

March 22, 2011

The Honorable Pete Brungardt, Chairperson  
Senate Committee on Federal and State Affairs  
Statehouse, Room 136-E  
Topeka, Kansas 66612

Dear Senator Brungardt:

**SUBJECT:** Fiscal Note for SB 237 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 237 is respectfully submitted to your committee.

SB 237 would amend the Kansas Expanded Lottery Act. The bill would change the distribution of electronic gaming machine income from the racetrack gaming facility located in the southeast gaming zone by increasing the amount of income to be received by the racetrack gaming facility manager from 25.0 percent to 58.0 percent. To balance this increase, a corresponding reduction in revenues, from 40.0 percent of income to 22.0 percent, would be credited to the state's share in the Expanded Lottery Act Revenues Fund (ELARF), and the bill would eliminate the 15.0 percent share of gaming income that is to be used for gaming expenses of the racetrack gaming facility manager. Under current law, the income can be used for any gaming expenses, subject to the agreement between the Kansas Lottery and the facility manager. The bill would also remove the earning caps on both the Live Horse Racing Purse Supplement Fund and the Live Greyhound Racing Purse Supplement Fund. Currently, the 7.0 percent of electronic gaming machine income that is to be transferred to each of these funds is limited to an average of \$3,750 per machine per location. The proposed changes to the distribution of revenue would also apply to the racetrack gaming facility manager located in the northeast gaming zone beginning on January 1, 2013.

The bill would allow the Kansas Lottery to allocate the entire 2,800 authorized electronic gaming machines to be placed at racetrack gaming facilities; however, each racetrack gaming facility would be required to have between 600 and 1,200 machines. Current law allows for the first 2,200 machines to be allocated and then a bidding process to place the remaining 600 machines would occur at a later date. The bill would also increase the level of ownership in gaming facility managers that would be required to undergo a background investigation by the Kansas Racing and Gaming Commission. The current threshold of 0.5 percent would be increased to those owning 5.0 percent or more of the company that would be managing a lottery gaming facility. The bill adds provisions concerning the background investigations of owners of

a publicly traded company. The bill would require background investigations for all key officials and for individuals owning more than 5.0 percent of the publicly traded company's stock. However, the bill would require the Executive Director of the Kansas Racing and Gaming Commission to develop a procedure for the waiver of background requirements for any institutional investors, such as mutual funds.

The bill would reduce the minimum investment required for a manager of a state-owned lottery gaming facility, or destination casino, in the southeast gaming zone from \$225.0 million to \$100.0 million. The privilege fee for the southeast gaming zone would also be reduced from \$25.0 million to \$11.0 million. Additionally, the bill would allow ELARF to be used for expenditures made by the Kansas Public Employee Retirement System (KPERS) for the unfunded actuarial liability of the state's retirement system and for deferred maintenance at state universities.

SB 237 would not require additional staffing or expenditures by the Kansas Racing and Gaming Commission, the Kansas Lottery, or any other state agency unless a contract with a racetrack gaming facility manager or lottery gaming facility manager is approved by the Kansas Lottery and a background investigation is approved by the Kansas Racing and Gaming Commission. The proposed changes to the distribution of gaming facility revenue could provide an incentive for the Camptown Greyhound Park in Frontenac and the Woodlands Racetrack in Kansas City to negotiate a contract with the Kansas Lottery in order to reopen both of these facilities with electronic gaming machines.

The Kansas Lottery indicates that it would need to hire between two and three new employees for each new gaming facility that would open as a result of this bill. However, without knowing the size of the proposed facility and when the facility would open, the Kansas Lottery is unable to make a precise estimate of its gaming related expenses. The Kansas Lottery indicates that when it has negotiated contracts with gaming facility managers, it has required that all of its gaming related expenses be reimbursed by the manager. Direct gaming expenses are billed directly to the specific gaming facility manager and indirect expenses are prorated to all managers.

The Kansas Racing and Gaming Commission indicates it would need approximately \$1.8 million and 21.00 FTE positions for each parimutuel racetrack that reopens in FY 2012 to regulate both the racing and gaming activities. Start-up costs of approximately \$450,000 per facility would also be needed for expenses, such as background investigations, licensing equipment, software licenses, computer equipment, furniture and supplies, and other expenses that would be associated with reopening each facility. Funding for racing activities would come primarily from the State Racing Fund once racing resumes and revenue is generated. Until that time, there is adequate authority in current law for the Kansas Racing and Gaming Commission to bill the facility for all costs related to regulation until the State Racing Fund generates the necessary revenues to cover expenses. The facility would also be billed for all direct costs at the facility and would pay a portion of indirect costs for all general gaming regulatory operational expenses.

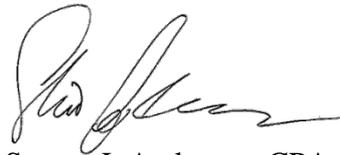
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A reliable estimate of the revenue that might be generated as a result of SB 237 cannot be made without a detailed market study, which would include an estimate as to when each facility would be operational and the number of electronic gaming machines that would be placed at each facility. The bill would reduce the state's share under the current Act; however, no monies will be generated unless the electronic gaming machines are in operation. The bill would allow the Board of Regents and KPERS to receive money from the ELARF for deferred maintenance and unfunded actuarial liability of the state's retirement system. However, it should be noted that all money that the ELARF has received has been transferred to the State General Fund and the Governor's budget recommendation for FY 2011 and FY 2012 is to continue transferring all monies from the ELARF to the State General Fund. Any fiscal effect associated with SB 237 is not reflected in *The FY 2012 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", with a long horizontal flourish extending to the right.

Steven J. Anderson, CPA, MBA  
Director of the Budget

cc: Don Cawby, Racing & Gaming  
Christi Nowak, Racing & Gaming  
Stephen Durrell, Lottery  
Melissa Wangemann, Kansas Association of Counties  
Larry Baer, League of Municipalities  
Faith Loretto, KPERS  
Diane Duffy, Board of Regents