

SESSION OF 2006

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 587**

As Amended Without Recommendation by  
Senate Committee on Federal and State Affairs

**Brief\***

SB 587, as amended, would create the Kansas Expanded Lottery Act which would authorize the following:

- A nonexclusive gaming zone (destination casinos);—Northeast Kansas gaming zone (Wyandotte County) and Southeast Kansas gaming zone (Crawford and Cherokee County); and
- An exclusive gaming zone (racetrack gaming facilities);—South Kansas gaming zone (Sedgwick County) and Southwest Kansas gaming zone (Ford County) if the Kansas Racing and Gaming Commission (KRG C) licenses a parimutuel racetrack and a racetrack gaming facility in Ford County.

The Kansas Lottery Commission would be responsible for ownership, and operational control of all provisions of the Act and would be authorized to enter into contracts with the gaming managers for gaming at the exclusive and nonexclusive gaming zones. The KRG C would be responsible for oversight and regulation of lottery gaming facility operations.

**Nonexclusive Gaming Zone (Destination Casinos)**

The Kansas Lottery would be responsible for considering and approving proposed lottery gaming facility management contracts with one or more prospective lottery gaming facility managers.

Lottery gaming facility managers would either be a resident Kansas American Indian tribe that has sufficient financial resources and three consecutive years of experience in management of class III gaming, or not a resident Kansas American Indian tribe that has

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

sufficient financial resources, three consecutive years of experience class III gaming, and also would have to be current in filing in taxes to the state and local governments. The Lottery would be prohibited from accepting proposals if the management requirements are not met.

The Lottery Management Gaming Facility Contract would contain the following main provisions:

- Have an initial term of 15 years from the date of opening the gaming facility;
- Specify the amount to be paid to the manager;
- Establish a mechanism for payment of expenses;
- Include a provision for the lottery gaming manager to pay the costs of oversight and regulation of the operation of the lottery gaming facility by the KRGC;
- Establish a gaming privilege fee of \$35,000,000 to be paid by the prospective lottery gaming manager; and
- Establish the disposition of revenues as follows:
  - Not less than 24 percent of the gaming revenues to the state; 75 percent of the 24 percent would be credited to the Kansas Education Opportunity Trust Fund and 25 percent would be paid to the Kansas Gaming Revenue Property Tax Relief Fund;
  - 1.0 percent to the Problem Gambling Fund;
  - 1.0 percent to the Kansas Charitable Gaming Fund;
  - 1.5 percent to the city;
  - 1.5 percent to the county (3.0 percent if the casino is located in a nonexclusive gaming zone of only one county and is not located in the city);
  - 1.0 percent to the host county (2.0 percent if the casino is located in a nonexclusive gaming zone consisting of more than one county and is not located in a city);

- 1.0 percent to the nonhost county if the casino is located in a nonexclusive gaming zone consisting of more than one county.

### **General Provisions**

The bill would establish time limits and procedures from the time of submission of contract proposals until the Lottery enters into a contract agreement with lottery gaming facilities managers. The Lottery would solicit proposals, approve nonexclusive gaming zone contracts (casinos), and submit them to Lottery Gaming Facility Review Board for consideration.

The bill would create a seven-member Lottery Gaming Facility Review Board. The Board would consist of three members appointed by the Governor, two members appointed by the President of the Senate, and two members by the Speaker of the House. The Board would be responsible for determining which lottery gaming facility management contract best maximizes revenue, encourages tourism, and serves the best interests of Kansas. The Board would be under the control of the KRGC.

### **County Vote**

Approved contracts from casinos would then be submitted to the county where an election would be held to approve or disapprove the contracts. Any election held prior to December 31, 2004, for approval would not be valid and if the voters voted against a contract, it would be null and void.

### **Exclusive Gaming Zone (Racetrack Gaming Facilities)**

The Kansas Lottery would be responsible for considering and approving proposed racetrack gaming facility management contracts with one or more prospective racetrack gaming facility managers. The prospective managers would have to have sufficient financial resources, and also would have to be current in filing taxes to the state and local governments. The Lottery would be prohibited from accepting proposals if the management requirements are not met.

The Lottery would require the prospective manager in the South Kansas Gaming Zone (Sedgwick County) to submit a one time privilege fee of \$10,000,000 and in Southwest Kansas Gaming Zone (Ford County) a privilege fee of \$3,000,000 if Ford County is granted a parimutuel track.

The main provisions of the Racetrack Gaming Facility Management Contract would include the following:

- Authorize a maximum of 5,000 electronic gaming machines at all locations;
- Establish the number of live dog and horse races to be conducted at each parimutuel track prior to authorization of placement of electronic gaming machines; and
- Establish the distribution of electronic gaming revenue as follows:
  - The management fee for the first five years of commencement of the operation of electronic gaming machines would be 35 percent of the first \$150/machine income/day, then 25 percent/machine income/day for five years and then 25 percent/machine income/day thereafter;
  - The state revenue for the first five years of commencement of the operation of electronic gaming machines would be 30 percent of the first \$150/machine income/day, then 40 percent/machine income/day for five years and then 40 percent/machine income/day thereafter (25 percent would be credited to the Kansas Gaming Revenue Property Tax Relief Fund, and 75 percent would be credited to the Kansas Education Opportunity Trust Fund);
  - 7.0 percent to the Live Greyhound Racing Purse Supplement Fund (not more than \$3,750 per machine);
  - 7.0 percent to the Live Horse Racing Purse Supplement Fund (not more than \$3,750 per machine);
  - 1.5 percent to the city;
  - 1.5 percent to the county (3.0 percent if the track is not in a city);

- 1.0 percent to the Problem Gambling Grant Fund;
- 1.0 percent to the Kansas Charitable Gaming Fund;
- 1.0 percent to the Kansas Horse Fair Racing Benefit Fund;
- 15 percent for expenses; and
- \$15,000 (per electronic gaming machine) refundable accelerated payment to be repaid during the next five fiscal years by the state.

The bill would specify the number of days that a racetrack would have to conduct live horse or dog racing before the track would be eligible to receive electronic gaming machines. Electronic gaming machines would be required to pay out not less than 87 percent of the amount wagered per machine, and machines would be linked to a central Lottery communications system to provide monitoring and auditing procedures to take place.

For an exclusive gaming zone (racetracks), the Lottery would submit proposed contracts to KRGK for approval or disapproval.

### **County Vote**

Approved contracts from racetracks would then be submitted to the county where an election would be held to approve or disapprove the contracts. Any election held prior to December 31, 2004, for approval would not be valid and if the voters voted against a contract, it would be null and void.

### **Prohibitions**

The bill would create the following prohibitions:

- A lottery gaming facility manager could not be a racetrack gaming facility manager in a nonexclusive gaming zone and a racetrack gaming facility manager could not be a lottery facility manager in the same zone;
- A person who is currently, or for the past five years has been Governor, Lieutenant Governor, Attorney General or legislator

would be prohibited from holding any paid position, from having any financial interest, or from entering into any business dealing including lobbying contracts with any lottery gaming facility manager, subcontractor or agent any manager, or any ancillary lottery gaming facility operations (this prohibition also would apply to any spouse or relative of such person); and

- A person who is currently, or during the past five years, has been a member of the Lottery Gaming Facilities Review Board (this prohibition would apply to any spouse or relative of such person);

These prohibitions would not apply with respect to any Governor, Lieutenant Governor, Attorney General or legislator or relative of these individuals that has not served in such position after December 31, 2005.

## **Enforcement Provisions**

The bill would create enforcement provisions that include:

- Prohibiting the State, until July 1, 2011, from entering into management contracts for more than two lottery gaming facilities (Northeast Kansas and Southeast Kansas Gaming Zones), from designating additional areas where the operation of lottery facilities could be authorized, and from operating an aggregate of more 5,000 electronic gaming machines at parimutuel tracks.

If these provisions are violated, the State would be required to repay the racetrack gaming facility manager an amount equal to the privilege fee plus 10 percent interest.

## **Funds**

The bill would create the Expanded Lottery Act Revenue Fund. The revenue from the net electronic gaming machine income and lottery gaming facility revenue would be submitted daily by the lottery gaming facility manager and racetrack gaming facility manager to the Executive Director of the Lottery who, in turn, would remit such revenues to the State Treasurer who would credit those revenues to the Expanded Lottery Act Revenue Fund. The moneys in the Fund would be distributed to the Kansas Education Opportunity Trust Fund

and the Kansas Gaming Revenue Property Tax Relief Fund, the Live Horse Racing Supplement Fund, the Live Greyhound Racing Purse Supplement Fund, the Kansas Charitable Gaming Fund, and the Problem Gambling Grant Fund.

The bill would create the Live Horse Racing Supplement Fund, from which 25 percent would be credited to the Kansas Horse Breeding Development Fund, and 2 percent to the Live Horse Racing Purse Fund for registration, administration, development, representation, and promotion of Kansas horse racing and breeding industry. An amount equal to 50 percent would be credited to purse supplements for registered Kansas bred foals, and the remainder for breed awards for Kansas bred horses. Similar disposition of revenues would occur in the Live Greyhound Racing Purse Supplement Fund.

Twenty-five percent of the Horse Fair Racing Benefit Fund may be expended on capital improvements to racetrack facilities, or adjacent to the premises used by the fair association to conduct fair racing activities. Each fiscal year \$20,000,000 would have to be expended for capital improvement projects, operations, purse awards or expenses associated with regulation and oversight of parimutuel activities, and fair activities at Eureka Downs and Anthony Downs.

The bill would require the KRGC to establish a Greyhound Promotion and Development Fund which would be funded through a voluntary greyhound purse checkoff program and used for development, promotion, and representation of the greyhound industry in Kansas.

The Kansas Charitable Gaming Fund would distribute revenue to nonprofit 501 (C) (3) organizations in the State of Kansas. The bill would create a seven-member Kansas Charitable Gaming Foundation Board which would consist of three members appointed by the Governor, one member appointed by the President of the Senate, one member appointed by the Speaker of the House, one member appointed by the Minority Leader of the Senate, and one member appointed by the Minority Leader of the House. The Board would be responsible for the distribution of funds from the Kansas Charitable Gaming Fund.

The bill would authorize the KRGC to administer the provisions of the Problem Gambling Grant Fund and adopt rules and regulations to establish criteria for grants to provide assistance for the direct treatment of persons diagnosed as suffering from pathological gambling.

## **Court Actions**

The bill would require any action challenging the constitutionality or otherwise arising out of the Act to be brought in the district court of Shawnee County. The bill would provide for the final decision of the district court to be appealed to the Kansas Supreme Court.

The bill would abolish the Lottery on July 1, 2022.

The bill would become enacted upon its publication in the *Kansas Register*.

## **Background**

Proponents of the bill, as introduced, included: Senator Barone; Matt All, Chief Counsel to the Governor; the Mayor of Park City; representatives of the Kansas Quarter Horse Racing Association, the Kansas Greyhound Association, the Kansas Thoroughbred Association, the Unified Government of Wyandotte County, Boot Hill Gaming, Inc., the Sumner County Economic Development Commission, Ruffin Company, Riverfalls Gaming LLC, Kansas Racing LLC; Butler National Corporation, and the American Legion.

Opponents included representatives from: Stand Up for Kansas; the Kansas Tribal Economic Development Association; Park Lanes Family Fun Center; and an individual.

Neutral testimony was provided by representatives from: the Kansas Problem Gambling Coalition; the League of Municipalities; and the Kansas Association of Counties.

The Senate Committee amended the bill to credit state revenue from the casinos and racetrack facilities to the Kansas Education Opportunity Trust Fund and the Kansas Gaming Revenue Property Tax Relief Fund.

The Committee also includes enforcement provisions prohibiting the State from expanding gaming.

In addition, the Committee prohibited a racetrack manager to be a lottery gaming manager and limited the number of electronic gaming machines to 5,000. Finally the bill prohibited specific persons in the

Executive Board of Government and legislators plus their relatives from having interests in the gaming industry.

The fiscal note indicates that the bill would generate revenue from one time privilege fees of:

\$35,000,000 X 2 casinos	\$ 70,000,000
\$10,000,000 Sedgwick County	<u>\$ 10,000,000</u>
Total one time revenue fees	<u><u>\$ 80,000,000</u></u>

If Ford County parimutuel track is developed, the privilege fee would be \$ 3,000,000 which would generate an aggregate total of one time privilege fees of \$83,000,000.

The state revenue for the first five years of commencement of the operation of electronic gaming machines would be 30 percent of the first \$150/machine income/day, then 40 percent/machine income/day for five years and then 40 percent/machine income/day thereafter.

The state would receive at least 24 percent of the gaming revenue from destination casinos.

The estimated state revenue on the original bill would be \$152,500,000 from all funds and an increase of \$114,375,000 to the State General Fund in FY 2007. The Ad Valorem Tax Reduction Fund would increase by \$38,125,000 and the increase in local revenues would be \$6,022,500 in FY 2007. These estimates were based on gaming data from Missouri and Iowa.

In the amended version of the bill the State General Fund language was replaced by the Kansas Education Opportunity Trust Fund, and the Ad Valorem Tax Reduction Fund language was replaced by the Kansas Gaming Revenue Property Tax Relief Fund.