

March 2, 2015

The Honorable Steve Brunk, Chairperson  
House Committee on Federal and State Affairs  
Statehouse, Room 285-N  
Topeka, Kansas 66612

Dear Representative Brunk:

**SUBJECT:** Fiscal Note for HB 2312 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2312 is respectfully submitted to your committee.

HB 2312 would amend the state's Expanded Lottery Act. 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 must have a minimum of 600 machines. Current law allows for the first 2,200 machines to be allocated and then a bidding process to place the remaining 600 machines occurs at a later date. The current bidding process allows lottery gaming facility managers to bid to prevent the placement of additional machines at racetrack gaming facilities. Each horse or greyhound racetrack is required to conduct a minimum number of races in order to operate electronic gaming machines. The bill would eliminate some of the restrictions on simulcasting and would allow county fair associations to operate simulcasting for additional days.

The bill would change the distribution of net electronic gaming machine revenue from the racetrack gaming facility located in the northeast gaming zone by increasing the amount of revenue distributed to the racetrack gaming facility manager from 25.0 percent to 64.5 percent in the first and second year of operation and to 60.5 percent in the third year and future years of operation. The amount of revenue that goes to the Live Horse Racing Purse Supplement Fund would be increased from 7.0 percent to 10.0 percent in the first and second year of operation and to 14.0 percent in the third year and future years of operation. To balance out these increases, a corresponding reduction in revenues is in the bill. The state's share in the Expanded Lottery Act Revenues Fund (ELARF) would be reduced from 40.0 to 22.0 percent; the current 3.0 percent share that is shared by the city and county would be reduced to 2.0 percent and would only be distributed to the county; the share going to the Problem Gambling and Addictions Grant Fund would be reduced from 2.0 percent to 0.5 percent; the 7.0 percent share going to the Live Greyhound Racing Purse Supplement Fund would be eliminated; and the 15.0 percent share of

gaming revenues that is to be used for gaming expenses of the racetrack gaming facility manager would also be eliminated. Under current law, the 15.0 percent share of revenues can be used for any gaming expenses, subject to the agreement between the Kansas Lottery and the facility manager. The 1.0 percent share going to the Kansas Horse Fair Racing Benefit Fund would remain unchanged.

Under current law, the amount of electronic gaming machine revenue that is to be transferred to the Live Horse Racing Purse Supplement Fund is limited to an average of \$3,750 per machine per location. The bill would also remove the earning cap on the Live Horse Racing Purse Supplement Fund for all gaming zones.

The bill would also increase, from 0.5 to 5.0 percent, the level of ownership in gaming facility managers and those who propose to provide gaming-related goods or services to the gaming facility to determine who must undergo a background investigation by the Kansas Racing and Gaming Commission. The bill would add provisions requiring background investigations of officers, directors, key employees and 5.0 percent owners of these companies, if publicly traded. 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 also make other technical corrections to the Kansas Expanded Lottery Act.

HB 2312 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 is approved by the Kansas Lottery and a background investigation is approved by the Kansas Racing and Gaming Commission. Racetracks would first be required to obtain a parimutuel license from the Kansas Racing and Gaming Commission before they could negotiate with the Kansas Lottery for a contract to operate electronic gaming machines. The proposed changes to the distribution of gaming facility revenue could provide an incentive for the Woodlands Racetrack in Kansas City to negotiate a contract with the Kansas Lottery in order to reopen 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 gaming facility 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 for the annual costs 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

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equipment, software licenses, computer equipment, furniture and supplies, and other expenses that would be associated with reopening each facility. Funding for regulating racing activities has primarily come from the transfer of parimutuel tax receipts to the State Racing Fund. The appropriations bill each year provides the authority for the Kansas Racing and Gaming Commission to bill each facility for all costs related to regulating racing activity.

The Department for Aging and Disability Services indicates that additional gaming facilities would likely increase demand for services provided by its Problem Gambling Program. The Department indicates that the amount of additional spending would be dependent on the number of additional gaming facilities and would be proportional to current spending levels for problem gambling and addiction services. The Department also has concerns that additional gaming facilities and changes to the share of gaming facility revenues that is distributed to the Problem Gambling and Addictions Grant Fund would not provide adequate funding to support its Problem Gambling Program.

A reliable estimate of the revenue that might be generated as a result of SB 192 cannot be made without a detailed market study, which would include an estimate as to when the facility would be operational and the size of the gaming facility. Any fiscal effect associated with HB 2312 is not reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a long horizontal line extending to the right.

Shawn Sullivan,  
Director of the Budget

cc: Stephen Durrell, Lottery  
Brandi White, KRGC  
Larry Baer, LKM  
Melissa Wangemann, KAC  
Brad Ridley, KDADS