

Approved: 4-1-94
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Clyde Graeber at 1:30 p.m. on March 22, 1994 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Mary Galligan, Legislative Research Department
Lynne Holt, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
June Evans, Committee Secretary

Conferees appearing before the committee: Bob Williams, Video Lottery Consultant, South Dakota
Stan Chilton, Chilton Vending Company, Wichita
Mike Dalsing, Kansas Automatic Merchandising Association, Inc
Jerome A. Young, Director, Corporate Development, IGT
Carl Anderson, Assistant Attorney General, Kansas Lottery
Charles M. Yunker, Adjutant, Kansas American Legion
Thomas Frenn, Kansas Charities Cooperative
Don Bird, Kansans For Life At Its Best
Rebecca Rice, Legislative Counsel for Wyandotte County Club Association

Others attending: See attached list

The Chairperson opened the hearing on HB 3077.

Bob Williams, Director, Consulting for Video Insights, testified in support of HB 3077 stating video lottery has had a positive impact on South Dakota's economy. It is estimated that video lottery has created over 2,500 new jobs in the hospitality and amusement industry. Video lottery's first years of operation has been unquestionably a success. South Dakota with a population of 700,000, the state's share of net revenue has been \$181,300,000 since 1990 which far surpassed the original projections. (See Attachment #1)

Stan Chilton, Chilton Vending Company, Wichita, testified in support of HB 3077 but would recommend some changes. Mr. Chilton stated video lottery terminals are a purely voluntary method of raising large sums of money for states instead of raising taxes. The revenue generated for the states by VLT's was almost unbelievable. This revenue siphoned away from existing video and amusement machines such as I own when a VLT was placed beside these existing amusement machines. A VLT program that did not include the existing small business person, in fact a state owned and operated or exclusive single source VLT operation would force many small coin-operated amusement machine businesses out of business and losses of the employee's jobs. (See Attachment #2)

Mike Dalsing, Kansas Automatic Merchandising Association, Inc., testified in favor of HB 3077 which provides for small independent Kansa businesses to participate in the operation of video lottery machines. KAMA members are vitally concerned because when a VLT is placed side by side with any of our present coin-operated amusement machines, the VLT will cannibalize 50 to 70% of the amusement machines earnings. An amusement only pinball or video machine just cannot compete against a VLT that offers equal amusement plus a chance to win cash. (See Attachment #3)

Jerome A. Young, Director, Corporate Development, International Game Technology, testified in support of HB 3077, stating the primary element of video lottery is its revenue potential to the state of Kansas and the participating local governments. It is felt with a population of 2.4 million, Kansas should not anticipate any more than 15,000 machines. Assuming that only 80% of these machines (12,000) will ultimately be placed in the field, we can offer a more conservative projection than the \$150 million presented by the state's consultant.

Like any form of gaming, video lottery will reach a stabilization point. The product will then need to be updated with possibly new games being added. This is not unlike the Lottery Commission adding on-line games after starting up with scratch off instant tickets. Revenue growth from the first year to the second year will be about 35%. The second year to the third year will be about 16% due to the change in revenue distribution to the state and additional machines on the network. Subsequent years will be 3-5%. (See Attachment #4)

Carl Anderson, Assistant Attorney General, Kansas Lottery, testified neither as a proponent or an opponent of HB 3077. As the agency responsible for the administration of the video machine lottery machine game, should such legislation be approved, the Lottery has some concerns which have been identified in the "ballooned" version of the bill. Most of the suggested changes represent clarification and clean-up. (See Attachment #5)

Charles M. Yunker, Adjutant, Kansas American Legion, testified in support of HB 3077, however, the Legion has concerns with the bill and would recommend some amendments (See Attachment #6)

Thomas Frenn, Kansas Charities Cooperation, testified that currently they are limited to three sessions a week of bingo at any one location. A bingo session lasts less than three hours. If HB 3077 is passed, it is hoped there will be no amendments that would restrict a bingo hall's use of video poker machines to only the hours bingo is played. It would be impossible to get a distributor to place any machines at our businesses because of the limited hours. (See Attachment #7)

Don Bird, Kansans For Life At Its Best, opposed HB 3077 stating that gambling is addictive and studies have shown the most addictive types of gambling are those that involve control or give the illusion of control and video lottery gives that illusion. (See Attachment #8)

Rebecca Rice, Legislative Counsel for Wyandotte County Club Association, testified she was a qualified supporter of HB 3077, however, if the bill could be improved. The Association is supportive of the underlying purpose of the bill which is to institute a state run video lottery. (See Attachment #9)

Frances Wood, Legislative Director for Woman's Christian Temperance Union of Kansas, provided testimony opposing all gambling. (See Attachment #10)

Mary Torrence, Assistant Revisor of Statutes, provided information on video lottery and what would be authorized in HB 3077. (See Attachment #11)

The Chairperson closed the hearing on HB 3077 and stated that possibly we will look at this later for some possible action.

The Chairperson stated there was a hearing last week on HB 3069 and would like to take action on this bill.

Representative Smith moved and Representative Plummer seconded to pass HB 3069 out favorably. The motion carried.

Representative Robinette requested introduction of a committee bill. This bill would establish a resistance education fund for D.A.R.E. (Drug Abuse Resistance Education Programs) across the state and also what is called G.R.E.A.T. (Gang Resistance Education and Training Program). These programs are going to lose their federal funding after this year. Drivers license reinstatement fee will be increased following a DUI conviction from from \$25.00 to \$50.00 and reinstatement fee following a suspension for a traffic violation from \$50.00 to \$60.00.

Representative Lahti moved and Representative Wilk seconded the bill request be accepted as a committee bill. The motion carried.

The Chairperson stated no meeting is planned for tomorrow, but if one is scheduled, it will be announced at the well.

The meeting adjourned at 3:15 PM.

Date: 3/22/94

FEDERAL and STATE AFFAIRS COMMITTEE

NAME	ORGANIZATION	ADDRESS
Duane Zarger	KAMA	
CHRISTOPHER WORTHINGTON	KAMA	SHAWNEE, KS
Mike Delsing	KAMA	K.C. KS
Stan Britton	KAMA	WICHITA, KS.
Chuck Hurley	GTCA	Topeka
Charles M. Yunker	AMERICAN LEGION	Topeka
Dan Harned	3 D Entertainment	Topeka
Tom B. ...	Allentown	Topeka
Jim Allen	3-D	"
Jonathan Small	3 D Entertainment	Topeka
JOHN C. BOTTERBERG	VIDEO LOTTERY TECH	TOPEKA
Kevin M. ...	Observer	Topeka
David Dallan	DOB	Topeka
George Barber	Topeka	16-T
James A. Young	IGT	Reno, Nevada

Date: 3/22/94

FEDERAL and STATE AFFAIRS COMMITTEE

[illegible]

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TESTIMONY PRESENTED ON HOUSE BILL 3077 TO THE HOUSE FEDERAL
AND STATE AFFAIRS COMMITTEE OF THE KANSAS LEGISLATURE MARCH
22, 1994

My name is Bob Williams. I am Director of Consulting for Video Insights, a division of Musivend Inc. based in Sioux Falls South Dakota.

I'm here today to share with you South Dakota's success with video lottery. I worked in the tele-communications industry for 35 years, and served eight years (1976 to 1984) in the Senate of the South Dakota Legislature.

Since 1989, I have been involved in almost every aspect of the video lottery industry:

Collections, route operations, systems design, accounting and auditing. I have worked with machine owners, machine operators, establishment owners and the various state regulatory agencies. the State Legislature, the South Dakota Lottery and the Lottery Commission.

Because I see the lottery system in operation every day, I have gained a tremendous respect for the system developed to oversee and maintain the security and integrity of video gaming in South Dakota. I am especially impressed with the sophistication and reliability of the state accounting and auditing system.

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PRIVATE ENTERPRISE

The private sector has played an important role in the South Dakota Video Lottery. Of primary importance is the amount of private capital investment in this new industry. In machine purchases alone, over 80 million in private sector capital has been invested since 1989.

Additionally, the private sector brought to the industry a well trained and established service group, familiar with repairing, marketing and distributing gaming products.

IMPACT ON SOUTH DAKOTA'S ECONOMY

Video lottery has had a positive impact on South Dakota's economy. It is estimated that video lottery has created over 2,500 new jobs in the hospitality and amusement industry.

In years past we had to offer tax abatements or provide scarce upfront investment dollars to out-of-state businesses as incentives to bring new jobs and income to South Dakota. Every year the legislature searched for new sources of revenue. Now we've been able to develop a whole new revenue source through video lottery that trickles its way down through all aspects of our economy.

Video lottery's first years of operation has been unquestionably a success. From our small, rural state populated by 700,000 people came a working model of the lottery game of the future. The State's share of net revenue (\$181,300,000) since 1990 far surpassed original projections.

SECURITY AND INTEGRITY

One of the keys to video lottery's huge success in South Dakota, as far as I'm concerned is the State Central Control (Computer Center) System. It is comprised of computer hardware and software programs designed to extract, store and assimilate daily monetary and game play transactions for each video lottery machine in the State.

The Central Control System provides the lottery with complete CONTROL over the operational status of each video lottery machine located in licensed establishments state wide. As a prerequisite to licensing, each video lottery machine must be able to communicate with the Central Control System. This is accomplished through a high tech communications protocol program that provides all required information to the Central Control System from each machine.

Every video lottery machine is linked electronically to the State Central Control System. Video Lottery machines are inoperable without enrollment and direct link with the system. The System in Pierre also has the capability to disable any machine in the state at any time.

In South Dakota, we believe there are 7,400 electronic law enforcement officials working 24 hours a day to guarantee the integrity and accountability of the Video Lottery Industry.

I am here as a resource for any questions committee members might have about the South Dakota Video Lottery System. Thank you!

TESTIMONY ON HB 3077

BY

STAN CHILTON, WICHITA, KANSAS

March 22, 1994

Mr. Chairman, Honorable Committee Members, my name is Stan Chilton. I have owned Chilton Vending Company in Wichita, Kansas for over 47 years furnishing coin-operated amusement machines and jukeboxes to central and northeast Kansas businesses.

I would like to speak in favor of Video Lottery for Kansas but there are parts of HB 3077 that I think should be changed before passage.

But I'd like to offer you now some of the advantages of Video Lottery Terminals (VLT's) for Kansas. VLT's are a purely voluntary method of raising large sums of money for states instead of raising taxes. The industry saying is if you don't play you don't pay.

Since 1989 when South Dakota instated video lottery operation, I have studied and analyzed video lottery on an almost full time basis. I've gathered video lottery data from all U.S. States that have implemented it as well as four or five Canadian provinces, plus other states that have considered or are planning video lottery.

One reason for my interest was the almost unbelievable revenue generated by VLT's for

the state. But I soon learned that part of this revenue was siphoned away from existing video and amusement machines such as I own when a VLT is placed beside these existing amusement machines. The amusement machines are simply no match for a VLT on which a player can win cash. But in South Dakota, Louisiana and Montana the video lottery programs included the small independent businesses such as mine, thus earnings from the VLT's offset the losses. I would not favor a VLT program that did not include the existing small business person, in fact a state owned and operated or exclusive single source VLT operation would force many small coin-operated amusement machine businesses out of business and losses of their employee's jobs.

When considering video lottery Kansas is fortunate to have actual facts and performance figures from other states' video lottery earnings and experiences. From these other states' actual VLT earnings we can at least have a factual basis for estimating VLT income for Kansas.

Two years ago Dr. William Terrell, an economist from Wichita State University testified that Kansas could expect \$65 million for its share of VLT earnings for the first fiscal year at 40% for states' share, (\$53.6 at 33%.) Many found this hard to believe, but consider the known facts.

1. South Dakota did receive \$10,398,406 for the first fiscal year @ 22½ % states' share (37 weeks operation.) If South Dakota's share was 33% its first year revenue would have been \$15,250,995.

2. In an attempt to obtain a comparison between Kansas and South Dakota the following facts are compared, with the corresponding ratios of difference between these two states:

	KANSAS	SOUTH DAKOTA	RATIO
POPULATION (1994)	2,477,574	696,004	3.5597
PERSONAL INCOME	39,320,369	9,094,529	4.3235
TOTAL EMPLOYMENT	1,426,459	382,354	3.7307
WAGE & SALARY EMPLOYMENT	1,139,961	286,575	3.9779
EATING & DRINKING PLACE SALES (1992 IN \$1,000)	1,566,326	420,738	3.7228
EATING PLACE UNITS, 1992	3,175	884	3.7797
OCT. '93 ACTUAL LOTTERY SALES	10,675,000	2,277,000	4.68

The lowest comparative ratio is for population. Therefore using the most conservative estimate in differences between these two states, 3.55997 times actual South Dakota figures Kansas could expect \$54.3 million dollars as the states share for the first fiscal year.

3. Using a different approach we know that South Dakota's weekly per capita net revenue for the 39 weeks first fiscal year was \$1.75. Then 39 weeks at \$1.75 and Kansas 2,500,000 population, with 33% states' share = \$56,306,250. But an extremely conservative comparison using \$1.15 weekly per capita net revenue (66%) instead of the actual \$1.75, Kansas'

PERIOD	STATE OF KANSAS SHARE IN \$MILLIONS <i>VERY CONSERVATIVE</i>	<i>EXPECTED</i>
FISCAL YEAR 1994 (9 MONTHS OPERATION)	37.0	53.6
FIRST FULL YEAR	55.0	72.9
SECOND FULL YEAR	85.8	134.1

A note of interest to the Dr. Terrell 1992 report referred to above. Dr. Terrell estimated FY '93 South Dakota state share of \$41,823,796. It was actually \$49,000,000.

The state of South Dakota has commissioned various studies of their video lottery program. One study was "Gaming in South Dakota." The results of the survey have been compared to the results of similar surveys carried out in other states, with the results indicating very little effect of VLT's one way or the other on the subjects studied.

Another report was commissioned by the South Dakota Lottery Commission last year with Green Consulting International to determine if a better percentage split for the state was possible and if operators and establishments were making a reasonable rate of return on their investment. The report concluded that a states share of 40% was possible if raised by 1% per year from the present 35%.

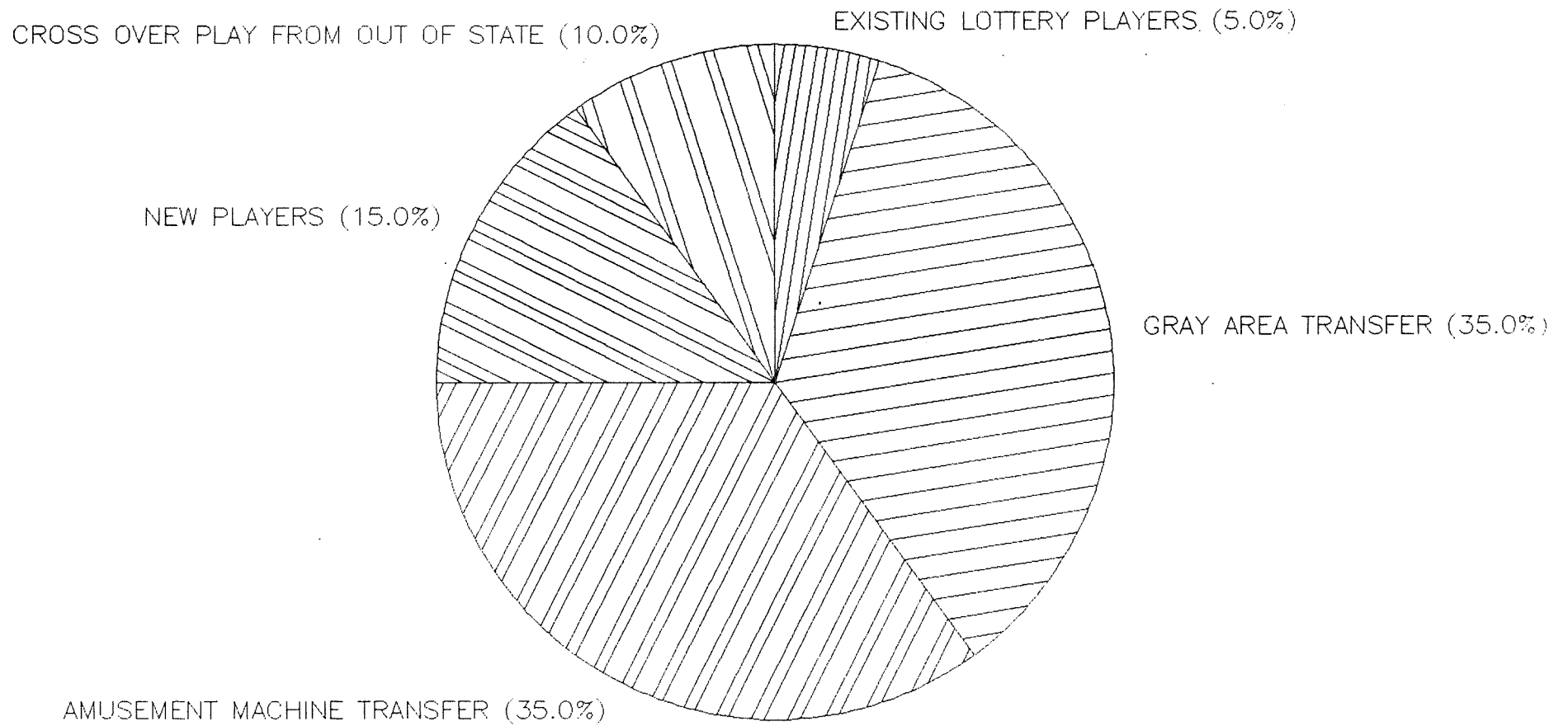
South Dakota also had a bill to abolish video lottery put to a vote of the people. It failed by a margin of 37% to 63% to continue video lottery.

I have one more interesting note to make about video lottery. Where does the revenue it generates come from? A University of Wisconsin study verifies my initial concerns that 35% of VLT earnings are siphoned from existing amusement machines. Another 35% comes from money presently being spent on gray area machines. There are also new players who have never played any game of chance. There is an important amount of cross over play from surrounding states. There is minimal cross over of existing lottery players. A pie chart showing the actual percentage estimates is attached.

All the above estimates and projections are based upon at least a 2 year VLT program. Kansas present lottery has a sunset clause that terminates the lottery on July 1, 1996.

I will be happy to answer any questions you may have and will furnish copies of the mentioned reports and studies at your request. Thank you for allowing my testimony.

STATE OF KANSAS
ESTIMATED SOURCES OF NET VLT INCOME



Province unplugs gambling

Slots boosted government revenue, busted citizens

By Anne Swardson

Los Angeles Times/
Washington Post Service

HALIFAX, Nova Scotia — Two years ago, this economically depressed eastern corner of Canada joined dozens of cities, states and provinces across North America and legalized gambling to raise money.

The form of gambling allowed in Nova Scotia was video slot machines, installed throughout the province in bars, gas stations, bowling alleys and convenience stores. Anyone of age could play them, and almost everyone did. The money started rolling in.

On Jan. 20, Nova Scotia's premier, under public pressure, gave up that windfall and agreed to unplug 2,500 of the machines. Critics said they had addicted — and impoverished — thousands of Nova Scotians in the cause of raising revenue for the government.

"It looked like a lifeline. But my feeling is it was a lifeline with a terrible hook at one end," said the Rev. John Boyd, minister of the First Baptist Church in Halifax and one of many people who asked the government to shut down the machines.

Five provinces in Canada operate or allow casinos, or are moving toward doing so, and provincial governments also profit from lotteries in the same way U.S. states do. Bingo is big in the west. The government of Ontario is reported to be considering installing 15,300 video slot machines in bars, racetracks, bingo halls, airports and tour boats.

The appeal of revenue from gambling is that — unlike increased taxation — it is voluntary. Like many U.S. states, most Canadian provinces face big budget deficits and taxpayers unwilling to shoulder a greater burden.

At first, the video machines seemed to be just the ticket for Nova Scotia, a peninsula and island of about 900,000 people situated due east of Maine. With an unemployment rate in double digits, higher taxes were politically unpalatable to close the budget deficit of about \$160 million.

Some machines had been operating illegally all along, so when the government and its lottery authority took control of them in May 1991, the action was presented as stamping out crime, not raising revenue.

Soon, however, the coffers started filling up. Payouts to the treasury from gambling — Nova Scotia also participates in a regional lottery — jumped 43 percent from the first year the machines were legalized to the second. By the second year of legal operation, the machines were bringing in more than \$40 million a year to the government and another \$20 million or so to the store owners who operated them.

The machines paid out 85 percent of their take in winnings. No skill was required to play. All a gambler needed was a steady supply of loonies — the Canadian \$1 coins bearing a loon — to play the machine.

Then stories began appearing in the local news media about people who were dropping so many loonies on video gambling that they did not have enough money for groceries or rent. Premier Donald Cameron said friends who operated stores told him of customers cashing paychecks or social-security checks and using all the money for gambling.

Other store owners said people would spend all day in front of the machines, leaving their children to roam the store unattended. As new figures showed that about \$4 million

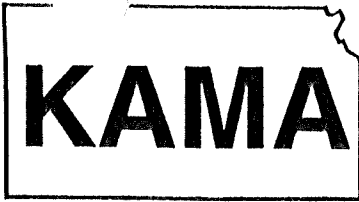
a week was going into the machines, a local psychologist warned that gambling had become "epidemic" in the region.

Kay Peters, 46, said her husband, Roy, 49, lost nearly \$80,000 in the video machines during a nine-month period ending in August 1991. He was a collection agent for a company and was fired when he "borrowed" company money to gamble, she said. He was placed on two-year probation, and the couple had to sell their \$160,000 house to pay the money back.

Peters and her husband used to be the only attendees at meetings of the new local chapter of Gamblers Anonymous. Now there are 20 or 30 people each week, and other branches have sprung up in nearby Dartmouth and other towns.

Teachers and school administrators said students were asking for help in treating their gambling addiction, even though use of the machines is supposed to be prohibited to those under 19. Organized labor called for a ban on the machines, as did municipal councils around the province. Opposition politicians and newspaper editorials began saying this was no way for a government to finance itself.

Cameron's government resisted for a while. But finally the premier, facing re-election in a few months, announced that the machines would be pulled out of stores, bowling alleys and gas stations. Of the 3,500 machines now operating, about 1,000 in bars and other places off limits to minors will be allowed to remain.



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"The voice of the Kansas coin-operated machine industry."

Testimony on HB 3077

by

Mike Dalsing, Kansas City, Kansas

For Kansas Automatic Merchandising Association, Inc. (KAMA)

March 22, 1994

Mr. Chairman, Honorable Committe Members, I am Mike Dalsing and I wish to speak for the Kansas Automatic Merchandising Association, Inc. KAMA is a state wide association of automatic vending and coin-operated video, jukebox, and amusement machine operators. I am chairman of the video lottery committee of KAMA. I own Wyandotte Music Co., Inc., a company that has been in business in the Kansas City, Kansas area for over 40 years.

I would like to speak in favor of video lottery and generally in favor of HB 3077 which provides for small independent Kansas businesses to participate in the operation of video lottery machines.

Our KAMA members are vitally concerned about HB 3077 because when a Video Lottery Terminal is placed side by side with any of our present coin-operated amusement machines, the VLT will cannibalize 50 to 70% of the amusement machines earnings. An amusement only pinball or video machine just cannot compete against a VLT that offers equal amusement plus a chance to win cash. Of course when our existing amusement machines are removed entirely to make room for several VLT's, 100% of the amusement machines income is lost. The only way that an operator can recoup these loses and stay in business is for the operator to be a partner with the State in Video Lottery. These figures are backed up by a University of Wisconsin study on the economic impact of VLT's on operators of amusement machines.

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But there is a good reason for a VLT program to include the small independent business owner and operator of existing amusement machines and that is market penetration. Because of competition the operators have almost 100% market penetration. There is hardly any existing retail location in Kansas that wants a pinball, video game or pool table that doesn't already have one. As any smart businessman an operator is always looking for new places to install machines.

By including operators such as KAMA members in a VLT program more VLT's can be installed at a faster pace and into the maximum number of retail locations, with the operator bearing the \$6,000 cost for each VLT. Results from operator/state partnerships of VLT's (South Dakota, Montana, Louisiana, New Brunswick, Canada) show from 3 to 10 times per capita VLT earnings than the state or single source owned and operated VLT programs.

In Kansas we have Club Keno in operation and video lottery terminals are practically the same game, but VLT's earn much more because of better chances to win and player interaction with the game.

KAMA is in favor of video lottery. KAMA is not in favor of a VLT operation if State owned or any single source program, to the exclusion of the existing private sector Kansas small business operators.

KAMA believes it is important to have a video lottery bill passed this year. One reason for concern is the fact that Missouri is close to passing it's own VLT bill.

With the cost of VLT's so high, (\$6,000 each) coupled with the possible Sunset of the Lottery coming up, KAMA needs a higher percentage of machine revenue to be able to cover operating costs and expand Video Lottery in Kansas.

HB 3077 would give the operator and retailer the same percentage of net machine revenue, 31% each after 4 years. The Green Study, done for the South Dakota Lottery, showed that the capital and operating expenses of the operator in South Dakota are twice that of the retailer.

14.2% pretax operating margin for the operator
27.8% pretax operating margin for the retailer

For these reasons KAMA would ask that the operators share of net machine revenue be increased in HB 3077 to those percentages set forth in SB 399.

We also believe the committee should consider amendments to HB 3077 which address vertical segregation between manufacturer, distributor, operator and retailer. Vertical segregation is a vital component of any video lottery. Vertical segregation must be in place in order to assure integrity.

Thank you for allowing my testimony. I will be happy to answer any questions you may have.

Mike Dalsing



International Game Technology

INDUSTRY COMMENTS

on

HOUSE BILL 3077

before the

COMMITTEE on FEDERAL and STATE AFFAIRS

Presented By: Jerome A. Young
Director, Corporate Development
IGT
March 22, 1994

Chairman and members of the Committee on Federal and State Affairs. I am happy to be with you today to offer comments on House Bill 3077. I am with International Game Technology (IGT), of Reno, Nevada. IGT is the world's leading producer of gaming machines. The company is proud to say that it is licensed to supply machines in every gaming jurisdiction around the world which regulates and extends such privileges to its suppliers. My position with IGT is Director, Corporate Development, North America.

I come to you today, to offer comments and input on HB 3077, as a representative of an organization which has extensive worldwide experience in both public and private sector gaming. Additionally, I present my testimony with the unique sensitivity gained from six years of public service at the state and local level in the state of Ohio.

What is video lottery? Why should the state of Kansas consider legalizing video lottery machines?

I feel these are the two most important questions that must first be addressed before any of the other issues are considered. I will offer some brief words about video lottery, its revenue potential in Kansas and what other selected jurisdictions are experiencing.

VIDEO LOTTERY

Video Lottery, Electronic Instant Lottery, Video Gaming; or whatever else you might wish to call it, is simply a wide network of gaming machines, that have a local winner determination characteristic, whose game outcome is randomly determined, based on the mathematical probability assigned to the payout percentage of each game.

Stated briefly, video lottery is a group of machines which might be placed in bars, taverns, bowling alleys and possibly race tracks, that are connected to a central computer system. These games are assigned a payout percentage which is checked regularly by the state to assure a fair, equitable environment for the player. These machines most often are placed in the retail outlet by private business people who do so under the direction of the state. Revenue is generated by collection of net proceeds left in the machines after payment of prizes to the players.

REVENUE POTENTIAL

The primary element of video lottery is its revenue potential to the state of Kansas and the participating local governments. It is this point after all which brings us here today. Surely there are other important side issues, however, they are best considered once the decision has been made to move forward.

Following are some commonly asked questions which I felt you might want to consider as part of your deliberations. I have also included graphs which help illustrate how video lottery is benefiting other jurisdictions.

Q: What revenue can the state reasonably expect from video lottery?

A: I feel that with a population of 2.4 million, Kansas should not anticipate any more than 15,000 machines. Assuming that only 80% of these machines (12,000) will ultimately be placed in the field, we can offer a more conservative projection than the \$150 million presented by the state's consultant.

Each machine will generate on average about \$425 per week in net revenue. This is what will be divided by the state and the other program participants. The assumptions thus far are that the state will take approximately 33% in the first and second year, and then escalate to 34-35% in subsequent years. This suggests that the state will receive \$140 per week per machine for the first two years. Thereafter they will be paid \$149 per week.

Next, we will need to determine the machine installation schedule and how long it takes to install all 12,000 machines. I believe that based on market conditions, we will see about 60% saturation in the first twelve months. This will then go to an additional 30% in year two, and finally 10% additional in year three.

Revenue projections should be based on this type of analysis or assumption. Accordingly, a projection of \$52 million in year one, \$79 million in year two and \$93 million in subsequent years, as our recommended revenue projection. Obviously the net to the state after allowing for erosion of existing sales should be calculated after we arrive at what the machines themselves will generate.

Q: What can be expected as a growth curve for video lottery after it has been in operation?

A: Like any form of gaming, video lottery will reach a stabilization point. The product will then need to be updated with possibly new games being added. This is not unlike the Lottery Commission adding on-line games after starting up with scratch off instant tickets. Revenue growth from the first year to the second year will be about 35%. The second year to the third year will be about 16% due to the change in revenue distribution to the state and additional machines on the network. Subsequent years will be 3-5%.

Q: How has video lottery impacted other forms of gambling which were in operation before its introduction?

A: There is limited to no impact to the lottery on-line products of lotto or daily numbers. The instant ticket games have seen an average of 10 to 20% erosion of sales. This converts into a possible 35 cents on the dollar to the state of every one dollar lost in erosion of sales. The overall net increase of lottery or state revenue far outweighs the loss of sales or erosion. All projections should take this into account. Overall sales and revenue to the state will increase. Parimutuel wagering is best benefited if it is included in these games.

Q: In other states where video lottery has been in operation, how has it impacted growth of other forms of gaming?

A: Video lottery has not adversely affected the expansion or viability of any other form of gaming expansion or its continued operation. In Louisiana, where video poker was introduced in June 1992, the state elected to place machines at racetracks, bars, as well as taverns, and truck stops. Yet, one year later, the legislature elected to expand gaming to include riverboat and landbased casinos. It is widely recognized that the neighborhood tavern market is distinctly different from racetracks and riverboats. Entertainment and socialization is the key in bars and taverns, whereas gambling is the focus in these other establishments. It is for this reason we have not seen video lottery have an adverse affect on the growth of other gaming venues, because 90% of its payer base is neighborhood residents, who for the most part only play while visiting these establishments. Therefore it has minimal direct impact on tracks and the lottery.

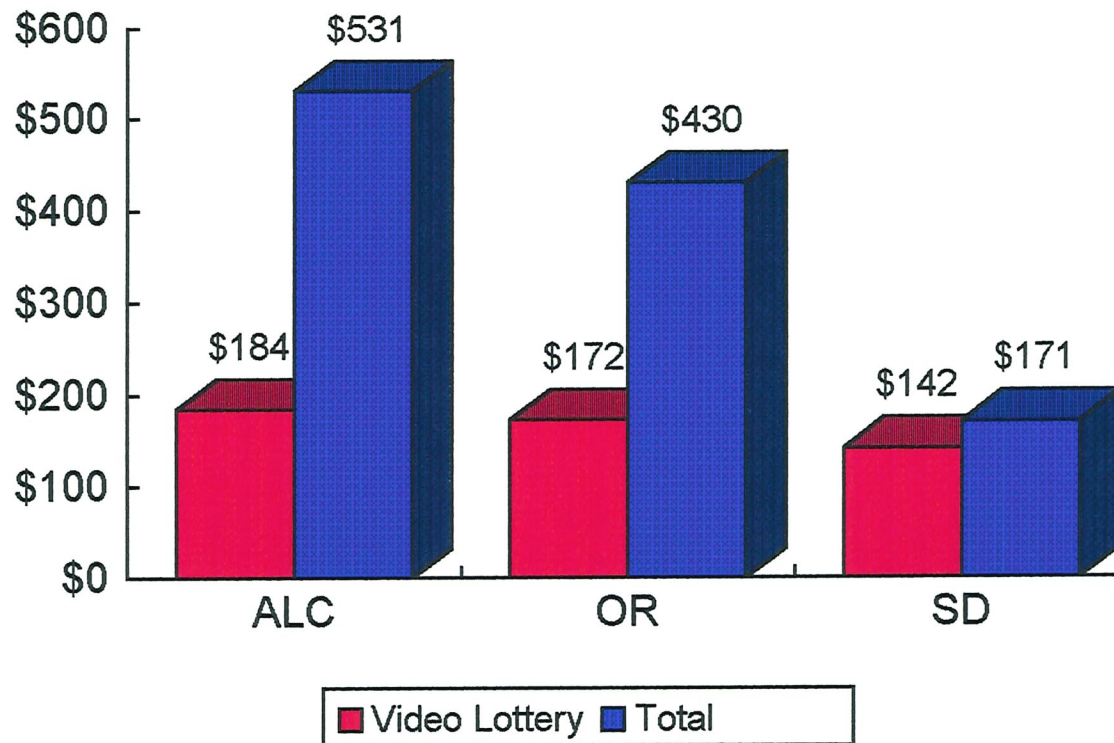
Summary

Video lottery has been found to be an excellent way for states and other jurisdictions to generate millions of dollars without raising taxes or imposing fees and assessments on its electorate. It is a program that, if restricted to age controlled environments, does not adversely affect minors.

While many will comment on the impact it might have on compulsive gambling, the truth is that video lottery does nothing more than offer a low stakes vehicle for patrons to entertain themselves while visiting with friends. Granted, we must always be on the watch for habitual behavior of any kind, but we do not feel that prohibition has proven particularly effective in curbing the problem of those with compulsive gambling concerns.

Rather than forgoing the benefits of this revenue producer because of these valid societal concerns, IGT believes that part of the proceeds should be set aside for the study and treatment of those with such a behavior. Thereby allowing the majority to enjoy the entertainment and long term benefits which the program can assist the state in providing through its revenue stream.

Video Lottery Sales vs. Total Sales - FY 93 (in millions)



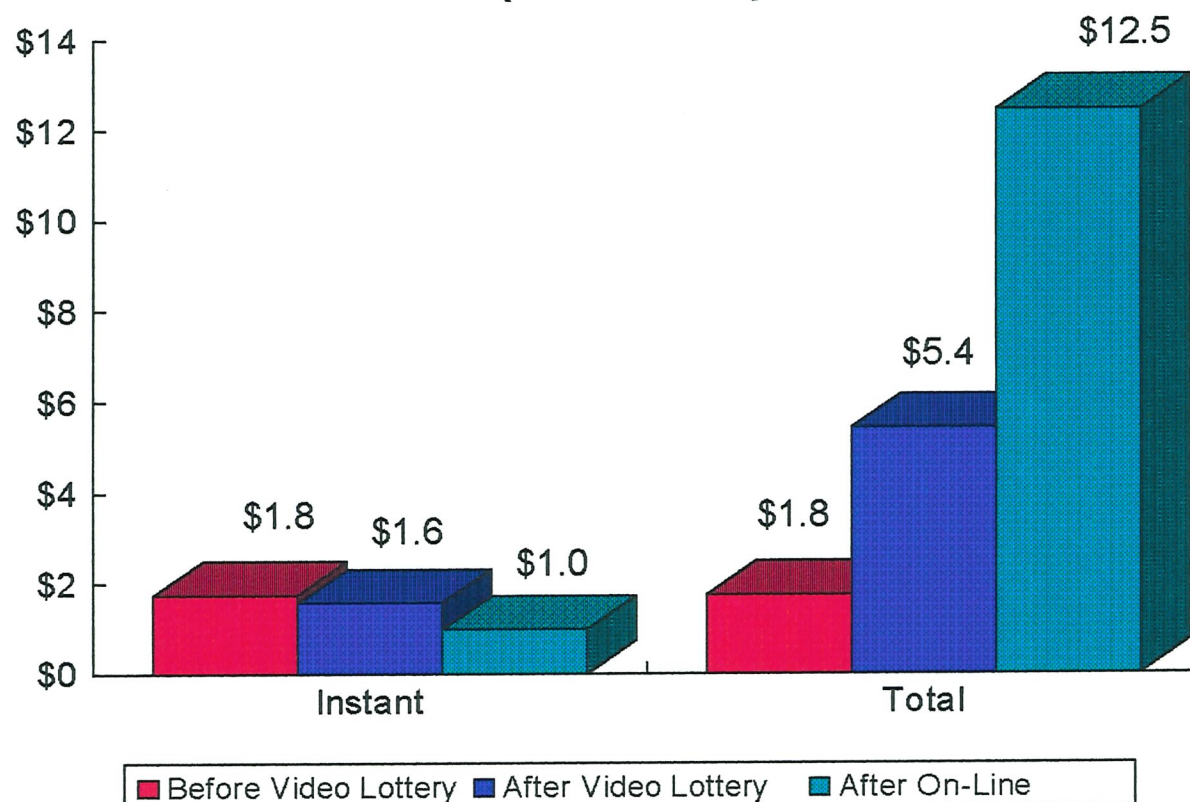
Source: *LaFleur's '94 World Lottery Almanac*



4-5

The Effect of Video Lottery in South Dakota

Average Sales Per Month as of 1993
(in millions)

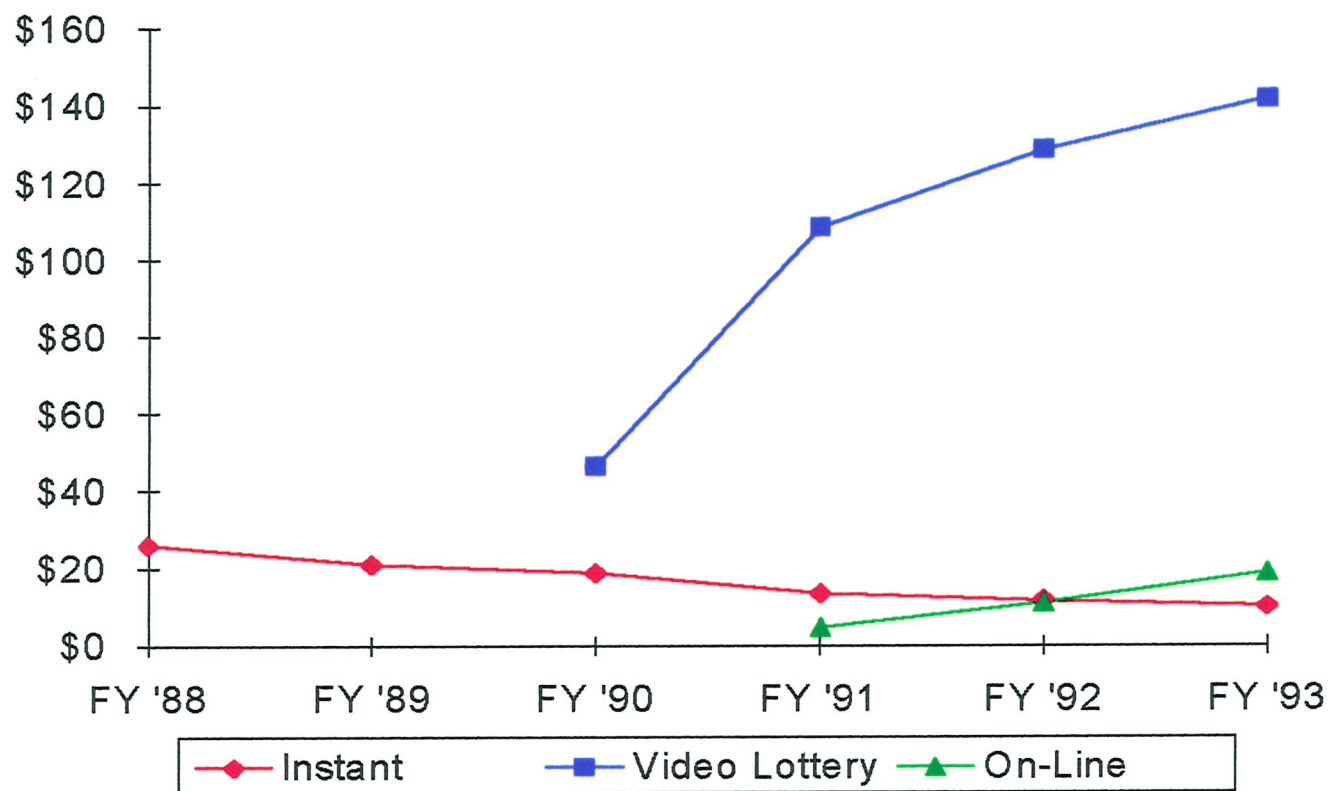


Source: *LaFleur's '94 World Lottery Almanac*



11-6

South Dakota Lottery Sales (in millions)



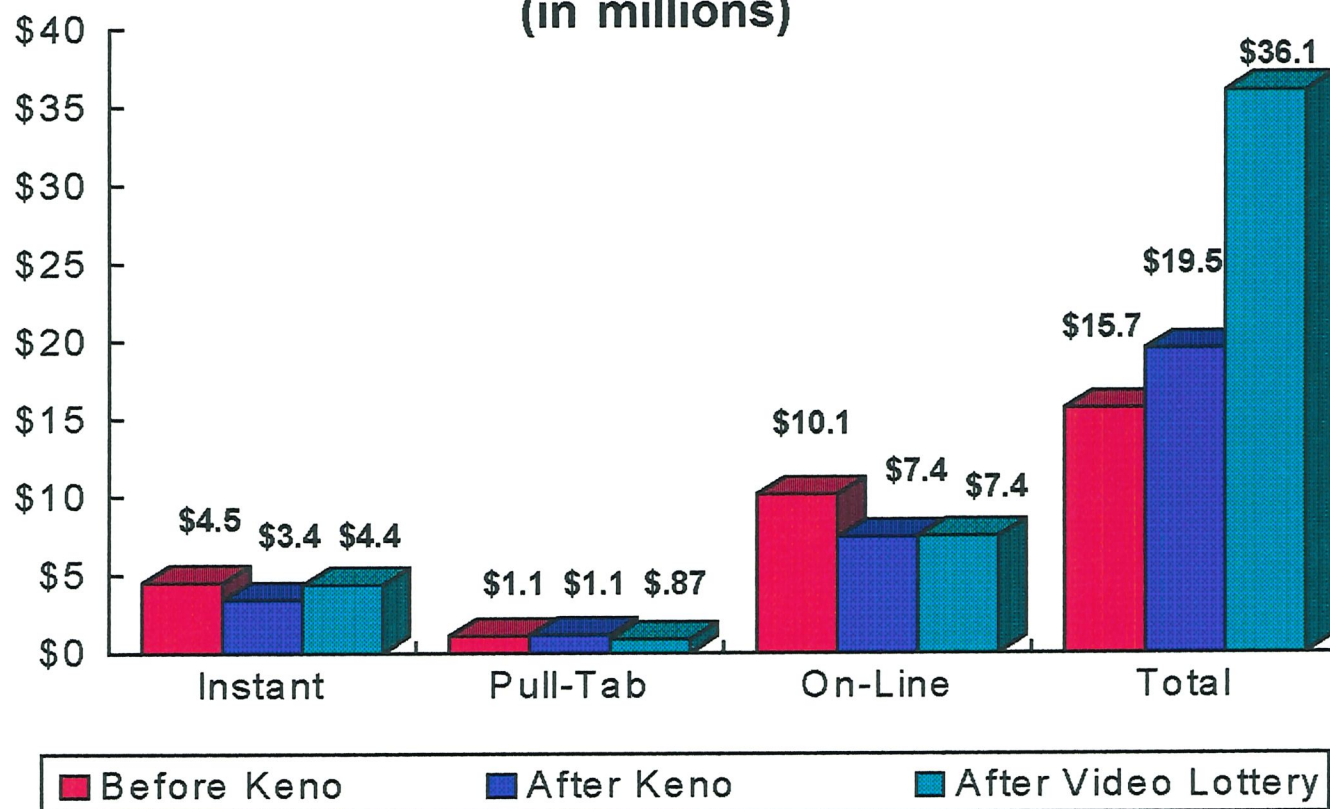
Source: *LaFleur's '94 World Lottery Almanac*



4-7

The Effect of Video Lottery in Oregon

Average Sales Per Month as of 1993
(in millions)

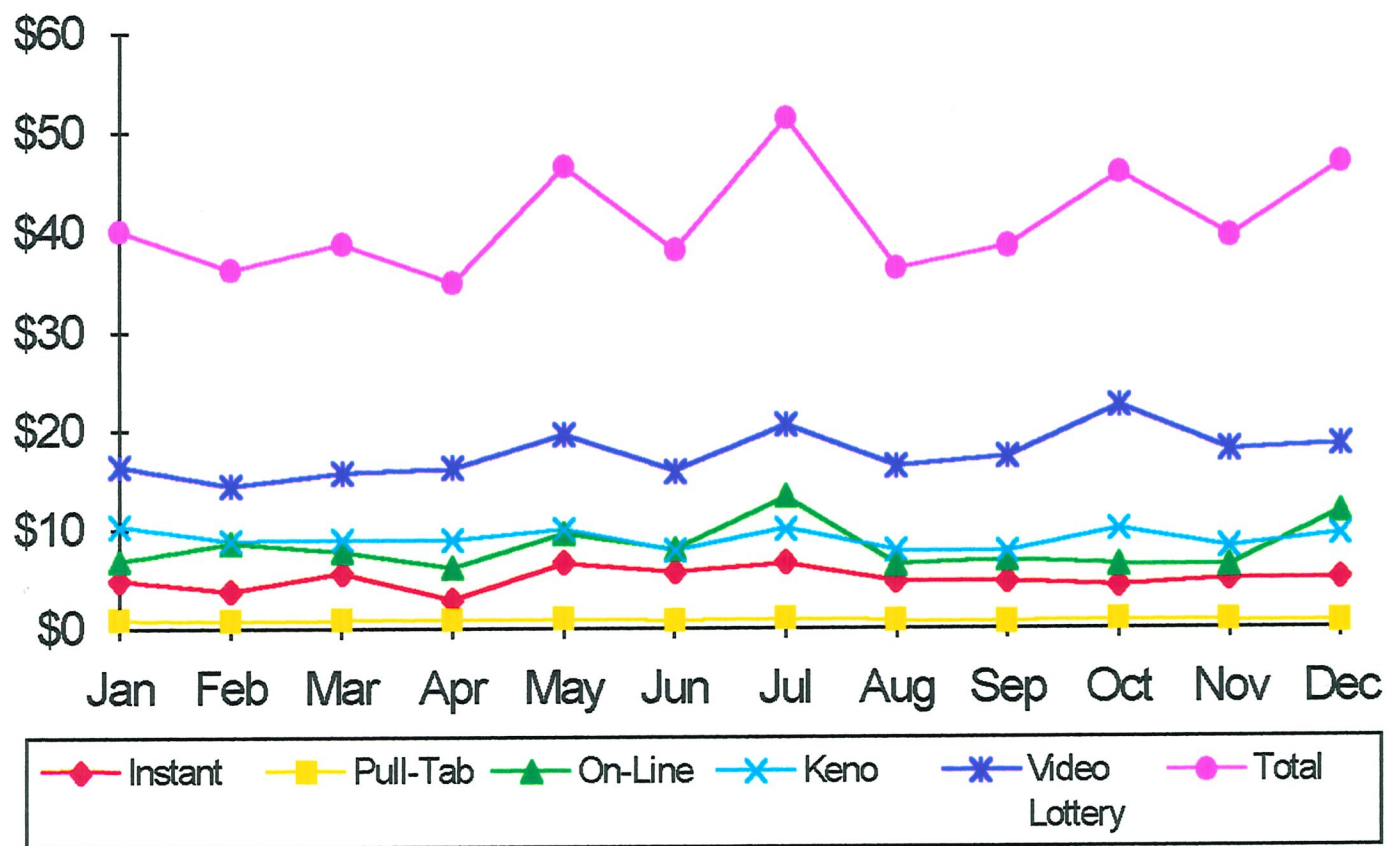


Source: *LaFleur's '94 World Lottery Almanac*



11-8

Oregon Lottery Sales - 1993 (millions)



Source: *LaFleur's '94 World Lottery Almanac*



Total Net Revenue from Video Lottery

	Year Begun	# of Machines (6/93)	FY '93 Total Rev. (millions)	Daily Net Win/ Machine
Louisiana	1992	10,083	\$187	\$79
Montana	1986	16,489	\$162	\$40
Oregon	1992	5,602	\$173	\$103
South Dakota	1989	6,928	\$142	\$61
New Bruns.	1990	3,150	C\$70	\$66
Newfoundland	1991	1,262	C\$24	\$72
Nova Scotia	1991	1,253	C\$75	\$104
PEI	1991	538	C\$13	\$73



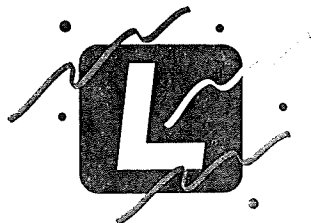
41-7

Government Revenue from Video Lottery

	Year Begun	# of Machines (6/93)	State Share of Rev.	FY '93 State Rev. (millions)
Louisiana	1992	10,083	22.5%	\$42
Montana	1986	16,489	15%	\$24
Oregon	1992	5,602	65%	\$87
South Dakota	1989	6,928	36%	\$49
New Bruns.	1990	3,150	30%	C\$24
Newfoundland	1991	1,262	65%	C\$16
Nova Scotia	1991	1,253	65%	C\$50
PEI	1991	538	35%	C\$5
Queensland	1992	13,037	11%	A\$85



47



Joan Finney
Governor

Kansas Lottery

Gregory P. Ziemak
Executive Director

TESTIMONY ON HB 3077
HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
By Carl M. Anderson, Kansas Lottery
March 22, 1994

Mr. Chairman, and Members of the Committee:

I am Carl Anderson and I am Assistant Attorney General assigned to the Kansas Lottery. I am here today on behalf of the Lottery, neither as a proponent or an opponent of HB 3077. As the agency responsible for the administration of the video machine lottery machine game, should such legislation be approved, the Lottery has some concerns which have been identified in the "ballooned" version of the bill. Most of the suggested changes represent clarification and clean-up which I won't discuss unless questions arise. There are a few changes and additions which I do want to identify. These are in the order in which they appear:

- 1) Section 4(c): The added language, "including video lottery retailer contracts" was added to preclude automatic annual renewal which is referenced at page 16 at new section 13(a) which allows automatic annual renewal. That language has been stricken.
- 2) Section 4(r): This addition requires that to become a video lottery retailer, an applicant must also be an instant lottery retailer.
- 3) Section 5(p): This provision allows for the payment of video lottery retailers by video lottery machine operators. This is further addressed at new subsection (e) of section 18 which makes operators responsible for the payment of retailers and themselves from net video lottery machine income. This provision has never been previously addressed in other drafts of video bills.
- 4) Section 18(a): This provision permits the Lottery to receive expenses for operating a video lottery from net video lottery machine income.

There are two additional concerns which we have not addressed with suggested changes to the existing bill. First, we feel strongly that manufacturers, distributors, and operators should not be allowed to be retailers or for retailers to be manufacturers, distributors, or operators. Section 20 raises

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questions in this regard. This separation has been emphatically stressed to us from other states. We believe that this helps promote independent business activity and prevent vertical integration. It further creates a form of checks and balances in which the retailers and operators can monitor each other.

The second area concerns section 21 in which the intent is to eliminate "grey" machines. The successful language in the criminal statutes must be strong enough to eliminate "grey" machines. Unfortunately, having just seen HB 3077 yesterday, I haven't had an opportunity to determine whether or not this section mirrors the language of HB 2560 as passed by the House, which we believe would have clearly dealt with this issue.

HOUSE BILL No. 3077

By Committee on Federal and State Affairs

3-11

8 AN ACT amending and supplementing the Kansas lottery act; re-
9 relating to video lottery machine games; amending K.S.A. 21-4302,
10 38-1602, 41-308, 74-8701, 74-8702, 74-8704, 74-8708, 74-8710, 74-
11 8711, 74-8712, 74-8720, 74-8721 and 74-8820 and K.S.A. 1993
12 Supp. 74-8717, 74-8718 and 74-8719 and repealing the existing
13 sections.

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. K.S.A. 74-8701 is hereby amended to read as follows:
17 74-8701. K.S.A. 74-8701 through 74-8721 and sections 13 through
18 20, and amendments thereto, shall be known as and may be cited
19 as the Kansas lottery act.

20 Sec. 2. K.S.A. 74-8702 is hereby amended to read as follows:
21 74-8702. As used in this act, unless the context otherwise requires:

22 (a) "Associated equipment" means any proprietary device, ma-
23 chine or part used in the manufacture or maintenance of a video
24 lottery machine, including but not limited to integrated circuit chips,
25 printed wired assembly, printed wired boards, printing mechanisms,
26 video display monitors and metering devices.

27 (b) "Bingo" means games of bingo managed, operated and con-
28 ducted in accordance with K.S.A. 79-4701 and amendments thereto.

29 (c) "Commission" means the Kansas lottery commission.

30 (d) "Credit" means the smallest unit of payment entitling a player
31 to play a video lottery machine game.

32 ~~(b)~~ (e) "Executive director" means the executive director of the
33 Kansas lottery.

34 (f) "Financial institution" means any savings and loan association,
35 federally chartered savings bank, bank, trust company, credit union,
36 insurance company or other organization which is authorized to make
37 loans and lending by which is regulated by law.

38 ~~(e)~~ (g) "Gaming equipment" means any electric, electronic or
mechanical device or other equipment unique to the Kansas lottery
41 used directly in the operation of any lottery and in the determination
of winners pursuant to this act.

42 ~~(d)~~ (h) "Kansas lottery" means the state agency created by this
43 act to operate a lottery or lotteries pursuant to this act.

1 (i) "Licensed establishment" means a:
 2 (1) Retailer licensed pursuant to the Kansas liquor control act;
 3 (2) club or drinking establishment licensed pursuant to the club
 4 and drinking establishment act; or
 5 (3) retailer licensed pursuant to the provisions of article 27 of
 6 chapter 41 of the Kansas Statutes Annotated.
 7 ~~(e)~~ (j) "Lottery retailer" means:
 8 (1) Any person with whom the Kansas lottery has contracted to
 9 sell lottery tickets or shares, or both, to the public; or
 10 (2) a video lottery retailer.
 11 ~~(f)~~ (k) "Lottery" or "state lottery" means the lottery or lotteries
 12 operated pursuant to this act.
 13 ~~(g)~~ (l) "Major procurement" means any gaming product or serv-
 14 ice, including but not limited to facilities, advertising and promo-
 15 tional services, annuity contracts, prize payment agreements, con-
 16 sulting services, equipment, tickets and other products and services
 17 unique to the Kansas lottery, but not including materials, supplies,
 18 equipment and services common to the ordinary operations of state
 19 agencies.
 20 (m) "Net video lottery machine income" means cash put into a
 21 video lottery machine minus credits redeemed for cash.
 22 ~~(h)~~ (n) "Person" means any natural person, association, corpo-
 23 ration ~~or~~ partnership.
 24 ~~(i)~~ (o) "Prize" means any prize paid directly by the Kansas lottery
 25 pursuant to its rules and regulations.
 26 ~~(j)~~ (p) "Share" means any intangible manifestation authorized by
 27 the Kansas lottery to prove participation in a lottery game.
 28 ~~(k)~~ (q) "Ticket" means any tangible evidence issued by the Kan-
 29 sas lottery to prove participation in a lottery game.
 30 (r) "Truck stop" means a video lottery retailer which has: (1) An
 31 area regulated from entry by minors for the play of video lottery
 32 machines; (2) five acres of paved parking; (3) overnight facilities;
 33 (4) a restaurant; and (5) revenue from the sale of diesel fuel exceeding
 34 revenue derived from video lottery.
 35 ~~(l)~~ (s) "Vendor" means any person who has entered into a major
 36 procurement contract with the Kansas lottery.
 37 (t) "Video lottery machine" means any electronic video game ma-
 38 chine: (1) Which upon insertion of cash, is available to play or
 39 simulate the play of a video game authorized by the commission,
 40 including but not limited to bingo, poker, black jack and keno ; (2)
 41 which uses a video display and microprocessors; and (3) from which,
 42 by chance, the player may receive free games or credits that can
 43 be redeemed for cash. Video lottery machine does not include a

(4) bingo establishment licensed pursuant to the
provisions of K.S.A. 79-4701 et.seq.

or limited liability company

1 machine that directly dispenses coins, cash or tokens.

2 (u) "Video lottery machine leasing company" means any person
3 which owns and leases video lottery machines to video lottery ma-
4 chine distributors or video lottery machine operators and which
5 receives consideration in the form of fixed regular payments and
6 does not receive additional payments or reductions directly or in-
7 directly based upon the profits or losses generated from the machines
8 it leases.

9 (v) "Video lottery machine manufacturer" means any person that
10 assembles or produces video lottery machines or associated equip-
11 ment for sale or use in this state.

12 (w) "Video lottery machine distributor" means any person that
13 distributes, or sells video lottery machines or associated equipment, or leases
14 for use in this state, other than a video lottery machine leasing
15 company.

16 (x) "Video lottery machine operator" means any person that
17 places, maintains, owns or leases video lottery machines or associated
18 equipment for use in this state.

19 (y) "Video lottery retailer" means the state fair board, with re-
20 gard to video lottery machines placed on the state fairgrounds, or
21 any person with whom the Kansas lottery has contracted for the
22 placement of video lottery machines in a licensed establishment
23 owned by such person or on premises used for the operation or
24 conduct of bingo.

25 ~~(m)~~ (z) "Returned ticket" means any ticket which was transferred
26 to a lottery retailer, which was not sold by the lottery retailer and
27 which was returned to the Kansas lottery for refund by issuance of
28 a credit or otherwise.

29 ~~(n)~~ "Video lottery machine" means any electronic video
30 game machine that, upon insertion of cash, is available to play
31 or simulate the play of a video game authorized by the com-
32 mission, including but not limited to bingo, poker, black jack
33 and keno, and which uses a video display and microprocessors
34 and in which, by chance, the player may receive free games
35 or credits that can be redeemed for cash.

36 Sec. 3. K.S.A. 74-8704 is hereby amended to read as follows:
37 74-8704. (a) The executive director shall have the power to:

38 (1) Supervise and administer the operation of the state lottery in
39 accordance with the provisions of this act and such rules and reg-
40 ulations as adopted hereunder.

41 (2) Appoint, subject to the Kansas civil service act and within
42 the limitations of appropriations therefor, all other employees of the
43 Kansas lottery, which employees shall be in the classified service

1 unless otherwise specifically provided by this act.

2 (3) Enter into contracts for advertising and promotional services,
3 subject to the provisions of subsection (b); annuities or other methods
4 deemed appropriate for the payment of prizes; data processing and
5 other technical products, equipment and services; and facilities as
6 needed to operate the Kansas lottery, including but not limited to
7 gaming equipment, tickets and other services involved in major pro-
8 curement contracts, in accordance with K.S.A. 74-8705 and amend-
9 ments thereto.

10 (4) Enter into contracts with persons for the sale of lottery tickets
11 or shares to the public *or the placement of video lottery machines*
12 *on the premises of a licensed establishment or on premises used for*
13 *the operation or conduct of bingo, or both*, as provided by this act
14 and rules and regulations adopted pursuant to this act, which con-
15 tracts shall not be subject to the provisions of K.S.A. 75-3738 through
16 75-3744, and amendments thereto.

17 (5) Require lottery retailers to furnish proof of financial stability
18 or furnish surety in an amount based upon the expected volume of
19 sales of lottery tickets or shares.

20 (6) Examine, or cause to be examined by any agent or repre-
21 sentative designated by the executive director, any books, papers,
22 records or memoranda of any lottery retailer for the purpose of
23 ascertaining compliance with the provisions of this act or rules and
24 regulations adopted hereunder.

25 (7) Issue subpoenas to compel access to or for the production of
26 any books, papers, records or memoranda in the custody or control
27 of any lottery retailer, or to compel the appearance of any lottery
28 retailer or employee of any lottery retailer, for the purpose of as-
29 certaining compliance with the provisions of this act or rules and
30 regulations adopted hereunder. Subpoenas issued under the provi-
31 sions of this subsection may be served upon natural persons and
32 corporations in the manner provided in K.S.A. 60-304 and amend-
33 ments thereto for the service of process by any officer authorized
34 to serve subpoenas in civil actions or by the executive director or
35 an agent or representative designated by the executive director. In
36 the case of the refusal of any person to comply with any such sub-
37 poena, the executive director may make application to the district
38 court of any county where such books, papers, records, memoranda
39 or person is located for an order to comply.

40 (8) Administer oaths and take depositions to the same extent and
41 subject to the same limitations as would apply if the deposition were
42 in aid of a civil action in the district court.

43 (9) Require fingerprinting of employees and such other persons

1 who work in sensitive areas within the lottery as deemed appropriate
2 by the director. The director may submit such fingerprints to the
3 Kansas bureau of investigation and to the federal bureau of inves-
4 tigation for the purposes of verifying the identity of such employees
5 and persons and obtaining records of their criminal arrests and con-
6 victions.

7 (b) The Kansas lottery shall not engage in on-site display adver-
8 tising or promotion of the lottery at any amateur athletic or sporting
9 event including, but not limited to, amateur athletic sporting events
10 at institutions under the jurisdiction and control of the state board
11 of regents.

12 Sec. 4. K.S.A. 74-8708 is hereby amended to read as follows:
13 74-8708. (a) *Subject to the limitations of this act*, the executive
14 director shall select as lottery retailers such persons as deemed best
15 able to serve the public convenience and promote the sale of tickets
16 or shares *or video lottery machine games* in accordance with mar-
17 keting plans developed by the Kansas lottery. In the selection of
18 lottery retailers, the executive director shall consider factors such as
19 financial responsibility, security of the applicant's place of business
20 or activity, accessibility of the applicant's place of business or activity,
21 integrity, reputation, volume of expected sales and such other factors
22 as the executive director may deem appropriate. The executive di-
23 rector may select the state fair board as a lottery retailer to sell
24 lottery tickets or shares *or to have video lottery machines placed on*
25 *the premises of the state fairgrounds, but the state fair board shall*
26 *be authorized to sell such tickets or shares or have such machines*
27 *in operation* only on the state fairgrounds and only during the time
28 of the annual state fair. Other persons lawfully engaged in nongov-
29 ernmental business on state property may be selected as lottery
30 retailers.

31 (b) The executive director may charge an application fee to per-
32 sons applying to become ~~lottery retailers~~ *video lottery retailers,*
33 *which fee shall be \$50 for each machine to be placed on the premises.*
34 *In addition, the commission shall establish by rules and regulations*
35 *an annual fee for each certificate issued to a video lottery retailer,*
36 *which fee shall not exceed \$500. The executive director may charge*
37 *an application fee to persons applying to become lottery retailers*
38 *other than video lottery retailers, which fee shall be established by*
39 *rules and regulations of the commission. All moneys from fees col-*
40 *lected pursuant to this subsection shall be deposited in the state*
41 *treasury and credited to the lottery operating fund.*

42 (c) All lottery retailer contracts awarded by the Kansas lottery
43 under this act shall be renewable annually after issuance unless

including video lottery retailer contracts

1 sooner canceled or terminated.

2 (d) No lottery retailer contract awarded under this act shall be
3 transferred or assignable.

4 (e) Each lottery retailer shall be issued a lottery retailer certificate
5 ~~which shall be conspicuously displayed at the place for each~~
6 ~~place where the lottery retailer is authorized to sell lottery tickets~~
7 ~~or shares or is authorized to have a video lottery machine. The~~
8 ~~certificate shall be conspicuously displayed at such place.~~

9 (f) Lottery tickets or shares shall only be sold by the lottery
10 retailer at the location stated on the lottery retailer certificate.

11 (g) Video lottery machines shall be placed only at the location
12 stated on the lottery retailer certificate. Except for machines with
13 respect to which the state fair board is the video lottery retailer,
14 video lottery machines shall be placed only in licensed establishments
15 or on premises used for the operation or conduct of bingo. No video
16 lottery machine shall be placed on the premises of any licensed
17 establishment unless:

18 (1) Such establishment is a racetrack facility where racing is
19 conducted pursuant to the Kansas parimutuel racing act ~~and the~~
20 ~~licensed video machine operator of such machine is the nonprofit~~
21 ~~organization licensed by the Kansas racing commission to conduct~~
22 ~~aces at such racetrack facility;~~

23 (2) such establishment is a retailer licensed under the Kansas
24 liquor control act;

25 (3) such establishment, as determined by the executive director,
26 derives not less than 30% of its gross receipts in each calendar year
27 from sales of cereal malt beverages or alcoholic liquor, or both, for
28 consumption on the premises; or

29 (4) the machine is placed in a distinct separate area of the li-
30 censed establishment, as defined by rules and regulations adopted
31 by the commission, where: (A) The executive director determines that
32 not less than 30% of the gross receipts, other than sales of video
33 lottery machine games, is derived from sales of cereal malt beverages
34 or alcoholic liquor, or both, for consumption in such area; and (B)
35 persons under 21 years of age are not permitted unless accompanied
36 by a parent, guardian or spouse, who is 21 or more years of age,
37 and the entrance to the area prominently displays a sign to that
38 effect.

39 ~~(g)~~ (h) To be selected as a lottery retailer, a natural person acting
40 as a sole proprietor must:

41 (1) Be at least 18 years of age;

42 (2) have sufficient financial resources to support the activities
43 required to sell lottery tickets or shares;

(3) be current in payment of all taxes, interest and penalties owed to any taxing subdivision where the lottery retailer will sell lottery tickets or shares;

(4) be current in filing all applicable tax returns and in payment of all taxes, interest and penalties owed to the state of Kansas, excluding items under formal appeal pursuant to applicable statutes; and

(5) not be engaged exclusively in the sale of lottery tickets and shares.

~~(h)~~ (i) No natural person shall be selected as a lottery retailer who:

(1) Has been convicted of a felony in this or any other jurisdiction, unless at least 10 years have passed since satisfactory completion of the sentence or probation imposed by the court for each such felony;

(2) has been convicted of an illegal gambling activity in this or any other jurisdiction;

(3) has been found to have violated the provisions of this act or any rule and regulation adopted hereunder;

(4) is a vendor or an employee or agent of any vendor doing business with the Kansas lottery;

(5) resides in the same household of an employee of the Kansas lottery or of a member of the commission; or

(6) has made a statement of material fact to the Kansas lottery, knowing such statement to be false.

~~(i)~~ (j) For a partnership to be selected as a lottery retailer, the partnership must meet the requirements of subsections ~~(g)(2)~~, ~~(g)(3)~~, ~~(g)(4)~~ and ~~(g)(5)~~ (h)(2), (h)(3), (h)(4) and (h)(5) and each partner must meet the requirements of subsections ~~(g)(1)~~, ~~(g)(3)~~, ~~(g)(4)~~ and ~~(h)(1) through (h)(6)~~ (h)(1), (h)(3), (h)(4) and (i)(1) through (i)(6).

~~(j)~~ (k) For a corporation to be selected as a lottery retailer, the corporation must meet the requirements of subsections ~~(g)(2)~~, ~~(g)(3)~~, ~~(g)(4)~~ and ~~(g)(5)~~ (h)(2), (h)(3), (h)(4) and (h)(5) and each officer or director and each stockholder who owns 5% or more of the stock of such corporation must meet the requirements of subsections ~~(g)(3)~~, ~~(g)(4)~~ and ~~(h)(1) through (h)(6)~~ (h)(3), (h)(4) and (i)(1) through (i)(6).

~~(k)~~ (l) For an unincorporated association to be selected as a lottery retailer, the association must meet the requirements of subsections ~~(g)(2)~~, ~~(g)(3)~~, ~~(g)(4)~~ and ~~(g)(5)~~ (h)(2), (h)(3), (h)(4) and (h)(5) and each officer or director must meet the requirements of subsections ~~(g)(1)~~, ~~(g)(3)~~, ~~(g)(4)~~ and ~~(h)(1) through (h)(6)~~ (h)(1), (h)(3), (h)(4) and (i)(1) through (i)(6).

1 (m) For a limited liability company to be selected as a lottery
2 retailer, the company must meet the requirements of subsections
3 (h)(2), (h)(3), (h)(4) and (h)(5) and each member having a 5% or
4 more interest in the company must meet the requirements of sub-
5 sections (h)(3), (h)(4) and (i)(1) through (i)(6).

6 (l) (n) The executive director may terminate the certificate of
7 any lottery retailer who fails to meet any of the applicable qualifying
8 standards for selection as a retailer provided in this section or on
9 the grounds for termination provided in the contract pursuant to
10 rules and regulations adopted by the commission.

11 (m) (o) If a lottery retailer's rental payments for the business
12 premises are contractually computed, in whole or in part, on the
13 basis of a percentage of retail sales, and such computation of retail
14 sales is not explicitly defined to include sale of tickets or shares in
15 a state-operated lottery, the compensation received by the lottery
16 retailer from the lottery, other than reimbursement of prizes paid
17 by the lottery retailer, shall be considered the amount of the retail
18 sale for purposes of computing the rental payment.

19 (p) Each person entering into a contract with the Kansas lottery
20 as a video lottery retailer shall submit to a background investigation,
21 including: (1) Each partner of a partnership; (2) each officer and
22 director of a corporation; (3) each stockholder owning 5% or more
23 of the stock of a corporation; (4) each officer and director of an
24 unincorporated association; and (5) each member having a 5% or
25 more ownership interest in a limited liability company. The com-
26 mission may adopt rules and regulations concerning the nature and
27 extent of background investigations provided for by this subsection.

28 (q) No lottery retailer shall name itself, or advertise in
29 publications or on signboards on or off the premises that the retailer
30 is, a gambling establishment, casino or video lottery retailer, or
31 words of such effect.

32 Sec. 5. K.S.A. 74-8710 is hereby amended to read as follows:
33 74-8710. The commission, upon the recommendation of the executive
34 director, shall adopt rules and regulations governing the establish-
35 ment and operation of a state lottery as necessary to carry out the
36 purposes of this act. Temporary rules and regulations may be adopted
37 by the commission without being subject to the provisions and re-
38 quirements of K.S.A. 77-415 through 77-438, and amendments
39 thereto, but shall be subject to approval by the attorney general as
40 to legality and shall be filed with the secretary of state and published
41 in the Kansas register. Temporary and permanent rules and regu-
42 lations may include but shall not be limited to:

43 (a) The types of lottery games to be conducted, including but

video

(r) No applicant for a certificate to become a video lottery
retailer shall be eligible for such certificate unless the
applicant possesses a current certificate to sell instant
lottery tickets.

1 not limited to instant lottery, on-line and traditional games; ~~but not~~
2 ~~including games on video lottery machines.~~

3 (b) The manner of selecting the winning tickets or shares, except
4 that, if a lottery game utilizes a drawing of winning numbers, a
5 drawing among entries or a drawing among finalists, such drawings
6 shall always be open to the public and shall be recorded on both
7 video and audio tape.

8 (c) The manner of payment of prizes to the holders of winning
9 tickets or shares.

10 (d) The frequency of the drawings or selections of winning tickets
11 or shares.

12 (e) The type or types of locations at which tickets or shares may
13 be sold *or at which video lottery machines may be placed, subject*
14 *to the limitations of subsection (g) of K.S.A. 74-8708 and amendments*
15 *thereto.*

16 (f) The method or methods to be used in selling tickets or shares
17 *or video lottery machine games.*

18 (g) Additional qualifications for the selection of lottery retailers
19 and the amount of application fees to be paid by each.

20 (h) The amount and method of compensation to be paid to lottery
21 retailers, including special bonuses and incentives.

22 (i) Deadlines for claims for prizes by winners of each lottery
23 game.

24 (j) Provisions for confidentiality of information submitted by ven-
25 dors pursuant to K.S.A. 74-8705, and amendments thereto.

26 (k) Information required to be submitted by vendors, in addition
27 to that required by K.S.A. 74-8705, and amendments thereto.

28 (l) The major procurement contracts or portions thereof to be
29 awarded to minority business enterprises pursuant to subsection (a)
30 of K.S.A. 74-8705, and amendments thereto, and procedures for the
31 award thereof.

32 (m) *Provisions to encourage financial institutions to finance video*
33 *lottery machines for video lottery machine distributors and opera-*
34 *tors.*

35 (n) *Provisions to prevent direct and indirect payment by man-*
36 *ufacturers, distributors or operators to video lottery retailers or*
37 *shareholders and owners of video lottery retailers, other than that*
38 *percentage of payment expressly permitted by this act.*

39 (o) *Provisions to prohibit lottery retailers from holding them-*
40 *selves out to the public as gambling establishments, casinos or other*
41 *terms suggesting any form of lottery or gambling.*

42 Sec. 6. K.S.A. 74-8711 is hereby amended to read as follows:
43 74-8711. (a) There is hereby established in the state treasury the

and games played on video lottery machines

video

(p) Provisions for the payment of net video lottery
machine income by video lottery machine operators to video
lottery retailers and video lottery machine operators
identified in subsection (a) of section 18 prior to
remittance to the Kansas lottery required by subsection
(c) of section 18.

1 lottery operating fund.

2 (b) The executive director shall remit at least weekly to the state
3 treasurer all moneys collected from the sale of lottery tickets and
4 shares *and video lottery machine games* and any other moneys re-
5 ceived by or on behalf of the Kansas lottery. Upon receipt of any
6 such remittance, the state treasurer shall deposit the entire amount
7 thereof in the state treasury and credit it to the lottery operating
8 fund. Moneys credited to the fund shall be expended or transferred
9 only as provided by this act. Expenditures from such fund shall be
10 made in accordance with appropriations acts upon warrants of the
11 director of accounts and reports issued pursuant to vouchers ap-
12 proved by the executive director or by a person designated by the
13 executive director.

14 (c) Moneys in the lottery operating fund shall be used for:

15 (1) The payment of expenses of the lottery, which shall include
16 all costs incurred in the operation and administration of the Kansas
17 lottery; all costs resulting from contracts entered into for the purchase
18 or lease of goods and services needed for operation of the lottery,
19 including but not limited to supplies, materials, tickets, independent
20 studies and surveys, data transmission, advertising, printing, pro-
21 motion, incentives, public relations, communications, and distribu-
22 tion of tickets and shares; and reimbursement of costs of facilities
23 and services provided by other state agencies;

24 (2) the payment of compensation to lottery retailers;

25 (3) *the payment of net video lottery machine income to video*
26 *lottery retailers and video lottery machine operators in accordance*
27 *with ~~section 18,~~*

subsection (p) of K.S.A. 74-8710

28 (4) transfers of moneys to the lottery prize payment fund pur-
29 suant to K.S.A. 74-8712 and amendments thereto;

30 ~~(4)~~ (5) transfers to the state general fund pursuant to K.S.A. 74-
31 8713 and amendments thereto *and subsection (d);*

32 ~~(5)~~ (6) transfers to the state gaming revenues fund pursuant to
33 subsection ~~(d)~~ of ~~this section~~ (e) and as otherwise provided by law;
34 ~~and~~

35 ~~(6)~~ (7) the transfers to the county reappraisal fund as prescribed
36 by law; *and*

37 (8) *transfers to the city and county public safety fund pursuant*
38 *to subsection (f).*

39 (d) *The director of accounts and reports shall transfer moneys*
40 *in the lottery operating fund to the state general fund on or before*
41 *the 15th day of each month. The transfer shall be in an amount*
42 *certified by the executive director as equal to the amount received*
43 *during the preceding month from the state's share of net video lottery*

1 machine income and from fees for applications or certificates of video
2 lottery machine manufacturers, distributors and operators and video
3 lottery retailers, less amounts described in subsections (c)(1) and (4)
4 for the preceding month and attributable to video lottery operations.

5 (e) The director of accounts and reports shall transfer moneys in
6 the lottery operating fund to the state gaming revenues fund created
7 by K.S.A. 79-4801 and amendments thereto, on or before the 15th
8 day of each month, for fiscal years commencing on or after July
9 1, 1988. The transfer shall be in an amount certified monthly by
10 the executive director and determined as follows, whichever is
11 greater:

12 (1) ~~In~~ An amount equal to the moneys in the lottery operating
13 fund in excess of those needed for the purposes described in sub-
14 sections (c)(1) through ~~(e)(4)~~ (c)(5), (c)(7) and (c)(8); or

15 (2) an amount equal to the sum of: (A) Not less than 30% of
16 total monthly revenues from the sales of lottery tickets and shares,
17 less estimated returned tickets received during the preceding month;
18 and (B) all fees for applications or certificates of video machine
19 manufacturers, distributors and operators and video lottery retailers,
20 received during the preceding month.

21 (f) The director of accounts and reports shall transfer moneys
22 in the lottery operating fund to the city and county public safety
23 fund on or before the 15th day of each month. The transfer shall
24 be in an amount certified by the executive director as equal to the
25 percentage of the total amount received during the preceding month
26 from net video lottery machine income which is required to be paid
27 to cities and counties under section 18.

28 Sec. 7. K.S.A. 74-8712 is hereby amended to read as follows:
29 74-8712. (a) There is hereby established in the state treasury the
30 lottery prize payment fund.

31 (b) The executive director shall certify periodically to the director
32 of accounts and reports such amounts as the executive director de-
33 termines necessary to pay prizes to the holders of valid winning
34 lottery tickets or shares and such amounts as the executive director
35 determines necessary to pay prizes to winners of video lottery ma-
36 chine games, other than prizes paid by video lottery retailers in the
37 ordinary course of business as a video lottery retailer. Upon receipt
38 of such certification, the director of accounts and reports shall
39 promptly transfer the amount certified from the lottery operating
40 fund to the lottery prize payment fund. Moneys credited to the fund
41 shall be expended only for the payment of prizes to the holders of
42 valid winning lottery tickets or shares or winners of video lottery
43 machine games, other than prizes paid by video lottery retailers in the

1. holders of winning tickets or shares or winners of video lottery
2. machine games or as otherwise authorized by law. Prior to making
3. any expenditure for reimbursement of a retailer or payment of a
4. prize of \$50 or more, the executive director shall cause all proposed
5. prize payments to be matched against the state debtor files main-
6. tained by the director of accounts and reports and shall certify and
7. pay or deliver any matched prize or the cash amount thereof to the
8. director of accounts and reports for setoff as prescribed under K.S.A.
9. 75-6201 *et seq.* and amendments thereto. Expenditures from such
10. fund shall be made in accordance with appropriations acts upon
11. warrants of the director of accounts and reports, or a person des-
12. ignated by the director of accounts and reports pursuant to K.S.A.
13. 75-3732 and amendments thereto, issued pursuant to vouchers ap-
14. proved by the executive director, or a person designated by the
15. executive director.

16. Sec. 8. K.S.A. 1993 Supp. 74-8717 is hereby amended to read
17. as follows: 74-8717. (a) It is unlawful to:

18. (1) Falsely make, alter, forge, pass or counterfeit, with intent to
19. defraud, a lottery ticket or share, or receipt for the purchase thereof,
20. issued or purported to have been issued by the Kansas lottery under
21. this act;

22. (2) tamper with a video lottery machine with intent to interfere
23. with the proper operation of such machine;

24. (3) intentionally manipulate the outcome, payoff or operation of
25. a video lottery machine by physical tampering or any other means;
26. or

27. (4) possess or control, or permit to be kept in a person's pos-
28. session or control, a video lottery machine or device identified as a
29. gambling device pursuant to K.S.A. 21-4302 and amendments
30. thereto, but not including a video lottery machine certified by the
31. Kansas lottery.

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

33. Sec. 9. K.S.A. 1993 Supp. 74-8718 is hereby amended to read
34. as follows: 74-8718. (a) It is unlawful for:

35. (1) Any person to sell a lottery ticket or share or a video lottery
36. machine game at a price other than that fixed by rules and regulations
37. adopted pursuant to this act;

38. (2) any person other than the Kansas lottery or a lottery retailer
39. authorized by the Kansas lottery to sell or resell any lottery ticket
40. or share; or

41. (3) any person other than the Kansas lottery to have a video
42. lottery machine on premises owned by or under the control of such
43. person unless such person is the Kansas lottery; a video lottery

1 machine manufacturer, distributor or operator; a financial institution
2 or its agent, or a video lottery machine leasing company or its agent,
3 who has taken possession and advised the executive director of its
4 possession; or a video lottery retailer operating with a certificate
5 from the Kansas lottery;

6 {3} (4) any person to sell a lottery ticket or share to any ~~person~~
7 individual, knowing such ~~person~~ individual to be under 18 years of
8 age;

9 (5) any person who owns or controls premises where a video
10 lottery machine is placed, or any employee of such person, to permit
11 an individual under 21 years of age to play a video lottery machine
12 game on such premises, knowing such individual to be under 21
13 years of age; or

14 (6) any person who owns or controls premises where a video
15 lottery machine is placed, or any employee of such person, to permit
16 an individual under 21 years of age to be in an area where such
17 individual is not permitted to be pursuant to subsection (g)(3) of
18 K.S.A. 74-8708 and amendments thereto, knowing such individual
19 to be under 21 years of age.

20 (b) Violation of this section is a class A nonperson misdemeanor
21 upon conviction of the first offense and a severity level 9, nonperson
22 felony upon conviction of a second or subsequent offense.

23 Sec. 10. K.S.A. 1993 Supp. 74-8719 is hereby amended to read
24 as follows: 74-8719. (a) It is unlawful for any person to purchase a
25 lottery ticket or share or play a video lottery machine game, or to
26 share in the lottery winnings of a person, knowing that such person
27 is:

28 (1) The executive director, a member of the commission or an
29 employee of the Kansas lottery;

30 (2) an officer or employee of a vendor contracting with the Kansas
31 lottery to supply gaming equipment or tickets to the Kansas lottery
32 for use in the operation of any lottery conducted pursuant to this
33 act;

34 (3) a spouse, child, stepchild, brother, stepbrother, sister, step-
35 sister, parent or stepparent of a person described by subsection (a)(1)
36 or (2); or

37 (4) a person who resides in the same household as any person
38 described by subsection (a)(1) or (2).

39 (b) It is unlawful for any person to play a video lottery machine
40 game at any time when the licensed establishment where the machine
41 is located is not open to the public.

42 (c) It is unlawful for any person under 21 years of age to:

43 (1) Play a video lottery machine game; or

1 (2) *be in an area where such person is not permitted to be*
2 *pursuant to subsection (g)(3) of K.S.A. 74-8708 and amendments*
3 *thereto and which is posted as required by law.*

4 ~~(b)~~ (d) Violation of subsection (a) is a class A nonperson mis-
5 demeanor upon conviction of the first offense and a severity level
6 9, nonperson felony upon conviction of a second or subsequent of-
7 fense. Violation of subsection (b) or (c) by a person 18 or more
8 years of age is a class A nonperson misdemeanor. Violation of sub-
9 section (b) or (c) by a person less than 18 years of age shall render
10 the person subject to adjudication as a juvenile offender under the
11 Kansas juvenile offenders code.

12 ~~(e)~~ (e) Notwithstanding subsection (a), the executive director may
13 authorize in writing any employee of the Kansas lottery and any
14 employee of a lottery vendor to purchase a lottery ticket *or play a*
15 *video lottery machine game* for the purposes of verifying the proper
16 operation of the state lottery with respect to security, systems op-
17 eration and lottery retailer contract compliance. Any prize awarded
18 as a result of ~~such ticket purchase~~ *purchasing such ticket or share*
19 *or playing such game* shall become the property of the Kansas lottery
20 and be added to the prize pools of subsequent lottery games.

21 ~~(d)~~ (f) Certain classes of persons who, because of the unique
22 nature of the supplies or services they provide for use directly in
23 the operation of a lottery pursuant to this act, may be prohibited,
24 in accordance with rules and regulations adopted by the commission,
25 from participating in any lottery in which such supplies or services
26 are used.

27 ~~(e)~~ (g) *Except as provided by subsections (b) and (c), nothing*
28 *in this section shall prohibit lottery retailers or their employees from*
29 *purchasing lottery tickets and shares or shares or playing video*
30 *lottery machine games or from being paid a prize of for a winning*
31 *ticket or share or game.*

32 ~~(f)~~ (h) Each person who purchases a lottery ticket or share *or*
33 *plays a video lottery machine game* thereby agrees to be bound by
34 rules and regulations adopted by the commission and by the pro-
35 visions of this act.

36 Sec. 11. K.S.A. 74-8720 is hereby amended to read as follows:
37 74-8720. (a) As nearly as practical, an amount equal to not less than
38 45% of the total sales of lottery tickets or shares, computed on an
39 annual basis, shall be allocated for payment of lottery prizes *for*
40 *winning tickets or shares.*

41 (b) The prize to be paid or awarded for each winning ticket or
42 share *or game* shall be paid to one natural person who is adjudged
43 by the executive director, the director's designee or the retailer

1 paying the prize, to be the holder of such winning ticket or share
2 *or the winner of the game*, or the person designated in writing by
3 ~~the holder of the winning ticket or share~~ *such holder or winner*
4 on a form satisfactory to the executive director, except that the prize
5 of a deceased *holder or winner* shall be paid to the duly appointed
6 representative of the estate of such *holder or winner* or to such
7 other person or persons appearing to be legally entitled thereto.

8 (c) The executive director shall award the designated prize to the
9 holder of the ticket or share *or the winner of the game* upon the
10 validation of a claim or confirmation of a winning share. The executive
11 director shall have the authority to make payment for prizes by any
12 means deemed appropriate upon the validation of winning tickets or
13 shares *or games*.

14 (d) The right of a person to a prize drawn or awarded is not
15 assignable.

16 (e) All prizes awarded shall be taxed as Kansas source income
17 and shall be subject to all state and federal income tax laws and
18 rules and regulations. State income taxes shall be withheld from
19 prizes paid whenever federal income taxes are required to be with-
20 held under current federal law.

21 (f) Unclaimed prize money not payable directly by lottery re-
22 tailers shall be retained for the period established by rules and
23 regulations and if no claim is made within such period, then such
24 unclaimed prize money shall be added to the prize pools of sub-
25 sequent lottery games.

26 (g) The state of Kansas, members of the commission and em-
27 ployees of the Kansas lottery shall be discharged of all further liability
28 upon payment of a prize pursuant to this section.

29 (h) The Kansas lottery shall not publicly disclose the identity of
30 any person awarded a prize except upon written authorization of
31 such person.

32 Sec. 12. K.S.A. 74-8721 is hereby amended to read as follows:
33 74-8721. All sales of lottery tickets and shares *and video lottery*
34 *machine games* shall be exempt from retailers' sales taxes imposed
35 pursuant to K.S.A. 12-187 *et seq.*, and amendments thereto, and
36 from the tax imposed by the Kansas retailers' sales tax act.

37 New Sec. 13. (a) A video lottery machine manufacturer, distrib-
utor or operator shall enter into a contract with the Kansas lottery
and receive a certificate from the executive director before such
40 manufacturer, distributor or operator manufactures, distributes, sells,
41 maintains or places any video lottery machine or associated equip-
42 ment for public use in this state.

43 (b) The commission shall establish by rules and regulations an

1 annual fee for each certificate issued to a video lottery machine
2 manufacturer, distributor or operator. ~~Such certificate shall be re-~~
3 ~~newed automatically annually upon timely payment of the annual~~
4 ~~fee.~~ Such fee shall not exceed:

- 5 (1) For a video lottery machine manufacturer, \$20,000.
- 6 (2) For a video lottery machine distributor, \$5,000.
- 7 (3) For a video lottery machine operator, \$150 per machine or
8 \$5,000, whichever is greater.

9 (c) In addition to the annual fee provided by this section, the
10 executive director may charge a one-time application fee to video
11 lottery machine manufacturers, distributors and operators. Such fee
12 shall be established by rules and regulations of the commission in
13 an amount not to exceed \$500.

14 (d) All moneys from fees collected pursuant to this section shall
15 be deposited into the state treasury and credited to the lottery
16 operating fund.

17 (e) Financial institutions providing loans to video lottery machine
18 distributors or operators secured by video lottery machines and video
19 lottery machine leasing companies shall secure the financial insti-
20 tution's or leasing company's interest in accordance with the pro-
21 visions of the uniform commercial code.

22 (f) If a financial institution or leasing company must take pos-
23 session of video lottery machines to help protect its interests, the
24 financial institution or leasing company shall notify the executive
25 director by telephone and confirm in writing within 72 hours after
26 its agent has taken possession, the following for each such machine:

- 27 (1) The name of the operator or distributor who owns or has
28 leased the machine;
- 29 (2) the financial institution's or leasing company's name, address
30 and representative to contact;
- 31 (3) the machine serial numbers, name of the manufacturer, model
32 number and license number;
- 33 (4) the name of the agent holding the machine;
- 34 (5) the location where the machine is being held;
- 35 (6) the plan for disposition of the machine; and
- 36 (7) any change in the above.

37 (g) The financial institution or video lottery machine leasing com-
38 pany, or agent thereof, shall not operate the video lottery machine,
other than for testing or repair, while the machine is in its possession.
39 The financial institution or leasing company, or agent thereof, shall
40 permit the executive director or the executive director's represen-
41 tative and any Kansas law enforcement agency to enter the financial
42 institution's or leasing company's premises at any time to inspect
43

1 the machine.

2 (h) The financial institution or video lottery machine leasing com-
3 pany, or agent thereof, shall not be required to receive a certificate
4 or be licensed by the Kansas lottery merely for performing the
5 following:

6 (1) Providing loans for the financing of video lottery machines;

7 (2) leasing video lottery machines to video lottery machine dis-
8 tributors or operators, if the lessor is a video lottery machine leasing
9 company;

10 (3) taking possession of and holding video lottery machines to
11 help protect the security or financial interest of the financial insti-
12 tution or lessor in the video lottery machine;

13 (4) without participation in the management of the operator or
14 distributor, holding indicia of ownership of video lottery machines
15 primarily to protect the financial institution's or leasing company's
16 security interest in the machines; or

17 (5) the sale, lease or other lawful disposition of video lottery
18 machines following the taking of possession.

19 New Sec. 14. (a) To be selected as a video lottery machine man-
20 ufacturer, distributor or operator, a natural person acting as a sole
21 proprietor must:

22 (1) Be at least 18 years of age;

23 (2) have sufficient financial resources to support the activities
24 required to sell lottery tickets or shares;

25 (3) be current in payment of all taxes, interest and penalties owed
26 to any taxing subdivision of the state;

27 (4) be current in filing all applicable tax returns and in payment
28 of all taxes, interest and penalties owed to the state of Kansas,
29 excluding items under formal appeal pursuant to applicable statutes;
30 and

31 (5) not be engaged exclusively in the sale of lottery tickets and
32 shares or video lottery machine games.

33 (b) No natural person shall be selected as a video lottery machine
34 manufacturer, distributor or operator who:

35 (1) Has been convicted of a felony in this or any other jurisdic-
36 tion, unless at least 10 years have passed since satisfactory completion
37 of the sentence or probation imposed by the court for each such
38 felony;

39 (2) has been convicted of an illegal gambling activity in this or
40 any other jurisdiction;

41 (3) has been found to have violated the provisions of this act or
42 any rule and regulation adopted hereunder;

43 (4) is a vendor or an employee or agent of any vendor doing

or video lottery machine games

where the video lottery retailer will sell lottery tickets
or shares or video lottery machine games

1 business with the Kansas lottery;

2 (5) resides in the same household of an employee of the Kansas
3 lottery or of a member of the commission; or

4 (6) has made a statement of material fact to the Kansas lottery,
5 knowing such statement to be false.

6 (c) For a partnership to be selected as a video lottery machine
7 manufacturer, distributor or operator, the partnership must meet the
8 requirements of subsections (a)(2), (a)(3), (a)(4) and (a)(5) and each
9 partner must meet the requirements of subsections (a)(1), (a)(3), (a)(4)
10 and (b)(1) through (b)(6).

11 (d) For a corporation to be selected as a video lottery machine
12 manufacturer, distributor or operator, the corporation must meet the
13 requirements of subsections (a)(2), (a)(3), (a)(4) and (a)(5) and each
14 officer or director of such corporation, or of any parent or subsidiary
15 corporation, and each stockholder who owns 5% or more of the stock
16 of such corporation, or of any parent or subsidiary corporation, must
17 meet the requirements of subsections (a)(3), (a)(4) and (b)(1) through
18 (b)(6).

19 (e) For an unincorporated association to be selected as a video
20 lottery machine manufacturer, distributor or operator, the association
21 must meet the requirements of subsections (a)(2), (a)(3), (a)(4) and
22 (a)(5) and each officer or director of the association must meet the
23 requirements of subsections (a)(1), (a)(3), (a)(4) and (b)(1) through
24 (b)(6).

25 (f) For a limited liability company to be selected as a video lottery
26 machine manufacturer, distributor or operator, the company must
27 meet the requirements of subsections (a)(2), (a)(3), (a)(4) and (a)(5)
28 and each member having a 5% or more interest in the company,
29 or any parent or subsidiary of such company must meet the re-
30 quirements of subsections (a)(3), (a)(4) and (b)(1) through (b)(6).

31 (g) Each person entering a contract with the Kansas lottery as a
32 video lottery machine manufacturer, distributor or operator shall
33 submit to a background investigation, including: (1) Each partner of
34 a partnership; (2) each officer and director of a corporation or of a
35 parent or subsidiary corporation; (3) each stockholder owning 5% or
36 more of the stock of a corporation or of a parent or subsidiary
37 corporation; (4) each officer and director of an unincorporated as-
38 sociation; and (5) each member having a 5% or more ownership
39 interest in a limited liability company. The commission may adopt
40 rules and regulations concerning the nature and extent of background
41 investigations provided for by this subsection.

42 (h) In addition to the requirements of subsections (a) through (g):

43 (1) A natural person shall not receive a certificate as a video

1 lottery machine distributor or operator, unless such person is a res-
2 ident of this state;

3 (2) a partnership shall not receive a certificate as a video lottery
4 machine distributor or operator, unless each partner is a resident of
5 this state;

6 (3) a corporation shall not receive a certificate as a video lottery
7 distributor or operator unless such a corporation is a Kansas cor-
8 poration; and

9 (4) an unincorporated association shall not receive a certificate as
10 a video lottery machine operator or distributor, unless each officer
11 or director is a resident of this state.

12 New Sec. 15. (a) A video lottery machine manufacturer shall not
13 receive a certificate as, or own, manage, control or have any financial
14 interest in, a video lottery machine operator, a video lottery machine
15 leasing company or a licensed establishment where video lottery
16 machines are placed. A video lottery machine distributor shall not
17 receive a certificate as, or own, manage, control or have any financial
18 interest in a video lottery machine operator, a video lottery machine
19 leasing company or a licensed establishment where video lottery
20 machines are placed. A video lottery machine operator shall not
21 receive a certificate as, or own, manage, control or have any financial
22 interest in, a video lottery machine manufacturer or distributor, a
23 video lottery machine leasing company or a licensed establishment
24 where video lottery machines are placed. An owner or manager of
25 a licensed establishment where video lottery machines are placed
26 shall not receive a certificate as, or own, manage, control or have
27 any financial interest in, a video lottery machine manufacturer, leas-
28 ing company, distributor or operator. A video lottery machine leasing
29 company shall not receive a certificate as, or own, manage, control
30 or have any financial interest in, a video lottery machine manufac-
31 turer, distributor, operator or retailer. A financial institution shall
32 not receive a certificate as, or own, a video lottery machine man-
33 ufacturer or distributor.

34 (b) A video lottery machine manufacturer, distributor or operator
35 or a licensed establishment shall be deemed in violation of the
36 prohibitions of this section if its owner or any of its substantial owners
37 is also directly or indirectly the owner or substantial owner of any
38 entity which the video lottery machine manufacturer, distributor or
39 operator or licensed establishment is prohibited by this section from
40 owning, managing or controlling or in which such manufacturer,
41 distributor, operator or establishment is prohibited by this section
42 from having any financial interest. A substantial owner is a person
43 who owns more than 5% of the stock of a corporation, owns more

(5) a limited liability company shall not receive a
certificate as a video lottery machine operator or distributor,
unless each member having 5% or more ownership interest is a
resident of this state.

1 than 5% of the interest of a limited liability company or is a partner
2 in a partnership and entitled to more than 5% of the net profits of
3 the partnership.

4 New Sec. 16. (a) The placement of video lottery machines shall
5 be subject to rules and regulations of the commission. Not more
6 than 10 video lottery machines may be placed in any licensed es-
7 tablishment, except that:

8 (1) There shall be no limit on the number of machines placed
9 in a licensed establishment located within a racetrack facility licensed
10 by the Kansas racing commission;

11 (2) there shall be no limit on the number of machines with
12 respect to which the state fair board is a retailer and which are
13 placed on the state fairgrounds at locations established by rules and
14 regulations adopted by the commission;

15 (3) the executive director shall establish the limit on the number
16 of machines placed in licensed establishments that are truck stops
17 or nonprofit veterans or fraternal organizations, which limit shall be
18 established by the executive director for each classification and shall
19 not exceed 50 machines per location; and

20 (4) the executive director shall establish the limit on the number
21 of machines placed on premises used for the operation and conduct
22 of bingo, which limit shall not exceed 50 machines per location.

23 (b) No person shall place a video lottery machine on the premises
24 of a licensed establishment or on premises used for the operation
25 and conduct of bingo unless the executive director first issues a
26 certificate for such machine. Each machine shall have the certificate
27 prominently displayed thereon. Any machine which does not display
28 the certificate required by this section is contraband and a public
29 nuisance subject to confiscation by any law enforcement officer, but
30 any sale of contraband shall be subject to any lawful ownership or
31 security interest of a financial institution or video lottery machine
32 leasing company in the video lottery machine. A violation of this
33 subsection is a severity level 8, nonperson felony.

34 (c) Only video lottery machines certified by the Kansas lottery
35 shall be permitted on the premises of a licensed establishment or
36 on premises used for the operation and conduct of bingo.

37 (d) A video lottery machine may not accept more than \$2 to be
38 played on a single game or award free games or credits in excess
39 of the value of \$1,000 per game.

40 (e) The Kansas lottery shall examine prototypes of video lottery
41 machines and associated equipment prior to certification pursuant to
42 this section. The Kansas lottery shall require the person seeking the
43 examination and certification of a video lottery machine or associated

1 equipment to pay the anticipated actual costs of the examination in
2 advance and, after the completion of the examination, shall refund
3 overpayments or charge and collect amounts sufficient to reimburse
4 the Kansas lottery for underpayments of actual costs. The Kansas
5 lottery may contract for the examination of video lottery machines
6 and associated equipment as required by this subsection, and may
7 rely upon testing done by or for other states regulating video lottery
8 terminals, if it deems them to be reliable and in the best interests
9 of Kansas.

10 (f) Video lottery machine games shall pay out an average of not
11 less than 85% and not more than 95% of the amount wagered when
12 played at the level of skill that will provide the greatest return to
13 the player over a period of continuous play.

14 New Sec. 17. Each video lottery machine certified under section
15 16 shall:

16 (a) Offer only games certified and authorized by the Kansas lot-
17 tery.

18 (b) Not have any means of manipulation that affect the random
19 probabilities of winning credits.

20 (c) Have one or more mechanisms that accept coins or cash in
21 the forms of bills, the mechanisms of which shall be designed to
22 prevent obtaining credits without payment by stringing, slamming,
23 drilling or other means and if those attempts involve physical tam-
24 pering, the machine shall suspend itself from operation until reset.

25 (d) Have nonresettable meters housed in any readily accessible
26 locked machine area that keeps a permanent record of all cash in-
27 serted into the machine, all refunds of winnings made by the mach-
28 ine's printer, credits played for games and credits won by players.

29 (e) Be capable of printing a ticket stating the value of the prize
30 for the player at the completion of each video lottery machine game,
31 the time of day in a 24-hour format showing hours and minutes, the
32 date, the machine serial number, the sequential number of the ticket
33 vouchers and an encrypted validation number from which the validity
34 of the prize may be determined.

35 (f) Have accounting software that keeps an electronic record
36 which includes, but is not limited to, the total cash inserted into
37 the machine, the value of winning tickets claims by players, the
38 total credits played and the total credits awarded.

39 (g) Be linked under a central communications system to provide
40 auditing program information as approved by the commission. The
41 communications systems approved by the commission may not limit
42 participation to only one video lottery machine manufacturer by
43 either the cost of implementing the necessary program modifications

1 to communicate or the inability to communicate with the central
2 communications system. Nothing in this section may be construed
3 to require a machine which only offers video lottery machine games
4 to be on-line or in constant communication with a central computer.

5 (h) Not use any word or name suggesting any form of lottery or
6 gambling, any gambling establishment or any city, county, state,
7 country or other governmental entity to describe any video lottery
8 machine certified under this act.

9 New Sec. 18. (a) Net video lottery machine income shall be
10 divided among the state, the video lottery retailer, the video lottery
11 machine operator and cities and counties where video lottery ma-
12 chines are placed by the Kansas lottery, in the following percentages:

13 (1) During the first two years following enactment of this act,
14 the state shall receive 33%, the video lottery machine operator shall
15 receive 33%, the video lottery retailer shall receive 31% and the
16 cities and counties shall receive 3%, allocated in accordance with
17 section 19;

18 (2) during the third year following enactment of this act, the state
19 shall receive 34%, the video lottery machine operator shall receive
20 32%, the video lottery retailer shall receive 31% and the cities and
21 counties shall receive 3%, allocated in accordance with section 19;

22 (3) during the fourth year following enactment of this act, and
23 each year thereafter, the state shall receive 35%, the video lottery
24 machine operator shall receive 31% and the video lottery retailer
25 shall receive 31% and the cities and counties shall receive 3%,
26 allocated in accordance with section 19.

27 (b) Video lottery retailers shall not make any payments, en-
28 hancements, loans or gifts, directly or indirectly, to any video ma-
29 chine operator, the operator's owners, officers, employees or family
30 other than the division of proceeds provided in subsection (a). Video
31 machine operators, distributors or manufacturers shall not make any
32 payments, enhancements, loans or gifts, directly or indirectly, to
33 any video lottery retailer or the retailer's owners, officers, employees
34 or family, other than the division of proceeds provided in subsection
35 (a). Prohibited enhancements include, but shall not be limited to,
36 the following: Remodeling, bonuses, incentives, furnishings and sig-
37 nage. Each video lottery retailer shall provide, without compensation
38 or reimbursement, the retailer's own license fees, electrical and
39 telephone service to the machines, floor space and labor to pay prizes
40 and such other services as the retailer may agree with operators.
41 The cost of installation of electrical or telephone service for the
42 machines shall be paid by the operator or retailer pursuant to their
43 agreement. A person violating the terms of this subsection is guilty

and fees from the applications or certificates of video
lottery machine manufacturers, distributors and operators
and video lottery retailers, less amounts described in
subsection (c)(1) of K.S.A. 74-8711,

1 of a severity level 8, nonperson felony and, upon conviction, the
2 person's license shall be terminated by the executive director or the
3 executive director's designee.

4 (c) Net video lottery machine income shall be reported and re-
5 mitted by the video lottery machine operator to the Kansas lottery
6 within 15 days after the 15th day of each month and within 15 days
7 after the end of each month unless rules and regulations of the
8 commission require such income to be reported and remitted more
9 frequently. Each video lottery machine operator shall keep a record
10 of net video lottery machine income in the form the Kansas lottery
11 may require. A video lottery machine operator who falsely reports
12 or fails to report the amount due required by this subsection is guilty
13 of a severity level 8, nonperson felony upon conviction and is subject
14 to termination of the operator's certificate by the executive director
15 or executive director's designee. A video lottery machine operator
16 shall be assessed a penalty for late payments at the rate of 1 1/2%
17 per month on the unpaid balance.

18 (d) The video lottery retailer shall pay all credits resulting from
19 video lottery machine play.

20 New Sec. 19. (a) There is hereby established in the state treasury
21 the city and county public safety fund. Moneys credited to the fund
22 shall be expended only for the purposes and in the manner provided
23 by this section.

24 (b) All moneys credited to the city and county public safety fund
25 shall be allocated to cities and counties of the state quarterly in
26 proportion to that percentage of the total net video lottery income
27 received during the preceding calendar quarter which was derived
28 from video lottery machines placed in each city, and in each county
29 outside the corporate limits of any city, as certified to the state
30 treasurer by the executive director. The state treasurer shall make
31 distributions from the fund on January 15, April 15, July 15 and
32 October 15 of each year for the preceding calendar quarter, in ac-
33 cordance with the certification of the executive director. The director
34 of accounts and reports shall draw warrants on the state treasurer
35 in favor of the city treasurers and county treasurers on those dates
36 and in the amount determined pursuant to this subsection. The
37 distributions shall be paid directly to the city treasurers and county
38 treasurers.

39 (c) Upon receipt of moneys pursuant to this section, each city
40 treasurer or county treasurer shall deposit the entire amount in the
41 respective city or county treasury and shall credit it to a special fund
42 to be used only for purposes of law enforcement and fire protection.

43 New Sec. 20. (a) A racetrack facility owner or manager licensed

(e) Video lottery machine operators shall be responsible for payment of each video lottery retailer the percentage of net video lottery machine income identified in subsection (a) from each video lottery machine owned by the video machine operator and placed in the location operated by the video lottery retailer, and shall retain the percentage identified in subsection (a).

1 by the Kansas racing commission may guarantee any loans or leases
2 that are entered into by a nonprofit organization licensed by the
3 Kansas racing commission to conduct races at the racetrack facility
4 for the purpose of obtaining video lottery machines to be placed on
5 the premises of the racetrack facility.

6 (b) A nonprofit organization licensed by the Kansas racing com-
7 mission to conduct races at a racetrack facility shall deduct from the
8 nonprofit organization's share of net video lottery machine income
9 as a video lottery machine operator all expenses of the nonprofit
10 organization as a video lottery machine operator, including video
11 lottery machine lease payments, principal and interest payments on
12 any loan for the purchase of video lottery machines and direct labor
13 expenses arising from operation, service or maintenance of video
14 lottery machines. Of the remainder, 90% shall be used as purse
15 supplements for live greyhound races and live horse races conducted
16 by the nonprofit organization and the balance shall be distributed
17 by the nonprofit organization in the same manner as the nonprofit
18 organization's earnings from the conduct of races.

19 (c) A racetrack facility owner or manager licensed by the Kansas
20 racing commission shall pay from its share of net video lottery ma-
21 chine income as a video lottery retailer an amount to be used for
22 purse supplements for live greyhound races and live horse races
23 conducted at the racetrack facility which, when added to the amount
24 provided by subsection (b), equals 23% of the net video lottery
25 machine income derived from video lottery machines placed on the
26 premises of the racetrack facility.

27 (d) Purse supplements derived from net video lottery income as
28 provided by this section shall be apportioned in accordance with
29 rules and regulations adopted by the Kansas racing commission.

30 Sec. 21. K.S.A. 21-4302 is hereby amended to read as follows:
31 21-4302. ~~(1)~~ (a) A "bet" is a bargain in which the parties agree that,
32 dependent upon chance, one stands to win or lose something of
33 value specified in the agreement. A bet does not include:

34 ~~(a)~~ (1) Bona fide business transactions which are valid under the
35 law of contracts including, but not limited to, contracts for the pur-
36 chase or sale at a future date of securities or other commodities,
37 and agreements to compensation for loss caused by the happening
38 of the chance including, but not limited to, contracts of indemnity
or guaranty and life or health and accident insurance;

39 ~~(b)~~ (2) offers of purses, prizes or premiums to the actual con-
40 testants in any bona fide contest for the determination of skill, speed,
41 strength, or endurance or to the bona fide owners of animals or
42 vehicles entered in such a contest;
43

1 ~~(e)~~ (3) a lottery as defined in this section;
2 ~~(d)~~ (4) any bingo game by or for participants managed, operated
3 or conducted in accordance with the laws of the state of Kansas by
4 an organization licensed by the state of Kansas to manage, operate
5 or conduct games of bingo;

6 ~~(e)~~ (5) a lottery operated by the state pursuant to the Kansas
7 lottery act; or

8 ~~(f)~~ (6) any system of parimutuel wagering managed, operated and
9 conducted in accordance with the Kansas parimutuel racing act.

10 ~~(2)~~ (b) A "lottery" is an enterprise wherein for a consideration
11 the participants are given an opportunity to win a prize, the award
12 of which is determined by chance. As used in this subsection, a
13 lottery does not include a lottery operated by the state pursuant to
14 the Kansas lottery act.

15 ~~(3)~~ (c) "Consideration" means anything which is a commercial or
16 financial advantage to the promoter or a disadvantage to any par-
17 ticipant.

18 Mere registration without purchase of goods or services; personal
19 attendance at places or events, without payment of an admission
20 price or fee; listening to or watching radio and television programs;
21 answering the telephone or making a telephone call and acts of like
22 nature are not consideration.

23 As used in this subsection, consideration does not include:

24 ~~(a)~~ (1) Sums of money paid by or for participants in any bingo
25 game managed, operated or conducted in accordance with the laws
26 of the state of Kansas by any bona fide nonprofit religious, charitable,
27 fraternal, educational or veteran organization licensed to manage,
28 operate or conduct bingo games under the laws of the state of Kansas
29 and it shall be conclusively presumed that such sums paid by or for
30 such participants were intended by such participants to be for the
31 benefit of the sponsoring organizations for the use of such sponsoring
32 organizations in furthering the purposes of such sponsoring organi-
33 zations, as set forth in the appropriate paragraphs of subsection (c)
34 or (d) of section 501 of the internal revenue code of 1986 and as
35 set forth in K.S.A. 79-4701 and amendments thereto;

36 ~~(b)~~ (2) sums of money paid by or for participants in any lottery
37 operated by the state pursuant to the Kansas lottery act; or

38 ~~(c)~~ (3) sums of money paid by or for participants in any system
of parimutuel wagering managed, operated and conducted in accor-
dance with the Kansas parimutuel racing act.

41 ~~(4)~~ (d) (1) A "gambling device" is a contrivance which for a
42 consideration affords the player an opportunity to obtain some-
43 thing of value, the award of which is determined by chance;

1 OF:

2 (A) Any so-called "slot machine" or any other machine or me-
3 chanical device an essential part of which is a drum or reel with
4 insignia thereon, and (i) which when operated may deliver, as the
5 result of the application of an element of chance, any money or
6 property, or (ii) by the operation of which a person may become
7 entitled to receive, as the result of the application of an element of
8 chance, any money or property;

9 (B) any other machine or mechanical device (including, but not
10 limited to, roulette wheels and similar devices) designed and man-
11 ufactured primarily for use in connection with gambling, and (i)
12 which when operated may deliver, as the result of the application
13 of an element of chance, any money or property, or (ii) by the
14 operation of which a person may become entitled to receive, as the
15 result of the application of an element of chance, any money or
16 property;

17 (C) any subassembly or essential part intended to be used in
18 connection with any such machine or mechanical device, but which
19 is not attached to any such machine or mechanical device as a
20 constituent part;

21 (D) any token, chip, paper, receipt or other document which
22 evidences, purports to evidence or is designed to evidence partic-
23 ipation in a lottery or the making of a bet; or

24 (E) any device that awards credits and contains a circuit, meter,
25 switch or electronic computer program capable of removing and
26 recording the removal of credits when the award of credits is de-
27 pendent upon chance.

28 The fact that the prize is not automatically paid by the device
29 does not affect its character as a gambling device.

30 (2) Gambling device does not include:

31 (A) Any machine or mechanical device designed and manufac-
32 tured primarily for use at a racetrack in connection with parimutuel
33 betting;

34 (B) any machine or mechanical device, such as a coin-operated
35 bowling alley, shuffleboard, marble machine (a so-called pinball ma-
36 chine), or mechanical gun, which is not designed and manufactured
37 primarily for use in connection with gambling, and (i) which when
38 operated does not deliver, as a result of the application of an element
39 of chance, any money or property, or (ii) by the operation of which
40 a person may not become entitled to receive, as the result of the
41 application of an element of chance, any money or property;

42 (C) any so-called claw, crane, or digger machine and similar
43 devices which are not operated by coin, are actuated by a crank,

1 and are designed and manufactured primarily for use at carnivals
2 or county or state fairs; or

3 (D) any video lottery machine or associated equipment certified
4 by the Kansas lottery.

5 ~~(5)~~ (e) A "gambling place" is any place, room, building, vehicle,
6 tent or location which is used for any of the following: Making and
7 settling bets; receiving, holding, recording or forwarding bets or
8 offers to bet; conducting lotteries; or playing gambling devices. Ev-
9 idence that the place has a general reputation as a gambling place
10 or that, at or about the time in question, it was frequently visited
11 by persons known to be commercial gamblers or known as fre-
12 quenters of gambling places is admissible on the issue of whether
13 it is a gambling place.

14 (f) "Something of value" includes credits or free replays when
15 awarded to a player of a gambling device.

16 Sec. 22. K.S.A. 38-1602 is hereby amended to read as follows:
17 38-1602. As used in this code, unless the context otherwise requires:

18 (a) "Juvenile" means a person 10 or more years of age but less
19 than 18 years of age.

20 (b) "Juvenile offender" means a person who does an act while a
21 juvenile which if done by an adult would constitute the commission
22 of a felony or misdemeanor as defined by K.S.A. 21-3105 and amend-
23 ments thereto or who violates the provisions of K.S.A. 41-727, sub-
24 section (b) or (c) of K.S.A. 74-8719 or subsection (j) of K.S.A. 74-
25 8810, and amendments thereto, but does not include:

26 (1) A person 14 or more years of age who commits a traffic
27 offense, as defined in subsection (d) of K.S.A. 8-2117 and amend-
28 ments thereto;

29 (2) a person 16 years of age or over who commits an offense
30 defined in chapter 32 of the Kansas Statutes Annotated;

31 (3) a person 16 years of age or over who is charged with a felony
32 or with more than one offense of which one or more is a felony
33 after having been adjudicated in two separate prior juvenile pro-
34 ceedings as having committed an act which would constitute a felony
35 if committed by an adult and the adjudications occurred prior to the
36 date of the commission of the new act charged;

37 (4) a person who has been prosecuted as an adult by reason of
38 subsection (b)(3) and whose prosecution results in conviction of a
crime;

39 (5) a person whose prosecution as an adult is authorized pursuant
40 to K.S.A. 38-1636 and amendments thereto;

41 (6) a person who has been convicted of aggravated juvenile de-
42 linquency as defined by K.S.A. 21-3611 and amendments thereto;

1 or

2 (7) a person 16 years of age or over who has been adjudicated
3 to be a juvenile offender under the Kansas juvenile offender's code
4 and who is charged with committing a felony or more than one
5 offense of which one or more is a felony while confined in any training
6 or rehabilitation facility under the jurisdiction and control of the
7 department of social and rehabilitation services or while running
8 away or escaping from any such institution or facility.

9 (c) "Parent," when used in relation to a juvenile or a juvenile
10 offender, includes a guardian, conservator and every person who is
11 by law liable to maintain, care for or support the juvenile.

12 (d) "Law enforcement officer" means any person who by virtue
13 of that person's office or public employment is vested by law with
14 a duty to maintain public order or to make arrests for crimes, whether
15 that duty extends to all crimes or is limited to specific crimes.

16 (e) "Youth residential facility" means any home, foster home or
17 structure which provides twenty-four-hour-a-day care for juveniles
18 and which is licensed pursuant to article 5 of chapter 65 of the
19 Kansas Statutes Annotated.

20 (f) "Juvenile detention facility" means any secure public or private
21 facility which is used for the lawful custody of accused or adjudicated
22 juvenile offenders and which must not be a jail.

23 (g) "State youth center" means a facility operated by the secretary
24 for juvenile offenders.

25 (h) "Warrant" means a written order by a judge of the court
26 directed to any law enforcement officer commanding the officer to
27 take into custody the juvenile named or described therein.

28 (i) "Secretary" means the secretary of social and rehabilitation
29 services.

30 (j) "Jail" means:

31 (1) An adult jail or lockup; or

32 (2) a facility in the same building as an adult jail or lockup, unless
33 the facility meets all applicable licensure requirements under law
34 and there is (A) total separation of the juvenile and adult facility
35 spatial areas such that there could be no haphazard or accidental
36 contact between juvenile and adult residents in the respective fa-
37 cilities; (B) total separation in all juvenile and adult program activities
38 within the facilities, including recreation, education, counseling,
health care, dining, sleeping, and general living activities; and (C)
separate juvenile and adult staff, including management, security
staff and direct care staff such as recreational, educational and coun-
seling.

41 Sec. 23. K.S.A. 41-308 is hereby amended to read as follows:
42
43

1 41-308. (a) A retailer's license shall allow the licensee to sell and
2 offer for sale at retail and deliver in the original package, as therein
3 prescribed, alcoholic liquor for use or consumption off of and away
4 from the premises specified in such license. A retailer's license shall
5 permit sale and delivery of alcoholic liquor only on the licensed
6 premises and shall not permit sale of alcoholic liquor for resale in
7 any form, except that a licensed retailer may:

8 (1) Sell alcoholic liquor to a temporary permit holder for resale
9 by such permit holder; and

10 (2) sell and deliver alcoholic liquor to a caterer or to the licensed
11 premises of a club or drinking establishment, if such premises are
12 in the county where the retailer's premises are located or in an
13 adjacent county, for resale by such club, establishment or caterer.

14 (b) The holder of a retailer's license shall not sell, offer for sale,
15 give away or permit to be sold, offered for sale or given away in or
16 from the premises specified in such license any service or thing of
17 value whatsoever except alcoholic liquor in the original package,
18 except that a licensed retailer may:

19 (1) Charge a delivery fee for delivery to a club, drinking estab-
20 lishment or caterer pursuant to subsection (a);

21 (2) sell lottery tickets and shares *and video lottery machine games*
22 to the public in accordance with the Kansas lottery act, if the retailer
23 is selected as a lottery retailer;

24 (3) include in the sale of alcoholic liquor any goods included by
25 the manufacturer in packaging with the alcoholic liquor, subject to
26 the approval of the director; and

27 (4) distribute to the public, without charge, consumer advertising
28 specialties bearing advertising matter, subject to rules and regula-
29 tions of the secretary limiting the form and distribution of such
30 specialties so that they are not conditioned on or an inducement to
31 the purchase of alcoholic liquor.

32 (c) No licensed retailer shall furnish any entertainment in such
33 premises or permit any pinball machine or game of skill or chance
34 to be located in or on such premises.

35 (d) A retailer's license shall allow the licensee to store alcoholic
36 liquor in refrigerators, cold storage units, ice boxes or other cooling
37 devices, and the licensee may sell such alcoholic liquor to consumers
38 in a chilled condition.

39 Sec. 24. K.S.A. 74-8820 is hereby amended to read as follows:

40 74-8820. (a) An organization licensee shall be required to pay a
41 minimum purse equal to at least 4/18 of the total takeout on all
42 parimutuel pools from live greyhound races conducted by the li-
43 censee, computed weekly, and 6/18 of the total takeout on all par-

1 imutuel pools from live horse races conducted by the licensee, com-
2 puted for the entire race meeting. Moneys paid for purses or stakes
3 from breakage, from the Kansas horse breeding development fund,
4 *from purse supplement derived from video lottery*, from the Kansas
5 greyhound breeding development fund or from owners' payments in
6 the form of nominations, entry fees, stakes payments or other pay-
7 ments by owners shall not be considered in calculating the minimum
8 purse requirements of this section. The commission shall approve
9 the amount of minimum purse which may be paid in stakes races
10 during each race meeting. None of the minimum purse shall be
11 used for any other purpose except as specified by this section.

12 (b) Nothing contained in this section shall be construed to limit
13 the maximum purse to be paid.

14 (c) Purses shall be paid directly to the owner of a greyhound or,
15 if a greyhound is leased, the purse shall be paid directly to the
16 lessor and lessee as agreed in a written lease agreement on file with
17 the organization licensee.

18 Sec. 25. K.S.A. 21-4302, 38-1602, 41-308, 74-8701, 74-8702, 74-
19 8704, 74-8708, 74-8710, 74-8711, 74-8712, 74-8720, 74-8721 and 74-
20 8820 and K.S.A. 1993 Supp. 74-8717, 74-8718 and 74-8719 are
21 hereby repealed.

22 Sec. 26. This act shall take effect and be in force from and after
23 its publication in the statute book.

HOUSE FEDERAL & STATE AFFAIRS COMMITTEE
TESTIMONY BY CHARLES M. YUNKER ADJUTANT
KANSAS AMERICAN LEGION
ON HOUSE BILL 3077

RE: Video Lottery

On behalf of the Kansas American Legion I wish to express my sincere appreciation for the opportunity to address your committee today in favor of House Bill 3077.

The American Legion Department of Kansas is on record as being in favor of video lottery, however we do have several concerns regarding House Bill 3077. Chief among those concerns, listed in the order they appear in HB 3077, but not ranked in the order of our concerns are:

I Page 2, lines 30 through 34 describing a "Truck Stop". Our concern is the lack of definition which constitutes paved parking identified as item (2). Does "paved" parking mean gravel, blacktop, sand, concrete or hard packed dirt, etc.? We believe the word paved should be defined. Also item (5) "revenue from the sale of diesel fuel", in our opinion should indicate either wholesale or retail sales.

F&SA
3-22-94
Atch #6

II Page 6, lines 35 through 41. There seems to be a contradiction in ages. That is; no one under 21 years of age is allowed to enter the video lottery area unless accompanied by a 21 year old parent, guardian or spouse; however a video lottery retailer can be 18 years of age. We believe retailers of Video Lottery and their employees whose normal work station is the video lottery area should be at least 21 years of age. Please note, if our suggestion regarding the age of 18 is adopted, line 22 on page 17 of HB 3077 would also need to be amended.

III Page 13, lines 39 through 41 prohibit video lottery machines from being played in licensed establishments where the area in which the machines are located is not open to the public. We concur with what we believe is the intent of this portion of HB 3077, that is; video lottery machines should not be played after an establishment's normal business hours. However, we request language be adopted which would permit veterans and fraternal organizations which conduct Bingo to allow for the placement of video lottery machines in areas of their buildings not covered by their Bingo license.

Most veterans and fraternal organizations only license a portion of their building for Bingo and the remainder of their buildings are used exclusively by their members and guests of members who are on the premises. The areas not normally included in Bingo licenses are bars, lounges and restaurants which is where we feel the bulk of video lottery machines should be located in our establishments.

We do not believe video lottery should be played in the same licensed area as Bingo. We feel if video lottery machines are allowed in the same exact area of a building where Bingo is conducted it will tend to touch off another "war" between Bingo Parlors and owned establishments (those who used to lobby for more days Bingo could be played vs the majority of Bingo licensees which conduct Bingo once or twice a week in their own buildings). You may recall the legislature approved Instant Bingo last year as a compromise between these two groups and this year the legislature voted to remove the "repealer" from Instant Bingo (Actions we sincerely appreciate).

Bingo Parlor hours of operation are set, or provided, by those non-profit organizations which lease their parlors to conduct Bingo. These same non-profit organization's fund raising efforts will be severely hampered or restricted if video lottery is allowed to be

played in the same exact area while Bingo is being played.

Bingo Parlors and non-profit veteran and fraternal organizations conducting Bingo in their own buildings should, however be allowed to establish an area adjacent to the Bingo area which would otherwise conform to the standards required for a video lottery license including restrictions regarding normal hours of operation for Bingo games. Such an area, separate from the Bingo games, would provide a more controlled atmosphere regarding the age of those playing video lottery which is a great concern of ours.

IV Page 20, lines 4 through 20. This area addresses the number of machines allowed at various establishments.

A. We feel there should be a limit on the number of machines located at racetracks. We think 50-100 machines, depending on the facility is more than adequate.

B. We agree with the no limit of machines for the State Fair Board.

C. Veterans and fraternal organizations are non-profit, charitable organizations and should not be placed in the same category as for-profit "truck stops". In our opinion for-profit "truck stops" should be placed in the same category as Bingo Parlors which are for-profit establishments whose only connection with the term "non-profit" is leasing space to non-profit organizations to conduct charitable games of Bingo.

We feel a 50 machine allowance for veterans and fraternal organizations is a shallow attempt by some to gain veteran and fraternal organization's support of HB 3077. We are concerned such a large number of machines would 'invite' the establishment of, or conversion of, legitimate Posts and Lodges into nothing more than gambling fronts thus causing problems for the State and our organizations.

We believe a maximum of 15-20 machines should be allowed in veterans and fraternal organization's establishments and no more than 10-15 machines at "truck stops" and Bingo Parlors. Such an arrangement would allow veteran and fraternal organizations the ability to place video lottery machines in an area adjacent to their licensed Bingo area, thus being restricted in the same manner as Bingo Parlors, while at the same time provide machines in their restaurants, bars and lounges which are not included in their Bingo license for play by their members and guests of their members.

V Page 22, lines 9 through 26. We feel a split in video lottery revenues as proposed by HB 3077 is a fair compromise compared to previous video lottery bills. We see no need for a racetrack assistance fund which would benefit a small group of people who projected great revenues to the State of Kansas and who now seek what would amount to as public assistance. Therefore we are opposed to any attempt to restore a racetrack assistance fund now or in the future.

The American Legion is strongly opposed to any effort or measure which would allow convenience stores and similar establishments to be licensed for video lottery. While serving on Governor Carlin's "Liquor Law Review Commission", I became acutely aware, through personal observation, the tremendous volume of illegal alcohol sales to minors by minors in convenience and grocery stores. Video lottery would face the same enforcement problems and perhaps on a grander scale since minors involved in the illegal play of video lottery machines would merely need to step away from the machine they are playing verses the risk of being seen carrying alcohol out the store's door and into their vehicle.

We also ask that retailers be allowed to own their own machines if the retailer purchases a maintenance contract equal to, or greater than, that which is required by all other machines and if the retailer enters into a contract with the Kansas Lottery as per New Section 13 listed on pages 15, 16 and 17 of HB 3077. Further, the number of machines owned by a retailer would be restricted to the number licensed for the premises of the retailer where the machines must be located.

The testimony I've provided to you today, explains The American Legion's position on video lottery. It is a position arrived at after our attempt to look at video lottery from all sides; the State's, the operator's, Bingo licensee's, etc., including the social impact video lottery will have on Kansas society. We feel our proposals, if adopted, will be fair to everyone.

In closing we ask that you give our concerns and suggestions serious consideration. Again The American Legion is in favor of video lottery but we feel HB 3077, in its present form, needs to be pared back in many areas. I'm sure you agree it will be much easier to expand the video lottery laws in the future by providing for more machines at more locations, than it would be to tighten up the laws later if they are found to be too broad.

KANSAS CHARITIES COOPERATIVE

***1250 SW MEDFORD
Topeka, KS 66604 913-233-0889***

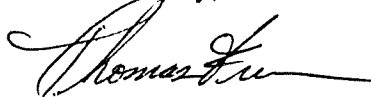
3/22/94

Honorable Clyde Graeber and members of the Federal and State
Affairs Committee.

Kansas Charities Cooperative is an association of non profit fraternal organizations and bingo halls in Kansas that use bingo for their fundraising efforts.

Currently we are limited to three sessions a week of bingo at any one location. A bingo session last less than three hours. Some of our members use their halls on non bingo days for wedding receptions, dances, and private parties, etc. If HB 3077 is passed we hope that there will be no amendments placed on this bill that would restrict a bingo halls use of video poker machines to only the hours we play bingo. If this happens, because of the high cost of the machines, it will be impossible to get a distributor to place any machines at our businesses because of the limited hours they could be used (approximately 9 hours a week for bingo). We hope we will be dealt with like everyone else.

Yours truly,



Thomas Frenn

F & SA
3-22-94
Atch #7

TO: The Honorable Clyde Graeber, Chairperson
House Committee on Federal and State Affairs

FROM: Don Bird
Kansans For Life At Its Best

DATE: March 22, 1994

RE: House Bill No. 3077

Thank you for the opportunity to appear again before the committee and participate in its consideration of HB 3077.

At least gambling proponents are consistent. Information they provide on new forms of gambling accentuates the revenue dollars to be made. The arguments for video lottery are no exception. Experts also say that video poker, one form of video lottery, is the major money-maker for casinos. Over two-thirds of their profits are received from it.

But I too must be consistent and reinforce that any decision must also include careful consideration of the costs to be incurred. Studies of South Dakota and Montana mention problem and pathological gambling percentages but do not address in the same detail the costs associated with those statistics.

While at a recent conference, I reviewed a video of a 20/20 program which had previously aired on national television. It highlighted the South Dakota gambling situation. At the center of its message was a warning about the highly addictive nature of the video lottery.

Illinois State University Professor Henry Lesieur, who has studied gambling extensively, supports that notion. He argues that the most addictive types of gambling are those that involve control or give the illusion of control. Video poker, a form of video lottery, gives that illusion, he says, though the odds are carefully programmed into the machine.

One good illustration of the problems is the experience of the video lottery in Nova Scotia. Things got so out of hand, that they removed over two-thirds of their machines. For those not familiar with the story, I've included a copy of an article run in The Wichita Eagle.

Finally, I refer you to the February, 1994 issue of the State Legislatures magazine which carried an article "It's Not a Miracle, It's a Mirage" in which the author notes that "the potential revenue from gambling is relatively limited when viewed in the overall context of a state budget." Its benefits, he concludes, "need to be weighed against its regressivity and the social costs that are often associated with it." We would

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TESTIMONY PRESENTED TO THE
HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
re: HB 3077

March 22, 1994

by: Rebecca Rice
Legislative Counsel for Wyandotte County Club Association

Thank you Mr. Chairman and members of the committee. My name is Rebecca Rice and I appear before you today as a qualified supporter of House Bill 3077 on behalf of the Wyandotte County Club Association. The Association is a qualified supporter of this legislation, as we believe it is preferable to similar legislation introduced in the Senate. However, we think the bill can be improved.

Regarding the underlying purpose of the bill which is to institute a state run video lottery, the Association is supportive. However, the Association would request you consider raising the percentage allowed in the bill for the retailer to match the percentage for the operator. Apparently, the retailer and operator percentages have traditionally been the same with amusement games. It is suggested the 3% currently allocated to the city could be used to raise the percentage for the retailer and any percentage necessary to make up the city's portion should come from the state's share.

On a separate but equally important issue, Wyandotte County Club Association is concerned about language found on page 26 and 27 of the legislation regarding the definition of "gambling device". It is the position of the Club Association that the various arguments regarding the gambling device definition as written in HB 2560 by this committee were not adequately presented to this committee, and we apologize for not being aware that HB 2560 was moving in a rapid fashion. The Association is relatively new at being involved both with the legislature and a contract lobbyist, so they request your patience as they attempt to catch up.

In any event, I testified to the Senate Federal and State Affairs committee regarding HB 2560 and the "prima facie" language which had been included in that bill as a mechanism to "aid law enforcement" in seizing machines without proving the machines were ever used as gambling devices. I have provided a copy of the Q & A we distributed to that committee regarding the court case upon which the KBI was relying for the creation of the "prima facie" language. I would request that you review this Q & A based upon questions of the Senate committee before yielding to any request to amend this legislation to include such language.

We are concerned at the direction HB 3077 has taken in addressing the definition of gambling device. Much of the definition language included in this bill was also amended into HB 2560 in committee and on the Senate floor. The "prima facie" language was struck from HB 2560 and has not been included in this legislation. However, we are uncertain what purpose is served by particular language in this bill.

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Of particular concern is language found at page 26, lines 24-27. This is new language which has not been discussed by the Senate committee or by the Senate as a whole. If the term "credit" does not have the same definition as "free replay", then perhaps this language does not cause us any particular problem. However, based upon the language on page 27, lines 14-15, it would appear "credits" or "free replays" are considered to be one and the same, or at least comparable. If that is the case, it would appear this committee is once again including many games within the definition of "gambling device" which are not intended to be so included.

Although we were not given the opportunity to speak to the changes made on the Senate floor regarding what gambling device does not include, as found on page 26, line 30 through page 27, line 4, I would point out to the committee that the qualifier on lines 36 and 37 is once again present: "which is not designed and manufactured primarily for use in connection with gambling". Again, the issue of design is being raised, which we believe to be extremely ambiguous and therefore, undesirable.

I would strongly urge this committee to oppose any attempts to amend into HB 3077 the "prima facie" language which was in HB 2560. That language is as follows:

It shall be prima facie evidence that a device is designed, manufactured or altered primarily for use in connection with gambling if the device has the capacity to accept multiple coins or dollar bills for the wager of more than one credit, is equipped with or is designed to accommodate the addition of a mechanism that enables accumulated credits to be removed from the device or is equipped with or is designed to accommodate a mechanism to record the number of credits removed from the device.

Although this language appears fairly benign on the surface, I would remind this committee it is a significant shift in the traditional requirement of law enforcement to prove a crime has been committed. Please note this language does not require that any machine seized be equipped with an accumulation device or a knockoff switch for credits. It instead specifies that the machine can merely be **designed to accommodate** an accumulation device or a knockoff switch at some time in the future. As we explained to the Senate committee, that language allows for any machine in the state of Kansas to be confiscated and the individual to be charged with the crime of possession of a gambling device (K.S.A. 21-4307). This is classified as a crime against the public morals.

Mr. Kyle Smith, representing the KBI, stated to the Senate committee that, yes, this prima facie language shifted the burden of proof from law enforcement to the individual possessing the machine. However, he noted the individual always had the opportunity to **prove** the machine was not being used as a gambling device. I would challenge this committee to go through the exercise of trying to prove a negative. It is a well established fact that proving a negative is practically impossible. One of the basic reasons why the United States criminal justice system requires law enforcement to prove guilt beyond a reasonable doubt is because an individual **can not prove innocence**.

I appreciate this opportunity to present our concerns regarding certain provisions of House Bill 3077 and am willing to answer any questions you may have.

Thank you, Mr. Chairman.



Rebecca Rice

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This document has been prepared in response to questions raised in the Senate committee. All references to court ruling refer to United States of America v. 294 Various Gambling Devices, Civ. A. No. 85-297 Erie., USDC, W.D. Pennsylvania, 718 F Supp 1236, 1989.

Q. Will the machine have to be equipped with a "knock off" switch before it will be found illegal under this proposed legislation?

A. No. This legislation very clearly states the machines only must be designed or manufactured to accommodate any type of device which can remove accumulated credits. The court case upon which the proponents rely as the basis for the "prima facie" language included, specifically states the machine is not required to have a knock off switch installed at the time of confiscation, but must only have been designed or manufactured to accommodate a knock off switch.

Q. Would unplugging the machine to erase accumulated credits qualify the machine as being equipped with a "knock off" switch?

A. Although previous conferees stated that merely unplugging the machine would not constitute a "knock off" switch, the case upon which the proponents rely states otherwise. The court ruled at page 1244:

"This device may take many forms, from a remote control, or elaborately concealed switches, to simply unplugging the machine, but in any form, it serves the simple function of permitting the operator of the establishment to quickly remove large numbers of free games from the machine in a matter of seconds."

Although the KBI assured the committee there is no intention to interpret the proposed legislation in this manner, they lack the authority to speak to the intended interpretation for other law enforcement agencies, KBI successors and the judiciary. As the testimony in this committee has stated unequivocally that the intention of this statute is to codify this isolated federal court case, it seems imperative to understand the full range of implications.

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Q. Would this legislation apply only to games which rely solely upon chance?

A. I don't know. There is no definition of the term "chance" as it is used in this statute. The court case upon which this legislation is based does look to the issue of whether the machine being examined requires any "skill". The court addresses the point that video poker machines are based solely on the "luck of the draw". However, it is my understanding some knowledge of poker is helpful to play these machines. The court appears to infer a game of "chance" is a game which you will "know it when you see it" (like pornography).

Q. If a machine has a "knock off" switch, can we remove the switch and the multiple coin feature to make the machine legal?

A. No. The court specifically ruled that eliminating these devices will not "sanitize" the machine. The machine remains a "gambling device", and the individual who owns it can be prosecuted for a Class "E" felony. The Court stated at page 1247:

"The simple deletion of knock off switches and meters or the elimination of multi-coin features may not sanitize a machine when facts make clear that it was designed primarily to facilitate function as a gambling device."

Again, the actual use of the machine is immaterial under the proposed language.

Q. If the machine only gives free games and no cash payoff is made, is the machine still illegal?

A. Although this court case rules that free games in and of themselves do not constitute giving something of value, please note the proposed legislation is not limited to delivering "any money or property" as is federal law but encompasses the deliverance of "anything of value". Therefore, any machine which accepts multiple coins and delivers anything of value including a free game could be determined a gambling device under such a statute.

Q. Does the legislation make any machines illegal which were not previously illegal in Kansas?

A. Yes. This is an isolated court case specific to interpretation in Pennsylvania which apparently has not been adopted in other jurisdictions. This interpretation has not been tested in the Kansas jurisdiction. Therefore, no one knows whether the federal courts for the Kansas jurisdiction would adopt such a broad interpretation.

Chm Cygne Gabeber,
Members of the Federal and State Affairs Committee

es Wood, Legislative Director for Woman's Christian Temperance
Union of Kansas, 4724 S.E. 37th Topeka, Ks. 66605

I am sorry I am unable to attend this hearing on proposed gambling
- the video lottery.

I have given previous testimony to indicate our organization is
opposed to gambling. If we didn't appear or send testimony at
this hearing, however, it would be reported that no one opposed
the measure.

My question is "Who wants all this gambling?" Do you get letters
from individuals begging for more ways to gamble? Or, is the
pressure coming from ones who want to make money?

I am inclined to say, if they want all this gambling - let 'em
have it - but..... Who is going to pick up the payment for
treatment centers, more crime, and other broken social pieces?
You know who - the taxpayer and insurance premium payers and families
of victims and friends of victims and pastors of victims and on
and on. So essentially we all are involved whether we like it
or not.

Reread the editorial in today's paper - Let me furnish you a copy
of Walter Cronkites special on t.v. last night on the Discovery
Channel. Say "No" to this another gambling issue.

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MEMORANDUM

To: House Committee on Federal and State Affairs
From: Mary Torrence, Assistant Revisor of Statutes
Date: March 22, 1994
Subject: House Bill No. 3077--Video Lottery

General Provisions

House Bill No. 3077 would authorize the Kansas Lottery to conduct video lottery games by use of machines that allow play of video games upon insertion of cash. The state would contract with video lottery manufacturers, distributors, operators and retailers for the manufacture, distribution, maintenance and placement of video lottery machines. Net revenues from video lottery would be divided among the state (33% the first 2 years, 34% the 3rd year and 35% thereafter), the video lottery operator (33% the first 2 years, 32% the 3rd year and 31% thereafter), the video lottery machine retailer (31%) and the city or county where the machine is located (3%). The state share of revenues, after expenses, would be credited to the state general fund. In the case of video lottery machines located at racetracks, a portion of the revenues received by the video lottery operator (the racetrack) and the video lottery retailer (the nonprofit organization) would be used to supplement purses for live races.

Restrictions

Location of machines. Video lottery machines could be located only at the state fair; on premises where bingo is

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conducted; or on the premises of a licensed liquor retailer, licensed club or drinking establishment or licensed cereal malt beverage (CMB) retailer. In addition, a video lottery machine could be located on the premises of a club, drinking establishment or CMB retailer only if the club, drinking establishment or CMB retailer derives 30% or more of its gross receipts from sales of liquor and CMB or if the machine is located in an area where access to persons under 21 is restricted and where 30% or more of the gross receipts from sales (other than video lottery games) in such area are from liquor and CMB.

Other video lottery machines. No other video lottery machines would be allowed on premises where machines of the Kansas lottery are located.

Features of machines. Video lottery machines would have to meet certain criteria, among which would be requirements that the machine not pay off in cash, not accept more than \$2 per game, not award free games or credits in excess of \$1,000 and pay out an average of not less than 85% and not more than 95% of amounts wagered.

Number of Machines. Not more than 10 video lottery machines could be located on the same premises except that there would be no limit on the number located at a racetrack or the state fairgrounds and up to 50 could be placed at truck stops, premises of nonprofit veteran or fraternal organizations or premises where bingo is conducted.

"Gray" machines. The bill would prohibit gray machines in the same manner as H.B. 2560, as amended by the Senate.

Persons prohibited from play. Persons under 21 would be prohibited from playing video lottery machine games.

Qualifications of manufacturers, distributors, operators and retailers. Qualifications would be imposed on persons wanting to act as video lottery manufacturers, distributors, operators or retailers. Certain interrelationships between video lottery manufacturers, distributors, operators and retailers would be prohibited.