representative Clyde Graeber, Chairperson  
Representative Lisa Benlon, Vice-Chairperson  
Representative Kathleen Sebelius, Ranking Minority Member  
Representative Garry Boston  
Representative Darlene Cornfield  
Representative Ray L. Cox  
Representative Ruby Gilbert  
Representative Phill Kline  
Representative Robert Krehbiel  
Representative Richard Lahti  
Representative Al Lane  
Representative Eloise Lynch  
Representative Don Myers  
Representative Blaise R. Plummer  
Representative Thomas A. Robinett, Jr.  
Representative Rand Rock  
Representative L. Candy Ruff  
Representative Sabrina Standifer  
Representative Carolyn Weinhold  
Representative Steve Wiard  
Representative Kenny A. Wilk

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**Legislative**  
**Administrative Services**

**Members Absent**

Representative Cindy Empson  
Representative Don Smith

**Staff Present**

Mary Galligan, Kansas Legislative Research Department  
Lynne Holt, Kansas Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes  
June Evans, Secretary

July 15, 1993  
Morning Session

The Chairperson called the meeting to order at 10:00 a.m., and stated this meeting would be devoted to reviewing gaming regulation in Kansas and suggested topics for the September meeting.

Lynne Holt, Kansas Legislative Research Department, gave a briefing on the framework for analyzing the regulatory structure by examining functions assigned by statute to state agencies responsible for legal gambling. Four types of gambling are legal in Kansas: lottery, bingo, parimutuel, and Indian gaming. State oversight functions include: regulation (includes licensure), promotion, enforcement, and tax/revenue collection (see Attachment 1, Part I).

The Chairperson informed the Committee that since adjournment of the Legislature, the Joint Committee on Gaming Compacts received from the Governor's Office a proposed compact with the Iowa Tribe of Kansas. The Joint Committee met and forwarded the compact without recommendation to the Legislative Coordinating Council (LCC) as required by statute. The LCC met to consider the proposed compact, but a motion to approve the compact died for lack of a second. A proposed compact from the Sac and Fox Nation is anticipated by the Joint Committee sometime during the interim. Three compacts have now been rejected by virtue of failing to be approved either by the Legislature or by the LCC.

Bob Stephan, Attorney General, addressed the issue of ongoing negotiations regarding the federal Indian Gaming Regulatory Act (IGRA) in Washington, D.C. The Attorney General attended a meeting about three weeks ago called by Senator Inouye (Chairman of the Select Committee on Indian Affairs of the U.S. Senate). The meeting was closed to the public. Four state Attorneys General, including General Stephan, were in attendance. Two Governors and their staff were in attendance, as part of the National Governor's Association negotiation team. Approximately 75 tribal members and their attorneys were in attendance.

This is the first time those entities had come together to negotiate. A great deal was accomplished and many of the details were agreed to. The Attorneys General and the Governors, with the exception of one, believe there should be a game-specific provision in the IGRA and that issue will be addressed and hopefully amended. Senator Inouye intends to introduce a bill to the U.S. Senate by August 1.

Attorney General Stephan also discussed the *Citizen Band of Potawatomi v Green* case recently decided by the 10th Circuit Court of Appeals. The case may or may not be significant to Kansas. Oklahoma (where the case originated) has no lottery and a specific prohibition against gambling. They have two paper type gambling devices, but everything else is specifically outlawed. The Kansas statute specifically excludes definitions that pertain to betting and gambling devices, they exclude the state lottery from those provisions except for the specific prohibition against video lottery. It is difficult to know whether the case will impact Kansas until the state Supreme Court issues its decision. The current interpretation by some federal courts is that if Class III gambling is permitted by the state, Indian nations can conduct, in accordance with a compact, any type of Class III gambling that is not specifically prohibited by state law. If the Kansas Supreme Court's opinion includes a finding that gambling devices are specifically outlawed in Kansas the Oklahoma case could have some impact.

Questions:

Could states revise their laws? If states can criminally prohibit certain types of gambling, is it likely that such legislation will nullify compacts that are in effect?

The Attorney General responded that he suspects that a state cannot change a compact unless there is a provision for renegotiation or expiration.

If compacts that have been submitted, but not ratified, what would the ramification of amendments to gambling law be?

The Attorney General responded that if Congress changes the law any compacts that have not been ratified might need to be changed to conform with the amended federal act in order to be effective.

Does good faith become a consideration in contemplating amendments to existing law?

The Attorney General responded that the National Association of Attorneys General believe the good faith standard should be removed from IGRA because there are some legitimate disagreements about that provision. That does not mean the courts could not review whether negotiations were conducted properly, but not solely on that basis.

Will trust land be addressed in proposed amendments?

The Attorney General responded that the issue was discussed and that it is a concern because many states have been approached by tribes with requests for compacts that have no land at all in that state or by tribes that historically have had land in the state but do not any longer. It is a national problem.

At any point can Congress say Indians can have gambling without state involvement -- when could this happen?

The Attorney General responded that there are many issues on the table: the 10th Amendment; 11th Amendment; and many of states believe tribal gambling should be subject to federal enforcement. If game specific provisions are included in the federal law state Attorneys General probably would be willing to forgo those technical defenses.

The Attorney General concluded his presentation by stating that if casinos are appropriate there is no question that they enhance the quality of life on the Indian reservation. Tribal leaders are very responsible and in the vast majority of cases they use that gambling revenue to assist with education, health, and so on. They truly see this as an economic development opportunity that has literally changed their lives.

The Chairperson stated that he had read an article that stated that one tribe has established a fund for each child's college education of some \$40,000 as a result of tribal gambling.

The Chairman recognized John Campbell, Deputy Attorney General, Litigation Division. Mr. Campbell explained that he had intended to submit a memo on the status of Kansas litigation regarding tribal gambling, but that this week the memo would have had to be amended three times.

Mr. Campbell reported that the State of Kansas is currently involved in six lawsuits involving Indian gaming. The oldest was brought by the Kickapoo Nation and Governor Finney against the Secretary of Interior. That case was decided Tuesday, July 13, the Federal Court in Washington, D.C. ruled that the compact signed by the Governor was not valid. Unless the appellate court reverses the district court's decision, the Legislature will actually have to approve a compact before it can be approved by the Secretary of Interior.

The Iowa Tribe has filed a case under IGRA in the U.S. District Court. Judge Crow will be the judge in that case. It is basically the same as the Kickapoo and Potawatomi cases. The state will answer that suit with a motion to dismiss based on the 11th Amendment to the *U.S. Constitution*. If that motion is denied, the state will file an appeal with the 10th Circuit Court of Appeals which is in the process of considering other similar appeals.

The most important case for the Legislature -- because it will very likely be decided before the 1994 Session -- is *Stephan v Finney II*. Oral arguments in the case are scheduled for September 15 and the decision should be out in October or November so we will at least know what the Kansas Supreme Court thinks on two issues:

1. What does the term "lottery" mean? Does it mean paper games, like we are used to or does it mean any game involving prize, chance, and consideration? It is the Attorney General's opinion that the state-owned lottery can basically operate anything, casinos or what have you. That is the Governor's opinion as well. The Senate feels when the lottery amendment was passed it was more narrow.
2. Something the Court has brought up on its own is the *Citizen Band Potawatomi v Green* decision. Justice McFarland identified the case during a scheduling conference. The opinion could have significant implications for Kansas. The Justice brought it up because the Supreme Court wants to address every Indian issue it can on this case. Justice McFarland feels the final decision on Indian gaming is a federal matter and that any state issues are peripheral. However, the Court wants to get its part done and get the issue back to the federal court.

On July 1, 1993, the Attorney General sued the Secretary of Revenue in Kansas Third District Court over instant bingo authorized by 1993 S.B. 181 (Attachment 2). The Attorney General has requested a scheduling conference to see how long this is going to take. There should be a decision in that case before the Legislature convenes.

The *Constitution* gives the Legislature a significant authority over bingo. The question in that case is where that authority ends. Could the Legislature institute 52 card bingo? The Attorney General has brought this to see where the line is.



Questions:

Is it the Attorney General's position that instant bingo is really lottery?

Mr. Campbell responded that instant bingo is really the old game of "pull tabs" which is closer to a lottery than to a bingo type game. That is the issue. The Coalition for Instant Bingo is expected to intervene and the Attorney General will not object.

Ron Hein, representing the Coalition for Instant Bingo, stated that one of the fraternal organizations such as the American Legion would probably intervene. Instant Bingo has been very well received and seems popular.

Can instant bingo be played before the case is resolved?

Mr. Campbell responded that there is instant bingo right now. The Attorney General did not seek an injunction.

Did the Attorney General approve the rules and regulations?

No, the statute basically says there shall be no instant bingo card distribution unless distributors are registered with the Secretary of Revenue. The Act does not require the Secretary of Revenue to promulgate rules and regulations and she has not done so.

Could the proposed Kickapoo compact be brought forward for reconsideration?

Mr. Campbell responded that he did not think a rejected compact would have any status.

**Afternoon Session**

Mary Galligan, Kansas Legislative Research Department, reviewed gambling oversight in selected other states (Attachment 1, Part II). Ms. Galligan also distributed to the Committee the letter asking gambling regulatory agencies to describe for the Committee the agency's structure and operation at this meeting (Attachment 3).

Janet Chubb, Executive Director, Kansas Racing Commission, stated the Commission is made up of five members, one from each congressional district plus one at large. Appointments are for three years and terms are staggered. The Commission meets twice a month. They receive \$2,000 a month plus expenses (see Attachment 4).

Priorities of the Racing Commission:

1. Licensing Division
2. Animal Health Division
3. Security
4. Parimutuel
5. Legal Division

The Racing Commission currently has 41.5 positions and will add some temporary positions for licensing for fair meetings.

It was asked how long there had been activity at county fairs?

Ms. Chubb responded that the Anthony fair has run greyhounds since 1940. They started running horses in 1904 then in 1940 they started alternating horses and greyhounds. It is an eight day meet.

In response to a question about consolidation of gambling regulation, Ms. Chubb said she did not know specifically how many states had regulatory entities that oversee more than one type of gambling, but that she thought that in racing regulation the movement toward consolidation is relatively new.

In response to a question about the budget figures distributed to the Committee, Ms. Chubb said that the report did not include all funds that support activities of the Racing Commission and that a more complete report would be provided to the Committee later.

In response to a Committee question Ms. Chubb told the Committee that the first full year of racing was 1990.

In response to a question Ms. Chubb observed that some states have fewer employees than the Kansas Racing Commission, but that the Commission's statutory responsibilities may also be very different.

Ms. Chubb stated that there were 166 prosecutions for violations of the Parimutuel Act during 1992.

Ms. Chubb responded to a question about pay of stewards and racing judges by explaining that those persons are paid by the Racing Commission which bills the tracks for the amount of those salaries. That procedure is in accordance with the statute.

The Chairman recognized Ralph Decker, Executive Director of the Kansas Lottery. Mr. Decker stated that the prime mission of the Lottery is to raise money for the State of Kansas. The Lottery does not engage in an ongoing enforcement procedure. The Lottery has two functions: (1) license retailers and (2) security that enforces the statutes (see Attachment 5).

Mr. Decker stated lottery or gambling is an entertainment that must be marketed. The Kansas Lottery is a sales organization. The sales projection for next year is \$120 million of which the state will receive \$32 million.

The Lottery has 99 approved positions, 94 of which are filled. All of the vacant positions may not be filled.

Commissioners are paid \$35 per meeting plus expenses as set by statute. The Commission meets monthly at the Lottery office. In September the meeting will be held at the State Fair in Hutchinson.

Questions:

Last session the Lottery wanted the state share of revenue decreased. What kind of prize payout are you looking at?

Mr. Decker responded that the objective was more money for players. If there is not more money they will stop playing and we are getting close to that point. Retailers would like more commission. Lower rate to the state from 30 percent to 25 percent and based on sales of \$100 million that would give the Lottery an additional \$5 million which would have allowed the Lottery to raise the instant ticket to 65 percent payback. The Lottery would have to sell an additional \$20 million worth of tickets to recoup the \$5 million. Twenty-two other states have done it and have had 52 percent-118 percent increases in ticket sales as a result of offering higher prizes. Under current law, the Lottery will be abolished in 1996 so I hope you think about that now.

Where does the state revenue go?

Mr. Decker responded that the Lottery does not distribute state revenue from the Lottery directly. State revenue is transferred to the State Gaming Revenue Fund from which it is appropriated by a formula set in law.

Who administers the interest?

Mr. Decker explained the way the multi-state lottery (MUSL), which is composed of 14 states and the District of Columbia works. MUSL is headquartered in Des Moines, Iowa. On the \$110 million jackpot game Kansas sold \$3,017,000 worth of tickets. Fifty percent of that will go to MUSL by electronic transfer. MUSL takes care of that money. They administer the funds. Thirty cents out of every \$1.00 spent on tickets goes to the State Gaming Revenue Fund.

Mr. Decker stated that he feels the Lottery should be a corporation with state oversight.

Should we educate people where the money goes?

Mr. Decker responded, yes, that people do not understand. This is being discussed for incorporation into the live drawing broadcast.

Do you have a contract with KBI for \$150,000 annually?

Mr. Decker responded that there is a transfer to the KBI that implements a requirement in the appropriation bill. There is not a contract for services for that amount.

A member referred to Mr. Decker's earlier comment about wanting to move the Lottery from a state agency to a private corporation. The member also referred to the staff discussion of the recommendation made in the State of Connecticut which has a state operated lottery. The proposed scheme would create a quasi-public corporation to operate the lottery. That corporation would implement functions of advertising, sales, distribution, games, networks, and other promotional activities but the regulatory side of the lottery and all other gambling would be under a gaming commission, a traditional state agency. If the Legislature made the Kansas Lottery more like a private corporation, would it be logical to take the regulatory function away?

Mr. Decker responded that the answer depends on what regulatory functions would be removed. The Kansas Lottery has had 20 audits in the five years of its existence so it is audited on a regular basis. The Lottery does not want to be overly regulated.

The Chairperson called the attention to the memorandum by the Legislative Research Department dealing with gaming revenue (Attachment 6).

The Chairperson recognized Jim Conant, Chief Administrative Officer of the Division of Alcoholic Beverage Control of the Department of Revenue (ABC). Mr. Conant addressed the Division's responsibility for licensing and regulation of the bingo industry, collection of bingo taxes, and involvement in enforcement of criminal gambling laws in clubs and drinking establishments (Attachment 7).

Mr. Conant stated that the ABC has duties to inspect both liquor and bingo licensees and has combined those responsibilities.

Questions:

Staff asked whether local law enforcement had a role in regulating bingo?

Mr. Conant stated that he was not aware of any significant local effort. Local law enforcement agencies have many other types of crime to deal with.

Is liquor served in most places where bingo is played?

Mr. Conant responded that veterans' organizations and fraternal organizations are the largest group that have bingo and Class A club licenses. There is a

limited amount of bingo playing while liquor is being consumed because those clubs want to be open to the public during bingo games.

Is bingo investigated under cover?

Mr. Conant replied, no.

The Chairperson recognized Robert B. Davenport, Director of the Kansas Bureau of Investigation (KBI). Mr. Davenport stated there are three primary areas of the KBI, *i.e.*, criminal investigations, the crime laboratory and central records repository for criminal records and fingerprints. The KBI's responsibilities in the gambling area are right at the bottom of the list of the Bureau's priorities.

The KBI's number one priority is investigations: (1) drug investigations; and (2) white collar crime and corruption matters; then (3) in the gambling area.

Mr. Davenport referred to the letter from Research staff (see Attachment 3).

How does the agency view its role in regard to the major functions of gambling licensure/regulation, enforcement, promotion and tax/revenue collection?

Background investigations for the Lottery and Racing Commission, enforcement of violations of state statutes, and investigation of activities that come to the Bureau's attention throughout the state.

Do other agencies assist?

Yes, the Racing Commission and the ABC. There have not been any major investigations with the Lottery.

How is the agency organized?

The KBI gaming unit has six Special Agents and a Supervisor and one Office Assistant. Two Agents assigned to Topeka do primary background investigations, two are assigned to the Woodlands, and two are assigned to the Wichita dog track.

How are the agency's operations financed?

The Gaming unit is financed by reimbursement from the Lottery and the Racing Commission. Total reimbursement is approximately \$475,000. About \$350,000 is expended for salaries. Approximately \$80,000 is expended for travel. \$150,000 comes from the Lottery and the balance from the Racing Commission.

The Bureau has major concerns relating to casino gambling, assuming the KBI is given the responsibility of background investigations. It is critical that the Bureau get some lead time on conducting these background investigations. It takes six-nine months to hire and train an agent. If there would be four Indian gambling casinos and two agents assigned to each, the KBI would like to get those agents trained and hired as soon as possible.

Everyone tells us gaming enforcement is unbelievably resource intensive not only for background checks but for the enforcement itself. Missouri just assigned 50 state troopers to river boats. Seven state troopers to each river boat. Louisiana just approved river boat gambling and video lottery. They have hired 200 people for their enforcement unit, 175 of whom are law enforcement agents. Iowa has nine gaming enforcement officers who are assigned to river boats. Illinois estimated it would cost \$64 million for background and regulatory enforcement per year.

The Bureau originally estimated if four casinos were built, the KBI would be faced with approximately 350 Class I (the most thorough) background investigations that would involve owners, operators, investors, key casino personnel, vendors, distributors, manufacturers, and contractors. The estimate was that it would take an average of 168 hours per investigation. That would require about 30 agents up to a year just to conduct those investigations. In addition there would be some Class II investigations of lower level people such as dealers, technicians, cashiers, *etc.* The start-up cost would be \$2 million for four casinos.

The Chairperson asked why the tremendous cost in Chicago for one casino?

Mr. Davenport stated, this is a huge casino employing 1,000 people.

Mr. Davenport was asked: Do you see any difficulties in the Lottery having a dual mission of promoting as well as having security staff doing background investigations and licensing?

Mr. Davenport responded, no, because the types of investigations the Lottery's security people do are the cut and paste jobs on their tickets, *etc.* The KBI should not be involved in that. The Lottery would call on us for a major investigation.

Do you have a written memo of understanding?

Mr. Davenport responded, no, not like we have with the Racing Commission. We are discussing whether we need one or not. It is working fine the way it is.

When the KBI deals with the Racing Commission, Racing Commission employees are doing some enforcement and KBI employees are doing some enforcement. The Bureau's primary jurisdiction is criminal and their primary jurisdiction is civil. Should those be solidified in some way and personnel cross trained assuming the Legislature legalizes video lottery or casino gambling or something else? Would it make sense to have Racing Commission security and the KBI security all at the same time?

Mr. Davenport responded that it makes sense. Investigations that the Racing Commission's security people have been involved in are not cases the KBI conducts. The memo of understanding delineates by type of case who will handle which responsibilities.

It makes sense to have two groups of enforcement.

Mr. Davenport responded that he thought it did because their people are on the scene at the track all the time and a lot of minor things come to their attention that do not fit into the Bureau's scope. It is working well.

If IGRA is amended to permit only games that are legal in the state so that tribes can only conduct parimutuel and lottery as they are currently conducted, would those investigations go to the Racing Commission and the Lottery Commission?

Mr. Davenport responded that would be up to the Legislature.

Mr. Davenport referred the Committee to a set of "Casino Control Recommendations" from the Association of State Criminal Investigative Agencies (Attachment 8).

How much illegal video lottery is being conducted?

Mr. Davenport responded there is a significant amount. It is not nickel and dime. One club did \$250,000 with ten machines. Machines can only be seized if an agent is paid for play on that machine. It is a labor and cost intensive investigation.

Casino gambling issues were further discussed (see Attachment 9). Mr. Davenport referred to reports that crime, both organized and unorganized, increases dramatically when casinos are opened.

The Chairperson stated that tomorrow the Committee would discuss the concept of a single agency overseeing all gambling. The Chairperson asked members to think about that and also topics for the September meeting.

The meeting adjourned at 5:30 p.m.

**July 16, 1993  
Morning Session**

The Chairperson called the meeting to order and asked staff to brief the Committee on policy considerations concerning creation of a central gambling regulatory agency.

Ms. Galligan stated that a report concerning how casino gambling affects law enforcement, prepared by the Illinois State Police had been distributed to members (Attachment 10).

Ms. Galligan reviewed Part III of Attachment 1 which identifies several issues for Committee consideration.

The Committee discussed the necessity for making any structural changes at this time.

A member stated, if it is not timely to propose a new administrative agency, the question of whether civil and criminal gambling laws are being effectively and consistently enforced is one we should be concerned about for our on-going gambling operations. It is big business and getting

bigger. The Committee might request a post audit of those enforcement efforts including consistency and effectiveness of the different agencies.

The Chairperson agreed that was a good idea.

A member asked whether that audit could include an examination of whether there is sufficient structural separation of functions to avoid internal conflicts for implementing agencies (paragraph 3 on page 18 of Attachment 1).

A consensus was reached that both matters should be included in the scope statement.

Representative Sebelius moved that the Committee request a legislative post audit of enforcement of criminal and civil gambling laws and whether there is sufficient structural separation of functions to avoid internal conflicts for implementing agencies. Representative Lynch seconded the motion. The motion carried.

A member asked when the last study was done of gambling enforcement. Staff replied that it was probably in the early 1980s in regard to bingo. That was prior to enactment of the lottery and racing acts.

A member asked whether the audit would include the adequacy of the agencies' audit activities. Representative Sebelius indicated that should be included in the scope of the audit.

The Chairperson stated that Post Audit could look at the request and determine whether outside consultants would be necessary for this type of work.

A member stated that audits that were done on a continuous basis on the lottery primarily focused on the financial aspect.

Staff was directed to draft a scope statement and distribute it to the Committee. After receiving Committee comments, the scope statement should be forwarded to the Post Audit Committee.

A member asked whether the criminal statutes regarding video lottery could be amended to more closely conform to federal law. It appears that enforcement of the federal law is simpler than the state law.

The Chairperson recognized Kyle Smith from the KBI who recommended amending the definition of gaming device to include language similar to the federal law.

Representative Cornfield made a motion to direct staff to draft an amendment to the law to make it correspond to federal law. Representative Gilbert seconded the motion. The motion passed.

The Chairperson asked Kyle Smith to work with staff to draft a bill to be reviewed at the September meeting.

The next meeting of the House Committee will be September 16 and 17, 1993. The Chairperson stated that he and Senator Oleen feel there should be a Joint House/Senate Federal and State Affairs Committee meeting regarding the Racing Commission's 1994 legislative requests



in September. The Chairperson asked for Committee reaction to that proposal. There was no objection.

The Committee discussed a number of items for potential inclusion on the agenda for September. Consensus was reached that in addition to being briefed on the Racing Commission's legislative package, the Committee would review the state's liquor laws, review the bill draft requested at this meeting and hold hearings on 1993 S.B. 380.

Representative Lynch asked for an opportunity to share with the Committee her thoughts regarding the organization of this interim. The LCC formerly set parameters for consideration of pressing issues and saw things that were coming that might need legislative attention. This new policy of authorizing standing committees to meet for four days is actually an extension of the legislative session at a time when the public has reduced access. Media coverage is reduced during the interim. The Legislature needs to look at this procedure. There is pride of getting done on time, but the Legislature needs to get the work done.

Representative Lane stated, this is a good point.

The Chairperson stated he agreed somewhat and would have no comment as he had talked to LCC regarding this issue.

The meeting adjourned at 11:15 a.m.

Minutes prepared by June Evans  
Edited by Mary Galligan

Approved by Committee on:

September 17, 1993

Date:

7/15/93

## GUEST REGISTER

NAME	ORGANIZATION	ADDRESS
Dan Haner		Topeka
Jim Conant	ABC	Topeka
Janet Chubb	racing commission	Topeka
Jennifer Peterson	Governor's Intern	Topeka
Amy Hirsch	Governor's Intern	Topeka
SCOTT FEEKEN	GOVERNOR'S OFFICE	TOPEKA
Patrick Shanley	Magistrate	Topeka
Walter Damm	Pete McGill's Arsenal	Topeka
Jacik m. McGons	DEPT. OF REVENUE	TOPEKA
Carol McDowell	Mirage Resorts, Inc.	Topeka
Jim Allen	Camp Town	"
Julie Hein	Hein, Ebert, Lair	Topeka
Jim Feindlin	KS LOTTERY	TOPEKA
Ralph Decker	KS Lottery	Topeka
Allen Jones	KB	Topeka

Date: 11-15-93

GUEST REGISTER

[illegible]



## MEMORANDUM

### Kansas Legislative Research Department

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July 15, 1993

**To:** House Committee on Federal and State Affairs  
**From:** Mary Galligan and Lynne Holt, Principal Analysts  
**Re:** Gaming Functions in Kansas and Other States

This memorandum examines the overall structure of state gaming oversight in Kansas and in other states. To that end, this memorandum is divided into three parts.

**Part I** provides a framework for analyzing the functions assigned by statute to Kansas state agencies responsible for some or all aspects of state regulated gaming activities. Four types of gambling are legal in Kansas: lottery, bingo, parimutuel, and Indian gaming. Assigned agency functions encompass the following: regulation (includes licensure), promotion, enforcement, and tax/revenue collection. The state has primary statutory responsibility for these functions with respect to each of the four gaming activities under review.

**Part II** is an outline of gambling oversight in selected other states.

**Part III** identifies several issues for Committee consideration as it reviews agency oversight responsibilities.

### PART I

#### WHAT GAMBLING IS ALLOWED IN KANSAS?

Article 15 §3 of the *Kansas Constitution* prohibits lotteries and the sale of lottery tickets. However, the *Constitution* contains three specific exceptions to that general prohibition.

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- §3a authorizes the Legislature to regulate, license and tax bingo operated or conducted by non-profit religious, charitable, fraternal, educational and veterans organizations.
- §3b authorizes the Legislature to permit, regulate, license, and tax the operation or conduct of parimutuel wagering on horse or dog races by non-profit organizations in counties that approved the constitutional provision. Off-track wagering is expressly prohibited.
- §3c authorizes the Legislature to provide for a state owned and operated lottery and requires the state to provide public information on the odds of winning lottery game prizes.

Thus, the *Kansas Constitution* places specific limitations on those types of gambling the Legislature may authorize. Since the constitutional provisions are not self-executing, Kansas statutes form an integral part of state policy regarding gambling that may be legally conducted in the state. Those constitutional provisions are implemented by the Kansas Lottery Act (K.S.A. 74-8701 *et seq.*); the Parimutuel Racing Act (K.S.A. 74-8801 *et seq.*), and Bingo statutes (K.S.A. 79-4701 *et seq.*).<sup>1</sup> In addition to statutes specifically governing lottery, parimutuel, and bingo operations, there are criminal statutes (K.S.A. 21-2302 *et seq.*) that essentially prohibit any type of gambling not expressly permitted in those enabling statutes.

The only state law governing Indian gaming is 1993 Senate Sub. for House Sub. for H.B. 2023 (heretofore 1993 H.B. 2023), which authorizes a procedure for negotiation and legislative approval of tribal-state gambling compacts pursuant to the federal Indian Gaming Regulatory Act.

## WHAT IS THE STATE'S ROLE WITH RESPECT TO GAMBLING IN KANSAS?

In this section, we identify four functions carried out by the state in regard to legal gambling: regulation, promotion, enforcement, and collection of taxes and other revenue. The latter

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<sup>1</sup> There is some debate about the constitutionality of instant bingo authorized by 1993 S.B. 181 (effective July 1, 1993). An Attorney General Opinion (87-171) concluded that the term "bingo," as used in the *Constitution*, could not be defined by the Legislature to include pull tabs (instant bingo) without a constitutional amendment and a public referendum to legalize such games.

In a letter dated June 7, 1993, the Office of the Attorney General declined to approve instant bingo regulations submitted by the Department of Revenue. The reason cited for the refusal was the 1987 opinion and the Attorney General's position that in light of that opinion, "it would be inappropriate to approve regulations that implement what we consider to be an unconstitutional bill."

The Attorney General requested on July 1, 1993 that the District Court of Shawnee County issue a writ of mandamus and quo warranto to provide an authoritative interpretation holding that "instant bingo" violates the *Kansas Constitution*. The Attorney General's petition also requested that the Secretary of Revenue be asked to desist from implementing S.B. 181 and that she rescind the registration of any person or entity previously granted under the law.

function could arguably be applied to realizing the objectives of any of the first three functions. The four functions are defined for purposes of this memorandum as follows:

1. regulation means to control or direct conduct by rule or law; one method of achieving this objective is through licensure through which the state controls the location, amount and conduct of gambling;
2. promotion means to encourage the existence and expansion of a given activity; this could include advertising and marketing, provision of technical assistance, and subsidies;
3. enforcement means to compel obedience to laws and to impose a course of action (sanctions) to ensure compliance with laws; and
4. collection of taxes and revenue means, in this context, the mechanisms used by agencies with statutory oversight to obtain revenues due to the state.

### HOW ARE STATE OVERSIGHT AGENCIES ORGANIZED?

Three state agencies are authorized by statute to exercise primary oversight of legal gambling activities: the Lottery, the Racing Commission, and the Department of Revenue. Other state agencies, most prominently the Kansas Bureau of Investigation (KBI), also exercise some oversight authority, and references to such agencies are made, as is applicable. A brief description of the respective organizational structures of the Department of Revenue (in its capacity to regulate bingo games), the Lottery, and the Racing Commission should set the stage for a more detailed discussion of state agency responsibilities for the functions of regulation/licensure, promotion, enforcement, and tax/revenue collection.

The state has not yet entered into any tribal-state gambling compacts and no state agency has been identified to implement the state's responsibilities under any compact that might be approved. References will be made in this discussion to state responsibilities identified in those compacts that have been presented to the Legislature pursuant to 1993 H.B. 2023.

It should be noted that each agency assigned a role in regard to gambling is structured in a different way which may, or may not, be effective or appropriate for regulating the gambling activities under its jurisdiction. No attempt is made in this memorandum to draw any conclusions concerning the effectiveness or appropriateness of existing regulatory schemes. The intent is to illustrate the similarities and differences of state agencies with respect to their statutory oversight of gambling activities, and to provide a viable framework for consideration of those approaches.

#### A. Department of Revenue

The Secretary of Revenue is required to adopt and enforce rules and regulations to regulate, license, and tax the management, operation, and conduct of bingo games and participants in those games, and to properly administer and enforce bingo laws. Also, the Secretary must adopt

rules and regulations relating to leasing premises for the management, operation and conduct of bingo games (K.S.A. 79-4708).

The Department of Revenue licenses and collects bingo taxes through its Business Tax Bureau and enforces the bingo statutes through the Division of Alcoholic Beverage Control. In its enforcement capacity, the Division audits and inspects bingo licensees. Revenue field representatives perform unscheduled on-site inspections to ensure compliance with statutory and regulatory requirements and to ensure that the proper amount of tax revenue is remitted to the state. In contrast to the Lottery and the Racing Commission, the Department of Revenue has many other regulatory responsibilities in addition to those associated with bingo.

## B. The Lottery

The state is the only entity constitutionally authorized to own and operate a lottery<sup>2</sup>. The Legislature established a free-standing agency, the Kansas Lottery, to administer and conduct lottery games (K.S.A. 74-8703). Since the Lottery is state owned and operated, there is no licensure function, as there is with bingo.

The Executive Director of the Lottery is appointed by the Governor and confirmed by the Senate (K.S.A. 74-8703(a)). That position must administer the Lottery in accordance with statute and must be financially accountable to the Governor, Legislature, the State Treasurer and the Kansas Lottery Commission (K.S.A. 74-8706(b)).<sup>3</sup>

The Commission is composed of five members appointed by the Governor to serve four year terms. The Commission's oversight is largely confined to the internal operations of the Lottery. It does not regulate retail activities. The Commission has an advisory role with respect to the Lottery's operations and policies (K.S.A. 74-8709(d)); however, it must approve the Lottery's proposed annual budget and all major procurements recommended by the Executive Director (K.S.A. 74-8909(d) through (f)).

The Executive Director selects and contracts with retailers who must meet qualifications enumerated in statute (K.S.A. 74-8708(g) and (h)). Those retailers are the only entities from which lottery tickets can be purchased (K.S.A. 74-8718(a)(2)). There is nothing in statute to preclude such retailers from being bingo licensees or licensees of the Racing Commission or Alcoholic Beverage Control.

The Lottery is authorized to adopt rules and regulations; however, temporary rules and regulations are not subject to the state's statutory rule and regulation oversight process established

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<sup>2</sup> Since emergence of the issues of tribal gaming and the scope of gambling permitted in Kansas, the precise meaning of the term lottery in the *Kansas Constitution* has been a matter of debate. In accordance with 1993 S.R. 1844, the Attorney General (through outside counsel) has filed a petition for writ of mandamus and quo warranto seeking an interpretation of the *constitutional* provision. Oral arguments in that case are scheduled for September 15, 1993.

<sup>3</sup> Financial accountability is clearly the objective of K.S.A. 74-8707, which requires the accounts and transactions of the Kansas Lottery and Commission to be subject to an annual financial-compliance audit, to be performed under the direction of the Legislative Post Audit Committee.



in K.S.A. 77-415 et seq. Rules and regulations may include specified information about the implementation of lottery games and the awarding of prizes (K.S.A. 74-8710(a)-(j)).

A significant difference between the bingo and lottery statutes is that the former are much more prescriptive about the treatment of prizes, operation of games, and the nature of premises for games than are the latter. Many specifics regarding implementation of bingo games are set forth in statute, whereas lottery statutes leave specifics of games to be articulated in rules and regulations (which in this case, are less regulatory than descriptive as to games will be conducted). The disparate treatment might be attributed to the fact that bingo is conducted by third parties whose conduct is to be regulated by Secretary of Revenue, while the Lottery is conducted by the state. As was previously noted, the Lottery is not a licensing agency and conditions on third party actions are primarily included in contracts. To some extent, differences in the games themselves (call and instant bingo are identifiable, nonchanging games, whereas lottery games may take several forms) may account for the dissimilar treatment in statute.

### C. The Racing Commission

The Kansas Racing Commission exercises regulatory and enforcement responsibilities over licensees that conduct horse or greyhound races. The Commission is composed of five members appointed by the Governor and confirmed by the Senate. Statutory authority granted the Racing Commission includes more direct policy-making authority than is provided the Lottery Commission, which appears to exercise more express advisory authority (compare 74-8804 to K.S.A. 74-8709(d)). The Executive Director of the Racing Commission, for example, is appointed by the Commission while the Executive Director of the Lottery is appointed by the Governor (This appointment authority was given to the Racing Commission in 1990, three years after initial passage of the Act). Much of the Racing Commission's Executive Director's statutory authority relates to personnel matters (K.S.A. 74-8805). In contrast, the Executive Director of the Lottery appears to have considerable independent administrative and contractual power beyond the scope of personnel matters (K.S.A. 74-8704). The differences between the statutory powers of the Executive Director positions in these agencies represent two different policy approaches on the part of the Legislature. The authority provided by Kansas law with respect to the Racing Commission, however, is very similar to that found in other states' lottery and racing statutes. (See the enforcement section for further comparisons.)

The Racing Commission is required to adopt rules and regulations, as necessary, to implement and enforce the parimutuel laws (K.S.A. 74-8804(q)). The Racing Commission assigns much of its procedure for implementation of those laws to rules and regulations.

## HOW ARE GAMBLING ACTIVITIES REGULATED, PROMOTED, ENFORCED, AND TAXED IN KANSAS?

### A. Regulation/Licensure

1. **Bingo.** The state has exclusive authority to "regulate, license, and tax the management, operation, and conduct of and participation in games of bingo" (K.S.A. 79-4702). Such regulatory authority manifests itself in the statutes in several ways. Kansas' bingo statutes

specifically define those non-profit organizations enumerated in the *Constitution* as exclusively eligible to conduct bingo games (K.S.A. 79-4701). Those include religious, charitable, fraternal, educational, or veterans' organizations, all of which must be non-profit and tax exempt. Any such organization that wants to conduct bingo games must be licensed by the Secretary of Revenue.

Statutes regulate a number of aspects of the conduct of bingo games:

- a. grounds for not issuing bingo licenses to organizations (criminal offenses on the part of officers, directors, officials, or certain employees; K.S.A. 79-4703);
- b. conditions under which persons may be involved in the management, operation, or conduct of bingo games (Section 4 (b) through (e) and (n) of 1993 S.B. 181; K.A.R. 92-23-9), or in bingo card distribution (New Section 5(a) through (c) of 1993 S.B. 181);
- c. conditions for authorized use of the licensee premises for bingo games (Section 4(g) and (q) through (t) of 1993 S.B. 181) and for conduct of such games (Section 4(g) and (k) of 1993 S.B. 181; K.A.R. 92-23-11 through 14);
- d. conditions under which moneys must be deposited (Section 4(u) of 1993 S.B. 181; K.A.R. 92-23-15), records must be kept (Section 4(m) and (n) through (v); New Section 5(d) of 1993 S.B. 181; K.A.R. 92-23-38), tickets or cards (call and instant bingo) may be sold or purchased by the licensee (Section 4(j) and (w) through (z) of 1993 S.B. 181), and prizes may be awarded (Section 4(f) and (h) through (i) of 1993 S.B. 181; K.A.R. 92-23-10, 92-23-16); and
- e. conditions under which bingo games may be promoted and advertised (Section 4(o) and (p) of 1993 S.B. 181).

The 1993 Legislature enacted S.B. 181, which expanded the type of bingo game authorized under statute, to include instant bingo (commonly known as "pull tabs"). Instant bingo can only be conducted by entities licensed to conduct call bingo. (Bingo authorized prior to enactment of S.B. 181 is now classified as "call bingo" to distinguish it from instant bingo.) This bill authorized instant bingo for one year -- until July 1, 1994.

2. **Lottery.** The Lottery does not regulate games under its jurisdiction -- it conducts those games. Although the agency does not license retailers, the Executive Director is authorized to contract with persons to sell lottery tickets or shares (K.S.A. 74-8704(a)(4)).

One quasi-regulatory function statutorily assigned to the Lottery is that of ensuring that employees, contractors and vendors do not have criminal connections or backgrounds. The Executive Director of the Lottery is authorized to submit fingerprints of certain employees and other persons in sensitive positions to the KBI or FBI for purposes of verifying the identity of such persons and obtaining criminal records (K.S.A. 74-8704(a)(9)). The KBI conducted 40 criminal history record checks for the Lottery in FY 1992, reduced from 545 in FY 1991 and 1,651 in FY 1990 (Post Audit

Report, April 1993, p. 8).<sup>4</sup> The KBI, Secretary of Revenue, the Securities Commissioner, and the Attorney General may be contacted by the Executive Director to assist in background investigations of any person having a beneficial interest in a vendor (K.S.A. 74-8705(c)). For CY 1987-92, the KBI conducted 438 background checks for the Lottery (Post Audit Report, April 1993, p.7).

3. **Parimutuel.** Unlike the Lottery, the Racing Commission exercises a licensing function. Only nonprofit organizations (not-for-profit corporations or county fair associations) may conduct races with parimutuel wagering (*Kansas Constitution*, Art. 15 §3b and K.S.A. 74-8802(s) and 74-8813). These organizations must be licensed by the Commission. Prescribed in statute are the qualifications for licensure of not-for-profit corporations (K.S.A. 74-8813(c)), as well as application procedures (K.S.A. 74-8813(a)-(b); K.A.R. 112-3-1, 112-3-7, 112-3-9 through 14, and 112-3-16), and conditions upon which a decision may be made to grant a license to an organization (K.S.A. 74-8813(f)). Application and licensure procedures for county fair associations are set forth in K.S.A. 74-8814. The Commission is required to review organization licenses at least once a year to determine compliance with the law (K.S.A. 74-8813(i), K.A.R. 112-3-15), and must approve all contracts and agreements (including modifications thereto) of licensees that involve prospective licensee employees, suppliers of goods and services, facility leases, and the operation of any concessions within or adjacent to racetrack facilities (K.S.A. 74-8813(n)).

In addition to nonprofit organizations, facility owners and managers must be licensed by the Commission (K.S.A. 74-8815). A facility owner may be a person, partnership, corporation, association, or governmental unit licensed to construct or own a racetrack facility. A facility manager may be any person, partnership, corporation, or association licensed to manage a racetrack facility.

Conditions a facility owner or manager must satisfy in order to be granted a license are enumerated in statutes (K.S.A. 74-8815(e)-(g)), as are application requirements (K.S.A. 74-8815 (c)-(d)). Application procedures are established in Commission rules and regulations (owners: K.A.R. 112-3-3 through 4, 112-3-8 through 10, 112-3-13; managers: K.A.R. 112-3-5 through 6, 112-3-8, 112-3-12). As with organization licenses, facility owner and manager licenses must be reviewed at least once a year for compliance with the law (K.S.A. 74-8815(h)).

The Commission is also responsible for granting occupation licenses and concessionaire licenses. Any owner of horses or greyhounds and any person who works at a racetrack must have an occupation license (K.S.A. 74-8816; K.A.R. 112-4-1). Any business not owned and operated by the organization licensee that sells goods at the racetrack must have a concessionaire license (K.S.A. 74-8817). Commission regulations are very expansive on, and specific with respect to, qualifications and responsibilities of certain occupation licensees (jockey, apprentice jockey, jockey agent, program trainer, starter, paddock judges, patrol judges, placing judges and timers, clerk of scales, racing secretary, identifier, kennel master, director of racing, lure operator, and racing secretary, mutuel manager, and animal health officers).

The Commission's regulatory oversight includes employment and oversight of stewards (horse racing) and racing judges (greyhound racing) who must have occupation licenses and who must

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<sup>4</sup> The reduction in numbers could be attributed to the fact that the Lottery increased its reliance on the Automated Statewide Telecommunications and Records Access Network provided by the FBI, instead of obtaining that information from the KBI. The KBI audited the Lottery's use of that network in January 1993, and determined that it was an improper use of the network. The Lottery indicated that it would request such record checks from the KBI in the future (Post Audit Report, April 1993, p. 9).

pass examinations prepared by the Commission. For each race the Commission is required to appoint three individuals to serve in that capacity. Such individuals are unclassified employees of the Commission (K.S.A. 74-8818). Responsibilities of stewards and racing judges are outlined in regulations (K.A.R. 112-5-2 and 112-6-2, respectively).

Organization licensees, together with facility owner licensees (if the racetrack is owned by the latter), must obtain a simulcasting license from the Commission in order to display simulcast horse and greyhound races and to conduct intertrack parimutuel wagering thereon (K.S.A. 74-8836(a)).

The Commission also must review and approve proposed construction and major renovation to racetrack facilities and all contracts with racetracks or businesses involved in simulcasting races to racetrack facilities in Kansas (K.S.A. 74-8813(g)-(h)).

Moreover, the Commission must allocate race dates, approve facilities used for races (K.S.A. 74-8804(e), K.S.A. 74-8819(a)), the form of wagering (K.S.A. 74-8819(b), K.A.R. 112-9-3), and the minimum purse to be paid out in stakes races during each race meeting (K.S.A. 74-8820(a)). The treatment of parimutuel pools and races is prescribed in detail in regulations (K.A.R. 112-9-9 through 23).

Conflict of interest provisions prohibit officers, directors or members of an organization licensee (other than a county fair association or horseman's association) from having a direct or indirect financial interest in a racetrack facility or a host facility for a simulcast race during or five years after that person's term expires (K.S.A. 74-8810(a)).

Licensees of the Racing Commission are prohibited from recruiting persons under 18 years old from promoting parimutuel wagering (K.S.A. 74-8839).

**4. Indian Gaming.** State/tribal gaming compacts submitted to the Legislature to date clearly designate tribal gaming agencies as the authorized licensing and regulatory body for Class III gaming on tribal lands.<sup>5</sup> A State Gaming Agency (to be designated by the state) would exercise regulatory oversight of the proposed gaming activities to the extent that the agency, in conjunction with the KBI, would have a monitoring and enforcement role (see enforcement section), and to the extent that the agency would have to concur with proposed gaming rules and with the Tribal Gaming Agency on proposed supervisory staffing, and would receive reports and proposed management contracts from the Tribal Gaming Agency.

The issue of delegation of the state's role under a state/tribal compact to regulate Class III gaming was addressed in *State of Kansas, ex rel., v. Finney*. The original compact between the Governor and the Kickapoo nation that was the subject of that lawsuit, provided for state implementation to be conducted by the Lottery. The Court's opinion took issue with this proposed *modus operandi* because the Lottery's statutes do not authorize those powers, nor was the Lottery authorized to adopt rules and regulations to implement this new function. The Court held that a

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<sup>5</sup> Proposed gaming compacts with the Kickapoo and Potawatomi nations were submitted to, but not approved by, the 1993 Legislature. A proposed compact with the Iowa nation was submitted to, but not approved by, the Legislative Coordinating Council after adjournment of the 1993 Legislature. Consideration of those proposed compacts was in accordance with 1993 Senate Sub. for House Sub. for H.B. 2023.

state agency's power to adopt rules and regulations is a delegation of legislative authority and that creation of a state agency is a legislative function. Although the Court's decision raises questions about the legality of a State Gaming Agency established by the Executive Branch rather than the Legislature, it does not, with the possible exception of dissemination of information from the KBI, take a position on the appropriate duties of such an agency. With respect to the KBI, the Court decision notes that existing law does not authorize release of information by the KBI to the tribe or Tribal Gaming Agency as would have been required under all versions of proposed compacts presented to date.

## **B. Promotion**

1. **Bingo.** The state does not directly promote bingo games, except to the extent that permitting those games can be interpreted to be promotion. Promotion by licensees and operators is restricted to some extent by statute (see section on regulation/licensure above).

2. **Lottery.** Promotion is clearly the major function of the Kansas Lottery, as evidenced by the statutory requirement that the Executive Director of the Lottery select as lottery retailers "... such persons as deemed best able to serve the public convenience and promote the sale of tickets or shares in accordance with marketing plans developed by the Kansas Lottery" (K.S.A. 74-8708(a)). To ensure that promotion activities are optimally effective, the Executive Director may engage a firm experienced in research marketing analysis to evaluate marketing effectiveness and make recommendations to enhance marketing programs (K.S.A. 74-8706(e)). The Kansas Lottery Commission is also authorized to enter into written agreements with one or more states or corporations for joint lottery activities, and to participate in the operation, marketing, and promotion of such activities (K.S.A. 74-8709(g)). That is the statutory authorization for Kansas participation in the multi-state lottery, the interstate agreement which is codified in K.S.A. 74-8731.

3. **Parimutuel.** Funds appropriated by the Legislature for the promotion of horse and greyhound racing must be paid from the State Racing Fund (the primary funding source for Racing Commission operations), but there is no statutory requirement that the Legislature appropriate moneys for that purpose (K.S.A. 74-8826(c)).

Amounts credited to the Greyhound Tourism Fund<sup>6</sup> are earmarked for greyhound-related tourism. However, expenditures from that fund are made by the Secretary of Commerce or the Secretary's designee (K.S.A. 74-8831). Thus, that aspect of promotion is not conducted by the regulatory agency.

K.S.A. 74-8838 requires that one-third of taxes paid on the takeout from parimutuel pools for simulcast races be credited to the County Fair Horse Racing Benefit fund. That revenue is to be used to defray a variety of race-related and licensure expenses of the Commission and county fair associations. While the statute does not specifically give the Racing Commission a role in promoting those races, dedication of revenue to facilitating the expansion of parimutuel racing might be interpreted as promotional.

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<sup>6</sup> The Greyhound Tourism Fund is the repository for 15 percent of funds credited annually to the Greyhound Breeding Development Fund. Unclaimed winnings from wagers in greyhound races are credited to the latter fund.

4. **Indian Gaming.** None of the proposed compacts presented to the Legislature address promotional activities; presumably, such activities would be considered an appropriate responsibility of the tribe and not the state and therefore would not be included in a compact.

### C. Enforcement

1. **Bingo.** Enforcement of bingo laws is assigned to the Secretary of Revenue who is required to "adopt and enforce rules and regulations to regulate, license, and tax the management, operation and conduct of games of bingo and participants therein and to properly administer and enforce the provisions of this Act."

The Secretary of Revenue is vested with authority to suspend or revoke licenses upon findings of violations of bingo laws, and to enjoin any person from managing, operating, or conducting games if such person lacks a valid license or registration certificate (K.S.A. 79-4707; K.A.R. 92-23-39). The Director of Taxation of the Department of Revenue also may impose financial penalties for failure to prepare and submit tax returns and to pay applicable taxes (Section 3(c) through 3(f) of 1993 S.B. 181). In addition, the Secretary of Revenue or the Secretary's designee is also authorized to impose civil fines not to exceed \$500 per violation (New Section 8 of 1993 S.B. 181). Enforcement powers of the Revenue Department also extend to authorization of the Director of Taxation to inspect books and records of bingo game operations (K.A.R. 92-23-38(c)).

2. **Lottery.** Enforcement authority of the lottery laws rests largely but not exclusively with the Executive Director and Lottery employees. Among the Executive Director's enforcement powers are the ability to require lottery retailers to furnish proof of financial stability; examine, or designate employees to examine, any materials of a retailer to document compliance with the law; issue subpoenas to gain access to retailer records; and administer oaths and take depositions (K.S.A. 74-8704(a)(5) through (a)(8)). Employees designated by the Executive Director as law enforcement officers are authorized to: make arrests, conduct searches and seizures, and carry firearms while investigating violations of the law or in the course of routine conduct of their duties; and issue notices to appear in court (K.S.A. 74-8714). Enforcement responsibilities are also assigned to an Assistant Attorney General who works exclusively with the Lottery to enforce criminal and civil provisions of the Act (K.S.A. 74-8715).

3. **Parimutuel.** Like the Lottery, the Racing Commission has certain statutory enforcement powers and those powers are to some extent shared with other agencies, particularly the KBI. As is reviewed in the attached memorandum, there have been ongoing questions about which agency (KBI or Racing Commission) the Legislature intended to conduct investigations under the Parimutuel Racing Act (Attachment I). Appropriations actions since FY 1988 suggest that the Legislature intended the KBI to assume a prominent role in such activities, but the Legislature has not clarified its position on this matter in the Parimutuel Racing Act.

More recently, the 1993 Legislature addressed the relationship of the Racing Commission to the KBI. An effort to clarify that relationship was made in the version of 1993 H.B. 2427 that passed both houses. In addition to other things, the bill stated that the KBI was an investigative agency of criminal violations of the Act and rules and regulations of the Commission; that such responsibility could be executed independently by the KBI or in conjunction with the Racing Commission; and that each agency must report to the other any suspected or actual criminal violations occurring at a racetrack facility. Late during consideration of the bill, the Legislature learned that the Racing Commission and the KBI were negotiating a memorandum of understanding

regarding their respective jurisdictions and responsibilities. The Conference Committee on the bill deleted provisions that addressed investigative responsibilities, and the bill was signed into law without those provisions.

Enforcement powers are generally assigned to the Racing Commission and not to the Executive Director, as is the case in the lottery statutes. The Racing Commission, like the Lottery's Executive Director, may require fingerprinting of ". . . all persons necessary to verify qualification for any license. . ." (K.S.A. 74-8804(n), K.A.R. 112-3-19). Moreover, the Racing Commission is statutorily required (the Lottery is only authorized) to submit fingerprints to the KBI or FBI for purposes of verifying the identity of such persons and obtaining criminal records. The Commission is authorized to receive from the KBI and other criminal justice agencies any information related to criminal and background investigations, as needed, to determine licensee and applicant qualifications (K.S.A. 74-8804(o), K.A.R. 112-3-19).

From 1987 through 1992 the KBI conducted 371 background checks for the Racing Commission<sup>7</sup>. From FY 1990 to FY 1992 the KBI's record of criminal history checks for the Racing Commission reflects a reduction from 6,224 (FY 1990) to 1,624 (FY 1992), most likely because licensing activity diminished once the tracks were established<sup>8</sup>.

The Racing Commission, like the Executive Director of the Lottery, also is authorized to examine, or to have examined, books, papers, records or memoranda of licensees (in the case of the Lottery, of retailers) for the purpose of ascertaining compliance with the Act; in addition, like the Lottery's Executive Director, the Racing Commission may issue subpoenas to gain access to such materials (K.S.A. 74-8804(c) and (d)). The same authority accorded the Executive Director of the Lottery with respect to administering oaths and taking depositions is accorded the Racing Commission and hearing officers (K.S.A. 74-8804(b)).

The Commission is allowed to impose sanctions for violations of the Act. These sanctions may include prohibiting a licensee from participation in a race meeting or racetrack facility or from conducting business with any person under certain circumstances, specified in law (K.S.A. 74-8804(f), K.A.R. 112-4-23). Other sanctions include suspension of a horse or greyhound involved in violations (K.S.A. 74-8804(i)); and suspension or revocation of a license or imposition of a civil fine for certain violations (K.S.A. 74-8813(j), (s), (t); K.S.A. 74-8815(i), (l), ); K.S.A. 74-8816(f); K.S.A. 74-8817(e) and (f); K.S.A. 74-8837(e) and (f)). The Commission also is authorized to impose civil fines for any violations, for which no specific penalty is provided (K.S.A. 74-8804 (k)).

The Executive Director of the Racing Commission has similar authority to the Executive Director of the Lottery with respect to designating certain employees to enforce the law (K.S.A. 74-8807, K.A.R. 112-11-12). However, in the case of the Racing Commission's law enforcement personnel, the Commission must approve the Executive Director's designations. The Commission's security personnel or the KBI are authorized to search without warrant any occupation licensee's person, personal property, or work area and any concessionaire licensee's work area or personnel property for purposes of investigating possible criminal violations of the Kansas Racing Act (K.S.A. 74-8816(d); K.S.A. 74-8817(c); K.A.R. 112-11-12).

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<sup>7</sup> Post Audit Report, April 1993, p. 7.

<sup>8</sup>Ibid., p.8.

The Attorney General may appoint not more than two assistant attorneys general to assist the Commission in all aspects of implementation of the act, including enforcement (K.S.A. 74-8809).

**4. Indian Gaming.** The proposed tribal-state gaming compacts that have been submitted to the Legislature indicate that enforcement activities would be shared by the Tribal Gaming Agency and the state. The Tribal Gaming Agency would be authorized to: enforce all relevant state laws related to gaming operations; employ qualified inspectors or agents under its jurisdiction; investigate any reported violation of compact provisions, require remedies, and impose fines and sanctions, as needed. The Tribal Law Enforcement Agency would be authorized to carry out law enforcement related to provisions of the compact.

The State Gaming Agency and KBI, for their part, are authorized to monitor gaming operations to ensure compliance with provision of the compacts. The KBI is also authorized to conduct background checks. The state would have exclusive criminal jurisdiction over non-Indians and would share criminal jurisdiction with the Tribe over Indians.

#### **D. Tax/Revenue Collection**

**1. Bingo.** The state receives tax and fee revenue from bingo enterprises. Revenue from license fees and one-third of the bingo tax goes to the State General Fund. The balance of bingo tax receipts are earmarked for use by the state or localities for enforcement of bingo laws (Section 6(b) of 1993 S.B. 181). For call bingo, the tax rate is 3 percent upon gross receipts and for instant bingo, 1 percent upon the total retail price of all tickets in a box (Section 2(a) and (b) of 1993 S.B. 181).

Each licensee operating or conducting bingo games in Kansas must make a tax return and remit to the Department of Revenue all enforcement taxes due for the preceding month (K.S.A. 79-4705, K.A.R. 92-23-39).

**2. Lottery.** In contrast to bingo, state revenue from lottery games is not generated from a tax (The state does not tax a product it sells to the public. Indeed, lottery tickets are exempt from the state sales tax; see K.S.A. 74-8721). Since there is no licensing requirement no fees are generated from license fees. However, applicants to lottery retailer contracts must pay an application fee (K.S.A. 74-8710). Lottery revenues are generated entirely from ticket sales. Each contract between the Lottery and a retailer requires that the retailer have the capacity to relay to the Lottery proceeds from ticket sales electronically.

**3. Parimutuel.** The Racing Commission has certain tax collection responsibilities that are similar to responsibilities of the Department of Revenue in regard to bingo taxes. The Commission is required to audit and verify that the amount of tax received from each organization licensee is correct (K.S.A. 74-8823). With respect to the tax on wagers, the Commission collects the tax from each organization licensee no later than the business day following the day during which wagers were made. The Commission is required to remit those taxes to the State Treasurer (1993 S.B. 78(c)). The same time schedule applies to the collection by the Commission of admission tax (K.S.A. 74-8824). In addition to receiving application and licensure fees, the Commission collects the



tax on the gross amount wagered (handle) for live and simulcast races<sup>9</sup>. In addition to the tax on wagering, there is a 10 percent tax on admissions to race meetings. One half of admission tax proceeds are remitted to the city or county in which the racing facility is located (K.S.A. 74-8824(b)). The remaining half is remitted to the State Racing Fund, to which are also credited proceeds from the wagering tax, application fees, license fees, and fines. Generally, all operating (regulatory and enforcement) expenses of the Commission are financed from the Fund (K.S.A. 74-8826(b) and (c)).

4. **Indian Gaming.** The federal Indian Gaming Regulatory Act prohibits states from imposing any tax, fee, charge or assessment upon a Tribe, any management contract, or any gaming activity or operation and this prohibition is acknowledged in the proposed tribal-state compacts that have been submitted to the Kansas Legislature. However, these compacts provide for reimbursement by the tribe of the state's expenses for implementation of the compact.

### WHAT LIMITATIONS ARE PLACED ON GAMBLING IN KANSAS?

1. **Bingo.** Restrictions placed on the conduct and participation in bingo games are discussed above in connection with regulation/licensure.

2. **Lottery.** Certain restrictions govern participation in lottery games. First, there are limitations on who is allowed to purchase lottery tickets. Minors may not participate in the lottery (K.S.A. 74-8718(a)(3)). Certain other individuals, by virtue of their position relative to the Lottery, also cannot participate: the Executive Director and members of the Commission; vendors of gaming equipment or tickets; and family or household members of those persons (K.S.A. 74-8719 (a)).

Second, there are limitations on the types of lottery games that are authorized; instant lottery, on-line games, and traditional games are permitted, but video lottery games are prohibited (K.S.A. 74-8710(a)).

Third, there are limitations on allowable promotion and advertising of lottery games. The Kansas Lottery is prohibited from advertising or promoting lottery games at amateur athletic or sporting events (K.S.A. 74-8704(b)). Also prohibited is the recruitment of persons under 18 years old for advertising or promoting lottery games.

Fourth, there are restrictions governing business interests of the Executive Director, Commission members, and Lottery employees (K.S.A. 74-8716(a)(1)). Those restrictions are imposed to prevent conflicts of interest between the statutory and private business interests of those individuals.

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<sup>9</sup> The 1993 Legislature amended the formula for the tax rate imposed on greyhound wagering to make the increase in the tax rate contingent upon the amount wagered (1993 S.B. 78). As originally enacted the tax rate was subject to increase after a track had been in operation a specific number of years. The tax rate applied to live horse and simulcast racing is 3/18 of the takeout, equivalent to 3 percent of the handle, the minimum tax rate permitted under the *Constitution*.

3. **Parimutuel.** Certain restrictions govern participation in races and associated parimutuel wagering. Just as minors are not allowed to purchase lottery tickets, they also may not participate in parimutuel wagering (K.S.A. 74-8810(j), K.A.R. 112-9-31). Conflict of interest provisions prohibit commissioners from having direct or indirect financial interest in a racetrack facility or a host facility for a simulcast race during or five years after that person's term expires (K.S.A. 74-8810(a)). Other conflict of interest provisions apply to all members, appointees, and employees of the Commission with respect to horse or greyhound races (K.S.A. 74-8810(b) through (f)).

4. **Indian Gaming.** Proposed compacts presented to the Legislature during 1993 included provisions prohibiting gambling by persons under the age of 21. Any restrictions that would be imposed on state personnel involved in implementation of tribal-state compacts would have to be included in authorizing legislation. Restrictions imposed on tribal regulators would be a matter of tribal law.

## PART II

The research for this section involved reviewing statutes and summaries of statutes from many, but not all states, in which some form of gambling is legal. States structure gambling regulation in a variety of ways, but most have created separate agencies or semi-autonomous divisions for oversight of different types of gambling. Commonly, state lotteries are operated by a free-standing or nearly free-standing agency. Parimutuel wagering also is commonly regulated by an agency or division that has a single focus. In many cases bingo is regulated by the state tax collection agency. Charitable gambling, which takes many forms, may be regulated by the tax collection agency, the state's law enforcement agency, the state lottery or a separate gaming agency.

In most cases it appears that the structure of gambling oversight reflects, at least in part, the evolution of gambling in the state. The structure also may reflect the function or functions of primary importance to policy makers, *eg.*, oversight by a division of the state police agency might reflect a concern about criminal involvement while oversight by the tax agency may reflect an emphasis on tax/revenue collection.

Some states have reexamined their structure of gambling oversight in recent years. The impetus for that reexamination in at least some cases has been the expansion or possible expansion of types of legal gambling -- generally the advent of commercial casinos.

We have been unable to locate any studies that speak to regulatory structures that are more effective than others. One can only assume that in this area, as in many others, the most appropriate structure is the one that works best in the context of the regulated industry and law enforcement operations in the state.

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

In a 1988 report to the governor of New Jersey, the Governor's Advisory Commission on Gambling endorsed that state's existing "two tiered" casino regulation/enforcement structure that places investigation and enforcement responsibilities with the Department of Law and Public Safety under the Attorney General and administrative/licensure functions with the semi-autonomous Casino Control Commission in the Department of Treasury. In addition to two agencies involved in regulation of casino operations, New Jersey also has separate agencies that regulate parimutuel wagering on horse races and a separate state lottery. The New Jersey Legalized Games of Chance Control Commission oversees implementation of municipal licensure of bingo games and raffles.

A 1992 study of the Connecticut Legislative Program Review and Investigations Committee was initiated because of questions about the existing oversight agency's regulatory performance at a time when the Legislature was considering authorization of additional types of gambling in the state. That study identified initially "... the inherent conflict between the division's role as both promoter and regulatory of gambling. . . ." The recommendation of that study was that regulation be separated from promotion and that the state cease to be involved in gambling as an operator. In the case of the state lottery, in which "... there is an overwhelming state interest to operate gaming. . ." a quasi-public governmental entity was recommended. The study also recommended that the state cease direct operation of off-track betting parlors.

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

The table that follows displays a brief summary of statutory structures of gambling regulation in Connecticut, Wisconsin, Iowa, Missouri and Montana. Those states were chosen because they have authorized more types of gambling than has Kansas and because they utilize oversight structures different from that found in Kansas -- and thus represent options for legislative consideration in the context of the potential for expanded legal gambling. Again, we emphasize that these examples were not chosen because they have been determined to be particularly effective regulatory structures, but rather because they are different, to some extent, from the structure currently in place in Kansas.

## REGULATION OF GAMBLING

State	Types of Gambling	Commission/Agency	Enforcement
Connecticut (Sec. 12-557b-12-578)	Lottery, parimutuel racing, jai-alai, off-track betting, charitable games, tribal gaming	Division of Special Revenue. Executive Director appointed by Governor/confirmed. Gaming Policy Board -- five members appointed by Governor/confirmed; four-year terms.	Special Police in Division of Special Revenue and Legalized Gambling Unit in Division of State Police responsible for criminal enforcement.
Wisconsin (15.64 <u>et seq.</u> and Ch. 561-565 and 569)	Parimutuel, bingo, raffles, crane games, lottery, and tribal gambling	3-member commission appointed by Governor. Divisions: Administrative Services, Gaming Security, Racing, Lottery. Subunits: Council on Charitable Gaming; Indian Gaming.	Gaming Security reports suspected criminal activity to Department of Justice. Department of Justice has primary enforcement role.
Iowa (Ch. 99A, 99B, 99D, 99E)	Parimutuel, riverboats, amusement concessions, bingo, raffles	State Racing and Gaming Commission (part of Department of Inspections and Appeals). Five-member commission appointed by Governor; Senate confirmations; 3-year terms. Commission appoints administrator, Senate confirmation.	Department of Inspections and Appeals and Division of Criminal Investigation
Iowa (Ch. 99E)	Lottery	Lottery Division of Department of Revenue and Finance. Lottery Commissioner and five-member Lottery Board appointed by Governor; Senate confirmation.	Racing and Gaming Commission Division of Criminal Investigation through contract with Lottery.
Iowa (Ch. 10A.102, 10A.104)	Indian Gaming (negotiation and implementation)	Department of Inspections and Appeals. Director appointed by Governor, confirmed by Senate every four years.	Under provisions of compacts.
Missouri (1993 S.B. 10 and S.B. 11)	Riverboat casinos; bingo (as of July 1, 1994); two separate divisions	Missouri Gaming Commission (Division of Department of Public Safety, but Department Director has no oversight or control responsibilities). Five members appointed by Governor; confirmed by Senate. Three-year terms/two-term limit. Commission appoints Executive Director and other employees.	Commission authorized to conduct background investigations. Commission may contract with federal, state, or local agencies. Criminal justice records available to Commission.
Missouri (313.200)	Lottery	Three-member Commission appointed by Governor, confirmed by Senate; six-year terms; Commission appoints Director.	Attorney General provides legal services (no outside counsel permitted). Commission may request Attorney General to investigate. Highway Patrol may initiate investigation and report to prosecuting authorities.
Missouri	Parimutuel racing (no commercial tracks have been established in Missouri)	Racing Commission	

State	Types of Gambling	Commission/Agency	Enforcement
Montana (23-4-101 <u>et seq.</u> )	Parimutuel	Board of Horse Racing. Five members appointed by Governor; confirmed by Senate; three-year terms. Under Department of Commerce. Director appoints Executive Secretary who hires staff subject to Board approval.	Not directly addressed in statute.
Montana (23-5-110 <u>et seq.</u> )	Commercial card games, VLTs, sport pools, bingo, keno, calcutta pools, and casino nights.	Department of Justice, headed by Attorney General. Gaming Advisory Council, nine members: 1 Senator, 1 Representative, 1 public, 2 local government, 1 Native American, 3 gaming industry representatives (no regulatory duties).	Department of Justice is law enforcement agency. Violations reported to County Attorneys; if they do not prosecute, Attorney General does.
Montana (23-7-101 <u>et seq.</u> )	State lottery.	Commission - five members appointed by Governor (under Department of Commerce for administrative purposes). Governor appoints Director of Lottery who is supervised by Commission.	Lottery Security Division is designated law enforcement agency. Reports violations to Attorney General, State Auditor, or other law enforcement.

Part II  
1-17

### PART III – ISSUES FOR COMMITTEE CONSIDERATION

As the Committee considers the structure and function of the agency or agencies charged with oversight of gambling, several questions emerge and might be used to guide Committee discussion:

1. Does the existing oversight effort provide for execution of all the necessary functions to implement Kansas policy regarding legal gambling? If not, which functions are not being carried out at all, or are being carried out incompletely?
2. Would some functions be more effectively or efficiently carried out by a single-purpose agency, *eg.*, bingo and parimutuel tax collection consolidated within the Department of Revenue?
3. Is there sufficient structural separation of functions to avoid internal conflicts for implementing agencies?
4. Are gambling laws, criminal and civil, being effectively and consistently enforced? If not, would consolidation of enforcement efforts in a single agency at the state level, or alternatively, delegation of more authority to local law enforcement entities, improve enforcement?

Discussion: In regard to these questions, the Committee may wish to request that an audit or study be conducted by Legislative Post Audit or by an outside consultant with expertise in the area.

5. Is a new structure for gambling regulation necessary or advisable?

Discussion: This question arises most frequently when new types of gambling are under consideration. Clearly, this is a policy decision for the Legislature. New types of gambling could be incorporated in the existing structure either by adding to responsibilities of existing agencies or by creating a new agency to oversee each new type of gambling. In either instance, the general structure of decentralized regulation would be preserved.

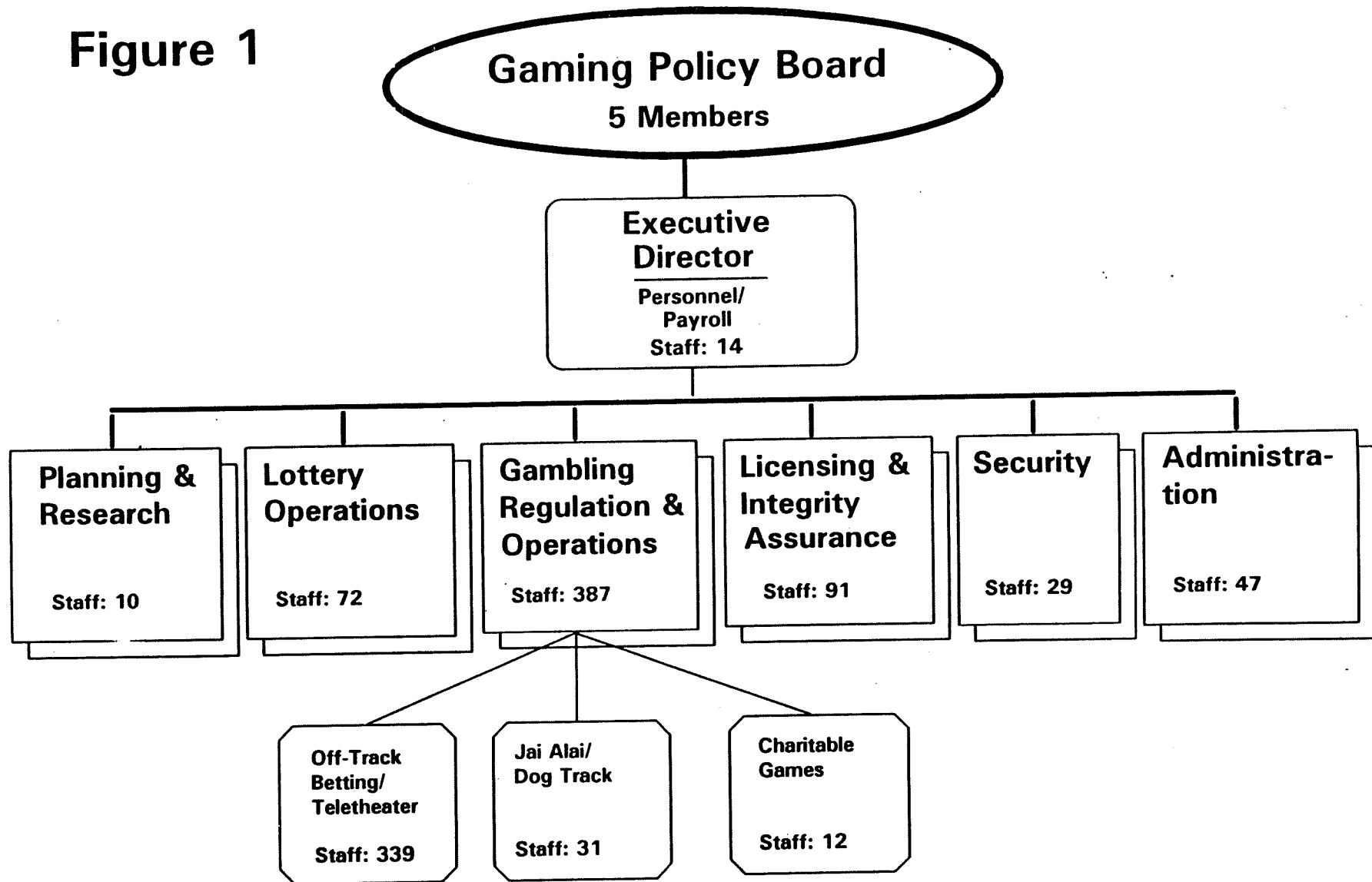
Alternatively, whether or not additional types of gambling are authorized, the Legislature could consolidate oversight in a number of different ways. For example:

- a single agency with a division for each type of legal gambling could be created to carry out all functions discussed above; or
- oversight of bingo and racing could be consolidated, leaving conduct of the lottery and/or law enforcement with separate agencies; or
- functions could be consolidated, but not necessarily within a single agency:

- tax collection and audit functions could be assigned to the Department of Revenue;
- licensure and regulation could be assigned to an entity with powers similar to those existing for the Racing Commission;
- enforcement could be consolidated in a law-enforcement agency; and
- the state's role in promotion could be conducted by a lottery-type agency.

Other structural options may be identified as desirable as the Committee refines its goals in regard to oversight of legal gambling.

**Figure 1**

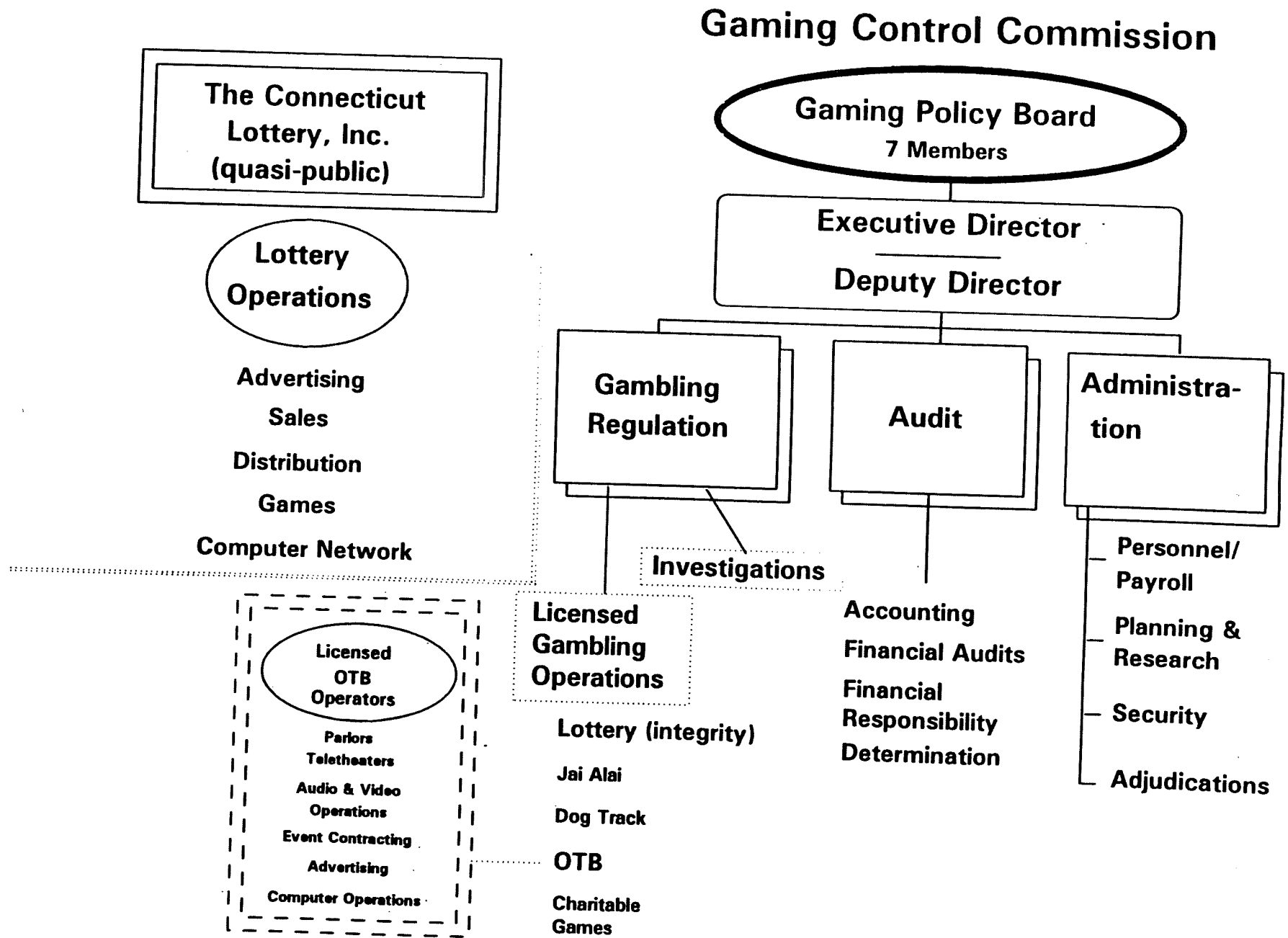


## Division of Special Revenue: Current Organization

Source: Staff Findings and Recommendations: Regulation and Operation of Legalized Gaming in Connecticut. Legislative Program Review and Investigations Committee. December 15, 1992.



# Figure 2: Proposed Organization



Source: Staff Findings and Recommendations: Regulation and Operation of Legalized Gaming in Connecticut. Legislative Program Review and Investigations Committee. December 15, 1992.

# MEMORANDUM

## Kansas Legislative Research Department

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November 20, 1992  
Revised July 6, 1993

**Re:** Kansas Bureau of Investigation's Role in Enforcement of the Parimutuel Racing Act

The following information was originally provided in response to a request for an analysis of legislative intent as to the role of the Kansas Bureau of Investigation (KBI) in conducting investigations under the Parimutuel Racing Act.

The Legislative Research Department cannot divine "legislative intent." However, this memorandum includes a review of versions of the Act from the initial draft proposed in 1986 by the Governor's Parimutuel Task Force to the 1992 amendments and appropriations and subcommittee reports from 1988 to 1992. While the Parimutuel Racing Act gives the Kansas Racing Commission broad law enforcement authority, policy established in appropriations acts appears to have placed much of the responsibility for law enforcement with the Kansas Bureau of Investigation. However, since the Act has not been substantially amended to reflect policy established in the appropriations process, an unambiguous statement of legislative intent on this question cannot be ascertained. The Legislature may mean for the KBI to have primary responsibility for investigations; it may mean for the KBI to work at the request of the Racing Commission; or, it may intend that the two agencies work in tandem.

The law enforcement and investigation authority contained in the Parimutuel Racing Act is only slightly different from the bill recommended by the Governor's Parimutuel Task Force prior to the 1987 Legislative Session. From the time of enactment in 1987, the Act provided the Racing Commission's law enforcement personnel with authority to conduct searches and seizures and to generally enforce all criminal laws of the state.<sup>1</sup> The Conference Committee that crafted the final version of the Act during the 1987 Session specifically directed that Racing Commission law enforcement personnel have the same law enforcement authority as personnel of the Alcoholic Beverage Control. That provision of the Act has not been amended. However, the Racing Commission's requests for additional security personnel have not been endorsed by the Governor or the Legislature, which might imply that the Legislature intends for the Racing Commission to have a limited investigatory role, notwithstanding the language of the Act.<sup>2</sup>

Specifically with regard to background investigations of applicants for licensure or of licensees, neither the Task Force draft, nor the bill as enacted in 1987, specified who would conduct those investigations. That seems to have been rectified to some extent when the Racing Commission was authorized by a 1988 amendment to the Act, to receive from the KBI or other criminal justice agencies, criminal history record information relating to criminal and background investigations.<sup>3</sup> While that amendment did not limit in any way the Racing Commission's ability to conduct

background investigations itself, it acknowledges that criminal history background information available to criminal justice agencies, including the KBI, would come from those agencies.

The 1987 law contemplated some areas of shared or overlapping authority between the Racing Commission and the KBI. An example is language requiring concessionaire and occupation licensees to consent, as a condition of licensure, to allow agents of the KBI or the Racing Commission to conduct warrantless searches of personal property and work areas within a racetrack facility.<sup>4</sup> Likewise, by requiring that applicants and licensees' fingerprints be submitted to the KBI and the FBI, it would appear that the Legislature anticipated that the KBI and the Racing Commission would work together, at least to the extent that the KBI provide a service to the Racing Commission.

The policy that the Racing Commission might seek assistance from and reimburse other agencies for services rendered during background investigations on license applicants' was solidified during the 1988 Session with creation of the Racing Investigative Expense Fund. The Act that created the Fund included a requirement that "[w]henver another state agency assists the commission in such investigation and incurs costs in addition to those attributable to the operations of such agency, such additional costs shall be paid from the racing investigative expense fund."<sup>5</sup> This provision does not require the Racing Commission to utilize other agencies, but simply establishes a mechanism for reimbursing those agencies the Commission utilizes in the course of conducting background investigations.

So, when one looks at the Parimutuel Racing Act, one sees a Racing Commission that is a licensing and regulatory entity with broad law enforcement authority. The scope of the Commission's authority includes the ability to draw upon other state agencies for assistance regarding background investigations of license applicants. There is no language in the Act requiring the Commission to defer to the KBI or to any other law enforcement agency during the course of any investigation, whether of license applicants' backgrounds or of violations of the Act.

Beginning with the 1988 Session, just a year after passage of the Parimutuel Racing Act, policy developed through the budget process appears to give the KBI a prominent role in enforcement of the Parimutuel Racing Act. The Governor's budget message to the Legislature at the beginning of that session included a proposal for creation of a Gaming Investigation Unit in the KBI, "to perform the investigations required by lottery and parimutuel legislation."<sup>6</sup> The Governor's budget also contained a reference to the "new and permanent" investigation responsibility that emerged from activities of the Racing Commission and Lottery.<sup>7</sup> The Governor's proposal was for initial financing of the unit (for the last part of FY 1988) from the State General Fund which was to be reimbursed to the extent possible.<sup>8</sup> That proposal also included eight FTE positions as staff for the unit. Costs of operating the new unit were to be recovered by the KBI to reduce the burden on the State General Fund in future years. The Legislature approved an FY 1988 emergency supplemental appropriation from the State General Fund to create the Gaming Investigation Unit and approved the eight FTE positions.<sup>9</sup>

Also during the 1988 Session, the Legislature created a special revenue fund for the KBI as a repository for funds received from both the Racing Commission and the Lottery as payments for services. Language was included in the appropriation for the KBI that authorized it to establish and collect fees for services provided to other agencies.<sup>10</sup> The relevant subcommittee report indicates that the Racing Commission was to be charged for work done at its request and for other costs attributable to work done to support the Racing Commission.<sup>11</sup> The Legislature placed a \$0

expenditure limitation on the fund, presumably to allow sufficient balances to accumulate to enable shifting the financing of the Unit away from the State General Fund.

The Governor recommended that the 1989 Legislature continue to finance operation of the KBI's Gaming Investigation Unit from the State General Fund. That recommendation would have continued the \$0 expenditure limitation on the special revenue fund for both fiscal years 1989 and 1990.<sup>12</sup> The 1989 Legislature authorized expenditures from the special revenue fund to support activities undertaken for the Lottery and Racing Commission during both fiscal years 1989 and 1990.<sup>13</sup> At that point, the policy appears to have been that the Racing Commission was to reimburse the KBI on a fee-for-service basis. As long as that was the situation, the Racing Commission could, theoretically, control the level and type of services provided by the KBI. That arrangement appears to be consistent with the Parimutuel Racing Act which places primary responsibility for enforcement of the Act with the Racing Commission.

In the 1990 Session, the relationship between the Racing Commission and the KBI appeared to change again. The Governor recommended expenditure of \$350,000 and \$364,000 during fiscal years 1990 and 1991, respectively, to support the Gaming Investigation Unit.<sup>14</sup> While nothing in the Governor's budget message spoke to the basis for the recommendation, presumably the Commission would have been billed for those amounts based on services rendered. In addition, the Governor's recommendation included expenditure of \$142,000 and \$98,000 during fiscal years 1990 and 1991, respectively, to pay for KBI fingerprint checks. The Governor's recommendation also included expenditure of \$85,000 in payments to the KBI during the two fiscal years for background investigations.<sup>15</sup> This set of recommendations separated support of the Gaming Unit from charges imposed for fingerprint checks and background investigations. That separation continues to be reflected in the Racing Commission's budget.

Rather than approve the Governor's recommendation that the amount recommended for support of the Gaming Unit be an expenditure by the Racing Commission, the 1990 Legislature instituted a transfer from the Racing Commission to the special revenue fund of the KBI.<sup>16</sup> The amounts budgeted for fingerprint checks and background investigations were approved as expenditures as recommended by the Governor. Use of the transfer mechanism eliminated the Commission's ability to exercise any discretion over what services would be provided and what services would be paid for (because the KBI would no longer have to bill the Racing Commission in order to receive those funds). With the advent of the transfer, which has been renewed each year by the Legislature, base support of the Gaming Investigation Unit ceased to be directly connected to services rendered.<sup>17</sup> In addition to the transfer, the Racing Commission has continued to pay the KBI for specific services, *i.e.*, fingerprint checks and criminal background checks, for which the Commission is billed.

The issue of how the Racing Commission and the KBI might work together to enforce the Parimutuel Racing Act and rules and regulations issued under the Act specifically came before the 1991 Legislature in the form of S.B. 366. The bill, requested by the KBI, would have amended the Act to make the KBI an investigative agency of criminal violations of the Act. Those investigative responsibilities would have been conducted either independently or in conjunction with employees of the Racing Commission. The bill specified that the two agencies would report results of their investigative activities to one another. The bill appeared to clarify investigative procedure, but actually may not have granted the KBI any additional authority, nor limited existing authority of the Racing Commission. The bill, as amended by the Senate Committee on Federal and State Affairs, was endorsed by the Executive Director of the Racing Commission. The bill was not taken up by the House committee to which it was referred.

Two Racing Commission security/investigative matters came before the 1992 Legislature. The Legislature made one amendment to the Act that speaks to investigative authority.<sup>18</sup> That bill limited the time during which the Commission may observe and inspect racetrack facilities. The amendment was sought by the Racing Commission. In his testimony, the Executive Director of the Commission stated: "The reason for the changes is to clarify that the Kansas Racing Commission has authority and regulatory oversight during the period of racing, but at other times the facility owner should be able to use its facility for purposes it deems appropriate."<sup>19</sup> Also, in its FY 1993 budget request, the Racing Commission proposed elimination of the position of Director of Security. The necessary legislation to implement that change was not introduced, however. It is unclear whether these two most recent issues indicate a desire on the part of the Commission to narrow its responsibility for law enforcement activities.

In summary, two actions of the Legislature subsequent to enactment of the Parimutuel Racing Act are evidence of a different relationship between the KBI and the Racing Commission than described in the Act. First was the advent of Racing Commission payments to the KBI when those payments were not directly attributable to services provided by the KBI; second, was the modification of the process used to move funds from the Racing Commission to the KBI. As a result of those actions, the authority granted to the Racing Commission in the Parimutuel Racing Act exists in tandem with a unit at the KBI dedicated solely to gambling related law enforcement.

When those actions are viewed in the context of rejection of repeated requests from the Racing Commission for expansion of its law enforcement staff, one might conclude that the Governor and Legislature intend for the KBI to assume the lead role in investigating and enforcing the Act. However, since this position was established through the budget process and by the Appropriations and Ways and Means committees which were not directly involved in development of the Parimutuel Racing Act, there is no way to know conclusively whether the Legislature intends for one policy to prevail over the other. One might argue that if the Legislature meant for the KBI to assume the lead role in enforcement of the Parimutuel Racing Act, it would have amended the Act, or at least would have enacted 1991 S.B. 366.

1. Law enforcement powers of employees of the Commission were enumerated at §8, p. 1 of the draft bill proposed by the Parimutuel Task Force. The only substantive change to that language was made by the Conference Committee on 1987 H.B. 2044 (L. 1987 Ch. 112 §7) which gave designated law enforcement personnel of the Commission authority to generally enforce all criminal law of the state as violations of such laws are encountered during performance of those employees' duties. (K.S.A 74-8807)
2. Budget analyses developed by the Legislative Research Department indicate that the Racing Commission requested additional investigators for FY 1990 (1989 Legislature) and FY 1991 (1990 Legislature).
3. L. 1988 Ch. 315 §3.
4. Authorization for those searches is found at K.S.A. 74-8816(d) and 74-8817(c). The Parimutuel Task Force recommendation included, at §24, p. 1 and §29, p. 1, language nearly identical to that currently in statute. The only amendment to those provisions was made by the Conference Committee on 1987 H.B. 2044 which removed references to warrantless searches of licensees' on-track living quarters. That change was made after the Committee was advised that such a provision might be unconstitutional.
5. K.S.A. 74-8835(c).
6. The Governor's budget message included the following recommendation: "A special Gaming Investigation Unit is proposed in the current year to perform the investigations required by lottery and parimutuel legislation. This unit is needed to allow the KBI to respond to these additional investigations while maintaining its existing investigative responsibilities. The ability of the Racing Commission and the Lottery to continue their activities is dependent upon an early implementation of this unit. Financing for this unit's expenditures will be from the State General Fund. However, the Governor recommends that these costs be reimbursed to the extent possible. Eight positions and support costs are recommended to establish this unit." Mike Hayden, Governor. *The Governor's Report on The State of Kansas Budget Fiscal Year 1989*. Volume 1, pp. 8-6.
7. Mike Hayden, Governor. *The Governor's Report on The State of Kansas Budget: Fiscal Year 1989*. Volume 2, p. 4-51.
8. See note 5 above.
9. "Subcommittee Report" on 1988 H.B. 2808 §4, Attorney General -- KBI. p. 2.
10. The Fund was initially created by 1988 H.B. 2808 §4 and has continued to be authorized only in appropriations acts. The most recent authorization for the Fund is at L. 1992 Ch. 222 §6.
11. "Subcommittee Report" on 1988 H.B. 2808 §4, Attorney General -- KBI. p. 2.
12. Kansas Legislative Research Department. *Fiscal Year 1990 Budget Analysis: Submitted to the 1989 Legislature*. p. 184.
13. "Subcommittee Report" on 1989 H.B. 2063 §35, p. 3. The House Appropriations Subcommittee increased the expenditure limitation on the Lottery and Racing Investigations Fee Fund for FY 1989 from \$0 to \$54,437. "Subcommittee Report" on 1989 H.B. 2027 §6, p. 2. The House Appropriations

Subcommittee increased the expenditure limitation on the Lottery and Racing Investigations fee fund from \$0 to \$10,375 for FY 1990. The Senate Ways and Means Subcommittee subsequently increased the expenditure limitation to \$156,273 for FY 1990.

14. Kansas Legislative Research Department. *Fiscal Year 1991 Budget Analysis: Submitted to the 1990 Legislature.* p. 171.

15. Ibid.

16. "Subcommittee Report" on 1990 S.B. 558 §11, p. 1. "Subcommittee Report" on 1990 S.B. 450 §5, p. 1.

17. L. 1990 Ch. 16 §10(c) states, in part, ". . . the director of accounts and reports shall transfer \$350,000 from the state racing fund to the lottery and racing investigations fee fund of the attorney general -- Kansas bureau of investigation for the purpose of financing a portion of the cost of operation and general expense of the Kansas bureau of investigation gaming unit." (Emphasis added.) That transfer was for FY 1990. Transfer language in subsequent appropriations has been essentially the same in regard to the purpose for which funds are transferred and to the extent that there is no requirement that the amount transferred be tied to services rendered.

18. K.S.A. 74-8804 (L. 1992 Ch. 286 §2).

19. "Testimony of Dana Nelson, Executive Director, Kansas Racing Commission, before the Senate Federal and State Affairs Committee, March 2, 1992." p. 2.

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JUL 1 10 02 AM '93

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS  
DIVISION 12

STATE OF KANSAS EX REL.  
ROBERT T. STEPHAN,  
ATTORNEY GENERAL,

Plaintiff,

v.

THE HONORABLE NANCY PARRISH,  
in her official capacity as  
Secretary of the Kansas  
Department of Revenue,

Defendant.

Case No. 91306762

PETITION FOR WRIT OF MANDAMUS AND QUO WARRANTO  
(Pursuant to K.S.A. Chapter 60)

COMES NOW the plaintiff, State of Kansas on relation of Robert T. Stephan, Attorney General, and pursuant to K.S.A. 60-801 et seq. as well as K.S.A. 60-1201 et seq. for its cause of action against the defendant, the Honorable Nancy Parrish, Secretary of the Kansas Department of Revenue, alleges and state as follows:

House Federal State Affairs  
7-15/16-93

Atch #2



1. Robert T. Stephan is the duly elected, qualified and acting Attorney General of the State of Kansas. The Office of the Attorney General was created by Kansas Constitution, Article 1 § 1. The powers of the Attorney General are found in the common law , K.S.A. 75-701 et seq., and through out the Kansas Statutes Annotated.

2. Nancy Parrish is the duly appointed, qualified and acting Secretary of the Kansas Department of Revenue. The Office of the Secretary of Revenue was created by statute. K.S.A. 75-5101. As of July 1, 1993, among the duties of the Secretary is the registration of instant bingo (pull tab) "ticket" distributors. 1993 Senate Bill No. 181, § 4 (x). Secretary Parrish in her official capacity may be served with process in accordance with K.S.A. 1992 Supp. 60-304(d)(5), by serving the Attorney General for the State of Kansas, or an Assistant Attorney General, and further served in accordance with K.S.A. 1992 Supp. 60-304(a) by certified mail at her official office located at the Kansas Department of Revenue, Docking State Office Building, 2nd Floor, 915 Harrison, Topeka, Kansas 66612-1588.

3. In its 1993 session the Kansas Legislature by majority vote approved the provisions of 1993 Senate Bill

No. 181; the Honorable Joan Finney, Governor of the State of Kansas subsequently sign 1993 SB 181.

4. 1993 SB 181 provides in part:

Section 1. K.S.A. 79-4701 is hereby amended to read as follows:

...  
(a) "Bingo" means the games of call bingo and instant bingo.

...  
(c) "Instant bingo" means a game: ... (3) in which each participant receives one or more disposable tickets which accord a participant an opportunity to win something of value by opening, detaching or otherwise removing a cover from the ticket to reveal a set of numbers, letters, symbols or configurations, or any combination thereof;...

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

Sec. 4. K.S.A. 79-4706 is hereby amended to read as follows:

...  
(x) No licensee shall purchase disposable paper call bingo cards or instant bingo tickets from any person or entity other than a bingo card distributor registered by the secretary of revenue as provided in this act.

5. On July 1 1993, SB 181 will be published in the statute book and take effect. See Attachment No. 1 for copy of enrolled version of 1993 Senate Bill No. 181.

6. In June of 1993 employees of the defendant Secretary forwarded to the Office of the Attorney General proposed rules and regulations providing for the registration of "instant bingo" (pull tab) ticket distributors. The Office of the Attorney General refused to approve said proposed regulations on the ground that the sale of pull tabs by private persons violates the Kansas Constitution's prohibition on lotteries. Kan. Const., art. 15, § 3. See June 7, 1993, letter from the Office of the Attorney General to Mark Burghart, General Counsel, Kansas Department of Revenue, Attachment #2.

7. Following the June 7th letter the Office of the Attorney General was informed by employees of the Secretary that pursuant to 1993 SB 181, she intended to proceed with the registration of "instant bingo" (pull tab) ticket distributors without rules and regulations, and in fact has registered over ten such distributors.

8. Article 15, section 3 of the Kansas Constitution provides that:

Lotteries and the sale of lottery tickets are forever prohibited.

9. Article 15, section 3a of the Kansas Constitution provides that:

Notwithstanding the provisions of section 3 of article 15 of the constitution of the state of Kansas the legislature may regulate, license and tax the operation or conduct of games of "bingo," as defined by law, by bona fide nonprofit religious, charitable, fraternal educational and veterans organizations.

10. Pull tabs are a form of lottery, notwithstanding the designation "instant bingo." 1993 SB 181 is an attempt to expand the availability of lotteries without a vote of the people. 1993 SB 181 is contrary to the provisions of Kan. Con. art. 15, § 3 and is not authorized by Kan. Con. art. 15, § 3a.

WHEREFORE, plaintiff State of Kansas prays the court issue a Writ of Mandamus and Quo Warranto:

1. Providing an authoritative interpretation of law which holds that those portions of 1993 SB 181 which establish and provide for the implementation of "instant bingo" violate Kan. Con. art. 15, § 3.


2. Providing an authoritative interpretation of law which holds that those portions of 1993 SB 181 which establish and provide for the implementation of "instant bingo" are not in conformity with Kan. Const., art. 15, § 3a

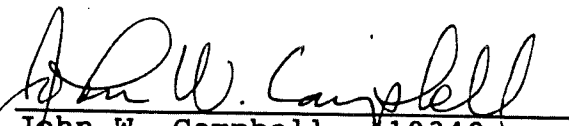
3. Enjoin the defendant Secretary of Revenue from acting under or pursuant to the those portions of 1993 SB 181 which establish and provide for the implementation of "instant bingo."

4. Command the defendant Secretary of Revenue to rescind the registration of any person or entity previously granted under those portions of 1993 SB 181 which establish and provide for the implementation of "instant bingo."

Respectfully submitted,

OFFICE OF THE ATTORNEY GENERAL

  
Robert T. Stephan, #05340  
Attorney General  
Kansas Judicial Ctr., 2nd Fl.  
Topeka, Kansas 66612-1597  
Attorney for Plaintiff

  
John W. Campbell, #10349  
Deputy Attorney General  
Kansas Judicial Ctr., 2d Fl.  
Topeka, KS 66612-1597  
(913) 296-2215  
Attorney for Plaintiff

STATE OF KANSAS

RICHARD W. RYAN,  
DIRECTOR  
BEN F. BARRETT,  
ASSOCIATE DIRECTOR  
ALAN D. CONROY  
CHIEF FISCAL ANALYST



STAFF—  
LEGISLATIVE COORDINATING COUNCIL  
INTERIM COMMITTEES  
STANDING COMMITTEES  
LEGISLATIVE INQUIRIES

THE LEGISLATIVE RESEARCH DEPARTMENT

300 W. TENTH—ROOM 545-N  
PHONE: (913) 296-3181/FAX (913) 296-3824  
TOPEKA, KANSAS 66612-1504

July 9, 1993

Mr. Ralph Decker, Executive Director  
Kansas Lottery  
128 North Kansas  
BUILDING MAIL

Dear Mr. Decker:

I am writing to follow-up on our phone conversation regarding your appearance before the House Committee on Federal and State Affairs at its meeting on July 15. A copy of the tentative agenda is enclosed for your convenience.

As we discussed, the Committee will be taking a broad view of how gambling is regulated and promoted, how gambling laws are enforced, and how gambling revenue and taxes are collected. Most of the morning and early afternoon's activities will be briefings from Research staff and the Attorney General. Staff will address Kansas' statutory structure for gambling oversight and will highlight structures used in several other states. The Attorney General has been asked to address a number of questions relative to tribal-state gambling compacts, ongoing litigation, and enforcement of criminal gambling statutes. Chairman Graeber thought this overview would be beneficial because so many members are new to the Committee and to gambling issues. In order to provide a complete picture of implementation of the state's gambling policy, each agency involved has been invited to describe the agency and its operation and to specifically address the following issues in that presentation.

- How does the agency view its role in regard to the major functions of gambling licensure/regulation, enforcement, promotion and tax/revenue collection? Which function is highest priority for the agency and why? How is that priority evidenced in expenditure and staffing patterns? Do other agencies assist with carrying out any of those functions? If so, please discuss those relationships and your assessment of the effectiveness of those arrangements.
- How is the agency organized and to what extent is the organization dictated by statute? Does the statutory organization scheme work to implement the agency's primary mission?
- How are the agency's operations financed? Please provide a summary of FY 1993 and FY 1994 revenue and expenditures.

House Federal and State Affairs  
7-15/16-93  
Attachment #3

Mr. Decker

- 2 -

- How many people are employed -- by function above?

Each agency should have approximately 30 minutes for its presentation and questions from the Committee. However, as you well know, these agendas have a tendency to expand and contract magically, so please try to be flexible.

If you have any questions, please feel free to give me a call.

Sincerely,

Mary K. Galligan  
Principal Analyst

93-6817/MKG/pb

Enclosure

STATE OF KANSAS



KANSAS RACING COMMISSION

3400 Van Buren  
Topeka, Kansas 66611-2228  
(913) 296-5800  
FAX (913) 296-0900

March 2, 1993

RE: Kansas Racing Commission Annual Report 1992

Dear Recipient:

The Kansas Racing Commission is pleased to forward a copy of its 1992 Annual Report.

This report is a narrative summary of the regulatory responsibilities of the commission and a statistical summary of the racing activities in the state of Kansas. A one page executive summary may be found on page 4.

If you have questions or would like us to forward additional copies, please feel free to contact the Topeka office at (913) 296-5800.

Respectfully,

A handwritten signature in cursive script that reads "Janet A. Chubb".

Janet A. Chubb  
Executive Director

Enclosure

JAC:kab  
KAB9318

House Fed. and State Affairs  
7-15/16-93  
Attachment 4



# ***Annual Report***



**1992**

**TOPEKA OFFICE**

***Kansas Racing Commission  
3400 S. W. Van Buren  
Topeka, Kansas 66611-2228  
Phone: (913) 296-5800  
Fax: (913) 296-0900***

**FIELD OFFICES**

***Kansas Racing Commission  
c/o The Woodlands  
P. O. Box 12306  
99th Street & Leavenworth Rd.  
Kansas City, KS 66112-2036  
Phone: (913) 788-3621  
Fax: (913) 788-3881***

***Kansas Racing Commission  
c/o Wichita Greyhound Park  
P. O. Box 277  
1500 E. 77th Street North  
Valley Center, KS 67147-0277  
Phone: (316) 755-2736  
Fax: (316) 755-3110***

STATE OF KANSAS



KANSAS RACING COMMISSION

3400 Van Buren  
Topeka, Kansas 66611-2228  
(913) 296-5800  
FAX (913) 296-0900

February 12, 1993

The Honorable Joan Finney  
Governor  
State of Kansas  
State Capitol - Second Floor  
Topeka, Kansas 66612-1590

Dear Governor Finney:

On behalf of the Kansas Racing Commission, I am pleased to present to you the 1992 Annual Report of the Kansas Racing Commission.

The report is a narrative and statistical summary of the regulatory responsibilities of the commission for calendar year 1992.

The parimutuel racing industry in Kansas represents a very important segment of the state's economy, not only as reflected by the operations of the racing facilities themselves, including those projected at the future planned Frontenac greyhound track and the desired development of a county fair type racing program in other parts of the state, but also through the economic activity represented by the breeding, development and related support activities for the racing animals throughout the state. The industry faces great challenges and the commission will do all that is possible, within its authority, to assist, and will continue to assure the integrity of parimutuel racing in Kansas.

The commission looks forward to working with you and your staff, and the legislative branch of government, in carrying out its responsibilities in this important area.

Respectfully,

*Robert C. Londerholm, Sr.*

Robert C. Londerholm, Sr., Chairman  
Kansas Racing Commission

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## ***Executive Summary***

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- ***Organizational Structure***

The Kansas Racing Commission is a five-member board, appointed by the governor. The commission appoints an executive director, who serves at the pleasure of the commission, administering its policies and enforcing its regulations. A staff of 41.5 full-time employees served the commission at its Topeka office and racetrack field offices in 1992.

- ***Parimutuel Revenues***

In calendar year 1992 almost \$240,000,000 was wagered at the Kansas racetrack facilities in Kansas City and Wichita.

- ***Receipt and Disbursement of Racing Funds***

In calendar year 1992 over 8.3 million dollars generated by parimutuel racing was deposited into the state racing fund.

- ***Kansas Horse and Greyhound Breeding Development Funds***

The Kansas horse and greyhound breeding development funds are established by the racing act to provide financial incentives for persons participating in the horse and greyhound racing and breeding industries in Kansas. In 1992 \$1,052,922 was paid to the breeding development funds.

- ***Greyhound and Horse Research Grants***

Since the advent of parimutuel racing, the Kansas Racing Commission has awarded research money for the prevention of injuries and diseases of greyhounds and horses in the amount of \$857,482. In 1992 grants totaled \$305,598 for greyhound research projects.

- ***Charitable Contributions***

Kansas nonprofit organizations and associations received \$983,052 in charitable contributions from organization licensees TRAK East and Wichita Greyhound Charities, Inc.

- ***Legislative Amendments***

The Kansas parimutuel racing act was amended in 1992 to permit the simulcasting of horse and greyhound races at Kansas racetrack facilities. One-third of the parimutuel taxes from the simulcast races is to be paid to the newly-created county fair horse racing benefit fund.

## ***History***

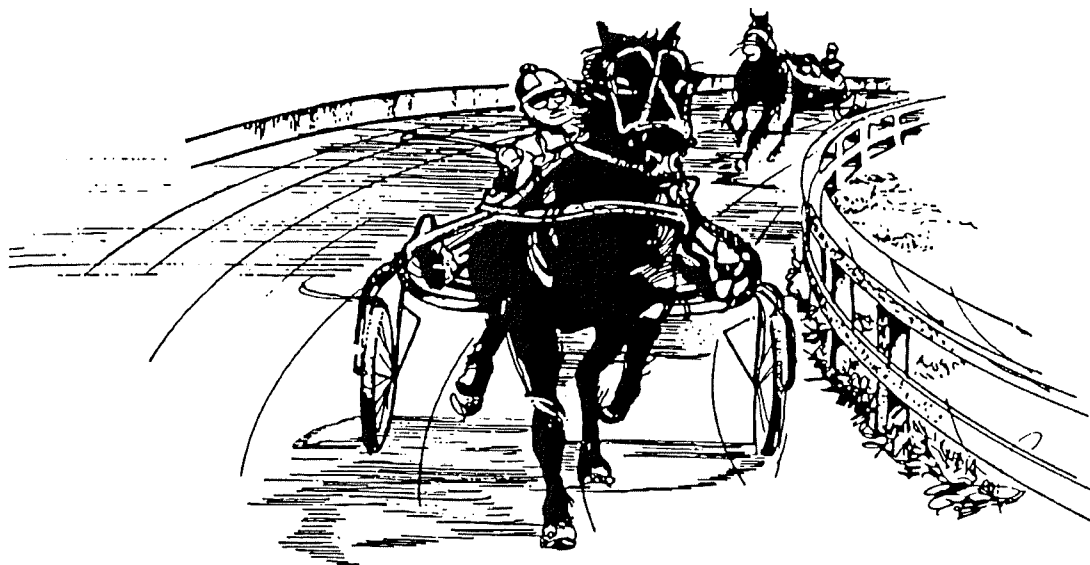
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On November 4, 1986, Kansas voters approved a constitutional amendment permitting the regulation, licensing and taxing of parimutuel horse and greyhound racing to be conducted by bona fide nonprofit organizations. The constitutional language states a minimum tax of not less than 3% nor more than 6% of all money wagered. Finally, it specifically prohibits off-track betting. In May, 1987, the Kansas legislature enacted the Kansas parimutuel racing act, which may be found at K.S.A. 74-8801 et seq.

Among other duties, the racing act charges the five-member Kansas Racing Commission with:

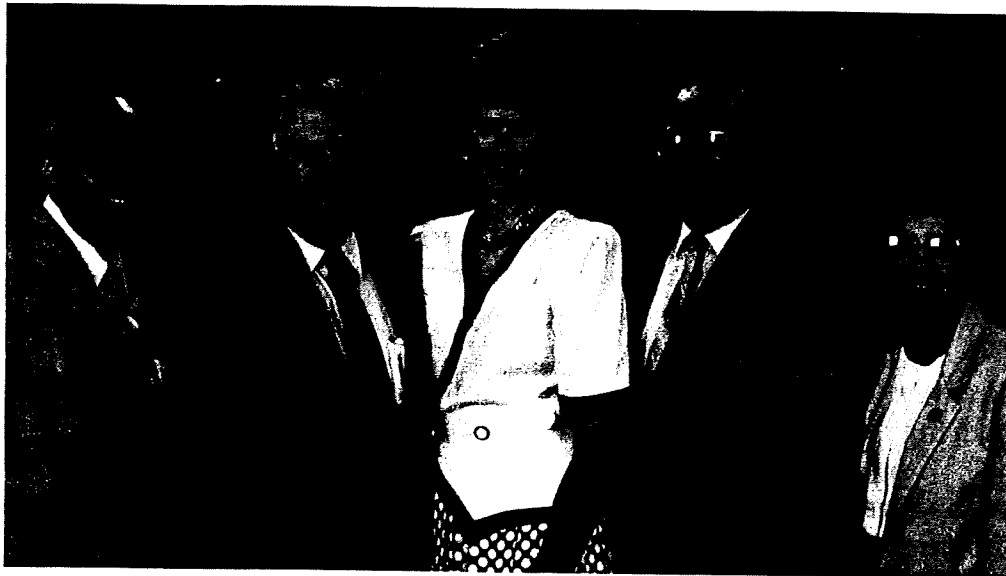
- implementing and enforcing regulations to ensure the integrity of racing and wagering and to provide for the humane treatment of racing animals.
- granting organization, facility owner and facility manager licenses for the construction and operation of Kansas racetracks.
- granting concessionaire, totalisator and occupation licenses for the conduct of such businesses at Kansas racetracks.
- granting simulcasting licenses for the displaying of simulcast horse and greyhound races at Kansas racetracks.

***Rooks County Free Fair  
Harness Horse Racing  
First Parimutuel Race in Kansas  
Monday, August 15, 1988***



## Commission Members

---



(Left to Right) - O. H. Peltzer, R.C. Londerholm, Sr., Dr. D.E. Kobuszewski, H.P. Martin, P.Coder

Commission members are appointed by the governor. Each serves a three-year term. The current commissioners and their respective terms are:

Robert C. Londerholm, Sr., Chairman  
Olathe, Kansas  
Term expires: June 30, 1995

Peggy Coder, Vice-Chairman  
Independence, Kansas  
Term expires: June 30, 1993

Dr. Denise E. Kobuszewski, Secretary  
Valley Falls, Kansas  
Term expires: June 30, 1995

H. Philip Martin, Member  
Larned, Kansas  
Term expires: June 30, 1993

Oscar H. Peltzer, Member  
Wichita, Kansas  
Term expires: June 30, 1994

### Commission Meetings

During 1992, the commission met bi-weekly for regular sessions in various locations throughout the state. There were 25 regular sessions held at the Topeka office or at the racetrack facilities. In addition to the regular sessions, meetings were held to conduct hearings and informal inquiries. The commission's meetings are conducted in accordance with the Kansas open meetings act K.S.A. 75-4317 et seq. Between meetings commission members are kept informed through mailings and telephone communication with staff.

## ***Commission Membership to ARCI***

---

In 1992, the Kansas Racing Commission gained additional insight through participation in the Association of Racing Commissioners International (ARCI). Focus areas included consideration of uniform rules, licensing reciprocity, impact of expanded gaming on parimutuel racing and policy issues facing regulators. ARCI is a nonprofit corporation established to encourage regulation of North American racing and wagering.

Commission Chairman Robert C. Londerholm, Sr. addressed the annual meeting of ARCI by providing an overview of Indian gaming activities and legal ramifications under federal and state laws and regulations. Observations were also made as to the need for expanded communications between federal and state agencies. Commissioner Londerholm serves on the Indian Gaming Committee of ARCI.

Commissioner H. Philip Martin was elected to the board of directors of ARCI to represent region 6, central area. Membership on the board will provide a means for the Kansas commission to keep abreast of changes in parimutuel racing nationally and internationally and should further serve as an avenue for positive suggestions on programs implemented in Kansas.

The Quality Assurance Program of ARCI underwent significant structural changes in 1992 to assure that ARCI was the appropriate organization, as regulator, to set standards for drug testing in the racing industry. The committee is dedicated to provide assistance to racing jurisdictions and laboratories that provide testing to assure that regulations prohibiting use of performance altering drugs will not be permissible in horse and greyhound racing. Specific procedures are being formulated with the assistance of a recognized resource laboratory so there may be uniformity throughout the country. Commissioner Martin is a member of the ARCI Drug Testing and Quality Assurance Committee.

Executive Director Dana Nelson, Vice-Chairperson of the Uniform Rules Committee of ARCI, assisted at the annual meeting in the presentation of recommendations to adopt uniform regulations to assure consistency among the states while maintaining integrity.

The commissioners serve on several other committees of ARCI:

- H. Philip Martin                      Constitution and Bylaws
- Peggy Coder                          Quarter Horse Racing, Totalisator Standards
- Robert C. Londerholm, Sr.      Judiciary and Legislative



## Commission Staff

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<b>Fiscal Years</b>	<b><u>1990 - 1991</u></b>	<b><u>1991 - 1992</u></b>	<b><u>1992-1993</u></b>
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### **Full Time Employees**

#### **Topeka Office**

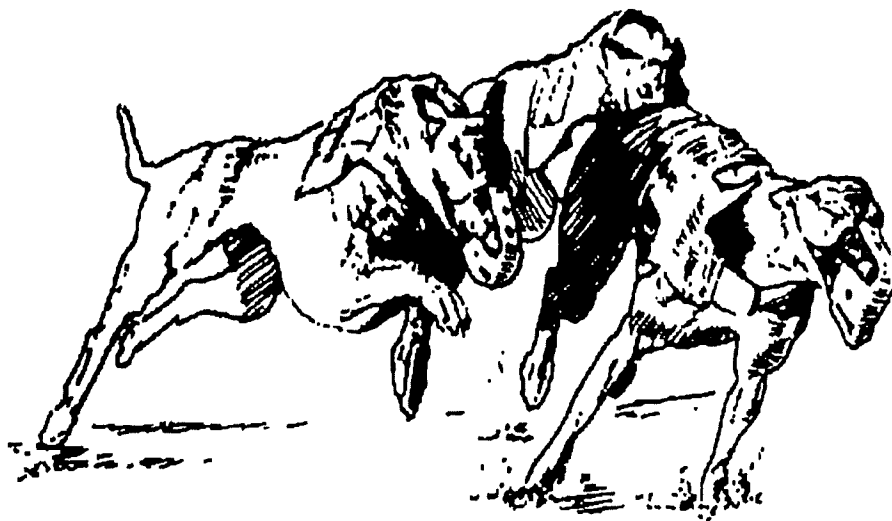
Unclassified	6.0	6.0	6.0
Classified	<u>14.0</u>	<u>14.0</u>	<u>15.5</u>
Total	<u>20.0</u>	<u>20.0</u>	<u>21.5</u>

#### **Field Offices**

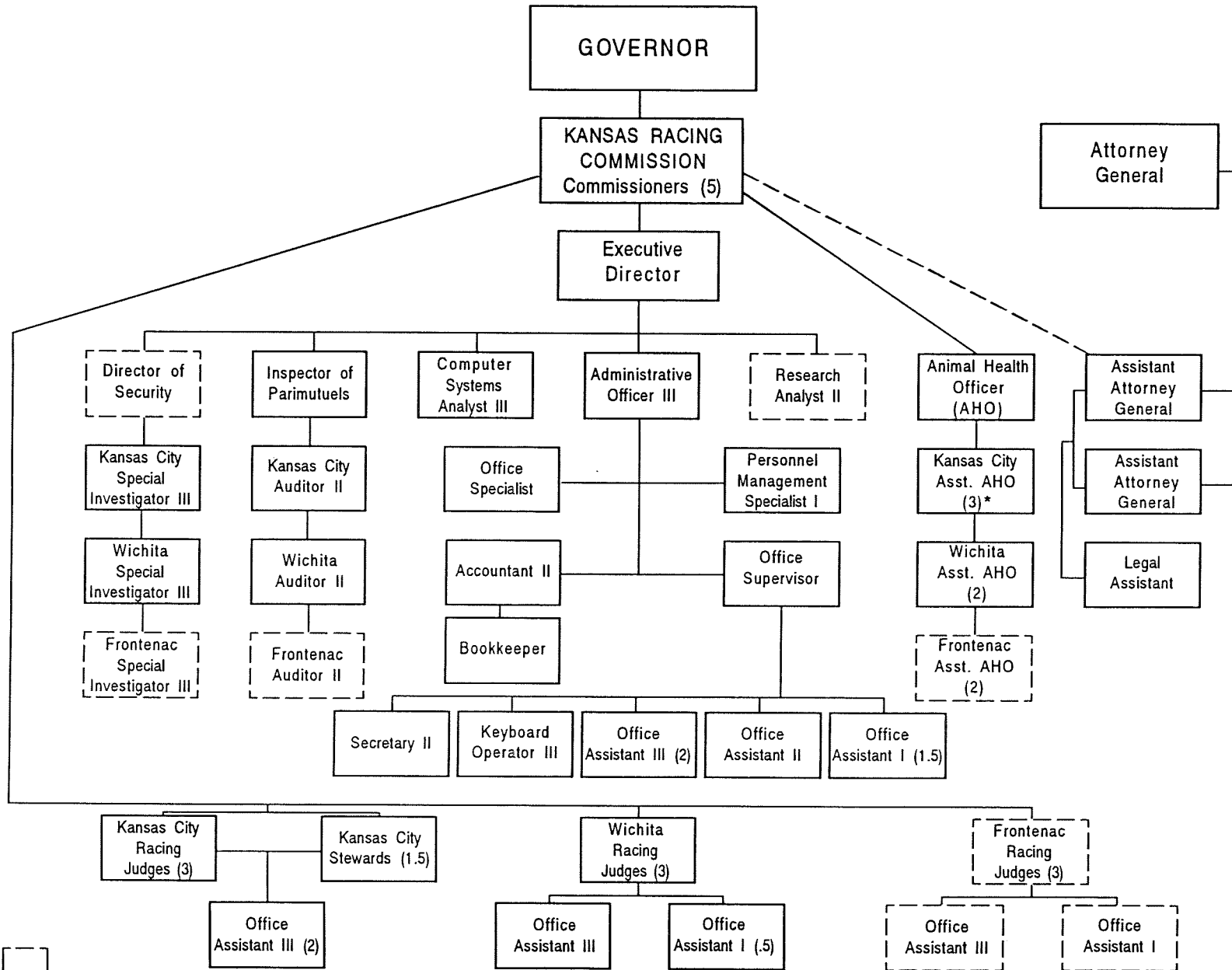
Unclassified	6.0	5.0	7.0
Classified	6.0	8.0	11.5
Judges	6.0	0.0	9.0
Stewards	<u>1.5</u>	<u>0.0</u>	<u>1.5</u>
Total	<u>12.0</u>	<u>20.5</u>	<u>29.0</u>

<b>Total FTE</b>	<b><u>32.0</u></b>	<b><u>40.5</u></b>	<b><u>50.5<sup>1</sup></u></b>
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<sup>1</sup>NOTE: 9 FTE vacant until racetrack facility opens at Frontenac.



Organizational Chart



[ ] Indicates vacant position  
 50.5 Total FTE  
 \* One Kansas City animal health officer position vacant

Feb. 12, 1993

## 1992 In Review

---

Kansas has long been a leader for the breeding of racing greyhounds. There are farms, owners, and trainers from Kansas with Kansas facilities leading the nation in greyhound farms and facilities. A survey conducted last year by the ARCI established beyond doubt that Kansas is also the leader nationwide in both the number of ongoing greyhound research projects, and many times over the leader in money expended for greyhound research. This fund was established by legislation and has been implemented every year by the Kansas Racing Commission.

Early in 1992 there was a respiratory epidemic that occurred on the east coast which resulted in greyhound race cancellations, many sick dogs and a few deaths. Kansas tracks, in consultation with veterinarians, quarantined their facilities in an attempt to prevent the spread of this disease into Kansas. Despite preventive measures taken, the disease did involve both tracks before the summer was over. Death loss among the greyhounds was minimal, but the mortality forced many scratches and cancellations.

After a comprehensive investigation and licensing hearing, the commission granted a facility owner and facility manager license to Camptown Greyhound Racing, Inc. The group is to construct, own and operate a greyhound racetrack for organization licensee TRAK Southeast at Frontenac, Kansas. Currently the group is completing financial arrangements for the commission's approval. TRAK Southeast's proposal for a racetrack in southeast Kansas was first presented to the commission in 1988.

There has been a move nationwide to adopt licensing reciprocity. The commission implemented a limited fingerprint reciprocal program during the horse racing season in 1992. Kansas reciprocated with four states by recognizing that the applicant had submitted to fingerprinting in another state. This was attested to on a fingerprint affidavit form submitted with the occupation license application. The commission is aware there were some problems experienced during implementation of the limited reciprocal program and will continue to evaluate this program before further implementation.

In February 1992 the Kansas Racing Commission hosted the first annual parimutuel auditor's conference in Kansas City. Sixty-three participants from twenty-four states plus Canada and Jamaica attended the two-day conference. In addition, the commission's inspector of parimutuels was one of four auditors on the ARCI national audit team. The team provided audit oversight for the electronic transfer of multi-state wagering into one common pool for the four National Pick-6 wagers and the Pick-7 wager on the Breeders' Cup races.

In July 1992 a casetracking program was implemented. This program provides the ability to track all administrative hearings conducted by judges, stewards or commission appointed hearing officers. The data in casetracking is accessible to all commission staff through the AS400 computer system and sometime in the future will provide the ability to cross-reference data between occupation licensing and casetracking programs. A majority of the administrative hearings pertain to racing violations committed by licensees and require the tracking of rulings such as suspensions or fine payments and their current license status. A total of 166 case files were established in casetracking between July 15 and December 31, 1992.

**Fund Operating Statement**

	STATE RACING FUND	COUNTY FAIR HORSE RACING FUND	HORSE BREEDING DEVELP. FUND	RACING INVESTIGATIVE EXPENSE FUND	GREYHOUND BREEDING DEVELP. FUND	RACING REIMBURSABLE EXPENSE FUND	RACING APPLICANT DEPOSIT FUND	TOTAL
BEGINNING BALANCE (1-1-92)	1,162,727	--	334,993	14,837	425,208	244,123	545,531	2,727,419
<b><u>RECEIPTS</u></b>								
REVENUE	8,386,309	211,146	204,280	24,329	848,642	600,194	20,886	10,295,786
SECRETARY OF STATE TRANSFER <sup>1</sup>	13,361	--	--	--	--	--	--	13,361
<b><u>DISBURSEMENTS</u></b>								
OPERATING EXPENDITURES	(1,683,708)	--	(338,040)	(19,355)	(584,025)	(617,939)	--	(3,243,067)
GAMING FUND TRANSFER <sup>2</sup>	(6,870,720)	--	--	--	--	--	--	(6,870,720)
GREYHOUND TOURISM FUND TRANSFER <sup>3</sup>	--	--	--	--	(113,262)	--	--	(113,262)
KANSAS BUREAU OF INVESTIGATION TRANSFER <sup>4</sup>	(301,257)	--	--	--	--	--	--	(301,257)
ENDING BALANCE (12-31-92)	<u>706,712</u>	<u>211,146</u>	<u>201,233</u>	<u>19,811</u>	<u>576,563</u>	<u>226,378</u>	<u>566,417</u>	<u>2,508,260</u>

<sup>1</sup>Reimbursement for a portion of the cost of software that was transferred to the Secretary of State.

<sup>2</sup>Transfer to the State Gaming Fund per K.S.A. 74-8826(c).

<sup>3</sup>Transfer to the Greyhound Tourism Fund per K.S.A. 74-8831(c).

<sup>4</sup>Transfer to the Kansas Bureau of Investigation for the purpose of financing a portion of the cost of operation and general expense of the Kansas Bureau of Investigation gaming unit.

## ***Parimutuel Revenues and Wagering Dollar***

To safeguard the interest of the wagering public and the state, the commission employs a full-time auditing staff consisting of an inspector of parimutuels and two auditors. The inspector of parimutuels is housed at the Topeka office and oversees the auditors located at each racetrack facility.

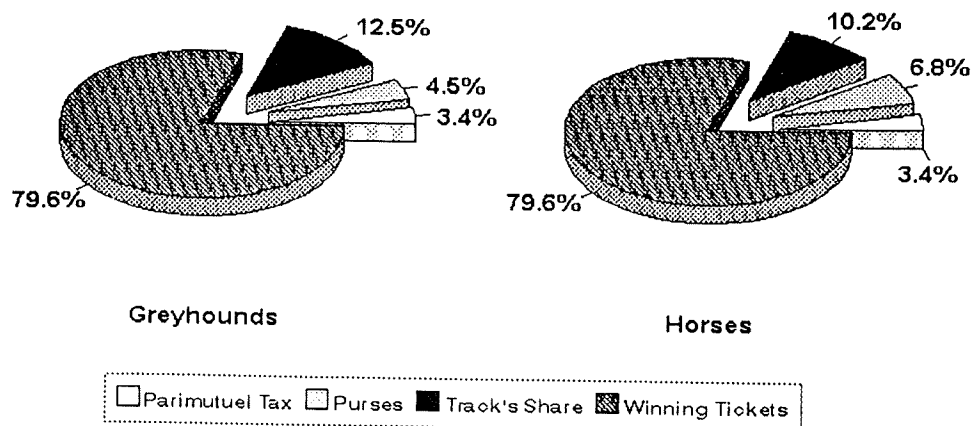
The auditing staff is responsible for carrying out and monitoring a variety of duties, including:

- totalisator system's software and manual operations
- the processing of all parimutuel wagering
- purse payments to horse and greyhound owners
- admissions tax collection
- processing unclaimed winning tickets
- program information release
- Kansas breed development programs fund
- review of licensee's financial statements

The completion of these tasks assists in assuring the wagering public and state that the correct amount of dollars are being distributed as described in the parimutuel racing act.

Following is a series of charts and tables providing the results of revenue generated by parimutuel wagering.

### ***1992 Wagering Dollar***



## State Racing Fund Collections

Calendar Year 1992

	<u>Kansas City</u>		<u>Wichita</u>	
	<u>Horse</u>	<u>Greyhound</u>	<u>Greyhound</u>	<u>Total</u>
<b>Handle</b>				
Live	\$11,695,835	\$133,833,288	\$68,706,091	\$214,235,214
Simulcast-Horse	4,418,390	14,037,040	38,298	18,493,728
Simulcast-Dog	6,013,219	59,843	903,139	6,976,201
<b>Total Handle</b>	<b>\$22,127,444</b>	<b>\$147,930,171</b>	<b>\$69,647,528</b>	<b>\$239,705,143</b>
Attendance	177,471	1,171,236	629,216	1,977,923
Race Days	63	240	308	611
Performances	63	357	435	855
<b>Revenue</b>				
Parimutuel Tax:				
Live	\$ 388,908	\$ 4,550,095	\$ 2,436,558	\$ 7,375,561
Simulcast	229,692	341,662	21,354	592,708
<b>Total Tax</b>	<b>\$ 618,600</b>	<b>\$ 4,891,757</b>	<b>\$ 2,457,912</b>	<b>\$ 7,968,269</b>
Other Revenue:				
Admissions Tax	\$ 15,658	\$ 121,663	\$ 85,276	\$ 222,597
License Fees	14,495	20,109	13,955	48,559
Fines Paid	6,250	6,850	7,585	20,685
Daily License Fee	25,400	97,600	0 <sup>1</sup>	123,000
<b>Total Other Rev.</b>	<b>\$ 61,803</b>	<b>\$ 246,222</b>	<b>\$ 106,816</b>	<b>\$ 414,841</b>
<b>Total Revenue</b>	<b>\$ 680,403</b>	<b>\$ 5,137,979</b>	<b>\$ 2,564,728</b>	<b>\$ 8,383,110<sup>2</sup></b>
<b>Averages</b>				
Revenue per performance	\$10,800	\$14,392	\$5,896	\$9,805
Handle per performance	\$351,229	\$414,370	\$160,109	\$280,357
Attendance per performance	2,817	3,281	1,446	2,313

<sup>1</sup>Collected after January 1, 1993.

<sup>2</sup>Does not include concessionaire and totalisator license applications fees of \$2,700 and miscellaneous revenue of \$499.

## **Breeding Development Funds**

### **Kansas Horse Breeding Development Fund**

In 1992 a total of \$204,280 was collected for this fund and \$338,040 was dispersed from the Kansas Horse Breeding Development Fund. The chart below shows how the funds were distributed.

<b>Revenue</b>	<b><u>Woodlands</u></b>	<b><u>Wichita</u></b>	<b><u>State Total</u></b>
Breakage	\$203,964	\$316	\$204,280
<sup>1</sup> Unclaimed Winning Tickets	<u>0</u>	<u>0</u>	<u>0</u>
<b>Total Revenue</b>	<b><u>\$203,964</u></b>	<b><u>\$316</u></b>	<b><u>\$204,280</u></b>
<b>Expenditures</b>			
Purse Supplements	\$305,427	N/A	\$305,427
Stakes Race Supplements	15,000	N/A	15,000
Research Grants	<u>17,613</u>	<u>N/A</u>	<u>17,613</u>
<b>Total Expenditures</b>	<b><u>\$338,040</u></b>	<b><u>N/A</u></b>	<b><u>\$338,040</u></b>

<sup>1</sup>Unclaimed winning tickets are collected sixty days following the end of season.

### **Greyhound Breeding Development Fund**

In 1992 a total of \$848,642 was collected for this fund and \$692,287 was dispersed from the Kansas Greyhound Breeding Development Fund. The chart below shows how the funds were distributed.

<b>Actual Revenue</b>	<b><u>State Total</u></b>
Unclaimed winning tickets	<u>\$848,642</u>
<b>Total Revenue</b>	<b>\$848,642</b>
<b>Actual Expenditures</b>	
Breed Stakes Race Awards	\$145,000
Research Grants	<u>439,025</u>
Greyhound Tourism Fund	<u>113,262</u>
<b>Total Actual Expenditures</b>	<b>\$697,287</b>

Note: Breakage revenue collected by the greyhound tracks amounted to \$613,752. This was expended one-half for Kansas breed purse supplements and one-half for open stakes race awards.

## Distribution of Handle

### Calendar Year 1992

#### Woodlands - Horse

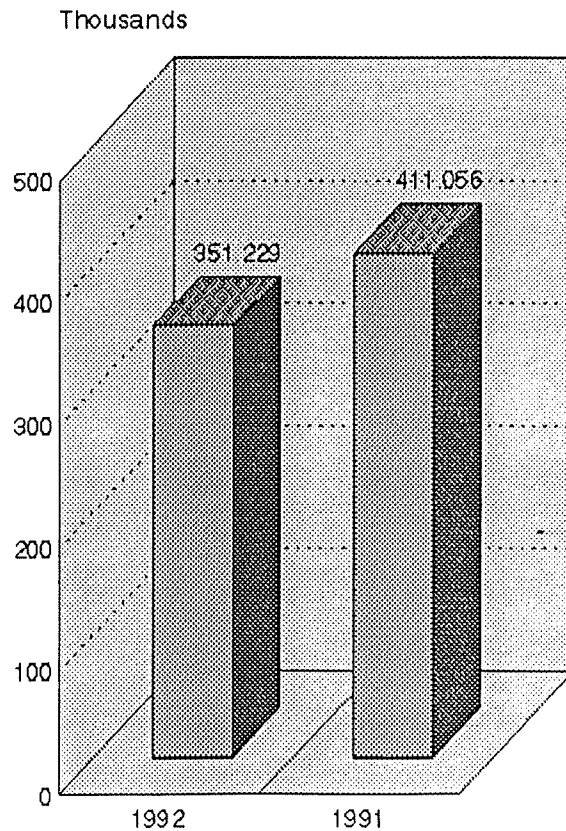
Handle			\$ 22,127,444
Takeout			
	Parimutuel Tax	\$ 618,600	
	Purses <sup>1</sup>	1,420,013	
	Track Commission	2,251,984	
Total Takeout			<u>4,290,597</u>
	Return to Wagering Public <sup>2</sup>		<u><u>\$ 17,836,847</u></u>

<sup>1</sup>Does not include additional money added by the track or stakes awards - only minimum purse contribution from the parimutuel handle required by statute.

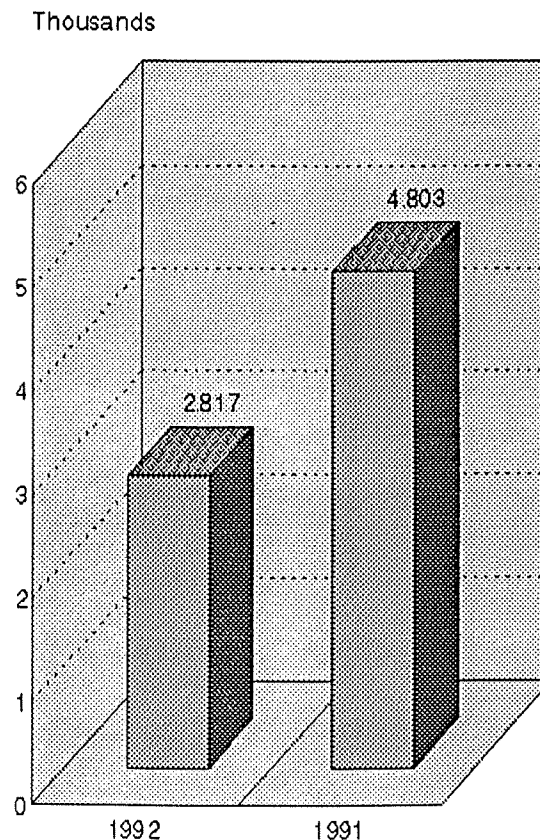
<sup>2</sup>Includes winning ticket money that was never claimed.

Note: Breakage amounted to \$138,315. This is the odd cents by which the amount payable on each dollar wagered in a parimutuel pool exceeds a multiple of ten cents.

### Average Handle



### Average Attendance





## Calendar Year 1992

### Woodlands - Greyhound

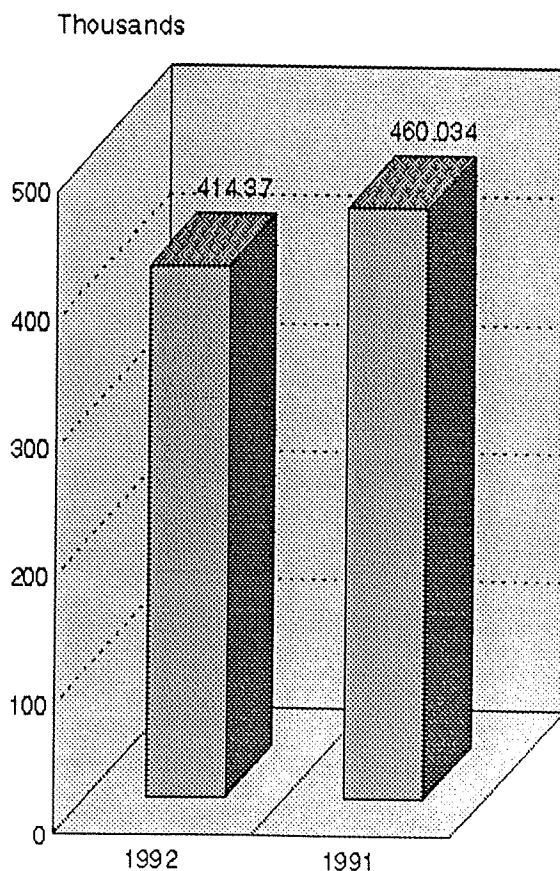
Handle			\$147,930,171
Takeout			
	Parimutuel Tax	\$ 4,891,757	
	Purses <sup>1</sup>	6,946,799	
	Track Commission	<u>18,175,837</u>	
Total Takeout			<u>30,014,393</u>
	Return to Wagering Public <sup>2</sup>		<u>\$117,915,778</u>

<sup>1</sup>Does not include additional money added by the track or stakes awards - only minimum purse contribution from the parimutuel handle required by statute.

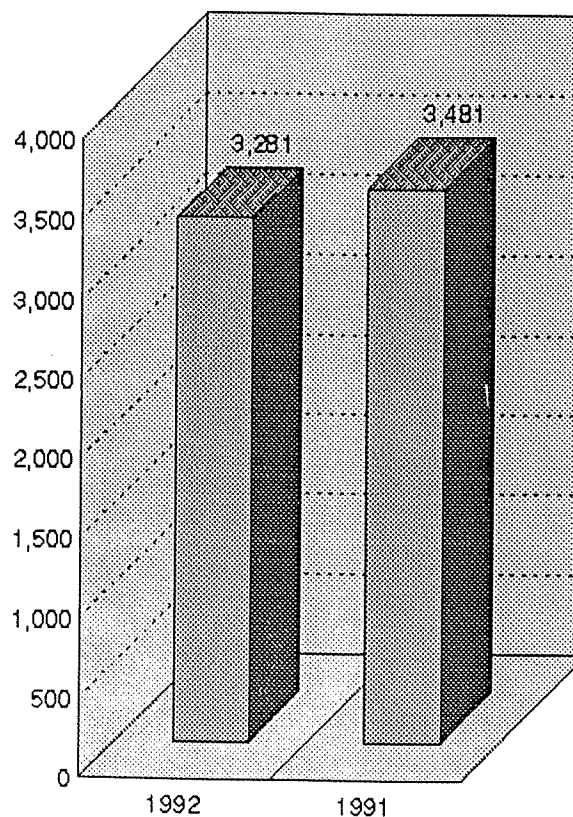
<sup>2</sup>Includes winning ticket money that was never claimed.

Note: Breakage amounted to \$527,321. This is the odd cents by which the amount payable on each dollar wagered in a parimutuel pool exceeds a multiple of ten cents.

#### Average Handle



#### Average Attendance



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## Calendar Year 1992

### Wichita Greyhound Park

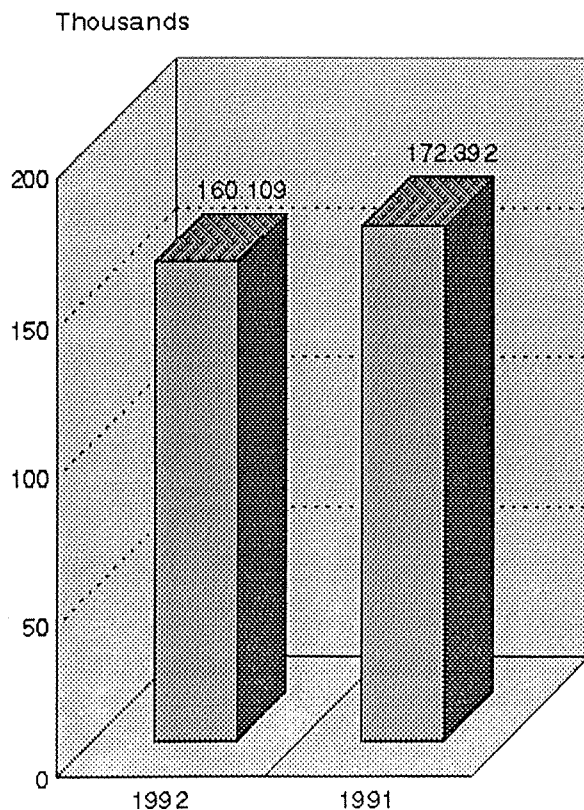
Handle			\$ 69,647,528
Takeout			
	Parimutuel Tax	\$2,457,912	
	Purses <sup>1</sup>	3,272,191	
	Track Commission	<u>8,193,230</u>	
Total Takeout			<u>13,923,333</u>
	Return to Wagering Public <sup>2</sup>		<u>\$ 55,724,195</u>

<sup>1</sup>Does not include additional money added by the track or stakes awards - only minimum purse contribution from the parimutuel handle required by statute.

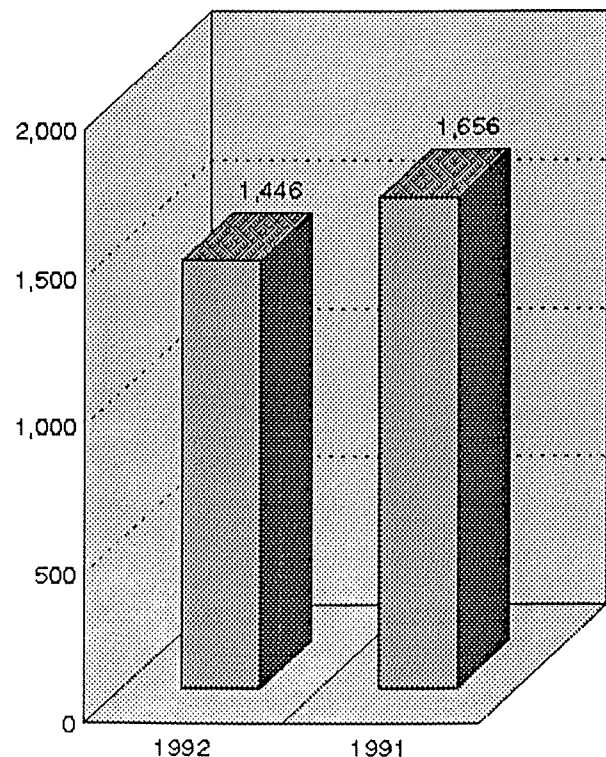
<sup>2</sup>Includes winning ticket money that was never claimed.

Note: Breakage amounted to \$167,338. This is the odd cents by which the amount payable on each dollar wagered in a parimutuel pool exceeds a multiple of ten cents.

### Average Handle



### Average Attendance



## **Organization Licensees**

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At this time, two separate organizations and their not-for-profit entities, the Woodlands and Wichita Greyhound Park operate live parimutuel races in the state.

### ***The Woodlands, Kansas City***

On July 23, 1988, a dual racetrack facility license was granted to Sunflower Racing, Inc., and The Racing Association of Kansas East (TRAK East). The facility, known as the Woodlands, is the first dual racetrack facility built in the United States.

The Woodlands' 1992 race dates for the greyhounds ran from January through August and November through December, with 357 performances. The race dates for the horses began August 14 and ended November 1, with 63 performances.

The Woodlands sponsored the Sunflower Stakes Race during the 1992 season, and paid out a total of \$150,000. This is the largest stakes race sponsored by a single track in the country.

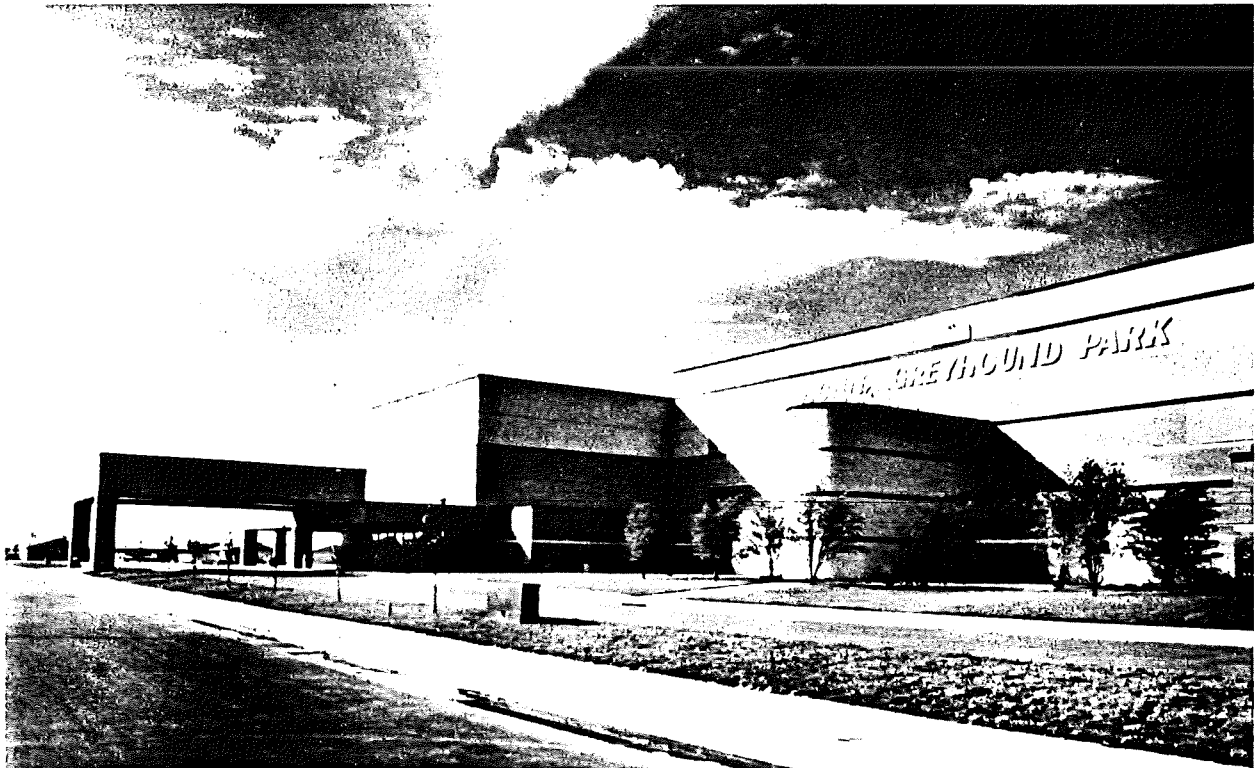


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### ***Wichita Greyhound Park, Wichita***

Wichita Greyhound Park, Inc. and Wichita Greyhound Charities, Inc. were granted a license to build and operate a greyhound racetrack facility on September 23, 1988. During the 1992 racing season the facility conducted 435 performances. The greyhound season runs from January 1 through December 31 annually.

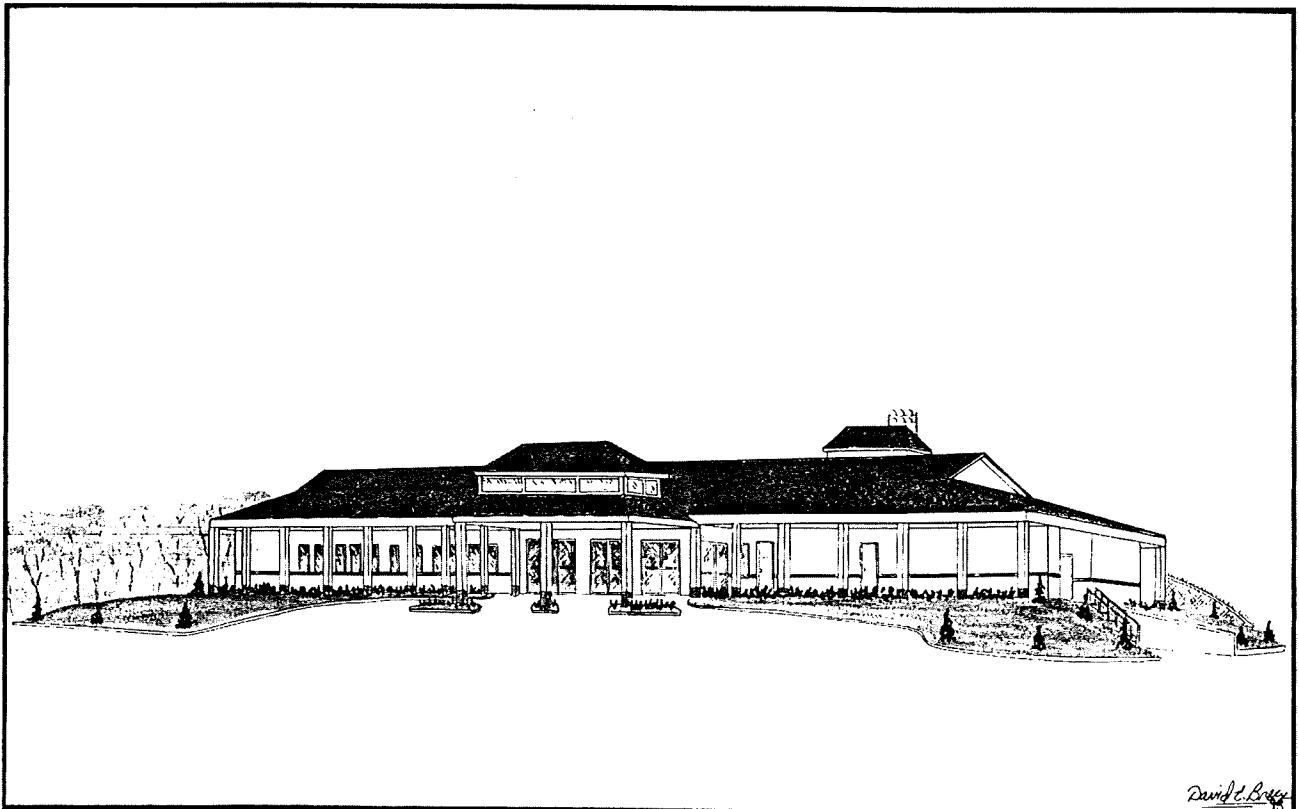
Wichita Greyhound Park sponsored the third Great Kansas Shoot Out. The race paid out a total of \$80,000. The Great Kansas Shoot Out was among the top major stakes races held nationally in 1992.



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### ***Camptown Greyhound Racing, Frontenac***

Camptown Greyhound Racing, Inc. was granted a facility owner and facility manager license to construct, own and operate a greyhound racetrack for organization licensee TRAK Southeast. On the date of this annual report, Camptown is completing financial arrangements so that they may be submitted to the commission for final approval.



## ***Licensing***

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The licensing program serves the public, racetrack personnel and racing industry personnel and ensures the integrity of the racing industry in Kansas by licensing individuals who work at the racetrack facility. Licenses are also granted to nonprofit organizations, facility owners, facility managers, totalisators, concessionaires and simulcasting entities. Shareholders and principals are subject to a background investigation before they are licensed by commission. In addition, all entities who own racing animals are required to register with the commission annually.

### ***Occupation Licenses***

Occupation licenses are issued for a period of one year to individuals who work at the racetrack facility. A total of 5,629 occupation licenses were issued for 1992 beginning on December 1, 1991 through November 30, 1992 (see following chart for more detail). An occupation license is evidenced by a licensee wearing a photo identification badge bearing the licensee's name and the occupation category. All badges are color coded and validated for the appropriate track for security reasons. Each new applicant is fingerprinted for purpose of a background check. A total of 1,371 sets of fingerprints were submitted to the Kansas Bureau of Investigation in 1992, and 457 licensees participated in the commission's fingerprint reciprocal program during the horse racing season.

### ***Registrations***

The commission requires the registration of all corporations, partnerships, syndicates or other associations or entities who are the legal owner of a horse or greyhound and further requires that each shareholder shall be licensed as an owner. Stable names and kennel names used must also register with the commission. There were over 580 registrations received during the 1992 calendar year.

### ***Concessionaire Licenses***

A concessionaire license is required before any entity may sell goods at a racetrack facility. In 1992 there were 14 concessionaire licenses approved for the purpose of selling goods at the racetrack facility. These goods included food and beverages for patrons, tack and equipment for racing animals, feed for racing animals and tip sheets.

### ***Totalisator Licenses***

Statutory authority was established in 1992 mandating the licensing of totalisator companies who provide services to Kansas racetrack facilities. In December, 1992 the commission received one application for a totalisator license. This application is being reviewed by staff before granting a totalisator license.

## 1992 Occupation Licenses and Fees

Occupation License Category	The Woodlands	Wichita Greyhound	Topeka	Total Licenses	Fee	Total Fees
Administration****(7)	27	34	2	63	\$20	\$1,190
Administrative Support	91	21	0	112	5	560
Admissions/Parking Attd.	74	67	0	141	5	705
Announcer	1	3	0	4	5	20
Apprentice Jockey	11	0	0	11	10	110
Assistant Racing Secretary	1	3	0	4	10	40
Assistant Starter	16	11	0	27	5	135
Assistant Trainer	93	65	0	158	10	1580
Authorized Agent	6	1	0	7	10	70
Blacksmith/Plater/Farrier	13	1	0	14	10	140
Brakeman	5	5	0	10	10	100
Breed Registry	0	0	0	0	10	0
Chart Writer	3	3	0	6	10	60
Clerk of Scales	4	5	0	9	10	90
Clocker/Assistant Clocker	2	0	0	2	10	20
Colors Attendant	1	0	0	1	5	5
Concession Employee*(1)	411	235	0	646	5	3,255
Concession Operator**(1)	7	1	0	8	10	75
Director of Racing	1	1	0	2	20	40
Director of Security	1	1	0	2	20	40
Emergency Med. Technician	0	4	0	4	5	20
Exercise Person	43	0	0	43	5	215
Gen. Mgr./Asst. Gen. Mgr	0	0	0	0	20	0
Groom/Hot Walker	179	0	0	179	5	895
Horseman/Kennel Rep.*(1)	2	0	0	2	10	10
Horseman's Bookkeeper	0	0	0	0	10	0
Identifier	1	0	0	1	10	10
Jockey	87	0	0	87	10	870
Jockey Agent	15	0	0	15	10	150
Jockey Guild Manager/Rep.	0	0	0	0	10	0
Jockey Room Attendant	0	0	0	0	5	0
Kennel Helper	41	28	0	69	5	345
Kennel Master	0	0	0	0	20	0
Kennel Owner****(7)	42	27	1	70	20	1,330
Lead Out	53	93	0	146	5	730
Lure Operator	4	3	0	7	10	70
Maintenance	87	99	0	186	5	930

Note: Data reflects licenses issued for 1992.

\* Licenses issued at no charge.

\*\* License issued at \$5.00 as additional.

\*\*\*Total of owner licenses include converted temporary licenses made permanent where no fee was charged.

\*\*\*\*Additional at \$10.00.

Occupation License Category	The Woodlands	Wichita Greyhound	Topeka	Total Licenses	Fee	Total Fees
Medical Attendant	15	0	0	15	\$ 5	75
Mutuel Employee*(1)	260	120	0	380	5	1,895
Mutuel Manager	0	0	0	0	10	0
Official	1	0	0	1	10	10
Outrider	2	0	0	2	10	20
Owner*(2) *** (9)	1,498	447	35	1,980	10	19,690
Owner/Asst, Trainer**** (7)	22	7	0	29	20	510
Owner By Open Claim	0	0	0	0	10	0
Owner/Trainer**** (14)	255	12	13	280	20	5,460
Paddock Attendant	0	0	0	0	5	0
Paddock Judge	3	3	0	6	10	60
Patrol Judge	4	12	0	16	10	160
Photo Finish Operator	2	3	0	5	10	50
Pony Person	32	0	0	32	5	160
Practicing Veterinarian	12	1	1	14	10	140
Practicing Asst. Vet.	3	0	0	3	5	15
Program Manager	0	0	0	0	20	0
Promotion Manager	1	0	0	1	20	20
Racing Judge	5	4	0	9	0	0
Racing Secretary**** (1)	3	2	0	5	20	90
Security	79	70	0	149	5	745
Service Provider	69	71	0	140	5	700
Starter	5	2	0	7	10	70
Steward	4	0	0	4	0	0
Supervisor of Mutuels	1	0	0	1	20	20
Testing Technician	8	7	0	15	5	75
Timer	0	0	0	0	10	0
Selection Sheet Operator	9	0	0	9	10	90
Totalisator Employee	15	6	0	21	5	105
Track Superintendent	2	0	0	2	10	20
Trainer	135	42	1	178	10	1,780
Valet	4	0	0	4	5	20
Video Operator	11	2	0	13	10	130
Temporary Horse Owner	9	0	0	9	100	900
Duplicate Badges	130	133	0	263	10	2,630
<b>TOTALS</b>	<b>3,921</b>	<b>1,655</b>	<b>53</b>	<b>5,629</b>		<b>\$49,420.00</b>

Note: Data reflects licenses issued for 1992.

\* Licenses issued at no charge.

\*\* License issued at \$5.00 as additional.

\*\*\*Total of owner licenses include converted temporary licenses made permanent where no fee was charged.

\*\*\*\*Additional at \$10.00.



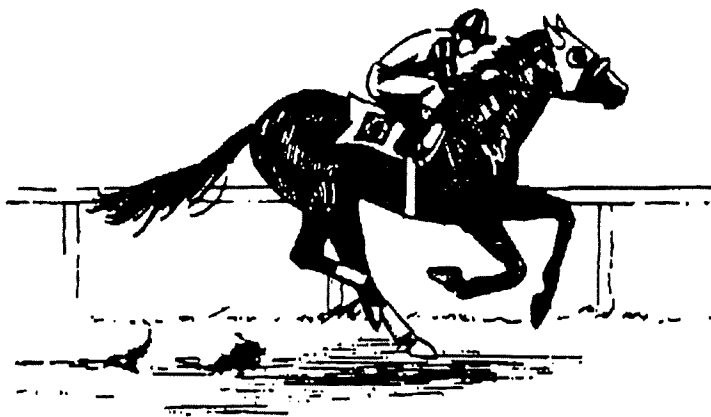
## Legal

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Two assistant attorneys general and one legal assistant office with commission staff and assist the commission in all legal matters, including the enforcement of the Kansas parimutuel racing act and racing regulations. Their daily responsibilities include prosecution of legal matters pending before the commission, the board of stewards and racing judges, the district and appellate courts and other state agencies. They monitor agency compliance with the Kansas open meetings and open records acts, review licensee contracts and agreements, review licensee compliance with racing laws and research legal issues referred by the commission.

Administrative hearings of importance to the commission in 1992 covered diverse legal and racing issues. The commission concluded a comprehensive investigation and hearing in the matter of Camptown Greyhound Racing's application for a facility owner and facility manager license in Crawford County, Kansas. The final order details the corporate reorganization of the Camptown group and authorizes it to construct and operate a greyhound racetrack for the organization licensee TRAK Southeast. The commission completed annual reviews for the Woodlands racetrack at Kansas City and Wichita Greyhound Park at Wichita. The case tracking computer system, now on-line at the commission's Topeka and racetrack offices, records that the commission, its appointed hearing officers, stewards and racing judges have considered 166 administrative matters between July 15 and December 31, 1992.

The racing act and commission regulations undergo constant review and amendment as the state's experience with parimutuel racing and wagering grows. During 1992



the commission formally adopted regulations that provide simplified and less costly procedures and requirements for county fair associations and horsemen's nonprofit groups to conduct race meetings. The racing act was amended during the 1992 legislative session so that some monies generated by simulcasting would be paid to a newly-created county fair

horse racing benefit fund. Now in its sixth year, Kansas racing law continues to mature in response to a diverse racing industry.

## Security

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The parimutuel racing act requires the Kansas Racing Commission to employ security personnel to help regulate parimutuel racing. The security division was established to enforce state laws and to ensure licensees comply with the provisions of the parimutuel act and rules and regulations of the commission.

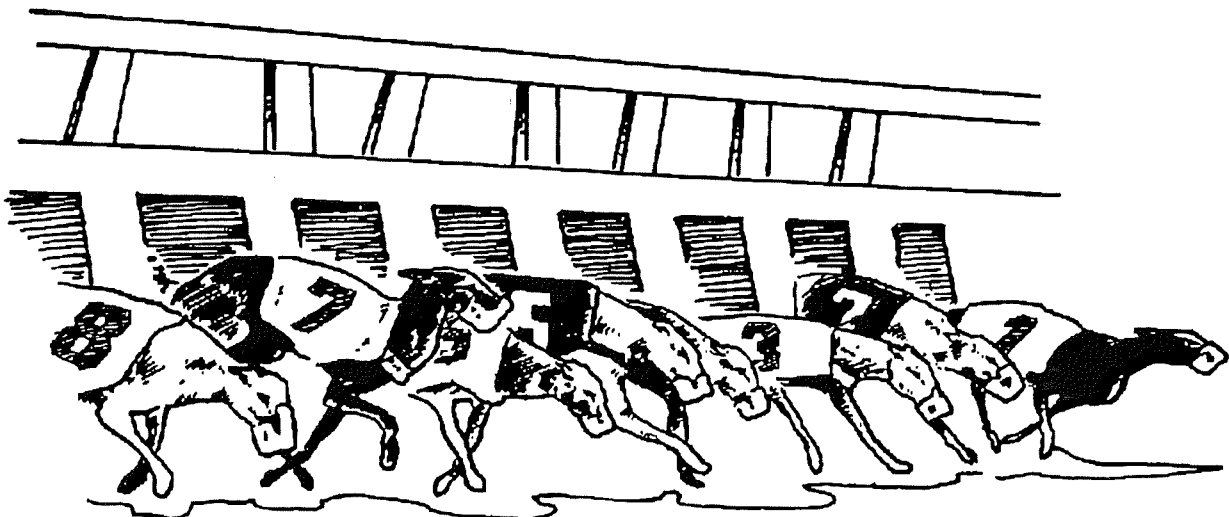
Presently the security division consists of a director, one law enforcement person at Wichita and one law enforcement person at Kansas City.

Allowing only qualified persons to participate in parimutuel racing in Kansas is one of the most important objectives of the commission. To obtain that goal, the security division must carry out several key assignments.

Security personnel are responsible for investigating, examining and reviewing backgrounds of commission employees, license applicants and licensees as assigned. Records from federal, state and local law enforcement agencies, as well as the ARCI, are checked for discrepancies in license applications.

The security division provided twelve background investigations in 1992, and reviewed several hundred license applications. The security division has the overall responsibility of safeguarding the interest and welfare for the racing commission and public.

Each licensed track must provide security for racing at it's particular location. The commission's security division monitors track-hired security and their activities. They verify the security officers' qualifications and evaluate the track's security plan, manpower needs and provide direction on improvement. The security division also assists other racing commission staff when inspecting kennels, stables and jockey quarters.



## Animal Health

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The Kansas parimutuel racing act provides that there be licensed veterinarians serving the commission as advisors in matters of veterinary medicine. At all times commission veterinarians are to serve and protect the health and well being of the racing animals. A veterinarian serves the commission staff in Topeka, and two veterinarians serve as animal health officers at each racetrack.



The animal health officers are responsible for conducting veterinary services for racing animals. This includes physical examinations prior to racing, observation for lameness, illness, or any other condition which would prevent the animal from racing to its potential. The official veterinarians are also responsible for treating emergencies of a veterinary nature encountered during the running of the race. In consultation with the judges or stewards, they are allowed to 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 a racing chemistry drug 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 chosen animal.

The contracts to do the drug testing for the racing animals in Kansas are subject to the bidding process under administrative procedures in Kansas. Iowa State University provided laboratory services until August 1992. The results of its testing are listed on the next page. The Center for Tox Services secured the contract for greyhound testing starting in August 1992 and Harris Laboratories secured the contract for horse testing in August 1992.

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### **1992 Summary of Horse Testing**

#### **Analysis and Reporting by Harris Laboratories, Phoenix, Arizona**

	<b>Urine</b>	<b>Blood</b>
<b>Total Samples Tested</b>	1,170	119
<b>Total Positive Tests</b>	5	10

Phenylbutzone and Oxyphenbutazone were the drugs reported as overages.  
Other positives include flunixin and dexamethasone.

### **1992 Summary of Greyhound Testing**

	<b>Urine</b>
<b>Total Samples Tested</b>	9,727
<b>Total Positive Tests</b>	131

#### **Analysis and Reporting by Racing Chemistry, Iowa State University January 1, 1992 through August 13, 1992**

<b>Detected Drugs</b>	<b>Positive Tests</b>
Azobenzene	6
DMSO	3
Butazolidin	6
PEG*	5
Procaine*	16
Sulfa Drug*	28
Timethoprim*	5

#### **Analysis and Reporting by Center for Tox Services, Tempe, Arizona August 17, 1992 through December 31, 1992**

<b>Detected Drugs</b>	<b>Positive Tests</b>
DMSO	30
Procaine*	35
Hydrocortisone	5
Flunixin	1
Procaine > 4.6 ug/ml.	1

\* In greyhound racing these drugs are deemed to be detected as part of the food chain.

**The total laboratory fees for 1992 were \$303,165.**

## **Research Grants Awarded in 1992**

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Kansas is on the cutting edge in providing funds for greyhound and horse research. Each year revenues derived from unclaimed wagering tickets are distributed to designated researchers. The parimutuel racing act states that 35% of the unclaimed tickets fund is allocated to research for greyhound injuries and diseases and 5% is allocated to equine research.

In 1990 and 1991 a total of \$551,884 was awarded for greyhound and equine research projects. Since the time the first parimutuel race took place in Kansas nearly three years ago, the Kansas Racing Commission has awarded \$857,482 to greyhound and equine research projects. The following projects are those which received funding in 1992:

### **Greyhound Research Projects**

- |          |  |
|----------|--|
| \$51,083 | (001) The development and validation of a track surface instrument to monitor track safety. Dr. Robert L. Gillette, Carol J. Zebas, P.E.D., the University of Kansas.  |
| \$75,000 | (006) The use of acid-stable interferon to augment the immune system of racing greyhounds. Dr. Deborah Briggs, Dr. Scott McVey, Dr. Robert M. Phillips, Dr. Tandall J. Basaraba, Dr. Kristina J. Hennessy, Kansas State University.            |
| \$ 8,000 | (007) Clinical, histomorphometric, and mechanical effects of therapeutic ultrasound on healing of a collagenase - induced tendon injury in the greyhound. Dr. James Roush, Dr. Oarl Gaughan, Dr. Cynthia P. Godshalk, Kansas State University. |
| \$10,000 | (008) Biomechanical Strength and Healing of Transected Common Digital Extensor Tendons in the Greyhound After Repair Tendon Plating or Three-Loop Pulley. Dr. James Roush, Kansas State University.  |
| \$20,000 | (011) Scintigraphic Evaluation of Synovitis in the Greyhound. Dr. James J. Hoskinson, Dr. Earl M. Gaughan, Dr. Ron M. McLaughlin, Dr. Derek Mosier, Kansas State University.   |
| \$13,015 | (012) The Role of Computerized Force Plate Gait Analysis in Improving Greyhound Racing. Dr. Ron McLaughlin, Dr. Earl Gaughan, Kansas State University.   |
| \$35,000 | (015) Babesiosis in Kansas Greyhounds. Dr. Michael Dryden, Dr. Polly Schoning, Dr. Laine Cowan, Dr. Nathan Gabbert, Kansas State University.   |
| \$23,500 | (016) Bald Thigh Syndrome in Greyhounds. Dr. Polly Schoning, Dr. Laine Cowan, Dr. Nathan Gabbert, Kansas State University.   |
| \$10,000 | (017) Greyhound Racetrack Deaths. Dr. Polly Schoning, Kansas State University.   |
| \$60,000 | (018) Vaccine Development for Prevention of Salmonellosis in Greyhounds. Dr. Scott McVey, Dr. M.M. Chengappa, Dr. Derek Mosier, Dr. Nathan Gabbert, Kansas State University.   |

## **Charitable Contributions**

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The 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. In 1992 alone, TRAK East, associated with the Woodlands Race Course and Woodlands Kennel Club, distributed \$333,052 to 49 nonprofit organizations, and Wichita Greyhound Charities, Inc., associated with Wichita Greyhound Park, distributed \$650,000 to 111 nonprofit organizations. The following reflects how these charitable distributions improve the quality of life for Kansans:

### **TRAK East**

Alliance Against Family Violence, Inc. ....	\$ 5,000
Associated Youth Services .....	6,000
Bert Nash Community Mental Health Center, Inc., The .....	3,000
Big Brothers/Sisters of Manhattan .....	5,000
Big Brothers/Sisters of Topeka Inc. ....	4,000
Bourbon County CASA of the Sixth Judicial District, Inc. ....	4,000
Boys and Girls Club of Lawrence .....	2,353
Casa of Riley County, Inc. ....	4,000
Cedar House, Inc. ....	1,500
Chelsea Coalition, Inc. ....	6,000
Clinicare Family Health Services, Inc. ....	20,000
Community Child Care Center and Preschool, Inc. ....	2,000
Domestic Violence Emergency Services .....	5,000
Emmaus House .....	4,000
Family Life Center of Butler County, The .....	4,200
Geary Community Healthcare Foundation, The .....	400
Greyhound Hall of Fame, Inc. ....	1,000
Head Injury Assoc. of KS and Greater Kansas City .....	7,000
Homecare .....	4,000
Hospice Care in Douglas Co. ....	7,000
K.C.K. Huggers, Inc. ....	1,000
Kansas Alliance for the Mentally Ill .....	10,200
Kansas Children's Service League .....	16,000
Kansas City, Kansas School Foundation for Excellence, Inc. ....	4,000
Kansas City, Kansas Alcohol Safety Action Project .....	2,500
Kansas City, Kansas, Neighborhood Housing Services .....	12,000
Kansas City, Kansas Spanish Speaking Office, Inc. ....	3,504
Kansas Council Race Track Chaplaincy of America .....	4,000
Kansas Jaycees Cerebral Palsy Foundation, The .....	5,000
Kansas Specialty Dog Service, Inc. ....	15,000
Kaw Valley Center .....	20,000
Leavenworth Road Association .....	5,000
Manhattan Emergency Shelter, Inc. ....	4,000

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Martin Luther King Urban Center, Inc. ....	\$15,000
McPherson Health Care Foundation, Inc. ....	5,000
Midwest Cancer Foundation .....	2,500
National Agricultural Center and Hall of Fame, The .....	5,000
Old Olathe Naval Air Museum, Inc. ....	4,000
Operation Wildlife, Inc. ....	6,000
Safehome, Inc. ....	7,500
Southview Hospice .....	15,000
Southwest Boulevard Family Health Care .....	12,000
St. Joseph Care Center .....	17,500
Temporary Lodging for Children .....	5,000
University of Kansas Medical Center Auxilary, Inc. ....	6,800
Vernon Multipurpose Center.....	10,000
Visions of Hope, Inc./CASA .....	2,153
Washburn Endowment Association.....	5,000
Young Men's Christian Association of Kansas City, Kansas .....	16,942

***Wichita Greyhound Charities Inc.***

Accent on Kids, Inc. - Ronald McDonald Houses .....	4,000
Adult Day Health Care Center .....	2,000
Alliance for the Mentally Ill in Sedgwick County .....	1,200
American Diabetes Association .....	1,000
American Red Cross, Midway Kansas Chapter .....	5,000
Ark City Arts Council.....	2,400
Arts Council of Dickinson County .....	2,500
Assistance League of Wichita .....	4,700
Association of Community Arts Agencies of Kansas .....	2,100
Association for Retarded Citizens of Sedgwick County .....	2,000
Augusta Arts Council .....	3,000
Augusta Historical Society .....	3,800
Big Brothers & Sisters of Sedgwick County .....	3,000
Big Brutus.....	1,000
Botanica - The Wichita Gardens .....	3,000
Boy Scouts of America - Kanza Council .....	1,000
Boys & Girls Clubs of Wichita, Inc. ....	4,000
Butler County Historical Society .....	2,000
Care and Share. ....	1,000
Cherokee Strip Land Rush Museum .....	4,000
Children's Museum of Wichita .....	25,000
Civic Enterprises Foundation.....	5,000
Decatur Area Theatre Association .....	5,000
Dodge City Area Arts Council.....	1,400
Donald J. Allen Memorial Huntington's Disease Clinic .....	1,900
Dyck Arboretum of the Plains .....	6,500

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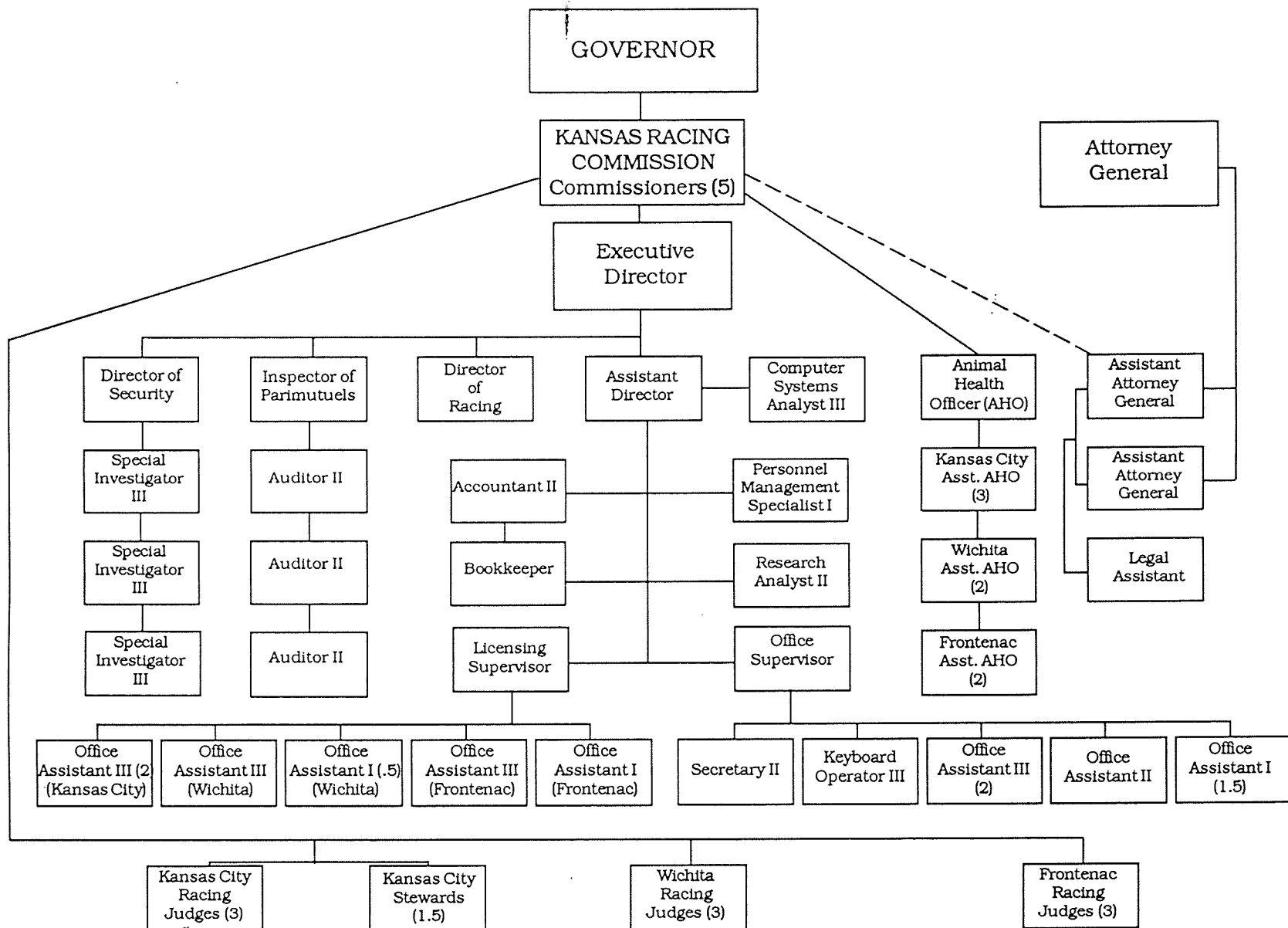
Elm Acres Youth Home, Inc. ....	\$ 5,000
Family Crisis Center .....	3,000
Four Winds Girl Scout Council .....	1,000
Fresh Start Shelter .....	4,000
Friends of Wichita Art Museum .....	8,500
General Federation of Women's Clubs of Kansas .....	3,000
Gerard House, Incorporated .....	5,000
Goodwill Industries/Easter Seal Society of Kansas .....	10,000
Greenwood County Child Care Center .....	3,000
Greyhound Hall of Fame, Inc. ....	12,500
Harvey County Historical Society .....	1,500
Historic Midtown Citizens Association .....	7,500
Historical Museum of Anthony, Inc. ....	6,000
Hunter Health Clinic .....	12,300
Hutchinson Symphony Association .....	6,000
Hutchinson Theatre Guild, Inc. ....	1,000
Institute of Logopedics .....	10,500
Jolly Junction Child Care Center, Inc. ....	1,000
Kansas Bluegrass Association .....	1,500
Kansas Child Abuse Prevention Council .....	4,000
Kansas Children's Service League.....	4,000
Kansas Cosmosphere and Space Center .....	25,000
Kansas Elks Training Center .....	10,000
Kansas Foodbank Warehouse.....	13,500
Kansas Jaycees Cerebral Palsy Foundation .....	3,500
Kansas Public Telecommunications Service, Inc. ....	10,000
Kansas Shrine Bowl .....	5,000
Kansas Special Olympics .....	10,000
Kansas Specialty Dog Service .....	10,000
Kansas Watercolor Society .....	1,300
Kiowa Historical Society .....	1,000
Literacy Volunteers of America - Wichita Area .....	9,000
Lutheran Social Service .....	7,000
Make-A-Wish Foundation of Kansas .....	8,500
Maude Carpenter Children's Center .....	7,500
Medical Service Bureau, Inc. ....	3,000
Mental Health Association - Residential Care .....	2,000
Mental Health Association of South Central Kansas .....	2,700
Mental Health Association in Reno County .....	1,500
Metropolitan Ballet of Topeka .....	10,000
Metropolitan Ballet of Wichita .....	8,000
Mid-America All Indian Center, Inc. ....	5,000
Mid-Kansas Community Action Program .....	5,000
Music Theatre for Young People .....	5,000
Music Theatre of Wichita, Inc. ....	20,000



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Neodesha Arts Association .....	\$ 1,200
Neurofibromatosis, Kansas Inc. ....	700
Newton Meals on Wheels .....	3,000
Northwest Kansas Family Shelter, Inc. ....	3,000
Occupational Center of Central Kansas, Inc. ....	3,000
Old Cowtown Museum .....	14,500
Old Cowtown Museum (Emergency Relief) .....	8,500
Opera Kansas Society, The .....	2,000
Parkside Homes, Inc. ....	15,000
Peabody Historical Society .....	3,000
Professional Care .....	5,000
Project Awareness for Major Mental Illness .....	7,200
Radio Kansas .....	5,800
Salina Arts and Humanities Commission .....	2,000
Salina Emergency Aid/Food Bank, Inc. ....	2,500
Sedgwick County Zoo and Botanical Gardens .....	40,000
Senior Services, Inc. ....	4,000
Spina Bifida Association of Kansas .....	2,000
Topeka Civic Theatre .....	1,500
United Cerebral Palsy of Kansas .....	5,000
United Methodist Youthville .....	5,000
Warren Hall Coutts III (Memorial Museum of Art) .....	3,000
Wichita Area Girl Scouts .....	4,000
Wichita Area Sexual Assault Center .....	5,000
Wichita Asian Association .....	1,000
Wichita Chamber Chorale, Inc. ....	2,000
Wichita Children's Home .....	8,000
Wichita Children's Theatre and Dance Center .....	3,000
Wichita Council for the Preschool Blind, The .....	3,500
Wichita Crime Stoppers, Inc. ....	2,500
Wichita Jazz Festival Council, Inc. ....	5,000
Wichita Park Alliance .....	15,000
Wichita Public Library Foundation .....	1,800
Wichita Symphony Society, Inc. ....	20,000
Wichita-Sedgwick County Arts and Humanities Council .....	2,000
Wichita-Sedgwick County Cities in Schools, Inc. ....	15,000
Wichita-Sedgwick County Regional Prevention Center .....	3,500
Wichita-Sedgwick County Regional Prevention Center .....	1,000
Winfield Arts and Humanities Council .....	1,500
YWCA of Wichita .....	14,000



June 1993

Kansas Racing Commission  
Racing Fund Revenue & Expenditures  
FY 94 & FY 93

The following schedule indicates the gross and net revenue for FY 94 and FY 93:

	<u>FY 94</u>	<u>FY 93</u>
Gross Revenue	7,246,000	7,604,000
Less Transfers:		
Gaming Fund	(5,547,000)	(5,822,000)
KBI	(323,000)	(290,000)
Computer adjustment	<u>          --          </u>	<u>          13,000          </u>
Net revenue	<u>1,376,000</u>	<u>1,505,000</u>

The following schedule lists the expenditure amounts as follows:

<u>FY 94</u>	<u>FY 93</u>
<u>1,930,000</u>	<u>1,726,000</u>

The FY 94 revenue is the amount that was requested in the agency's budget request, excluding the Pittsburg projections.

The FY 94 expenditure is the expenditure limitation recommended by the legislature.

The FY 93 revenue and expenditure amounts are estimated amounts because the year end processing has not been completed by accounts and reports.

## MEMORANDUM OF UNDERSTANDING

The Kansas Racing Commission and the Kansas Bureau of Investigation hereby enter into the following Memorandum of Understanding concerning investigative and administrative responsibilities between the KBI Gaming Unit and KRC Security personnel.

The KBI's statutory power and duties are as follows:

1. The KBI's primary responsibility is to investigate violations of the Kansas Criminal Statutes, consistent with K.S.A. 75-711 and K.S.A. 75-712. Such investigations shall be to identify, apprehend, and seek prosecution of persons or groups violating said statutes, especially as they relate to Kansas parimutuel racing.
2. Investigate violations of the Kansas Racing Act, K.S.A. 74-8801, et seq. Such investigations may be in conjunction with Commission security personnel.
3. Investigate administrative violations related to the parimutuel industry when requested by the Commission.
4. Conduct background investigations of key personnel and others requested by the Commission.
5. Conduct surveillance and develop sources of information to discover criminal activities and to monitor known offenders at all racing facilities.
6. Establish and maintain close and professional working relationships with Commission security personnel and such others charged by the Commission to regulate.
7. Conduct periodic administrative inspections at all racetrack facilities including, but not limited to, a license, licensee, vehicle, stable, kennel, office or any other area of a racetrack if there is reasonable suspicion to believe it is necessary in order to:
  - 1) Protect human safety and life,
  - 2) Protect animal safety and life,
  - 3) Prevent a violation or act which immediately threatens the integrity or outcome of a race,
  - 4) To seize and secure contraband.

Such inspections may be performed in conjunction with Commission security personnel, or other personnel the Commission finds necessary for such inspections.

KBI agents assigned to the Gaming Unit shall have all rights of reasonable access to all areas of a racing facility, consistent with those given to Commission security personnel.

8. Conduct immediate administrative inspections at all racetrack facilities, including, but not limited to, a license, licensee, vehicle, stable, kennel, office or any other area of a racetrack licensee, vehicle, stable, kennel, office, or any other area of a racetrack, if there is reasonable suspicion to believe it is necessary in order to:
  - 1) Protect human safety and life,
  - 2) Protect animal safety and life,
  - 3) Prevent a violation or act which immediately threatens the integrity or outcome of a race,
  - 4) To seize and secure contraband
9. All administrative violations shall be immediately reported to KRC security personnel or other designated KRC authorities. Physical security deficiencies will be reported to both track management and KRC officials.
10. Concerning investigations, searches and arrests:

The KBI will investigate, make arrests and seek state prosecution for felony crimes committed at a race track. Those violations directly related to racing will be worked by the KBI and others will be referred to local law enforcement.

Regulatory matters which might constitute a misdemeanor, but where the burden of proof is less than in criminal court, may be turned over to the state stewards, racing judges or Commission investigators for administrative action; or considered for prosecution.

All administrative searches conducted by the KBI will be in accordance with K.S.A. 74-8816, 74-8817 and 74-8837, KAR 112-11-12(a)(1)&(a)(2), 112-11-12(b) and 112-11-12(d).

The statutory powers and duties of the KRC Security Division are as follows:

DIRECTOR OF SECURITY

1. Conduct investigations relating to compliance with the Racing Act and Commission regulations.
2. Recommend proper security measures to organization licensees.
3. Train and supervise security personnel to assist with the described duties.
4. Approve oral examinations for race track security guards.
5. Approve continuing education course qualifications for race track security guards.
6. Annually review and approve each organization licensee's security and safety procedure manual.

7. Annually observe and approve each organization licensee's emergency procedures/response rehearsal drills.
8. Perform such other duties as directed by the executive director.


SECURITY PERSONNEL

1. Conduct limited warrantless searches of licensee's person and property within the race track facility, as provided by the Racing Act and Commission regulations.
2. Conduct background investigations on applicants for licensure as designated by the commission.
3. Investigate administrative violations related to the parimutuel industry when requested by the Commission.

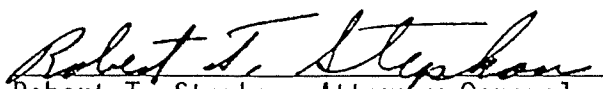
EMPLOYEES VESTED WITH LAW ENFORCEMENT POWERS

1. During routine conduct of duties as determined by the executive director, make arrests, conduct searches and seizures and carry firearms while investigating violations of the racing act.
2. As violations of criminal laws are encountered during the routine performance of duties, make arrests, conduct searches and seizures and generally enforce all Kansas criminal laws.
3. Issue notices to appear pursuant to K.S.A. 22-2408 and amendments thereto.

Commission personnel shall report to the KBI violations of criminal law or suspected violations of criminal law.

  
Robert B. Davenport, Director  
Kansas Bureau of Investigation

5/13/93  
Date

  
Robert T. Stephan, Attorney General  
Office of the Attorney General

5/11/93  
Date

  
Janet Chubb, Executive Director  
Kansas Racing Commission

051793  
Date

  
Robert Londerholm, Chairman  
Kansas Racing Commission

5/21/93  
Date



**Kansas Lottery™**

Joan Finney  
Governor

Ralph W.E. Decker  
Executive Director

HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS  
IMPLEMENTATION OF GAMBLING POLICY  
July 15, 1993

The Lottery is very stringent in designating who may become a Lottery retailer. Each application that is received must first go through the Department of Revenue to determine that the applicant is current on all applicable taxes. The application is then run through the Department of Human Resources to determine if the applicant is delinquent in paying alimony, child support and etc.. We also check with the individual county treasurer's to see if the applicant is delinquent regarding any real or personal property taxes.

The Lottery has a full time security staff which is dictated by statute. Our security staff does a credit and criminal background check on each applicant. If the applicant is a corporation then each officer of that corporation and each stockholder with 5% or more of the corporation's outstanding shares is subject to the credit and criminal background. The criminal background is done not only on the state level, through the KBI, but also on a federal level. Finally, after the applicant passes all the aforementioned inquiries he/she is asked to sign an oath that they are financially sound and will adhere to the guidelines requested of Lottery retailers. In addition, all Lottery employees are required to pass a credit and criminal background check before they are hired.

While the Lottery does not receive credit for their involvement in collecting delinquent taxes, child support and etc. we have in fact been responsible for recapturing several thousands of dollars in delinquent payments due the state because of our licensing procedure. Another facet of the lottery which does not fall under licensing or regulations is our involvement with the state set-off program. Each winner of a lottery prize (\$25.00 minimum) has to be run against the set-off program before they can claim their winnings. Again, even though we do not receive credit for this we have collected several thousands of dollars due the state for delinquent taxes, alimony, child support and etc..

We do not have an ongoing enforcement procedure in that we are not made aware of any delinquent payments due the state. However, if the Department of Revenue was willing to give us that information we would be glad to pull that retailer's license until he became current. Another suggestion would be the involvement of ABC. I believe an individual would be very cooperative if they were to rescind their liquor license thereby severely curtailing their livelihood.

Another procedure that the Lottery utilizes to insure revenue collection is the use of electronic fund transfers. In other words all the revenue due the lottery from sales is electronically swept from the retailer's bank account. The success of this program is evidenced by the extremely small amount of debt due the lottery. Since the lottery's inception in November 1987 our bad debts have been a paltry 2/10 of 1% of sales. While we would like to have a 100% collection effort this figure is extremely low and would be envied by any business, or government.

The highest priority for the Lottery other than promoting sales is promoting an image of high integrity. This is done through our stringent licensing and security procedures. We do not let just anyone become a lottery retailer. They must have a good financial back ground in addition to a record clear of any criminal activity. This is evident by the fact that we have approximately 13% of our staff involved in the licensing and security aspects of our business.

Obviously, our business is gambling but like any successful business you have to market, you have to advertise, and you have to promote your product as best you can. Due to the fact we are a state agency we are severely limited in not only the amount of money we can spend to promote our products but also the manner in which we can promote our products. I'm sure you are aware of the fact that there is a direct correlation between sales and advertising. The more good advertising you do the greater your chances are of successfully selling your product. Our advertising budget at 2% of sales is the lowest in the Lottery industry. This is not our decision, rather, we are made to operate this way by certain state authorities. Yes we would like promotion to be a major function of the lottery, however, we are severely limited in what we are allowed to do.

The legislature established an independent state agency designated as the Kansas Lottery, under the supervision of the executive director but subject to the Kansas Lottery Act. Reporting to the executive director are the deputy executive director and the directors of administration, security and sales. The data processing and finance departments report to the director of administration while the personnel department reports directly to the Executive director. While the lottery is supposedly an independent agency whose primary mission is to provide monies to the state, we are not allowed to function that way. Because we are subjected to the Kansas Lottery Act and thereby becoming a state agency we are not permitted to reach our primary mission of maximizing monies to the state. We are limited by statutes. This in itself poses quite a problem. Keep in mind that we do not receive any monies from the state. We operate totally from revenue generated by sales, yet we are told how much and how to spend those revenues by agencies that are not involved in our business. The answer then to the question; Does the statutory organization scheme work to implement the agency's primary mission, is no!



As I mentioned earlier our operations are financed entirely by revenue generated by lottery sales. The following is a summary of our actual FY 93 revenue and expenditures as well as those projected for FY 94. You should notice that for FY 93 we did not spend our entire allotted administrative budget.

We are proud of the fact that we hold the line on expenditures while maximizing revenues. Again, this is somewhat of a dichotomy within the state system; an agency spending less than its authorized budget.

	FY 93 (unaudited) (Actual)	FY 93 (Budget)
SALES	\$114,106,019.00	\$80,000,000.00
PRIZES	57,623,540.00	39,857,885.00
GAMING FUND	32,479,372.00	24,000,000.00
VENDOR COMMISSIONS	4,568,531.00	3,230,056.00
RETAILER COMMISSIONS	5,796,626.00	4,099,619.00
ON LINE CHARGES	2,034,561.00	1,950,000.00
SALARIES	3,034,561.00	3,155,706.00
ADVERTISING	2,309,100.00	2,309,100.00
OTHER ADMINISTRATIVE	2,535,617.00	2,969,394.00
KBI TRANSFER	150,000.00	150,000.00

FY 94  
(BUDGET)

SALES	\$120,000,000.00
PRIZES	61,519,500.00
GAMING FUND	36,000,000.00
VENDOR COMMISSIONS	5,812,500.00
RETAILER COMMISSIONS	6,010,000.00
ON LINE CHARGES	2,007,000.00
SALARIES	3,306,217.00
ADVERTISING	2,682,700.00
OTHER ADMINISTRATIVE	3,235,255.00

Position filled by function are as follows:

Executive	9
Security	13
Marketing	13

Administration:

Director's Office	7
Purchasing	1
Data Processing	10
Finance	11

Sales:

Director's Office	5
Topeka Region	13
Wichita Region	9
Great Bend Region	8

Total FTE	99
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# MEMORANDUM

## Kansas Legislative Research Department

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June 10, 1993

### GAMBLING REVENUE

#### Who is Responsible for Gambling Revenue in Kansas?

Kansas statutes provide for collection and allocation of revenue from three types of gambling: bingo, parimutuel wagering, and the Kansas Lottery. Bingo license fees and tax receipts are collected by the Department of Revenue. Taxes and fees related to parimutuel wagering are collected by the Kansas Racing Commission, and lottery revenue is collected by the Kansas Lottery. The Secretary of Revenue, lottery and racing commissions, and the director of the Lottery are all appointed by the Governor.

#### Does All Kansas Gambling Revenue Go Into the Same Account?

No. Revenue from each type of gambling is distributed slightly differently.

Bingo license fees and taxes are all remitted by the Secretary of Revenue to the State Treasurer. License fees are currently credited to the State General Fund, but will be credited to the Bingo Regulation Fund, along with newly authorized registration fees, beginning in FY 1994 pursuant to provisions of 1993 S.B. 181. Bingo tax revenue is divided equally between the State Bingo Regulation Fund, the County and City Bingo Tax Fund, and the State General Fund. The State Bingo Regulation Fund is used by the state to support enforcement of bingo laws by the Department of Revenue. Revenue to the County and City Bingo Tax Fund is returned to those counties and cities in which bingo licensees are located. Funds provided to local units of government are to be used to assist in enforcement of state bingo laws. (K.S.A. 79-4710)

Receipts from the sale of lottery tickets are deposited by the Executive Director of the Kansas Lottery in the Lottery Operating Fund in the state treasury. Statutorily, moneys in that fund are used to support operation of the Lottery, to pay prizes to lottery winners (*via* a transfer to the Lottery Prize Payment Fund); and to provide funding for reappraisal, correctional facility construction, and economic development *via* the State Gaming Revenues Fund (SGRF). During the first year of Lottery operation, FY 1988, a statutorily required transfer was made from the Lottery Operating Fund to repay to the State General Fund the amount utilized to establish the Lottery. (K.S.A. 74-8712) In FY 1989 a transfer was made from the Lottery Operating Fund directly to the County Reappraisal Fund. (Those funds were in addition to amounts transferred from the SGRF to cover a portion of the cost of statewide reappraisal. See discussion of transfers from the SGRF below.) In FY 1993 and FY 1994, transfers are budgeted from the Lottery Operating Fund to the

*House Fed. and State Affairs*  
*July 15-16, 1993*

*Atch #6*

Kansas Bureau of Investigation (KBI) for the purpose of supporting the KBI's gaming investigation unit.

Not less than 45 percent of net monthly receipts from the sale of lottery tickets must be awarded as prizes. Not less than 30 percent of net monthly receipts from the sale of lottery tickets must be credited to the SGRF. The remainder may be used to operate the Lottery and to pay a fee to merchants who sell lottery tickets.

With two exceptions, all taxes on parimutuel wagering, admission tax, application fees, license fees, and fines collected by the Kansas Racing Commission are credited to the State Racing Fund. The two exceptions are an additional tax of \$.20 on each admission to a racetrack that is exempt from local ad valorem property taxes, and investigation fees which are collected from certain license applicants to cover the cost of background investigations. (K.S.A. 74-8824 and K.S.A. 74-8827) The additional admission tax is allocated to cities and counties in which racetracks subject to the tax are located. The county in which such a track is located gets one-half of the amount collected at that track and the city in which the track is located gets the other one-half. For tracks that are not located in a city, the county gets the whole amount. Neither Wichita Greyhound Park nor the Woodlands are subject to the admissions tax. The tracks at Eureka Downs and Anthony Downs were subject to that tax, but are not currently conducting races.

Expenditures are made from the State Racing Fund to operate the Racing Commission. As required by statute, a transfer was made from the State Racing Fund to repay the State General Fund for amounts expended to establish and operate the Commission prior to realization of any revenue to the Fund. Amounts in the Racing Fund in excess of those needed to operate the Commission are transferred monthly to the SGRF. (K.S.A. 74-8826) In addition, transfers have been made from the Racing Fund to finance the KBI's Gaming Unit every year since FY 1990.

Breakage and unclaimed winnings from live and simulcast horse races are collected by the Racing Commission and credited to the Kansas Horse Breeding Development Fund in the state treasury. (Breakage is the odd cents by which the amount payable on each dollar wagered in a parimutuel pool exceeds a multiple of \$.10.) The Horse Breeding Development Fund is used to provide:

- purse supplements to owners of Kansas-bred horses;
- stakes and awards to owners of winning Kansas-bred horses in certain races;
- a stallion award to each owner of a Kansas-registered stallion which is the sire of a Kansas-bred horse that wins any race conducted at a Kansas race meeting;
- a breeder's award to each owner of a Kansas-registered mare that is the dame of a Kansas-bred horse that wins any race conducted at a Kansas race meeting; and
- funds for equine research through institutions of higher education under the State Board of Regents. (K.S.A.'s 74-8821 and 74-8822)

Breakage from live greyhound races is directly distributed by organization licensees and is not remitted to the Racing Commission. One-half the breakage from live greyhound races is used

to supplement open stakes races as approved by the Racing Commission. The other one-half is used for purses to breeders of Kansas-whelped greyhounds. (K.S.A. 74-8821) Breakage from simulcast greyhound races conducted by a horse-only licensee must be distributed to benefit greyhound racing as determined by the Commission.

Unclaimed winnings from live and simulcast greyhound races are remitted to the Racing Commission and credited to the Greyhound Breeding Development Fund in the state treasury. Moneys credited to that fund are allocated as follows:

- 15 percent to the Greyhound Tourism Fund;
- 35 percent for research conducted within Kansas relating to the prevention of injury and disease of greyhounds;
- not more than \$30,000, as determined by the Racing Commission, to pay a portion of the administrative costs of the official greyhound registration agency; and
- the balance to be used by racetrack facilities to supplement stake races for Kansas-whelped greyhounds as approved by the Commission. (K.S.A. 74-8831)

Moneys in the Greyhound Tourism Fund can be used only for promotion of greyhound-related tourism. Expenditures from the fund are made under the authority of the Secretary of Commerce and Housing. (K.S.A. 74-8831)

Applicants for organization, facility manager, and facility owner licenses must make a deposit with the Racing Commission at the time of application. Those deposits are refunded to unsuccessful applicants, but deposits from licensees are held by the Commission until the facility is completed in accordance with terms of the license. If the licensee does not complete the track in accordance with the terms of the license, the deposit, and any interest accrued on the deposit are forfeited. In the case of a forfeiture, the deposit and any interest is credited to the Racing Fund. (K.S.A. 74-8828)

As explained above, some revenue from both the Lottery and parimutuel wagering is transferred to the SGRF. That fund is used essentially as a holding fund from which further transfers to other statutory funds are made on a monthly basis. No more than \$50 million can be credited to the SGRF in any fiscal year. Amounts in excess of \$50 million are credited to the State General Fund.

Transfers from the SGRF are made as follows:

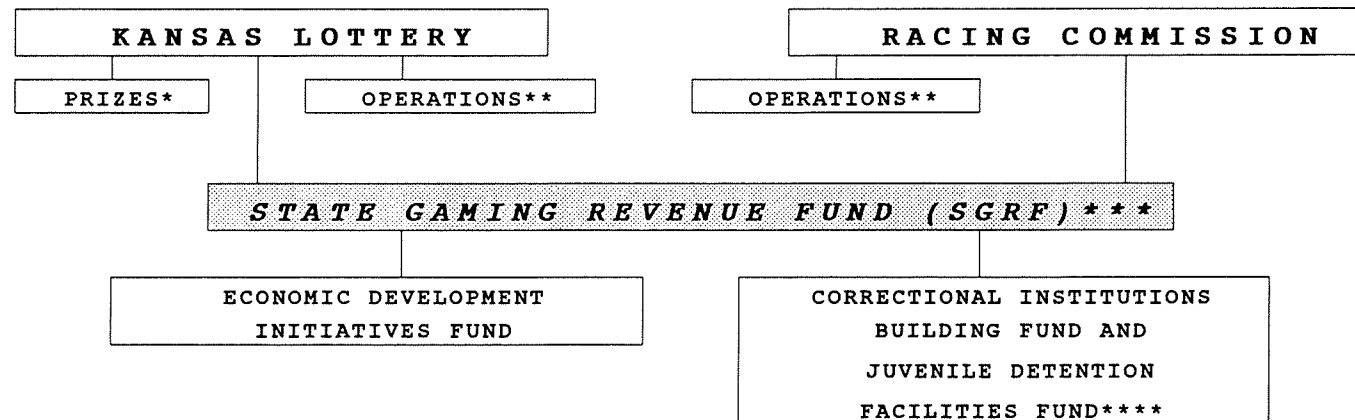
- 90 percent to the Economic Development Initiatives Fund (EDIF); and
- 10 percent to finance construction or capital improvements of juvenile detention facilities and state correctional institutions. (The allocation to the Juvenile Detention Facilities Fund must be established by an annual appropriations act. The Legislature has not made such an appropriation since the fund was created.)

Prior to June 30, 1990, 30 percent of the fund was used to defray a portion of costs incurred by counties during statewide reappraisal. At that time 60 percent of the fund was used to finance economic development projects. (K.S.A. 79-4804) For each of fiscal years 1991-1993 the Legislature appropriated \$3 million (for a total of \$9 million) to the Department of Revenue from the EDIF for county reappraisal aid.

Attached is a table that displays amounts transferred from lottery and parimutuel wagering revenues to various fund charts that depict the generalized flow of racing and the lottery revenue.

93-6614/MKG

**STATE GAMING REVENUE FUND**  
**REVENUE FLOW -- STATUTORY REQUIREMENTS**



- \* Minimum 45%
- \*\* Set by appropriations acts
- \*\*\* Minimum 35% of Lottery sales, all Racing Commission revenue not appropriated for operations.
- \*\*\*\* Ten percent of SGRF annual revenue. No appropriation has been made to the JDFF to date.

# MEMORANDUM

## Kansas Legislative Research Department

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February 5, 1993

## GAMBLING REVENUE

This memorandum discusses state and some local revenue from three types of gambling currently legal in Kansas: bingo, lottery, and parimutuel wagering. Revenue from the Bingo Enforcement Tax was first collected in FY 1975. Revenue from the State Lottery was first collected in FY 1988. Revenue from parimutuel wagering was first collected in FY 1989. The table below displays revenue allocations from those three sources since their inception.

The table includes amounts credited to the State General Fund (Bingo Enforcement Tax since FY 1978 and transfers from lottery and racing) and to the State Gaming Revenues Fund (lottery and parimutuel). Also included in these amounts are transfers from the Racing Commission to the Kansas Bureau of Investigation to fund its gaming investigation unit. (In addition to these transfers, payments to the KBI for specific work done for the Lottery and Racing Commission are included as part of those agencies' expenditures for state operations.) Since FY 1985, one-third of the Bingo Enforcement Tax has been used to fund bingo enforcement conducted by the Department of Revenue. Gambling revenue also is used to fund operation of the State Lottery and the Racing Commission. Those amounts are identified as state operations in the table below. Income taxes are also collected on gambling winnings, but because information on totals is incomplete, those amounts are not included in the table and are separately discussed in this memorandum.

Of the total amount of gambling revenue (including income taxes withheld from winnings) collected by the state since FY 1975, 61.4 percent has gone to the State General Fund and the State Gaming Revenues Fund, 35.8 percent has been used for state operations (including transfers to the KBI), and 2.9 percent has gone to local units of government via the County and City Bingo Tax Fund and the Parimutuel Admissions Tax. A total of \$15.89 million credited to the State Gaming Revenues Fund during fiscal years 1988 through 1990 was provided by statute to counties to finance reappraisal expenses. In addition, \$2.9 million was transferred directly from the Lottery Operating Fund to the County Reappraisal Fund in fiscal years 1989 and 1990. For the three fiscal years, a total of \$18.8 million was transferred into the County Reappraisal Fund.

Please note that the portion of the Bingo Enforcement Tax credited to the County and City Bingo Tax Fund is not included in this table as state revenue, but those amounts that ultimately went to counties for reappraisal are included as state revenue.



Source	Amount (in Millions)
Bingo Enforcement Tax -- to SGF (FY 1975-FY 1992)	\$ 3.73
Lottery -- to SGRF and SGF (FY 1988-FY 1992)	98.74
Parimutuel Racing -- to SGRF, SGF, and KBI (FY 1989-FY 1992)	21.03
TOTAL	<u>\$ 123.50</u>
<b>State Operations</b>	
Bingo Enforcement (FY 1975-FY 1992)	\$ 2.15
Lottery (FY 1988-FY 1992)	64.58
Racing Commission (FY 1989-FY 1992)	6.31
TOTAL	<u>\$ 73.04</u>
 TOTAL Revenue to the State	 <u>\$ 196.54</u>
 County and City Bingo Tax Fund (Bingo enforcement) (FY 1975-FY 1992)	 \$ 5.96
Racing Admissions Tax	.02
TOTAL	<u>\$ 5.98</u>

The attached charts prepared by the Research Department's fiscal staff provide some additional detail regarding the flow of funds generated by the lottery and parimutuel wagering.

I would note that the Governor's budget recommendation for FY 1993 includes \$32,123,984 revenue to the state from lottery and parimutuel wagering, including transfers to the KBI. The Governor's estimate of operating expenditures for those agencies for FY 1993 totals \$16,746,304. When those amounts are added to the total above, \$239.5 million will have been realized by the state from these forms of gambling since FY 1988.

Income tax also is withheld from large gambling winnings just as for wage income. State tax withheld from large lottery winnings totaled approximately \$1.6 million for calendar years 1988 through 1992. During fiscal years 1988-1993, through the "set-off" program, the state also recovered approximately \$140,000 it was owed. Figures currently available from the Racing Commission show that approximately \$2.2 million have been withheld from large parimutuel wagering winnings from calendar years 1989-1992. (Please note that figures on withholding from winnings at Wichita Greyhound Park are for 1991 and 1992 only.)

Income tax is also collected from lesser winnings that are reported in the same manner as other income from which taxes are not withheld. There is no way to identify taxes paid on those smaller winnings.

A portion of the revenue collected by the state is used to regulate gambling. Those amounts are identified on the table as "state operations" and the amount that goes to the County and City Bingo Tax Fund, a total of \$79 million since 1975. This amount does not include any expenditures made by local units of government for law enforcement or other expenses associated with lottery or racing. Eureka Downs was the only racetrack at which the admission tax that must be remitted to the local units of government was collected. A total of \$24,000 was collected during the three years the track was open. The Racing Act does not specify a use for those funds by the local units of government.

Approximately 150 full-time equivalent (FTE) positions are authorized for the Lottery and the Racing Commission combined. Bingo enforcement activities of the Division of Alcoholic Beverage Control involves 5.5 FTE positions. In addition, tracks employ personnel for various lengths of time during the year. Over 6,500 occupation licenses were issued at the two operating tracks in 1991; however, over one-third of those licenses were issued to racing animal owners who are not employed by the track, strictly speaking. Some jobs also may have been created in businesses that provide goods and services to the tracks, but there is no reliable tally of those positions. Likewise, there is no reliable means of determining how many positions may have been created in those entities receiving grants of funds from the State Gaming Revenue Fund and the recipients of grants from the nonprofit organization licensees that are required to donate racing revenue to charities.

In its 1991 *Annual Report*, the Kansas Racing Commission reported that \$2.7 million had been distributed to nonprofit organizations in 1990 and 1991. Almost \$2 million of that amount was distributed in 1991. Bingo licensees must be nonprofit organizations, some of which use Bingo proceeds for charitable purposes, but there are no reliable means of determining how much revenue is used for those purposes.

## TRANSFERS FROM LOTTERY AND PARIMUTUEL FUNDS TO OTHER STATE FUNDS

	Actual FY 1988	Actual FY 1989	Actual FY 1990	Actual FY 1991	Actual FY 1992	Reported* FY 1993	Cumulative Actual	Approved FY 1994
<u>State Gen. Fund Receipts/Offsets:</u>								
Lottery Transfers to SGF	\$2,843,321	--	--	--	\$1,500,000	--	\$4,343,321	--
Lottery Transfers to KBI	--	--	--	--	--	\$150,000	150,000	\$100,684
Parimutuel Transfer to SGF	--	--	--	1,646,665	--	--	1,646,665	--
Parimutuel Transfers to KBI	--	--	350,000	364,000	303,872	289,984	1,307,856	322,580
Total Transfers	\$2,843,321	\$0	\$350,000	\$2,010,665	\$1,803,872	\$439,984	\$7,447,842	\$423,264

	Actual FY 1988	Actual FY 1989	Actual FY 1990	Actual FY 1991	Actual FY 1992	Reported* FY 1993	Cumulative Actual	Approved FY 1994
<u>St. Gaming Rev. Fund Receipts:</u>								
Regular Lottery Transfers	\$8,500,000	\$20,115,848	\$19,081,989	\$19,453,470	\$22,847,019	32,479,362	\$89,998,326	\$35,537,778
Special Lottery Transfers	--	1,444,696	150,000	--	2,800,000	--	4,394,696	2,000,000
Parimutuel Transfers	--	--	3,682,246	7,577,665	7,103,667	5,822,316	18,363,578	5,244,559
Total Funds Available	\$8,500,000	\$21,560,544	\$22,914,235	\$27,031,135	\$32,750,686	\$38,301,678	\$112,756,600	\$42,782,337
<u>SGRF Transfers Out:</u>								
To Econ. Devp. Initiatives Fund	\$5,100,000	\$12,936,326	\$13,748,541	\$24,328,021	\$29,475,617	\$34,471,510	\$120,060,016	\$38,504,103
To County Reappraisal Fund	2,550,000	6,468,163	6,874,271	***	***	***	15,892,434	***
To Correctional Insts. Bldg. Fund	850,000	2,156,054	2,291,424	2,703,113	3,275,069	3,830,168	15,105,828	4,278,234
Total SGRF Transfers	\$8,500,000	\$21,560,544	\$22,914,235	\$27,031,135	\$32,750,686	\$38,301,678	\$151,058,278	\$42,782,337

\*\*\* No 30% statutory transfer for reappraisal after June 30, 1990.

Transfer to Co. Reapprsl. Fund a)	--	\$2,915,318	\$24,316	--	--	--	2,939,634	--
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a) recapture of lapsed encumbrances per 1988 H.B. 3091.

	Actual FY 1988	Actual FY 1989	Actual FY 1990	Actual FY 1991	Actual FY 1992	Reported* FY 1993	Cumulative Actual	Approved FY 1994
TOTAL GAMING TRANSFERS	\$11,343,321	\$24,475,862	\$23,288,551	\$29,041,800	\$34,554,558	\$38,741,662	\$161,445,754	\$43,205,601

## MEMORANDUM

July 27, 1989

TO: Special Committee on Federal and State  
Affairs/Governmental Organization

FROM: Kansas Legislative Research Department

RE: Parimutuel Wagering Terminology

The following terms and definitions are commonly used in discussion of parimutuel racing. This information was compiled from Glossary of Racing Terms by S. Tupper Bigelow. A copy of the entire Glossary is available in the Research Department.

**back side or backstretch** -- That part of a race track commonly known as the stable area.

**breakage** -- In parimutuel betting, the odd cents left over, after paying the successful bettors in multiples of 20, 10, or 5 cents on the dollar as the case may be, the exact amount of breakage varying in different racing jurisdictions. the breakage is retained by the racing association or split between it and the taxing authority. For instance, in a racing jurisdiction where the racing association pays to the dime, the calculators have calculated that a win ticket on Dinner Gong is actually worth \$6.69, but the successful bettor receives only \$6.60, the extra 9 cents being retained as breakage.

**clerk of the course** -- The employee of a race track whose duty it is to manage the conduct of a race meeting.

**clerk of the scales** -- The employee of a race track who weighs the jockeys with their tack and weights before and after a race.

**colors** -- (1) The racing colors or silks worn by a jockey in a race to identify the owner of the horse and to make it relatively easy for the stewards, patrol judges, and the public to differentiate between various horses in a race. The practice of wearing colors originated in Newmarket, England in 1762. (2) A jockey's uniform.

**combination** -- (1) In parimutuel betting, three separate bets that a certain horse will come first, that it will come second or better, and that it will come third or better. For convenience, since such bets are popular, special wickets are set up at race tracks to handle such bets, rather than put the bettor to the inconvenience of lining up in three different lines to buy three tickets. The bettor therefore buys one ticket, but has made three bets. (2) a **combination** race.

**daily double** -- (1) In two designated races, the betting on two horses to win each of the two races. (2) The two races designated as the ones on which daily double betting is permitted.

**Daily Racing Form** -- A daily newspaper published in a number of editions at various racing centers in the United States and Canada, dealing in a wealth of detail with past performances of horses competing the following day, and reporting in similar detail the

results of the races held on the day of issue. In addition, it carries news and columns dealing with racing, and other news.

**dead heat** -- The finish of a race in which two or more horses finish precisely together.

**disqualify** -- (1) To place a horse in a lower position in a race than where it actually finished, due to carrying improper weight, ineligibility, the use of drugs, a foul committed by the jockey in the race, or other infractions of the rules of racing. A disqualified horse may be placed in any lower position in a race for foul riding, but is usually placed immediately behind the horses it interfered with in the race. (2) To suspend a horse, horseman, or jockey from racing.

**dollar odds** -- The profit a bettor will receive on a successful bet of \$1.00. Thus, if a \$2.00 investment pays \$6.60, his profit is \$4.60, or \$2.30 for \$1.00. The dollar odds are therefore \$2.30. To translate parimutuel pay-offs (for \$2.00 bet) to dollar odds subtract \$2.00 and divide by two.

**drop** -- Of a mare, to give birth to a foal.

**equivalent odds** -- The odds to \$1.00. If in parimutuel betting, a horse pays \$12.00 for a \$2.00 ticket, deduct the \$2.00 which has been bet; the odds, then are 10-2; the equivalent odds are 5-1.

**exacta** -- (1) In a designated race, the betting on two horses to finish first and second in that order. (2) The race designated as the one on which exacta betting is permitted.

**field** -- (1) All the horses which compete in a race. (2) A number of horses which are grouped together as an entry for the purpose of parimutuel betting. The horses which comprise the field are selected by the racing secretary or the track handicapper, and are the horses which are conceded to have the least chance of winning. But there are cases of three horses in the field finishing 1, 2, 3, which may or may not indicate how really difficult it is to correctly assess the possible performance of a Thoroughbred race horse. (3) In a race, the horses which finish after the first three.

**furlong** -- One-eighth of a mile.

**futurity race** -- A race for younger horses, usually two-year-olds, in which entries are made a considerable time before the running of the race, often before the entered horse is born.

**groom** -- A stable employee who cares for horses and often leads the horses from the stable to the paddock before a race.

**half-miler** -- (1) A race track one-half mile in circumference. (2) A horse which runs its best at a distance of one-half mile. (3) A horse which runs its best on a half-mile track.

**handicap** -- (1) A race in which the competing horses are assigned weights to carry which, ideally, will equalize their chances of winning. (2) As between horses, the difference in weights so assigned. (3) Loosely, any important race. It should be noted that virtually all races are handicaps in the sense of definition 1, since an attempt is made to equalize the chances of all competing horses by apprentice allowances, sex allowances, maiden allowances, and the like.

**handicapper** -- (1) The official of a racing association, usually the racing secretary, who assigns weights to competing horses in an effort to equalize their chances of winning. (2)

A newspaper writer who does his best to select the winners of a day's racing. (3) A bettor or student of the turf who makes his own selections.

**intermediate distance** -- Of a length of a race, anything over seven furlongs and under 1 1/8 miles.

**invitation race** -- A race in which the competing horses are selected by inviting their owners to enter specific horses in a race.

**jockey** -- (1) A professional race rider. Amateurs are called amateur riders or gentlemen riders. (2) Of a jockey, in a race, to maneuver for an advantageous position in relation to the other horses in the race.

**Jockey Club, The** -- (1) All Thoroughbreds racing on the North American Continent must be registered with **The Jockey Club** (New York) and their names must be approved by the Club. (2) The governing body of racing in the U.K.

**Jockey's Guild, The** -- A nationally organized body of jockeys, associated for the double purpose of performing charitable works for their own members and other jockeys, and advancing their relations with governing bodies of racing, race tracks, horsemen, and the public.

**jockeys' room** -- The quarters where the jockeys change, shower, etc., and where their tack is kept.

**jockeys' room custodian** -- Custodian of the jockey's room.

**jockeys' school** -- An off-season establishment where jockeys, particularly apprentices, and in some cases, unlicensed persons who wish to become jockeys, are trained in race riding.

**judge** -- A steward, placing judge, paddock judge, or patrol judge.

**junior steward** -- A steward, usually one who is learning, who has all the powers of any other steward, except the right to vote on any matter being determined by the stewards.

**learner steward** -- A steward who is inexperienced but sits with the stewards and has all the powers of any other steward, except the right to vote on any matter being determined by the steward.

**maiden** -- (1) A horse that has never won a race. (2) Of a race, one in which the contenders are horses that have not won a race. (3) Of a jockey, one who has not ridden a winner.

**maiden allowance race** -- A race exclusively for maidens, in which certain weight allowances are made under the conditions. A usual condition is that an allowance may be claimed if the horse has previously started in a closed claiming race, i.e., a claiming race out of which horses can be claimed only by owners of the other horses competing in the race in question.

**match race** -- A race between two horses, the property of two different owners on terms agreed to by them; it is void if either horse or party dies.

**maturity** -- A futurity for four-year-olds.

**minus pool** -- The total amount of money bet in the parimutuels on a race, or for win, place, show which will not show a profit for the racing association because the racing association is required to pay a certain minimum premium on each \$2 bet; in most racing jurisdictions, 10 cents. Thus, in the case of an almost unbeatable horse, particularly in stakes races, big bettors will bet large sums of money on the favorite to show, knowing they are bound to get \$2.10 back for every \$2.00 they bet.

**morning line** -- the probable odds on each horse, calculated by the track handicapper and posted in the morning of the day the races are to be run after scratches and the track condition are known.

**mutuel pool** -- (1) In parimutuel betting, the total amount bet on any race, or on any day, or at any meeting. (2) In parimutuel betting, the total amount bet on any race, or on any day, or at any meeting, less the tax and race track commission. After these deductions, the remainder is paid to successful bettors.

**NASRC** -- The National Association of State Racing Commissioners, members of which are members of Racing Commissions or Boards in the United States, Bahamas, Canada, Mexico, Puerto Rico, etc.

**nose** -- A unit of distance used to separate one horse from another in a race. The winning of a race is determined by ascertaining which horse got its nose over the finish line first.

**objection** -- A protest of foul in a race, entered by a steward, a patrol judge, the jockey, or by the horse's owner or trainer.

**odds board** -- A large sign-board-like structure, usually placed in front of the grandstand in the infield at a race track, upon which the odds are posted, usually in lights, as the betting on a race proceeds. Other information may also be found on the odds board, such as the time of the last race, post time for the next race, the parimutuel pay-off of the last race, and so on.

**odds man** -- An employee of a racing association whose duty it is to calculate the approximate odds on each horse in a race as the betting progresses so that these odds may be flashed on the odds board.

**off-course betting** -- Illegal betting with bookmakers outside of race track premises.

**out** -- (1) Of a horse, **out of the money**. (2) An outstanding (unredeemed) parimutuel ticket.

**owner** -- A person of stable which has property rights in a horse or horses, or who has leased the racing qualities of a horse or horses. In some jurisdictions, for some purposes, a husband and wife are recognized as a single owner. In most jurisdictions, an owner is licensed by the racing commission or governing body of racing.

**paddock** -- (1) The building or enclosure where the horses are saddled for a race. (2) A railed enclosure, sometimes surrounded by bleacher seats, in which the horses are paraded for public view immediately before the horses leave for the post parade.

**paddock judge** -- A race track official whose duty it is to get the jockeys up on their mounts in time, and get the horses on the racing strip in time.

**paddock to post** -- The parade of horses competing in a race from the paddock to the starting point of the race and, thence, by racing to the winning post. It is usually provided

that the horses should pass the stewards' stand twice before proceeding to the starting point.

**parimutuel odds** -- The odds paid on bets made at the race track where the parimutuel system of betting is in effect.

**parimutuels** -- The system of race track betting which returns to successful bettors the precise amount of money wagered by unsuccessful bettors, after deduction of tax and race track commission.

**path-patrol judge** -- A racing association official who watches a race from a certain part of a race track, and reports what he has seen to the stewards. There are usually three or four patrol judges.

**pay-off** -- The amount of money returned on a successful bet.

**photo** -- the series of photographs, taken a split second apart, of the finish of a race. At all modern tracks, such photographs are taken of every finish, and are posted on the grounds for public viewing in all cases where a neck or less separates any of the first four horses.

**photo finish** -- A close finish.

**place** -- (1) The betting on a horse to win or come in second in a race, rather than straight or show. (2) Of a horse, to come in second in a race. (3) Of a horse, to come in the first three in a race. (4) Of a horse, when the first four horses share the purse, to come in the first four in a race.

**placing judge** -- A racing association official who, with the other placing judges, decides the placement of the horses in their order of finish in a race.

**pony boy** -- (1) The rider of a horse who accompanies and aids the jockey in controlling his mount in the post parade. (2) The rider of a horse who leads a riderless horse in a workout.

**pool** -- (1) In parimutuel betting, the total amount bet on a race, or for win, place or show. (2) In parimutuel betting, the total amount bet on a race, or for win, place or show, after deducting the tax and race track commission.

**post parade** -- The procession of horses from the paddock along the first stretch, usually passing the stewards' stand and the grandstand twice.

**program** -- (1) A publication sold each day of racing at the track. Each program contains the following information: the date; the number of the day of the meeting; the name of the racing association, the officers and officials of the meeting; the order in which the races are to be run; the amount of each purse; the conditions and distances of each race; post position number; mutuel numbers; name, age, color, sex, breeding, assigned weight, and any change of equipment of each horse; the name of each jockey and trainer; the real or assumed name of each owner, his racing colors; and other matters pertaining to racing. (2) The races of a particular day, considered together.

**purse** -- (1) The amount of money won in a race. (2) The amount of money won by the owner of any competitor in a race. (3) A purse race.



**purse race** -- A race for money or a prize to which the owners of the competing horses do not contribute.

**quarter horse** -- (1) A race horse, not a thoroughbred, which derived its name from the fact that the early settlers of Virginia raced their horses over distances of about a quarter-mile. The foundation sire of the American quarter horse was an English Thoroughbred named Janus and all present day quarter horses trace their blood lines back to this stallion. (2) A term used derisively of a Thoroughbred horse which is capable only of a short burst of speed.

**quinella** -- (1) In a designated race, the betting on two horses to finish first and second, although not necessarily in that order. Thus a bet on Dark Secret and Silver Land may pay off if these horses finish first and second or second and first respectively. (2) The race designated as the one on which **quinella** betting is permitted. Also spelled **quinela** and **quiniela**.

**quinella pool** -- (1) In parimutuel betting, the total amount bet on a **quinella** in a designated race. (2) In parimutuel betting, the total amount bet on a **quinella** in a designated race, after deducting the tax and race track commission.

**race** -- In its technical sense, according to the rules of racing in nearly all jurisdictions of Thoroughbred racing, a contest between or among horses for stakes, a purse or plate, a sweepstakes, a match, or an overnight event, but not a steeplechase or hurdle race.

**race meeting** -- The period of days during which races are run at any specified track.

**race track** -- (1) The place where races are run. (2) The racing strip.

**racing qualities** -- Of a horse, its use for the purpose of racing. The ownership of a horse may remain with its legal owner, but if its racing qualities are leased to another, the lessee becomes, for the purpose of racing, the owner of the horse. The racing qualities of a horse may be leased for a period of time or until its racing days are finished after which, in either case, the ownership of the horse reverts to the legal owner.

**racing secretary** -- The race track official whose duty it is, broadly speaking, to write the races.

**take-off** -- The part of the money bet through the parimutuels deducted for the state and the race track, before payment of the rest to the betting public. See **take**.

**record clerk** -- The employee of a race track in the racing secretary's office whose duty it is to keep records of all personnel and horses engaged in racing at the current meeting.

**ringer** -- A horse which runs under the name and identity of another, or under a fictitious name.

**rules of racing** -- The regulations passed by a governing body of racing which regulate, control, and supervise the conduct of racing in the governing body's jurisdiction.

**school** -- To train a race horse, particularly in the starting gate, in the paddock, and on the racing strip; for preparing a horse for actual racing.

**school course** -- A training track.

**scratch** -- (1) The withdrawal of a horse from a race in which its entry has been accepted. (2) To withdraw a horse from a race after its entry has been accepted.

**season** -- The racing season in any particular region.

**set down** -- (1) Of any licensed personnel such as a trainer, jockey, etc., to suspend from his racing activities, usually for a period of days. (2) Of a horse, to give it a brisk workout.

**show** -- (1) Of a horse, to come third in a race. (2) Of a horse, to come first, second, or third in a race.

**silks** -- The registered racing colors of an owner, worn by the jockey when riding the owner's horse in a race. All racing colors must not only be different, but should be not similar to any other registered colors. These colors are shown on the jockey's shirt and cap which are of silk.

**sire** -- The father of a horse.

**sloppy track** -- A racing strip which is wet on the surface, but solid under the water, slower than a slow track, but faster than a heavy track.

**slow track** -- A racing strip which is drying out after a heavy rain, slower than a good track, but faster than a sloppy track.

**sponge** -- As well as its conventional meaning, as applied to a horse, to illegally insert a piece of sponge in one or both of a horse's nostrils, before a race or workout, so that its breathing will be interfered with and its performance will be relatively poor.

**sprint** -- A race of seven furlongs or less.

**stake** -- (1) Erroneous term for stakes. (2) An amount of money (usually 10 percent of the winner's share of the purse in stakes races) given as a gratuity to the jockey of a winning mount by the owner of the horse. (3) An amount of money given by the owner to the trainer as a gratuity for winning the race. (4) To give by way of gratuity a sum of money to a trainer, jockey, or groom.

**stakes race** -- A race in which the owners of the competing horses nominate their horse for participation and pay subscriptions, entrance, and starting fees, whether money or any prize is added or not (unless it is a private sweepstakes). An overnight race, however, is never considered to be a stakes race.

**starting gate** -- (1) In Thoroughbred racing, a solid structure stationary at the start of a race, equipped with a number of stalls tending to keep the horses more or less tightly stalled in until the race begins. It is equipped with wheels and is pulled off the track by tractors or work horses to the location of the start of the next race. (2) In harness racing, an automobile equipped with wide wings stretched almost the entire width of the track which precedes the horses as they approach the starting point. As the starting gate (which is not, of course, a starting gate at all, or even a gate of any kind for that matter) gets close to the starting point, it accelerates quickly and its wings fold forward as it then gets off the track to let the horses go by. (3) In Thoroughbred racing, by extension, any device, such as the barrier, used to start the horses in a race.

**state take** -- That part of the mutuel pool which accrues to the state, or taxing authority.

**steward** -- The word "steward" or "stewards" means steward or stewards of the race meeting. Usually there are three stewards to supervise each race meeting. One of such stewards is appointed or designated by the state racing commission, and two are appointed by the racing association, subject to the approval of the state racing commission. They are judges of all matters of fact with respect to the conduct of a race meeting, but their decisions are subject to appeal to the state racing commission.

**straight** -- The betting on a horse to win a race, rather than place or show.

**stretch** -- That part of a race track upon which no turns are made, particularly the straight part of the track between the last turn and the finish line. See **backstretch**.

**stud** -- (1) A stallion. (2) An establishment in which stallions and mares are kept for breeding purposes; also, the stallions and mares kept there. (3) A number of horses kept by one owner.

**studbook** -- (1) A list of Thoroughbred horses. (2) List of the engagements of a stallion at stud.

**tack** -- The equipment used by a jockey in riding, including saddle, bridle, whip, spurs, blinkers, tongue strap, muzzle, hood, noseband, bits, shadow roll, martingale, breastplate, bandages, boots, plates, and the like. The term is also applied to stable gear.

**tack room** -- A room in which riding equipment is kept and often on a race track where stable employees live and sleep.

**take** -- (1) The total amount deducted from the amount bet on a race, or day, at a race meeting, to be paid to the taxing authority and the race track. (2) The total amount of the tax and track commission. "The track **take** in this state is 6 percent and the government's **take** is 9 percent; a total **take** of 15 percent."

**take out** -- See **take**.

**Teletimer** -- An electronic device which times the running of a race and the fractional times of the race, and flashes the times on the odds board automatically and immediately.

**Thoroughbred** -- A breed of race horses which is registered in the National Stud Book, or if not registered, its sire and dam are. Every Thoroughbred racing today can trace its ancestry back to one of the three foundation sires: (1) through Herod to the Byerly Turk; (2) through Matchem to the Godolphin Barb; or (3) through Eclipse to the Darley Arabian.

**timer** -- (1) An employee of a racing association who officially times the races. (2) See **clocker**.

**totalisator or totalizator** -- A refinement of the parimutuel system of race track betting (see **parimutuels**) whereby tickets are printed as purchased and the purchase automatically recorded at a central place, so that the approximate odds may be quickly determined at any particular time and flashed on the odds board for public view and correctly determined and flashed when the race is over. With a totalisator, approximate odds are changed usually every 90 seconds.

**track condition** -- The state of the racing strip, due to weather conditions. Standard track conditions, in reverse order of fastness are **fast, good, slow, sloppy, heavy, or muddy**. See **fast track, good track, etc.**

**track handicapper** -- The race track official whose duty it is to assign weights to competing horses in a handicap in such a manner that, ideally, all the horses in such a race will finish in a multiple dead heat. At many tracks, he also selects the order of finish of the first three horses in each race, and this information is shown on the program.

**track take** -- That part of the **take** which accrues to the race track conducting the meeting.

**trainer** -- The employee of an owner who supervises and cares for race horses and in many cases is charged as well with the duty of entering the horses in his care in races which suit the horses. In most jurisdictions, a trainer is licensed by the racing commission or governing body of racing.

**training track** -- An auxiliary race track on the grounds of a racing association or on private property, used for workouts, schooling, starts, and the like.

**trial** -- A race preparatory to a much more important race, usually a stakes race, held about a week in advance of the important race, and at a different distance.

**turn, the** -- On an elliptical or oval race track, the bend at the end of the track before the finish line.

**urinalysis** -- Analysis of a urine specimen of a horse done by a racing chemist in an effort to detect forbidden substances.

**urine test** -- The taking of a sample of a horse's urine, usually just after a race in which it has competed, for analysis by a racing chemist, to ensure that it is free from forbidden substances.

**weigh in** -- As applied to jockeys, to be weighed with their equipment after a race by a race track official to ensure that their weight is the same as when they were weighed out. See **weigh out**. Allowances are made, of course, for a wet or muddy track, when the jockeys will accumulate a certain amount of mud and water on their clothing and equipment. Two pounds overweight in these circumstances is permitted.

**weigh out** -- As applied to jockeys, to be weighed with their equipment before a race by a race track official to ensure that they are not under the weight assigned to the horses they are riding. If they are overweight, the amount of the overweight is announced to the public. If they are underweight, lead plates are carried in their saddles to make up the deficit.

**weight** -- The poundage of a jockey and certain equipment specified by the rules of racing in any jurisdiction, which is assigned to a certain horse either by the track handicapper, or by the rules of racing in such jurisdiction, depending on the type of race, such as **handicap**, **allowance**, **claiming race**, etc., or by the conditions of the race as set out in the **condition book**.

**weight for age** -- (1) A weight for age race. (2) A weight, arbitrarily determined by the racing commission or governing body of racing, which is to be carried by horses of certain ages, over races of certain distances, during certain months of the year, provided the conditions of a race, as set out in the **condition book** do not otherwise specify. The rules of racing of any racing jurisdiction have a scale of weights for age.

**whip** -- A light, flexible stick carried by a jockey in a race.

**wicket** -- In U.K. a window at which a parimutuel clerk sells or cashes betting tickets.

**window** -- The wicket at which a parimutuel clerk sells tickets or cashes them. Usually prefixed by a description of the window, such as "The \$5 place window," "The \$2 show window," "The daily double window," "The combination window," etc.

**winner's circle** -- An enclosure close to the racing strip, where the winner of a race is brought immediately after the race.

**wire, the** -- (1) The finish line of a race. (2) The starting point of a race. (Years ago, a wire was stretched across the track at the start of a race, and while the modern starting gate has long since replaced the wire and after that, the barrier, the practice of referring to the wire as the starting point still persists.)

**withdraw** -- Scratch.

**workout** -- The exercising of a horse for the purpose of exercise, or to ascertain its speed, usually in the morning.

STATE OF KANSAS



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Department of Revenue  
*Division of Alcoholic Beverage Control*

MEMORANDUM

**TO:** The Honorable Clyde Graeber, Chairman  
House Committee on Federal & State Affairs

**FROM:** Jim Conant, Chief Administrative Officer  
Alcoholic Beverage Control Division

**DATE:** July 15, 1993

**SUBJECT:** KDOR involvement with Bingo & other gambling issues

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I appreciate the invitation to appear before the committee today to discuss the Department of Revenue's involvement in certain aspects of gambling in Kansas. The Department is responsible for licensing and regulation of the Kansas bingo industry, collection of bingo taxes and is also actively involved in enforcement of criminal gambling laws on club and drinking establishment premises. My testimony will focus on the agency's operational roles and priorities, staffing profiles and revenues and expenditures directly related to our efforts.

BINGO

The Department's internal functions relating to bingo and other gambling are located primarily within the Alcoholic Beverage Control Division. Initial registration for a bingo license and routine tax collections are handled by the Division of Taxation. Applicant background checks, compliance inspections and other enforcement or administrative activities are subsequently conducted by ABC. K.S.A. 79-4705 specifies that bingo tax returns and remittances are to be made to the director of taxation. This is consistent with the handling of most taxes and fits well within the existing organizational structure. The remaining regulatory and enforcement duties imposed on the secretary of revenue by the bingo statutes do not contain specific organizational guidelines or assignment of duties. The Department generally places a higher priority on tax collection activity, while recognizing that a firm, consistent enforcement presence greatly enhances voluntary compliance with the law. The bingo laws allow the secretary sufficient discretion to assign tax collection, regulatory and enforcement duties to the work groups best suited for each task.

House Fed. and State Affairs  
July 15-16, 1993

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The bingo enforcement duties assigned to ABC have been fully integrated into the Division's routine operations. All ABC field personnel are trained in the bingo laws and regulations and, depending on specific assignment, required to conduct regular inspections of bingo licensees and premises. The actual level of bingo duties performed by each associate is a function of individual position description and geographical location. There are five job classes involved in ABC field operations, with involvement in bingo activity generally structured as follows:

Job Class	# F.T.E.	Amount/type of bingo duties
Rev. Field Rep. II	3	Approx. 50% of time on inspections
Rev. Field Rep. III	1	Full time
Liq. Cont. Inv. I	5	Less than 25% on inspections
Liq. Cont. Inv. II*	13	Occasional inspection, investigation as needed
Liq. Cont. Inv. III*	3	Less than 25% in supervisory/training roles

\*Law enforcement positions

In addition to field activity, the Division also has an Attorney and an Office Assistant assigned to provide legal and clerical support to the bingo enforcement function. These positions, as with the field staff, are multi-purpose, providing similar support to the Division's drug tax and criminal fraud functions. The registration and tax collection activities mentioned above are handled by staff in the Division of Taxation, with no specific position or funding tied solely to bingo activity.

The Department's bingo operations are funded by expenditures from the state bingo regulation fund (K.S.A. 79-4710). All license and registration fees and 1/3 of the taxes collected on bingo sales are credited to this fund for the purpose of enforcing the bingo laws and regulations. Although FY 93 figures have not been finalized, the Department estimates that receipts to this fund will total approximately \$305,298. Expenditures from this fund for FY 93 are estimated to total \$276,264. FY 94 receipts to the fund are projected at \$340,000, with approved expenditures currently set at \$246,650.

### CRIMINAL GAMBLING

In addition to enforcement of the bingo laws, ABC is becoming increasingly involved in investigation of illegal gambling activities on club and drinking establishment premises. The liquor control act identifies a gambling conviction as a reason to deny an application for a liquor license. Similarly, gambling on licensed premises constitutes grounds for fines, suspension or revocation of the license. Current ABC enforcement priorities place investigation of gambling and other morals violations second only to crimes involving furnishing liquor to minors. Our involvement in gambling violations ranges from isolated investigations conducted by ABC agents to large-scale cooperative efforts involving the KBI, FBI and IRS.

Recent experience indicates that illegal gambling is fairly common in on-premise liquor establishments across the state. In FY 93, ABC agents initiated 47 administrative cases involving illegal gambling. With several cases still pending resolution, total fines for these violations are \$27,500 to date. A review of these and several ongoing investigations finds that "video poker" and similar electronic devices are the primary means of conducting illegal gambling in clubs and drinking establishments. ABC agents are asked to document the number of these types of machines in each licensed business as a part of their routine inspections. According to our latest figures, 772 video gambling machines have been found on the premises of 382 liquor licensees. It should be noted that this tally does not include cereal malt beverage licensees or any other businesses without a club or drinking establishment license.

I would be happy to answer any questions the committee may have.



# Kansas Bingo Statistics

Prepared by the Bingo Enforcement Unit  
Division of Alcoholic Beverage Control  
Kansas Department of Revenue

## Sales, Tax Revenues and Number of Licensees By Fiscal Year

<u>FY Ending</u>	<u>Total Sales From Bingo Reported</u>	<u>Change From Previous Year</u>	<u>3% Bingo Enf. Tax Collected</u>	<u>Number of Licensees At End of FY</u>
6/30/83	\$26,845,000	+7%	\$805,350	---
6/30/84	\$27,241,000	+2%	\$817,244	---
6/30/85	\$26,985,000	-1%	\$809,555	634
6/30/86	\$24,408,000	-8%	\$741,884	548
6/30/87	\$25,397,000	+4%	\$773,938	537
6/30/88	\$25,362,000	0%	\$763,335	570
6/30/89	\$26,452,000	+4%	\$794,676	587
6/30/90	\$27,181,000	+3%	\$815,422	---
6/30/91	\$28,148,000	+4%	\$844,454	---
6/30/92	\$29,954,000	+6%	\$898,627	550
6/30/93				565
End of CY92	\$30,776,111		\$926,354	

## Analysis of Bingo Licensees and Registered Premises

	<u>Parlor-type*</u>		<u>Other</u>		<u>Licensees</u>	<u>Total</u>	
	<u>Registered</u>	<u>Premises</u>	<u>Registered</u>	<u>Premises</u>	<u>Playing</u>	<u>No. of</u>	<u>Total</u>
	<u>No. of</u>	<u>No. of</u>	<u>No. of</u>	<u>No. of</u>	<u>on Own</u>	<u>Registered</u>	<u>No. of</u>
	<u>Premises</u>	<u>Licensees</u>	<u>Premises</u>	<u>Licensees</u>	<u>Premises</u>	<u>Premises</u>	<u>Licensees</u>
04/10/90	21	77 (11%)	14	12 (2%)	485 (87%)	35	574
03/10/92	25	78 (14%)	8	11 (2%)	465 (84%)	33	554
01/06/93	29	83 (15%)	7	9 (2%)	462 (83%)	36	554

\* "Parlors" are defined as facilities operated privately by "for profit" businesses. They do not include facilities operated by government entities or nonprofit organizations.

(File "Statistics - Kansas" in Bingo Document Folder on DPW's Mac)

# Number of Bingo Licensees by Organization Type

	03/01/86		02/02/88		03/26/91		01/06/93	
	No.	%	No.	%	No.	%	No.	%
<b>Religious</b>	73	12%	70	12%	66	12%	61	11%
Catholic	71		67		65		60	
Protestant	0		1		0		0	
Jewish	2		2		1		1	
Other	0		0		0		0	
<b>Educational</b>	11	2%	9	2%	9	2%	8	1%
Catholic Schools	9		7		6		6	
Public Schools	2		2		3		0	
Other Private Schools	0		0		0		2	
<b>Veterans</b>	230	39%	221	38%	216	38%	215	39%
American Legion	134		131		123		119	
VFW	81		79		83		84	
Other	15		11		10		12	
<b>Fraternal</b>	163	28%	161	28%	163	29%	160	29%
Knights of Columbus	47		49		47		45	
Elks (BPOE)	28		28		23		22	
Eagles (FOE)	43		41		44		44	
Moose	13		13		14		16	
Other	32		30		35		33	
<b>Charitable</b>	115	19%	120	21%	109	19%	110	20%
Optimists	11		10		10		11	
Lions	14		10		10		12	
PTA's	13		13		8		3	
Other	77		87		81		84	
<b>Grand Totals</b>	<b>592</b>		<b>581</b>		<b>563</b>		<b>554</b>	

(File "Statistics - Kansas" in Bingo Document Folder on DPW's Mac)



# Association Of State Criminal Investigative Agencies

SHARING IDEAS FOR BETTER LAW ENFORCEMENT

ARIZONA  
Criminal Investigation Bureau

CALIFORNIA  
Department of Justice

COLORADO  
Bureau of Investigation

FLORIDA  
Department of Law Enforcement  
Division of Criminal Investigation

GEORGIA  
Bureau of Investigation

IDAHO  
Department of Law Enforcement

ILLINOIS  
Department of State Police  
Division of Criminal Investigation

IOWA  
Division of Criminal Investigation

KANSAS  
Bureau of Investigation

MICHIGAN  
State Police  
Investigation Services Division

MINNESOTA  
Department of Public Safety  
Bureau of Criminal Apprehension

MONTANA  
Department of Public Safety  
Criminal Investigation Bureau

NEBRASKA  
State Patrol

NEVADA  
DMV/Public Safety  
Division of Investigation

NORTH CAROLINA  
State Bureau of Investigation

NORTH DAKOTA  
Bureau of Criminal Investigation

OKLAHOMA  
State Bureau of Investigation

SOUTH DAKOTA  
Division of Criminal Investigation

TENNESSEE  
Bureau of Investigation

UTAH  
Department of Public Safety

WISCONSIN  
Division of Criminal Investigation

WYOMING  
Division of Criminal Investigation

SOUTH CAROLINA  
Law Enforcement Division

January 22, 1993

## CASINO CONTROL RECOMMENDATIONS

by

ASCIA Gaming Sub-committee

1. Establish a two tier system of control:
  - \* An independent Commission or Board for licensing, regulation and regulatory compliance.
  - \* A state level law enforcement agency to handle all investigations - background, intelligence, and criminal enforcement.
2. Provisions through up front deposits and fees to require casinos to fund directly the budgets of the Commission, and maximize up front enforcement costs of entities of the state law enforcement agency involved in casino control. These monies should be placed in a fund and the entities draw needed compensation to pay costs.
3. Liberal time limitations for conducting applicant background investigations. Possibly consider conditional or provisional licensing after preliminary background checks which can be revoked. Final approval contingent upon completed background investigation - open ended time limits.
4. Licenses/permits for persons associated with the operation of a casino and related properties.

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# Association Of State Criminal Investigative Agencies

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Department of Law Enforcement  
Division of Criminal Investigation

**GEORGIA**  
Bureau of Investigation

**IDAHO**  
Department of Law Enforcement

**ILLINOIS**  
Department of State Police  
Division of Criminal Investigation

**IOWA**  
Division of Criminal Investigation

**KANSAS**  
Bureau of Investigation

**MICHIGAN**  
State Police  
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Division of Criminal Investigation

**WYOMING**  
Division of Criminal Investigation

**SOUTH CAROLINA**  
Law Enforcement Division

5. Licenses for ancillary businesses servicing a casino to include owners, investors, employees, management companies and registration of labor organizations. In addition, any business engaged in the supply of casino equipment/devices should be licensed.
6. Specific criteria for license denial, suspension or revocation to include time frames for appeals, etc.
7. Ability for state law enforcement to conduct audits, inspections, and seizures at all facilities used for the operation or conducting of casino gaming, or the storage of equipment or records relating thereto, without warrant or notice. This should be spelled out exactly in any compacts with Indian tribal casinos.
8. Specific definitions as to which games will be allowed in casinos and the rules of play be defined by statute and/or compact.
9. Specific statutory provisions which establish casino industry supported infrastructure improvements necessary to support gaming interests. Such provisions will be written to ensure protection of existing commercial and residential interests in affected cities/communities. Taxes or fees from casinos, over and above the actual funding for gaming control, should be put in a separate fund to pay for maintenance and improvements.
10. Legislation providing for funding of health programs from gaming revenues for those afflicted with gambling addiction.



# Association Of State Criminal Investigative Agencies

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Division of Criminal Investigation

**WYOMING**  
Division of Criminal Investigation

**SOUTH CAROLINA**  
Law Enforcement Division

11. Separate county referendums to allow casinos only in those counties where the citizens have voted for them. State and local safety and occupancy codes should be followed for any establishment used for casino or other gaming activities.

## CASINO GAMBLING ISSUES

Crime will increase dramatically. It has increased dramatically in Atlantic City and all of the other municipalities that have undertaken casino gambling. As an example, in Atlantic City crime increased 230 percent from 1977-1990. Sixty-seven percent of all crimes reported in Atlantic City occur within the casinos themselves. And, research showed that crime increased not only in Atlantic City but in adjacent cities within a 30-mile radius.

- o Organized crime will thrive if casino gambling is initiated. Organized crime always has been, and unfortunately probably always will be, associated with gambling either directly or indirectly. Organized crime is still a problem in Las Vegas and we cannot believe Chicago will be immune to this problem.

- o Public corruption unfortunately has also been connected with casino gambling. One of the best examples of this is in Atlantic City where their administrations have been tainted by numerous illegal activities and questionable business ethics. In fact, several of Atlantic City's mayors have served time in prison since the implementation of casino gambling.

- o Compulsive gambling will grow exponentially. As an example of what can happen in Chicago we only need to look to Atlantic City where there were less than five chapters of Gamblers Anonymous and there are now 47 (an 840 percent increase). The cost for treatment alone would be millions, if not billions, of dollars and would be passed on to everyone through the funding of treatment facilities, increased insurance costs, and added costs to businesses who will have to provide resources to deal with employee gambling-related problems.

- o Adolescents are negatively affected by casino gambling. In Atlantic City students used lunch money for gambling, others shoplifted or sold drugs. In 1991, 220,000 children (under the age of 21) were evicted from Atlantic City casinos -- in a city with a population of less than 38,000. Gambling may also help explain the low level of performance by Atlantic City high school students on proficiency tests as compared to the state levels. How can we in clear conscience add the problems that casino gambling will bring to the adolescents of the City of Chicago, when Chicago public schools have already been saddled with being last in achievement tests scores and first in dropout rates among the big city school systems surveyed in a report by the Council of the Great City Schools in Washington D.C.?

- o Utilizing a model from a study completed by the University of New Orleans, and adjusting the appropriate statistics for the City of Chicago, it was projected the cost to Chicago's law enforcement community for increased police and correctional service would be in the tens of millions of dollars. This amount does not include any state's attorneys, court, state police or state correctional costs. The regulatory costs for having a casino in Chicago, utilizing the Deloitte-Touche estimates which include staffing requirements for the state police, is projected to be an additional 31 to 54 million dollars. The staffing requirements for the regulatory agency are expected to range from between 549 and 834 personnel. Therefore, collectively we have identified a cost which could amount to more than \$100,000,000 for local law enforcement and regulatory expenses; without taking into account additional law enforcement, court or correctional costs.

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- o Gambling would have a tremendous impact upon our most precious resource -- the families of Illinois. As I am sure you are aware, when gambling becomes excessive the gambler loses interest in family and friends, work, religion and civic affairs, and there is involvement with money lenders, increase in property crimes and embezzlement of funds.
- o The Atlantic City experiment, where unemployment has not changed appreciably, shows that creation of jobs alone cannot revive a depressed urban area. Although casinos offered some high paying jobs, at least one-third were low paying service or hotel jobs, and there was no spill over in vigorous non-casino growth.
- o Also, seven of Atlantic City's casinos were not profitable for the first quarter of 1992. Because of this, they are asking for 24-hour gaming seven days a week vs. just the 24-hour weekend gaming approved only last year. This change can only add to the ever-increasing crime problem facing Atlantic City today.
- o The Atlantic City Rescue Mission experience is a vivid example of the increased social problems that are a result of the inception of casino gambling. Prior to the advent of casino gambling, the Mission saw 15 to 20 homeless men a day. Now, they see 300 and on a busy day 500. The casinos are a magnet that draw people from all over the country.
- o Will a Chicago casino help other Illinois businesses flourish? If New Jersey is any indication, not even one-half of the businesses supplying the casino hotels are "New Jersey" companies. Independent store owners are driven out of business by casinos. This occurred in Atlantic City, where the lists of businesses that are no longer in town range from supermarkets, furniture stores, movie theatres to barrooms. In Central City, Colorado where there were approximately 40 "mom and pop" stores, there are now only two.
- o I am sure you are aware of the recent survey by Crain's Chicago Business that shows 76 percent of the nation's 50 largest trade shows say a casino/entertainment complex won't influence where they schedule future events; as well as the two surveys that showed only 35 and 32 percent of the respondents were in favor of the casino/entertainment complex.
- o The current prison overcrowding problem is an issue that must be considered. Illinois state correctional facilities are already at 127 percent capacity and the Cook County facilities, which would be the most heavily affected, are at least at 125 percent capacity.
- o The infrastructure costs for a facility of this magnitude were conservatively projected by Deloitte-Touche at approximately 200 million dollars.
- o Emergency responses through the 911 System will become slower and reflect negatively on the Chicago Police Department and the City of Chicago.

Excerpts from a memorandum prepared by Illinois State Police to their Director, 1992



# ***HOW CASINO GAMBLING AFFECTS LAW ENFORCEMENT***

***Illinois State Police  
Division of Criminal Investigation  
Intelligence Bureau***

***April 16, 1992***

*House Fed. and State Affairs  
July 15-16, 1993*

*Atch # 10*



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## INTRODUCTION

In response to public announcements of proposed casino gambling in Chicago, the Illinois State Police began reviewing published research, impact studies, public hearings, newspaper articles, governmental agencies' reports, and conducted interviews with law enforcement and regulatory agency officials regarding this issue. It should be noted that the information reviewed reflects positions of both the advocates and opponents of casino gambling. Some studies are obviously slanted in favor of one side of the issue while others reflect a more objective balance citing arguments both pro and con on the impact of the industry. A few of the reports have been challenged for developing conclusions or inferences from limited sampling or incomplete data analysis.

In support of casinos, representatives of business groups, tourism industry, city officials and organized labor contend that casino gambling would generate jobs and greatly enhance convention trade. Arguing the case against casinos, law enforcement agencies, religious leaders and civic figures state that claims made on behalf of casinos are exaggerated and proponents tend to overlook criminal, fiscal and social problems that gambling will create.

There are currently four states in the United States that have been identified as having legalized casino gambling (other than those owned by Indian tribes). These states are Colorado, Nevada, New Jersey and South Dakota.

Those cities that have casino gambling are Cripple Creek, Central City and Blackhawk, Colorado; Las Vegas, Reno and Laughlin, Nevada; Atlantic City, New Jersey; and Deadwood, South Dakota.

Gambling started in Colorado on October 1, 1991, Nevada in 1931, Atlantic City, New Jersey in 1978 and Deadwood, South Dakota in November 1989.

In a telephone survey to affected policing agencies it appeared that the common rationale utilized for initiating casino gambling was increased revenue and/or the revitalization of a city or area.

It was also determined in this same survey that the majority of policing agencies contacted have not conducted studies to ascertain the impact that casino gambling has had on law enforcement. However, all expressed that there was a negative impact on law enforcement and that crimes and/or calls for service have increased dramatically. Only the Las Vegas Police Department did not respond negatively on this issue and related that casino crime was a fact of life; adding that casino gambling was their lifeblood and they were dependent upon it (44 percent of Nevada state budget). The lack of research or ongoing studies leaves Illinois law enforcement agencies in the precarious situation of attempting to project what effect casino gambling would have on Illinois' crime rate and the law enforcement community.

For this reason our logical recourse is to gather as much information and statistics as possible from available studies and the experiences of states that have instituted casino gambling to date.

The purpose of this report is to estimate the impact of casino gambling. Clearly, it appears there are considerable social costs to communities which support casino gambling. Very little hard data is available to social scientists and too few research studies have been conducted on the sociological effects of casino gambling. Therefore, many aspects of this subject will remain inconclusive. From an applied perspective, it is reasonably objective to say that casino gambling will bring many changes to the tenor of a locality including, among other things, increased crime, possible political corruption, exposure of youth to unsavory elements and possible increases in pathological behavior.

## INCREASE IN CRIME DIRECTLY ATTRIBUTABLE TO CASINO GAMBLING

While other communities have opened casinos and gaming houses, Atlantic City is the only large municipality (other than Las Vegas) that has undertaken a casino gambling initiative. We should focus our attention on the Atlantic City experience, so that we can determine what would be the impact of legalizing casino gambling in the City of Chicago.

To determine what affect casinos have had on crime in Atlantic City we only have to look at their 1990 crime statistics. Although proponents for casino gambling predicted street crime would decrease, it has not. There has been a 230 percent increase in the crime index totals in Atlantic City for the years 1977-1990. For comparison purposes crime rates are compared for Atlantic City to the rest of the State of New Jersey. The staggering statistics show a 156 percent increase in rapes (vs. 50 percent statewide), a 159 percent increase in robberies (vs. 76 percent statewide), a 316 percent increase in aggravated assaults (vs. 77 percent statewide) and a 451 percent increase in the number of larcenies (vs. 8 percent larceny/thefts statewide) committed.

Atlantic City Police Department statistics for 1990 show that 67 percent of all crimes in Atlantic City were committed within the confines of the casinos (See Appendix). Crimes such as rape and aggravated assault increased phenomenally since the advent of casino gambling, with robberies on an uphill climb. Prostitution is also a visible problem which has increased markedly since casinos came to the city.

A 1992 document by the Atlantic City Police Department states that since the advent of casino gambling they are having increased problems with the traveling criminals, youth gangs and street level narcotics dealing. The traveling criminal, has caused a crime and image problem for the city and has also brought problems of compulsive gambling, drug abuse, prostitution, loan sharking and numerous financial scams. Meanwhile, the youth gang situation at the junior and senior high schools has developed into a serious problem. The street drug dealing is described as "overwhelming."

In her article entitled "The Social Impact of Casino Gaming on Atlantic City," Linda Lettich states, "While many argue that Atlantic City's crime rate has been distorted due to the substantial number of transients which frequent the city, the fact remains that the total number of crimes committed has increased dramatically, a paramount concern for law enforcement. Considering the decline in Atlantic City's resident population, the increase in the volume of crimes committed is an indication of the high degree of transient-related crime present in the city." Regardless of whether the perpetrators or victims are permanent residents of Atlantic City or visitors, the end result is that more crimes are being committed. In addition to Atlantic City Police Department's statistics, it should also be noted that the New Jersey Division of Gaming Enforcement investigated 2,432 gambling cases and made 1,938 arrests within the casino property in addition to increased crime experienced by the Atlantic City Police Department.

Research by Dr. Simon Hakim, an economist from Temple University, Philadelphia, Pennsylvania, reveals that after casinos were opened crime increased not only in Atlantic City, but in adjacent cities within a 30-mile radius. It should be noted that the Atlantic City experience is not an anomaly. In "The Annual Report to the California Legislature, Organized Crime in California 1986," legalized cardrooms have attracted ancillary crimes such as prostitution, narcotics trafficking, loan sharking, receiving stolen property and skimming. In Pennsylvania, drugs and gambling have intersected by gambling profits being used to finance drug deals and by inducing bettors with large gambling debts to become drug dealers.

To further broaden the analysis of whether casino gambling has had an effect on crime, three other cities crime statistics have been used for comparison purposes. The first city selected was Orlando, Florida because of the large tourist population that inhabits the city on a daily basis. A review of similar crimes for the time period 1977 - 1990 (from Uniformed Crime Report statistics) reflect a 113 percent increase in rapes, 429 percent increase in robberies, 218 percent increase in aggravated assaults and a 96 percent increase in larcenies. Obviously Atlantic City has a substantially higher increase in aggravated assaults and larcenies and a somewhat significant increase in rapes when compared to Orlando. However, what also must be taken into consideration is the fact that Orlando, Florida has had a 39 percent increase in population during this time period while Atlantic City has had a 20 percent decrease. Therefore you would expect Orlando's statistics to be significantly higher than those of Atlantic City; but they are not. (Of course it does appear that Orlando does have an increased robbery problem which may be explainable because of the number of tourists and/or a drug problem.)

The second comparison of similar crime statistics is for the City of Chicago itself. Based upon Illinois Uniform Crime Report statistics, from 1977 - 1990 there was a 125 percent increase in robberies, a 27 percent decrease in aggravated assaults and a 22 percent increase in larcenies. Because of a 1984 change in the statutes, rape became criminal sexual assault and accurate comparisons are not possible because of the more inclusive definition for the crime "criminal sexual assault." (If you do not consider the definition change, "rape" has increased 174 percent during the time period; however, this crime has fluctuated only slightly in the past several years and appears to have stabilized or is on a slight decline while Atlantic City's rapes are increasing. (Chicago's trend would undoubtedly change if casino gambling was undertaken.) Again the most significant differences between Atlantic City's statistics and Chicago's are in the area of aggravated assaults and larcenies. It again should be noted that Atlantic City's increases should be less than Chicago's because it had a 20 percent decrease in population while Chicago has only had a 10 percent decrease in its population during the same time period. Undoubtedly, based upon these statistics, it can be assumed that Chicago would see a dramatic increase in these types of crimes if casino gambling was brought to the city.

The last comparison of crime statistics is for the City of Las Vegas. Although it is felt that the Las Vegas experience with casino gambling is an anomaly because it has had legalized casino gambling since 1931 and it basically "grew up" with casino gambling; undoubtedly individuals will want to compare crime statistics for this city as well. Since we have used the 1977 and 1990 statistics for comparisons previously, to be consistent, those same years are being utilized to make comparisons for Las Vegas. Unfortunately, for a number of reasons, a before and after picture of crime statistics (1931 to 1990) would not provide an accurate picture; and even though the 1977 and 1990 crime statistics cannot be disputed, they also have little relevancy since casino gambling has been in effect over 60 years. Nonetheless, Las Vegas has experienced a 103 percent increase in rapes, 57 percent increase in robberies, 71 percent increase in aggravated assaults and a 74 percent increase in larcenies during these years. Again, these crime statistics are considerably less than those experienced by Atlantic City during the same time period which would again lead to the conclusion that Atlantic City's crime rate has significantly increased because of the advent of casino gambling. (See Appendix for comparisons of Uniform Crime Report Statistics for the City of Chicago, Atlantic City, Orlando and Las Vegas.)

For comparison purposes, during the 1977 and 1990 time periods, the United States, as a whole, has shown a 62 percent increase in rapes, 55 percent increase in robberies, 97 percent increase in aggravated assaults and 35 percent increase in larcenies. Atlantic City's crime statistics again greatly overshadows all of the national level increases that were experienced in 1977 and 1990.

In addition to crime statistics, a comparison of the crime rates per 100,000 in population and the number of officers per 1,000 inhabitants for the cities of Orlando, Chicago, Las Vegas and Atlantic City was completed (See Appendix). This comparison graphically illustrated that even though Atlantic City has greatly increased their officer to inhabitant ratio since the inception of casino gambling, their crime rate has more than tripled. Meanwhile, the crime rate in Chicago (where the officer rate remained constant) doubled. Once again, the one underlying factor that appears to explain this dramatic increase in crime is the advent of casino gambling.

Calls for service can be expected to increase. In Laughlin, Nevada in 1988, 1,228 of 2,198 calls for police service were attributable to casinos for a population of 6,000. Calls for service continued to increase yearly as the number of casinos increased; and in 1991 there were 1,904 calls for police service which were directly attributed to the casinos--a 55 percent increase since 1988.

Chief Stauffer of Cripple Creek, Colorado was interviewed and, although it was too soon for crime statistics to be reviewed, he stated it was determined that prior to October 1, 1991, the emergency services departments (fire, ambulances and police) received approximately 40 calls for service per month. They now receive approximately 45 calls per day. The department has increased their officer complement from three to fourteen (plus six dispatchers). Other parking and traffic enforcement personnel, as well as a code enforcement officer, are expected to be

added. DUIs have increased from approximately four per year to one per week. They also are aware of two prostitution start-up attempts which law enforcement was able to stifle. Inquiries on out-of-state license plates have found three plates of individuals who are suspected of being involved in organized crime.

Central City, Colorado, which has a population of 350, instituted casino gambling in October 1991. Since then, they quintupled their police force from two to ten and will continue to ask for more officers as the number of casinos is expected to grow from the present existing thirteen to thirty. The calls for service went from 375 in 1990 to 450 for the January - March 1992 period. Their police department has received more calls for service in a three month period than they did the whole year prior to gambling being brought into existence. The police chief identified skyrocketing incidents of disorderly conduct, fights, drunks and DUIs. Since Central City is a 45 minute drive from Denver, people are driving there for an evening of gambling recreation. There have been seven fatalities on this road during the first three months of 1992. Police Chief Gatlin also noted the presence of identified Asian gang members frequenting the Central City casinos.

In Deadwood, South Dakota in 1988 (before gambling) the number of cases handled by the police department was 1,259 and by 1991 they had increased 162 percent to 3,295 cases. They have had to double the number of officers on their work force from five to ten officers, added an ordinance control officer, and changed a part-time secretary's employment status to full-time.

Chief Deputy Russell of the Lawrence County Sheriff's Office (Deadwood, South Dakota) stated that criminal activities have increased significantly since casino gambling, including felonies and bad checks. He also stated that the six resident gaming agents "can't keep up." It should be further noted that the Sheriff's Department was supposed to have their staff increased by five additional deputies to offset the increased law enforcement activity, but they were only approved and funded one deputy and one secretary.

Although the Las Vegas Police Department can not provide a before and after picture of their crime statistics, crime statistics in the form of calls for police service for the five major hotels in Las Vegas during the period of March 1, 1991 to February 29, 1992 totaled 1,290. The number of crimes committed ranged from one homicide to 547 larcenies (It is interesting to note that there were 166 calls on "wanted" persons).

#### ORGANIZED CRIME IS DIRECTLY OR INDIRECTLY INVOLVED IN LEGALIZED GAMBLING

Because of the arrest successes that have occurred in the past several years, the public may have the impression that organized crime in Chicago is a thing of the past. This is a dangerous misconception. It has influenced our courts, government offices, the unions, entertainment industry, etc. Most importantly, organized crime in Chicago continues to reap substantial profits from illegal gambling, loan sharking, narcotics,

prostitution, extortion and pornography. In fact the Chicago Crime Commission's 1990 report documented 33 mob related murders in the last decade.

The Commission's report provides examples of organized crime figures being involved in legalized gambling. The report refers to the conviction of three Chicago mob men (Joseph Aiuppa, John Cerone and Angelo LaPietra) along with the leaders of the Milwaukee and Kansas City mob families for skimming money from Las Vegas casinos. (It should also be noted that many of Chicago's mobsters have gambling convictions.)

Another example cited involved two Chicago mob men (Dominic Cortina and Donald Angelini) who were indicted in 1990 by federal authorities in Maryland for money laundering at a commercial bingo parlor. The FBI revealed the Chicago bosses had muscled into the cash rich bingo operation with the intent of laundering one million dollars from illegal gambling loan sharking, robbery and stolen property. This indictment charged four other associates with using revenue from Florida gambling and juice loans to fund the operation and launder money. All defendants were charged with hiring arsonists to burn two rival bingo halls. One of these men (Cortina) runs gambling operations in California and Florida.

Atlantic City casinos also show an organized crime connection. Casino gambling came to Atlantic City largely through the efforts of one company (Resorts International, Inc.). In a book by Gigi Mahon, she points out that the company dealt with the mob when it was expedient to do so and paid off political leaders to obtain political favors. This company also had a resort in the Bahamas where a "bagman" made frequent after-hour visits to the Key Biscayne Bank where money was supposedly filtered and laundered.

After the legalization of casino gambling, a December 1977 Report and Recommendations was published by the State of New Jersey Commission of Investigation on the Incursion by Organized Crime Into Certain Legitimate Businesses in Atlantic City. The report revealed that public hearings confirmed the fact of infiltration of the cigarette vending machine business and the tavern business as well as the attempted infiltration of a casino gaming school business and a potential casino hotel complex.

Although the problems with organized crime in Las Vegas were perceived to be resolved between 1960 and 1975, this was not in fact the case. Two major skimming scandals involving the Stardust Casino and Hotel occurred in 1976 and 1983. In 1979, hidden casino owners of the Aladdin Castle were convicted and forced to sell out. Organized crime figures systematically skimmed at the Tropicana Casino in the late 1970's.

Organized crime has infiltrated Indian reservation gaming. In 1985, a general manager of American Management and Amusement at the Barona Indian Reservation in San Diego County pled guilty to four counts of grand theft. He was charged with hiring "shills" to win large cash prizes that were deposited into that company's bank account which he controlled. The individual claimed that start up money for the operation came from a Southern California crime family associate who tried to influence the operations of the hall. Another suit by the tribal council in 1986 against the company charged them with keeping a double set of financial



records, failing to prepare monthly operating statements, under capitalizing the games and not paying its fair share of the operating expenses.

Another management firm formerly involved in Indian casino management was suspected of skimming from bingo receipts and laundering funds through its accounts. Operators were directly linked to the New York based crime family. Also, one of the firm's principals was convicted in Florida in 1987 for federal tax violations.

There were instances where management firms embezzled proceeds or were sued for failing to meet conditions of their contracts. Investigators found it difficult to track the management firms suspected of these activities due to the mobility of the criminals who moved from one management firm to another while the firms themselves moved.

In 1991, a reputed San Diego mobster and nine other men including the alleged bosses of the Chicago mob were charged with trying to infiltrate Indian Reservation gambling operations in northern San Diego County in order to skim profits and launder illegal money. The indictment stemmed from a lengthy investigation by the FBI.

Legalized gambling casinos have been constantly infiltrated by organized crime and racketeers. The most common form of infiltration, as witnessed in Nevada, has been ownership or skimming operations. Besides involvement in the management and investment areas of casino gambling, vending businesses have historically been a target for organized crime and often these businesses' relationship to gambling establishments have been unscrutinized and unregulated. Obviously relationships with ancillary and vending services can affect key casino operations through influencing casino ownership, investment, management and finances. By controlling the supply of alcoholic beverages, food and nonalcoholic beverages, garbage handlers, vending machine providers, linen supplies, maintenance service and construction companies, casino management can be placed in a compromising position by organized crime.

The individual, who invited a gambling company to the meeting last November in Mayor Daley's City Hall office where the casino proposal was laid out, was identified in 1986 by the President's Commission on Organized Crime as having been "hand picked by Chicago crime boss, Anthony Accardo, for the presidency" of the Hotel and Restaurant Employees International Union in the early 1970's.

A representative from one Intelligence Network, who did not want to be quoted, stated that casinos are essentially banks and because of the volume of money that goes through the casinos, it is very easy to launder money through them.

#### PUBLIC OFFICIAL CORRUPTION

Gambling operatives who seek to corrupt officials are generally trying to protect themselves from arrests or are attempting to gain an edge over the competition.

A perfect example of this type of corruption occurred in New Jersey when the Governor of New Jersey appointed an individual as Chairman of the New Jersey Casino Control Commission even though he and his family's law firm were charged in a state police report with being associated with mobsters. Atlantic City's administrations have been tainted by numerous illegal activities and questionable business ethics. In fact, three of Atlantic City's last six mayors have served time in prison.

Also, one FBI probe of casino skimming that was conducted in 1982 turned up a plot to bribe a U.S. Senator.

#### ESTIMATED IMPACT OF CASINO GAMBLING ON CRIME AND LOCAL EXPENDITURES

A recent impact study commissioned by the City of New Orleans estimates that the total cost associated with increased criminal activity will be just under five million dollars for a single casino. Wide-open gambling could add an additional 10,000 new crimes at a cost to the city of an additional 14.1 million dollars.

Size of New Orleans Casino Assumed (sq.ft.)	300,000
New Crimes Due to Gambling	7,874
New Crimes Due to Increased Visitors	2,943
Total New Crimes	<u>10,817</u>
Required Increase in Police and Corrections Spending *	\$10,430,429
Additional Costs for District Attorney	2,305,612
Additional Costs for Courts	1,490,037
Total Additional Cost to New Orleans	<u>\$14,126,078</u>

\* (excludes state corrections cost)

The benefits from wide-open, casino gambling in terms of spending, new jobs and new tax revenue are potentially very profitable. The increases in crime are also very large under this scenario. New tax revenues can offset some of the costs of this increased crime. However, there will be large increases in the identified, but less easily quantified, social costs of casino gambling. Based on the experience of Las Vegas and Atlantic City, there will be heightened organized crime activity, pathological gambling (which will likely affect the costs of doing business in Chicago because of its possible negative effect on insurance rates), political corruption, and the like.

Professor Grant Stitt, University of Nevada-Reno, a criminal justice expert, identifies a variety of social, economic and environmental issues associated with casino gambling. Among these concerns are increases in thefts; skimming; disorderly conduct; drunkenness, DUI and other crimes; increased lawsuits because of Illinois dram shop law; casino opposition to recycling efforts; as well as potential tax collection problems for the IRS.

Experience has shown the casino industry will have a direct impact on legislative initiatives. Casino management will be able to exert a powerful lobbying effort to directly influence laws that will either benefit them or block laws that would negatively affect the industry.

Professor Stitt also stated governments may have to hire additional employees for gambling control (New Jersey has 500 and Nevada 400) as well as law enforcement personnel, revenue personnel and other support personnel (i.e., social services, etc).

#### POLICE CAN BE REALLOCATED TO OTHER CRIMINAL INVESTIGATIONS

A report entitled "Gambling Law Enforcement in Major American Cities," states that supporters of legalized gambling argue that legalization might allow for reallocation of police to other criminal investigations. The Gambling Commission's report did not support this theory. They found that the potential for reallocation was small since less than 1 percent of police resources are normally allocated to gambling.

New Jersey's experience strongly indicates that when casinos are legalized, crime becomes more of a problem and it requires a greater investment in law enforcement resources.

It is obvious by the increased crime rate that was experienced in Atlantic City that additional police personnel will be needed for patrol and investigative functions. Additional personnel will also be needed to do background investigations and to staff a regulatory agency for casino gambling. For example, Nevada has 400 people and New Jersey has 500 people working for their Gaming Control Board.

In an interview, Special Agent Supervisor Alan Jones, of the Kansas Bureau of Investigation Gaming Unit, stated it would take approximately 168 investigative hours per background investigation (travel to two or more states). He further stated that if three casinos would start at the same time, there would be approximately 500 key persons to have background investigations completed on, plus more would be generated from those. The agency charged with this responsibility will have to re-direct more resources from major crimes to background investigations to ensure the integrity of the industry.

#### LEGALIZED CASINO GAMBLING WILL STOP ILLEGAL GAMBLING

A (September, 1978) study entitled "Gambling Law Enforcement in Major American Cities", completed by the National Institute of Law Enforcement and Criminal Justice, stated that excluding the special case of Nevada, increasing the number of available legal gambling options has not been shown to reduce illegal gambling.

The Commission on the Review of the National Policy Toward Gambling determined that there were not fewer gambling arrests in cities with more legal games available, nor was there a decrease in arrests within a city once legal games arrived.

A 1974 report of the Task Force on Legalized Gambling (sponsored by the Fund for the City of New York and the Twentieth Century Fund) states that at present state governments are being tempted by proposals to use legalization of gambling as a means of raising revenues and spurring the economic development of depressed tourist areas. The proponents of legalized gambling claim that it also will draw customers away from illegal games and improve law enforcement by reducing corruption and helping to eradicate organized crime. Unfortunately, most of these assumptions do not appear to be justified.

There is a philosophy that only legal competition can break the hold of organized crime on betting, reducing both profits and the availability of official protection. The Task Force considered the evidence in support of these arguments and believes that legalization is not an effective weapon against organized crime. Also, for most forms of gambling, legalization unless accompanied by "greatly" increased law enforcement efforts will fail to drive out illegal operators.

In fact, our own state lottery estimates that even though Illinois has the lottery, the numbers business still brings in 200 million dollars a year. Serious bettors may stay with the illegal gambling trade because the payout can be higher.

#### SOCIAL - ECONOMIC IMPACT OF CASINO GAMBLING

Not only will the advent of casino gambling bring increased crime but there will be large increases which are less easily quantified in the social costs of casino gambling. Clearly it appears that there are considerable social costs to the gambling communities; however, there is very little hard data available so most of the work in this area is exploratory. Therefore, examples are again utilized to show what effects can be anticipated when casino gambling is brought into an area.

To reveal that casino gambling has not met the economic goals that it espoused, we again only have to look at the Atlantic City model. A January 1981 Business Week article that references an "expose" book by Gigi Mahon, states that many New Jersey citizens felt that Governor Byrne of New Jersey should have known that casino gambling would be no easy solution to the state's economic problems. While the casinos now operating in Atlantic City have created jobs and increased tax revenues, they have also brought inflation, corruption and crime.

A 1988 study on "The Social Impact of Casino Gaming on Atlantic City" states the post-casino Atlantic City environment envisioned by the proponents has not been attained by independent store owners. Because the casinos are self-contained they saw no trickle down effect and many were driven out of business.

It was thought that the earning power offered by the introduction of the casinos would encourage people to reside within the city limits. However, many of those who gained employment in the industry did not choose to reside within the city. In fact, Atlantic City's population has decreased by 20 percent by 1990, with 80 percent of the casino work force living in surrounding areas. The housing situation has resulted in many middle class casino employees commuting from nearby suburban areas, creating traffic jams and diminishing the vitality of Atlantic City's already depressed business district (Wall Street Journal, August 20, 1985). (Sixty-three percent said they would not consider living in the city because of the crime, quality of schools and inflated housing costs.) Well intended goals on affordable and senior citizen housing did not come to fruition.

In Atlantic City, the lure of gambling has turned thousands of adults into compulsive gamblers. This is evident in the increase from less than 5 to 47 chapters of Gamblers Anonymous (at least an 840 percent increase) since the passage of the casino referendum in New Jersey in 1977.

A 1976 national gambling survey estimated that there are 1.1 million "probable compulsive gamblers" in the population (Kallick et al., 1977). "These are persons who have a chronic and progressive failure to resist impulses to gambling, a failure that compromises, disrupts, or damages personal, family or vocational pursuits (Lesieur and Custer, 1984)." Because the incidence of pathological gambling is directly related to exposure to gambling activity, it is estimated that the probable 1.1 million would be inflated to 3.8 million if other states legalized gambling (Kallick et al., 1976). Cullerton (1989) reported that the incidence of pathological gambling increased significantly between 1975 and 1985 in New Jersey.

The University of New Orleans study reiterates the fact that pathological gambling disrupts the life of the afflicted person and that of his or her family, producing a need for treatment and training which can offset a considerable portion of public benefits for which the casinos were legalized. It is estimated that, excluding trial and incarceration costs, the social costs amount to an average of \$56,000 per patient (Politzer et al., 1985). However, compulsive gambling is a relatively invisible problem in Nevada and Atlantic City because most of the afflicted are tourists. Consequently, the problems which arise from this addiction are likely to show up at the individual's place of residence and not in the casino city (Eadington, 1985).

Public policy with regard to compulsive gambling is basically non-existent at present but, as legalized gambling becomes more widespread, it will become necessary for government to become involved with the treatment of this problem. On the one hand, not all gamblers are pathological and those in favor of legalization suggest that restrictions made by the law to protect a minority will also limit the freedom of choice of the majority. There is a general public attitude that if an individual is sufficiently foolish as to lose his or her wealth through gambling, why should society intervene? To what degree then, should the government adopt a paternalistic role in caring for its citizens? However, on the other hand, if the state creates an industry which affects social behavior and leads to addiction, should it be obliged to deal with the consequences?

As states legitimize the medical model of pathological gambling and fund treatment facilities, insurance companies will be pressured to do the same. Businesses will also be put in the position of providing resources to deal with employee gambling-related problems including higher health insurance premiums. As a result, the burden of this funding will fall, not only on those who gamble but also on those who neither participate nor approve of the behavior.

The Atlantic City casino experiment also shows that the creation of jobs alone cannot revive a depressed urban area. While the entrance of the casino industry created thousands of jobs, the number of unemployed in Atlantic City has not changed appreciably. While direct casino employment offered some high paying jobs, at least one out of three were at the bottom of the wage scale in low paying service and hotel jobs. Although there was a large expansion in casino job growth, it was not accompanied by a spillover in vigorous non-casino job growth (Steinlieb and Hughes, 1983). Most of those benefiting from employment expansion were not city residents but suburbanites.

New Orleans's study also considered the effect of gambling on families. It stated a further cause for social concern is the perception of the possibility of a number of adverse consequences for the gambler on his or her personal, familial, or work behavior. Dielman (1979) notes a strong relationship between unsatisfactory marital situations and the level of gambling. As this gambling rises, increases are also observed in the proportions of divorce or separation, disagreements about money matters, lack of understanding between marital partners, and more reported problems with children. Dielman also reports a positive relationship between increased gambling activity and increased job dissatisfaction, increased absenteeism and tardiness. Heavy gamblers are also likely to be more geographically mobile indicating a certain instability in behavior. Alcohol consumption is also positively related to gambling. However, while heavy gambling appears to be directly related to these social problems, there is no firm evidence that gambling is the cause rather than the effect.

In addition, Weinstein and Dietch (1974) also cite adverse consequences such as loss of interest in family and friends, loss of interest in work and reduction in work productivity, pauperization and involvement with money lenders, loss of interest and participation in religious and civic affairs, and an increase in property crimes and embezzlement of funds by gamblers in distress. However, they maintain there is little direct evidence of these behavioral changes as long as the gambling behavior remains "rational" and not "excessive" and conclude that these cited adverse consequences of legalized gambling tend to be a moral judgement on the part of non-gamblers.

Casinos may not always continue to be a money making proposition. For example, only five of the twelve casinos in Atlantic City made money in 1990; and a 1991 report by the Atlantic County Division of Economic Development states that for the past two years the Atlantic City casino gaming industry's profitability levels had fallen to less than one percent of gross revenues. Thomas Carver, president of the Casino Association of New Jersey, has been quoted as saying "Atlantic City, a town noted for taking suckers, has become the biggest sucker of all." Not only does

Atlantic City have a sorry record for those concerned about crime, welfare, business decline, home ownership, compulsive gambling or community atmosphere, but it has failed to bring economic development.

The Lawrence County Sheriff's Office (Deadwood, South Dakota) stated that not only have criminal activities increased significantly since casino gambling, but so have the social service problems, juvenile gambling and gambling addiction. The county's Social Services Division is not able to keep pace with their calls for service and, in many cases, are unable to respond to a call in a timely manner. One example of gambling addiction provided by Chief Deputy Russell was an individual who sold his kid's toys and wrote bad checks to obtain gambling money. Then, with financial ruin upon him and a few weeks before his military service discharge, he tried to recover his bad checks and ended up shooting and killing the individual holding them.

Ms. Solano of the Deadwood Police Department also related that there were increased family and social problems which resulted because of an influx of families moving to Deadwood in hope of obtaining jobs (\$6 per hour).

This problem was reiterated by a worker with Gamblers Anonymous in Aberdeen, South Dakota (a six-hour drive from Deadwood) who stated that Deadwood has opened the door to all types of legalized gambling. And those that once just had a gambling addiction now write bad checks, embezzle from employers and sell everything they own to keep on gambling. He added they have received more money for their schools but its not worth the price in human misery.

One very important fact that should not be overlooked was pointed out in the 1976 Federal Commission on the Review of the National Policy Toward Gambling which concluded that "densely populated areas are likely to find it much more difficult (than has Nevada) to cope with the effects of overindulgence. If Nevada-style casinos were legalized in heavily urban areas, participation by low-income people can be expected to result in increased social problems and an expanded need for government services, thereby offsetting in whole or in part any advantages derived from the stimulation of local businesses." The commission recommended that any legalization of casino gambling be restricted by the state to relatively isolated areas where the impact on surrounding populations can be minimized.

Experts also believe that states may spread the market for gambling too thin the more they legalize it. New gambling sources may cut into revenues of more traditional attractions such as horse racing, bingo and electronic or hard ticket lotteries. This is also reiterated in an interview with Arthur Kremer, the Chairman of the Committee on Ways and Means, New York State Assembly, who states that casino gambling will be valuable only if it is limited to resort areas and not allowed to proliferate throughout the state. If it's in too many places, the return to the state will ultimately be diminished.

## ADOLESCENT GAMBLING

Gambling has a negative effect on children and their education. In Atlantic City, some schools are within walking distance and students have been known to cut classes to gamble. It has been estimated that 72 percent of high school students gamble in the casinos. This may explain the low level of performance on High School Proficiency Tests where the levels for Reading were 82.6 for the state, 64.3 for Atlantic City; for Math it was 71.8 for the state and 49.4 for Atlantic City; for Writing it was 76.5 for the state and 58.2 for Atlantic City.

Rosenstein and Reutter (1980) administered a questionnaire to 164 United States high school students on adolescent gambling behavior and attitudes. They found that 78 percent approved of legalized gambling, 61 percent of males and 38 percent of females had gambled in their past. Additionally, 21.7 percent of those who had gambled had bet more than \$50 at one-time.

A survey of teenage casino gambling (Arcuri, Lester & Smith, 1985) sampled 332 students in an Atlantic City High School, and despite the fact the gambling is restricted to 21 years and over, 64 percent had gambled in a casino, 21 percent had visited a casino more than ten times, and 9 percent gambled once a week. The two major types of gambling activity engaged in by the adolescents were slot machines (66 percent) and blackjack (21 percent). These investigators suggested that, in some adolescents, gambling might be compulsive. Some of the students used lunch money for gambling, 6 percent shoplifted and 3 percent sold drugs. Truancy was also a major problem among adolescent gamblers.

It should be noted that during 1991, approximately 220,000 people under the age of 21 were prevented from entering or were evicted from casinos by Atlantic City casino security forces. During May, June and July 1981, Atlantic City casinos turned away more than 41,000 minors from their doors and escorted another 10,000 under 18 from the floor (Sternlieb and Hughes, 1983). Evidently, gambling is a popular activity among the young and while, on the whole, it is a controlled activity, concern has been voiced about the possibility of an increasing addiction of young people (Griffiths, 1989).

## CONCLUSION

The benefits of casino gambling include new jobs, increased spending and increased tax revenues. The costs include increased crime, increased organized crime activities, a deterioration of the business climate of the area, an increase in compulsive gambling of the residents, increased prostitution, an increase in the transient population, increased political corruption and exposure of the young to unsavory activities (Ryan, Conner, Speyrer, 1990).



It should also be noted the experience in Atlantic City suggests that many of the new jobs created by the casino industry did not go to local residents. In a book entitled "The Atlantic City Gamble," written by George Steinlieb and James W. Hughes, of Rutgers University, the authors state they feel that the other states that are considering legalized gambling as a way of spurring their economics should weigh the evidence of Atlantic City very carefully. Their conclusion was this, "In our view, the costs of New Jersey's style of casino gambling as a means of revitalization far outweighs its virtues." On this premise there should be no disagreement.

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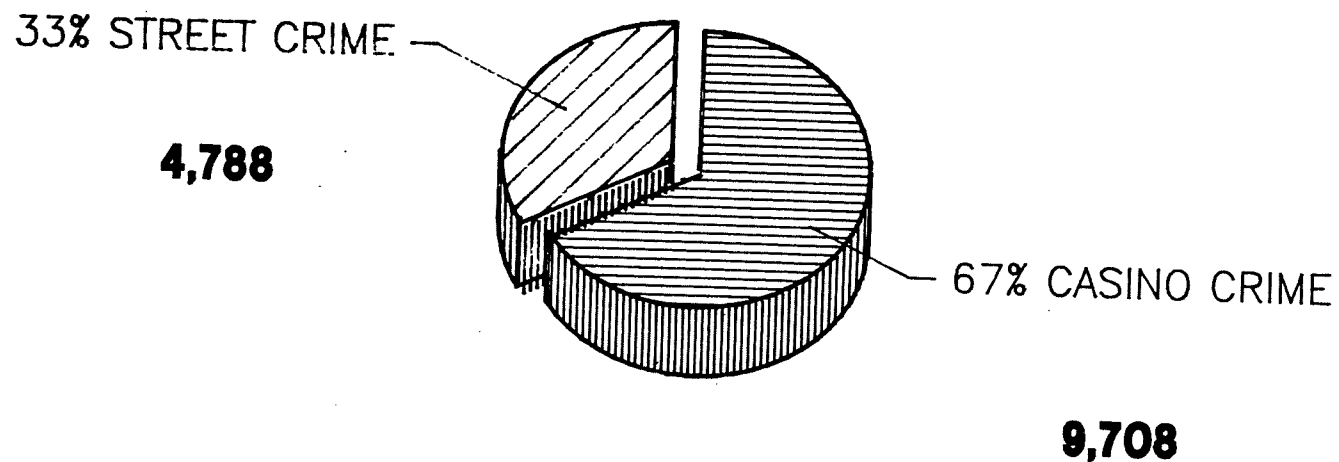
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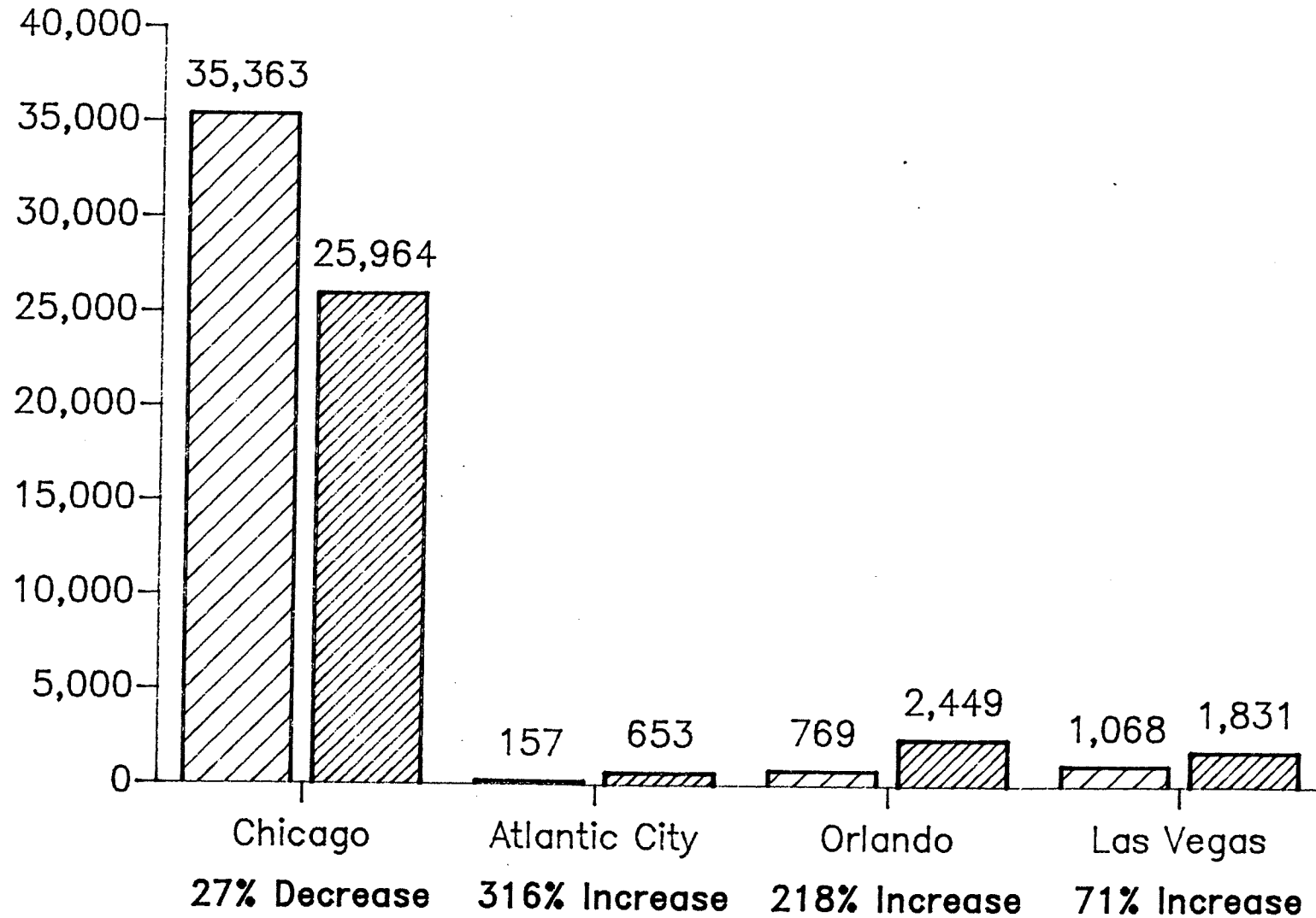
# ATLANTIC CITY POLICE DEPARTMENT UNIFORM CRIME REPORT CRIME INDEX 1990 (14496)



**STREET CRIME VS CASINO CRIME**

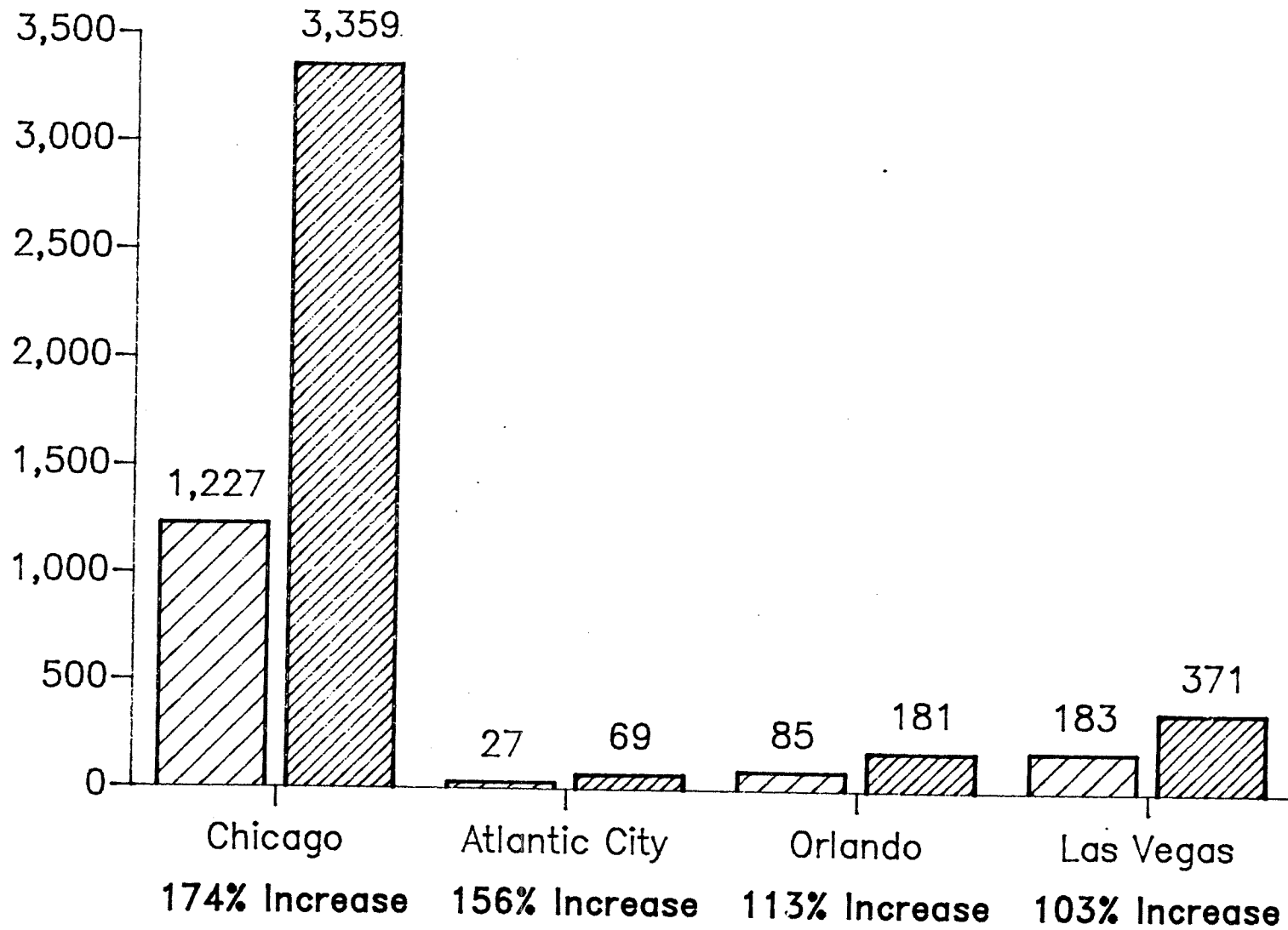


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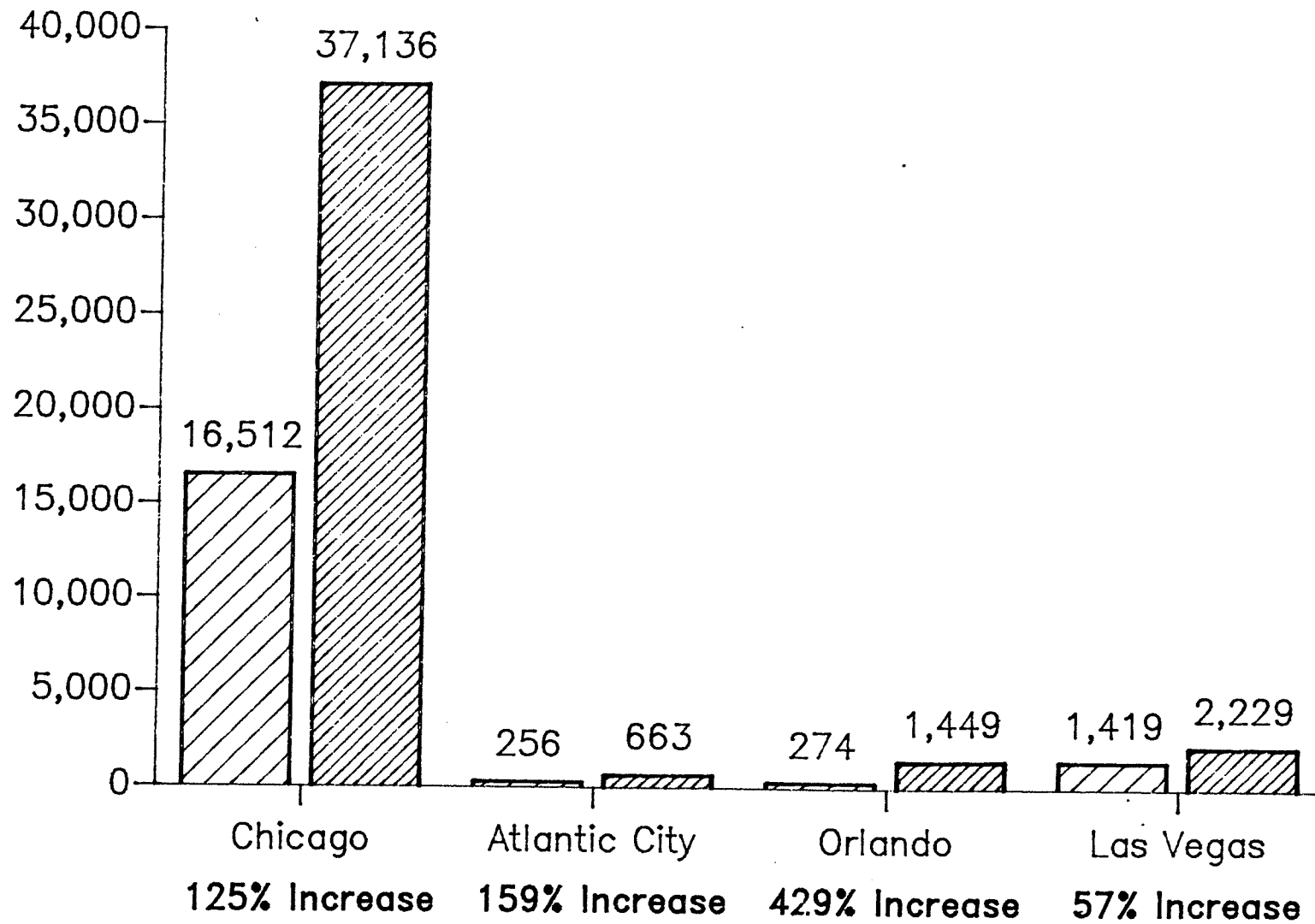
1977
  1990

# **UNIFORM CRIME REPORT RAPE STATISTICS 1977 VS 1990**



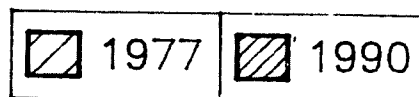
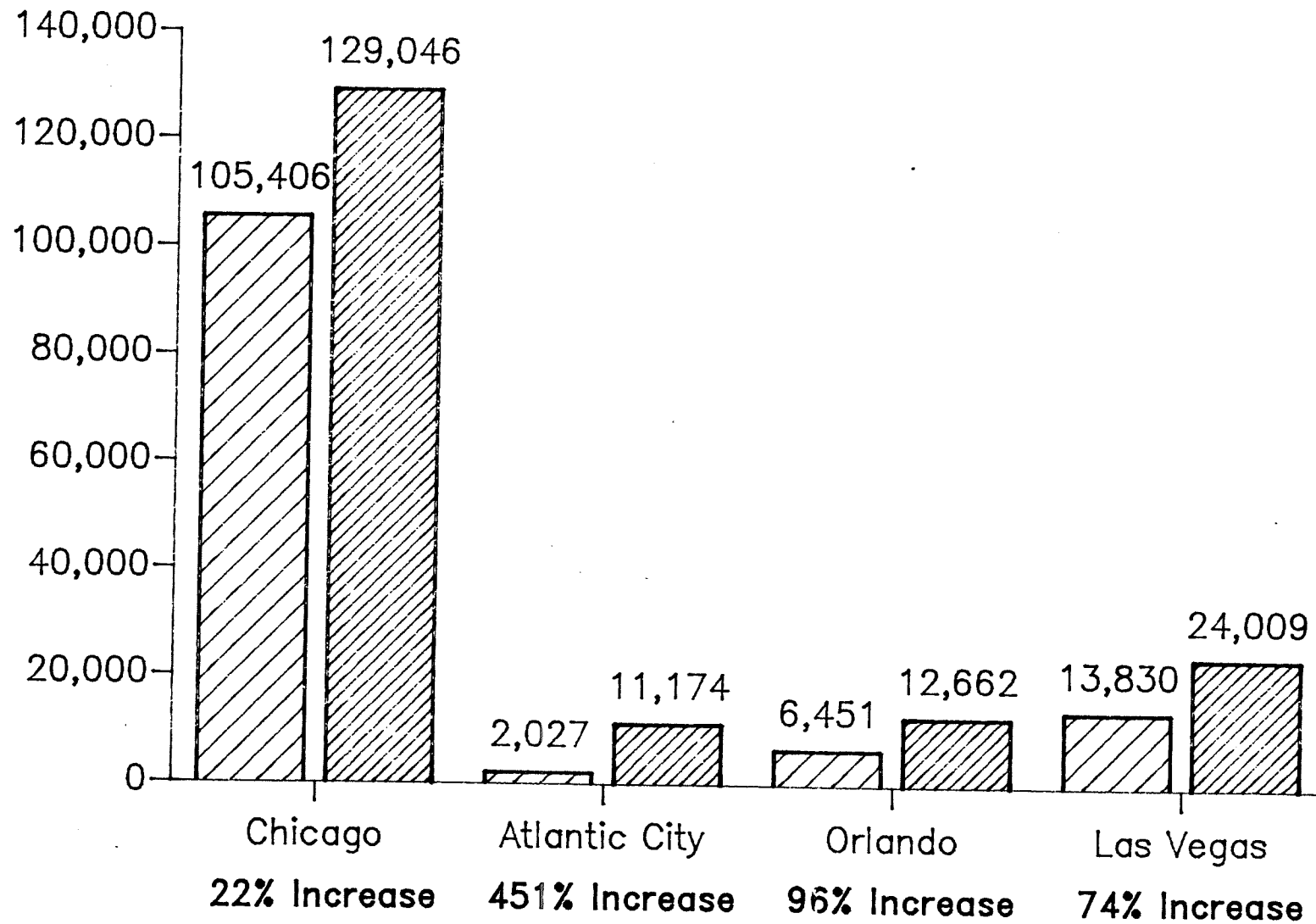
▨ 1977
▨ 1990

# **UNIFORM CRIME REPORT ROBBERY STATISTICS 1977 VS 1990**

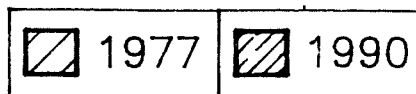
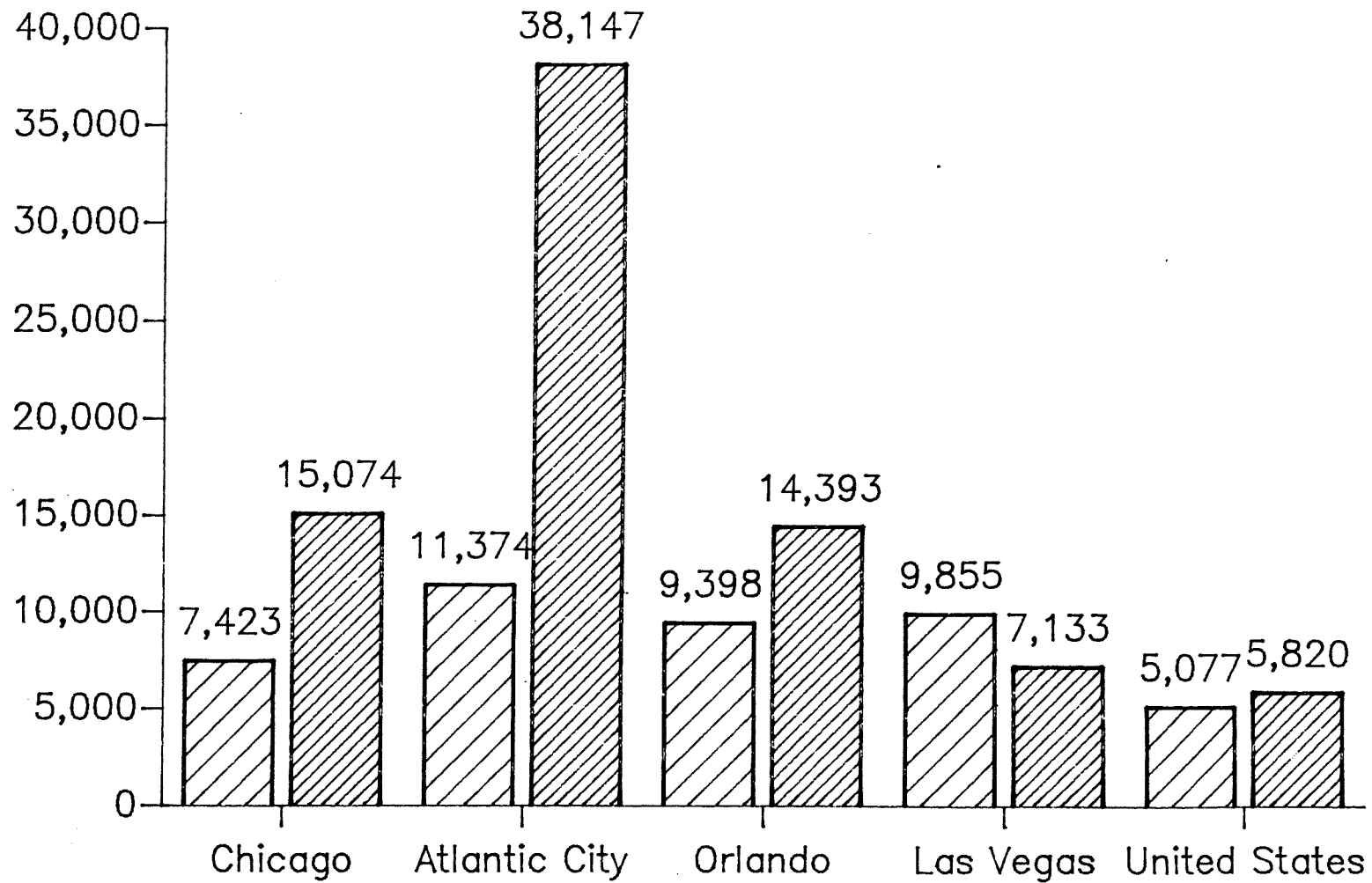


1977
  1990

# **UNIFORM CRIME REPORT LARCENY STATISTICS 1977 VS 1990**



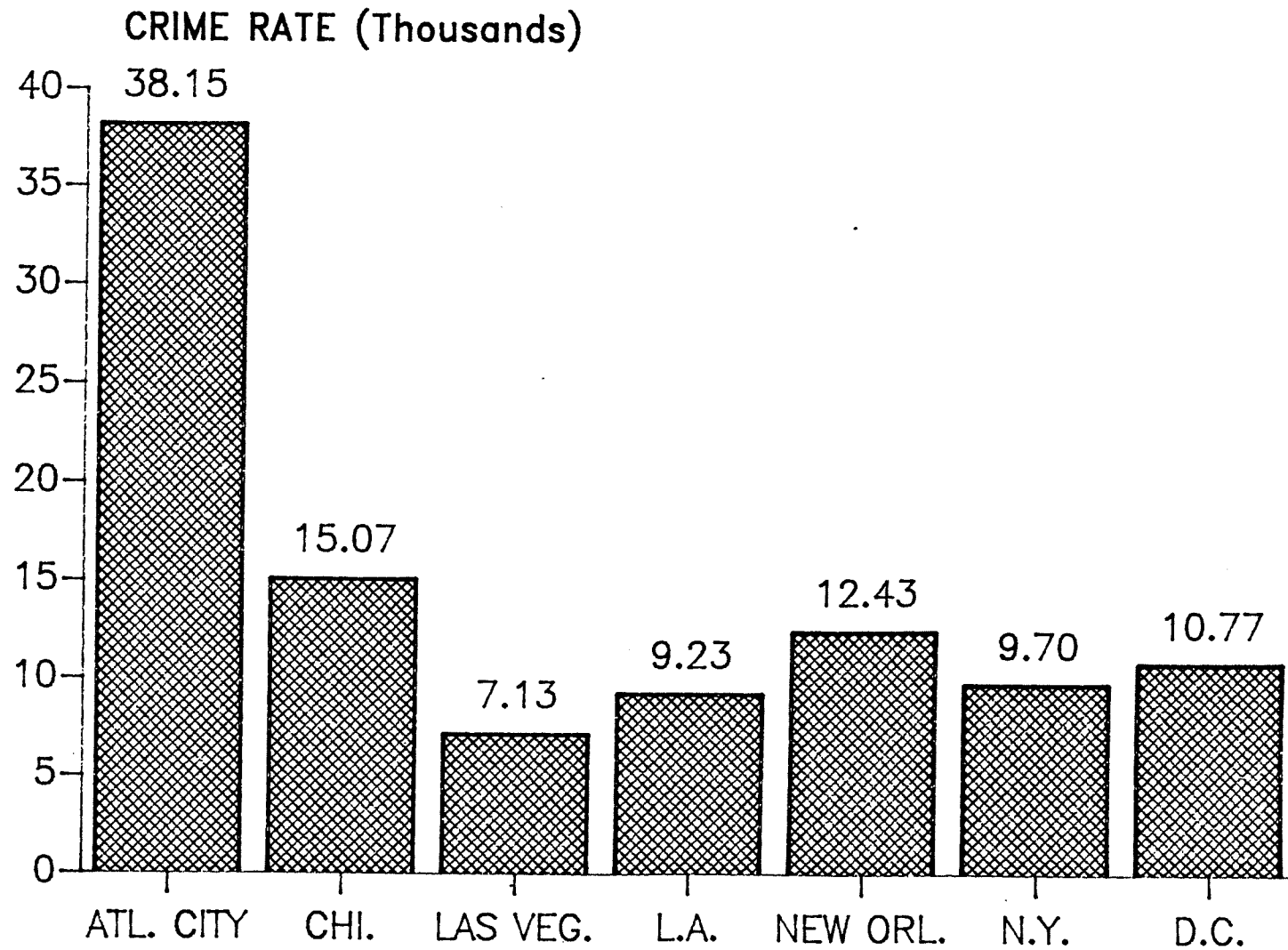
## CRIME RATE PER 100,000 POPULATION



## OFFICERS PER 1,000 INHABITANTS

	1977	1990
Chicago	4.33	4.33
Atlantic City	6.50	11.19
Orlando	3.35	3.11
Las Vegas	2.64	1.96
United States	2.20	2.20

## CRIME RATE COMPARISON FOR MAJOR U.S. CITIES (PER 100,000 INHABITANTS)



 CRIME INDEX

# CRIME COMPARISONS FOR ATLANTIC CITY VS. NEW JERSEY FOR THE TIME PERIOD OF 1977-1990

