

MINUTES OF THE HOUSE TOURISM COMMITTEE.

The meeting was called to order by Chairperson Carol E. Beggs at 3:35 p.m. on February 13, 2002 in Room 243-N of the Capitol.

All members were present except: Representative Jeff Peterson

Committee staff present: Hank Avila, Research Department
Russell Miller, Research Department
Bob Nugent, Revisor of Statutes
Carol Doel, Committee Secretary

Conferees appearing before the committee: Bob Nugent, Advisor's Office
Randy Tongier from Legislative Post Audit
Senator Steineger

Others attending: See attached list

Chairperson Beggs introduced Kansas Statutes Chapter 60.— Procedure, Civil - Article 40.—Assumption of Risk of Domestic Animal Activity which was obtained for the committee by Representative John Ballou in answer to a question which was asked at the meeting of January 11th. (Attachment 1)

Chairperson Beggs also informed the committee that there would be several additional bills to come before the committee regarding gaming machines.

Discussion and Review of HB 2183

Randy Tongier representing Legislative Post Audit presented the committee with the audit and fiscal note for **HB 2183**. (Attachment 2)

An overview of **HB 2183** was presented by Bob Nugent of the Revisor's Office with an explanation of language and phraseology and the meanings thereof.

During committee discussion, Representative Palmer requested that review of the fiscal note be scheduled for the meeting on Monday, February 18th.

Next to approach the committee with further explanation of **HB 2183** was Senator Chris Steineger who introduced the bill into the Tourism Committee originally in January of 2001.

Approval of Minutes

A motion was made by Representative John Ballou to approve the minutes as read. The motion was seconded by Representative Margaret Long. Motion passed.

The next meeting will be held in Room 243 North on February 18th with further discussion of gaming bills.

HOUSE TOURISM COMMITTEE GUEST LIST

DATE Feb. 13

NAME	REPRESENTING
Rebecca Guerny	Federico Consulting
Aleen Thompson	Stand Up For Ks.
Ann Kunder	KDOCK
Jim Edwards	NOCT
Jim Leonard	KSC
Keith Kocher	Ks Lottery
Trista Bradles	Office of the Governor
Tracy Dief	HRGC
Ran Hein	Prairie Band Potawatomi Nation
Alex Kobyanetz	Resort (Milford Lake)
Stephanie Buchanan	DOB
Robin Jandison	Put in Companies
Joe Dick	KCBPU
Don Denney	Unified Government of Wy Co.
Kate Watson	Post Audit
RANDY TONBIAK	" "
BOB ALDERSON	Ks. Greenwood Assoc.
Tom Palace	PMCA OF KANSAS
Patrick Hurley	KTSP

Citation/Title
KS ST § 60-4003, Same; limitations.

*27067 K.S. § 60-4003

KANSAS STATUTES
CHAPTER 60.--PROCEDURE, CIVIL
ARTICLE 40.--ASSUMPTION OF RISK OF DOMESTIC ANIMAL ACTIVITY

Current through End of 2000 Reg. Sess.

60-4003. Same; limitations.

(a) Nothing in K.S. 60-4002 shall prevent or limit the liability of a domestic animal activity sponsor, a domestic animal professional or any other person if the domestic animal activity sponsor, domestic animal professional or person:

(1) (A) Provided the equipment or tack, which was faulty, and such equipment or tack was faulty to the extent that it did cause the injury; or

(B) provided the domestic animal and failed to make a reasonable effort to determine the ability of the participant to manage the particular domestic animal based on the participant's representations of such participant's ability;

(2) owns, leases, rents or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous condition which was known to the domestic animal activity sponsor, domestic animal professional or person and not made known to the participant;

(3) commits an act or omission that falls below the standard of care of a reasonable domestic animal activity sponsor, domestic animal professional or other person engaged in domestic animal activities in the same locality; or

(4) injures the participant by willful, wanton or intentional conduct.

(b) Nothing in K.S. 60-4002 shall prevent or limit the liability of a domestic animal activity sponsor or a domestic animal professional under liability provisions set forth in the products liability laws or under liability provisions of article 4 of chapter 29 the Kansas Statutes Annotated, and amendments thereto.

History: L. 1994, ch. 290, § 3; July 1.

Search this disc for cases citing this section.



House Tourism Committee
Meeting Date 2-13-02
Attachment 1

Citation/Title
KS ST § 60-4001, Definitions.

*27064 K.S. § 60-4001

KANSAS STATUTES
CHAPTER 60.--PROCEDURE, CIVIL
ARTICLE 40.--ASSUMPTION OF RISK OF DOMESTIC ANIMAL ACTIVITY

Current through End of 2000 Reg. Sess.

60-4001. Definitions.

As used in this act:

(a) "Engages in a domestic animal activity" means riding, training, boarding, loading, hauling, breeding, racing, providing or assisting in medical treatment of, driving, or being a passenger upon a domestic animal or in or on a vehicle pulled or pushed by a domestic animal, whether mounted or unmounted or any person assisting a participant or show management. The term "engages in an activity involving domestic animals" does not include being a spectator at an activity involving domestic animals, except in cases where the spectator places the spectator's self in an unauthorized area and in immediate proximity to the activity involving domestic animals.

(b) "Domestic animal" means a cow, swine, sheep, goat, domesticated deer, llama, poultry, rabbit, horse, pony, mule, jenny, donkey or hinny.

(c) "Domestic animal activity" means, but is not limited to:

(1) Shows, fairs, competitions, performances or parades that involve any or all breeds of domestic animals and any of the equine disciplines, including, but not limited to, dressage, hunter and jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, driving, pulling, cutting, polo, steeple chasing, English and western performance riding, trail riding, endurance trail riding and western games, and hunting;

(2) domestic animal training or teaching activities or both;

(3) boarding domestic animals;

(4) riding, inspecting or evaluating domestic animals belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the domestic animals or is permitting a prospective purchaser of the domestic animals to ride, inspect or evaluate the domestic animals;

(5) rides, trips, hunts or other domestic animal activities of any type however informal or impromptu that are sponsored by domestic animal activity sponsor; and

(6) hoofcare and placing or replacing shoes on a domestic animal.

(d) "Domestic animal activity sponsor" means an individual, group, club, partnership or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes or provides the facilities for, a domestic animal activity, including but not limited to: Pony clubs, 4-H clubs, hunt clubs, riding clubs, trail rides, racetrack, school and college-sponsored classes, programs and activities, therapeutic riding programs, breeding farms, training farms and operators, instructors, and

promoters of domestic animal facilities, including, but not limited to, stables, clubhouses, pony ride strings, fairs and arenas at which the activity is held.

***27065** (e) "Domestic animal professional" means an individual, partnership or corporation and such individual or entities' employees engaged in a domestic animal activity for compensation:

(1) In instructing a participant or renting to a participant a domestic animal for the purpose of riding, driving or being a passenger upon the domestic animal, or a passenger in or on a vehicle pulled or pushed by a domestic animal; or

(2) in renting equipment or tack to a participant.

(f) "Inherent risks of domestic animal activities" means those dangers or conditions which are an integral part of domestic animal activities, including, but not limited to:

(1) The propensity of a domestic animal to run, buck, bite, shy, stumble, rear, fall, step on or behave in ways that may result in injury, harm or death to persons on or around them;

(2) the unpredictability of a domestic animal's reaction to such things as sounds, sudden movement and unfamiliar objects, persons or other animals;

(3) certain hazards such as surface and subsurface conditions;

(4) collisions with other domestic animals or objects; and

(5) the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the animal or not acting within such participant's ability.

(g) "Participant" means any person who engages in a domestic animal activity.

History: L. 1994, ch. 290, § 1; July 1.

Search this disc for cases citing this section.



LEGISLATURE OF KANSAS
LEGISLATIVE DIVISION OF POST AUDIT

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February 12, 2002

To: Members, Legislative Post Audit Committee

Senator Lynn Jenkins, Chair
Senator Anthony Hensley
Senator Dave Kerr
Senator Derek Schmidt
Senator Chris Steineger

Representative Lisa Benlon, Vice-Chair
Representative John Ballou
Representative Jim Garner
Representative Dean Newton
Representative Dan Thimesch

This report contains the findings from our completed 100-hour audit, *Expanded Gaming: Reviewing the Reliability of Estimates of Potential Revenues That Might Accrue to the State From Allowing Slot Machines at Racetracks.*

We would be happy to discuss the findings presented in this report with any legislative committees, individual legislators, or other State officials.

Barbara J. Hinton
Legislative Post Auditor

House Tourism Committee
Meeting Date 2-13-02
Attachment 2

EXECUTIVE SUMMARY

LEGISLATIVE DIVISION OF POST AUDIT

Question 1: What Recent Estimates Have Been Made of the Potential Revenues the State Might Receive from Authorizing Slot Machines at the Racetracks, and Which of Those Estimates Appear To Be Most Reliable?

Legislation currently is under consideration that would expand the availability of slot machines to Kansans. That legislation would authorize slot machines at the racetracks, and would capture a portion of the net revenues from those machines for use by the State. page 3

The 5 recent estimates of annual net revenues from slot machines at racetracks that we're aware of range from about \$270 million to about \$400 million. The estimates for which we could review the methodology were based on reasonable but different methodologies. All of the recent estimates except Mr. Jennison's tend to cluster fairly closely around \$325 million. Mr. Jennison's estimate reflects a more optimistic assessment of how well the Kansas City track would be able to compete in the Kansas City gaming market. People we spoke with generally urged some degree of caution in dealing with the estimates. page 4

Based on the 5 recent estimates discussed above, the State could actually receive between \$54 and \$82 million annually, net or regulatory and other costs. Under House Bill 2183, Kansas would retain 20% to use for other State programs, a smaller percentage of the net revenues than retained by most of the other states we reviewed. page 6

APPENDIX A: Scope Statement page 9

APPENDIX B: Agency Responses page 11

This audit was conducted by Randy Tongier and Kate Watson. If you need any additional information about the audit's findings, please contact Mr. Tongier at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call us at (785) 296-3792, or contact us via the Internet at LPA@lpa.state.ks.us.

Expanded Gaming: Reviewing the Reliability of Estimates of Potential Revenues That Might Accrue to the State From Allowing Slot Machines at Racetracks

In recent years, there have been a number of proposals for expanding gaming at parimutuel tracks located near Kansas City, Wichita, and Pittsburg. Most of those proposals have included allowing slot machines to attract larger crowds to the tracks. To date, however, the Legislature hasn't accepted any of those proposals.

The State currently is experiencing budget shortfalls estimated to be about \$426 million. In his State of the State address, the Governor indicated that, although he wasn't including expanded gaming as a source of new revenue in his budget, he was willing to consider adding slot machines at the parimutuel racetracks. Proponents of expanded gaming and others have put together estimates of the amounts of money that might be generated from slot machines at the 3 tracks under various scenarios. Recent estimates range from \$270 million to around \$400 million a year.

Legislators have expressed concerns about the soundness of the estimates and which numbers appear to be most realistic and reliable. To help address these issues, the Chair of the Legislative Post Audit Committee directed the Legislative Division of Post Audit to conduct a 100-hour performance audit answering the following question:

- 1. What recent estimates have been made of the potential revenues the State might receive from authorizing slot machines at the racetracks, and which of those estimates appear to be most reliable?**

To answer this question, we interviewed State officials and reviewed correspondence and other files to identify recent estimates of slot machine revenues at Kansas racetracks. We then reviewed the methods used to develop those estimates. We also reviewed selected other states' statutes to identify the percentage of slot machine revenues that those states capture.

In conducting this audit, we followed all applicable government auditing standards set forth by the U.S. General Accounting Office.

Question 1: What Recent Estimates Have Been Made of the Potential Revenues the State Might Receive from Authorizing Slot Machines at the Racetracks, and Which of Those Estimates Appear To Be Most Reliable?

Six estimates recently have been made of potential annual net revenues that slot machines at the racetracks might earn. Those estimates range from about \$200 million to about \$400 million. The estimates vary somewhat because there are many reasonable ways of estimating slot machine revenues in a given market, there's no available history of experience in Kansas to build on, and all methods involve making assumptions and still other estimates. Thus different people could arrive at different estimates, but all could have been developed on a reasonable basis.

The amount of revenue the State would receive also depends on the provisions of law actually put in place. The current provisions of House Bill 2183 call for 20% to be available for non-gaming uses. Given the estimates of net slot machine revenues, that would result in the State receiving between \$42 and \$82 million dollars a year. The percentage called for by HB 2183 generally is considerably lower than that used by selected other states. These and other findings are discussed after a brief introductory section.

Legislation Currently Is Under Consideration That Would Expand the Availability of Slot Machines to Kansans

Slot machine gaming is now readily available to most Kansans at 4 tribal casinos in northeast Kansas, and at 5 riverboat casinos just across the Missouri border. House Bill 2183 would expand that availability by allowing slot machines at the Kansas racetracks near Kansas City, Wichita, and Pittsburg. Questions have been raised about the reliability of estimates showing how much net revenues should be anticipated from those slot machines. Net revenues are the amounts wagered less the amounts paid out to winners. House Bill 2183 calls for the amounts paid out to winners to be not less than 87% of the amounts wagered.

The fiscal note for House Bill 2183 includes an estimate of net slot machine revenues of about \$211 million. That figure was based on information provided by the Kansas Lottery around the beginning of 2000.

Fiscal Note's Estimated Annual Net Revenues	Source	Method
\$211 million	Division of the Budget/ Kansas Lottery	Based on an estimate provided by the Kansas Lottery early in 2000. That estimate was based on the ratio of Kansas and West Virginia instant lottery game sales applied to West Virginia's racetrack gaming machine revenues. The fiscal note doesn't reflect more recent estimates.

The 5 Recent Estimates of Annual Net Revenues from Slot Machines at Racetracks That We're Aware of Range from about \$270 Million to about \$400 Million

By talking with State officials and others who have been involved in past deliberations of whether to allow slot machines at Kansas racetracks, we identified 5 more recent estimates of annual net revenues those slot machines would generate. Those estimates generally were provided by individuals or organizations connected to the gaming industry, or by State officials or agencies with responsibilities in that area.

The estimates themselves were developed by methods ranging from the use of broad statewide averages to more detailed consumer or market analyses. In all cases, the methods relied on assumptions and estimates. The 5 estimates, together with their sources and a brief statement of how they were developed, are listed below.

More Recent Estimated Annual Net Revenues	Source	Method
\$270 million	Racing and Gaming Commission	Stated as based on knowledge of tribal casino operations and the gaming industry in general. Arrived at by estimating the number of slot machines and the average net revenue per machine per day. This estimate was developed in March 2001.
\$323 million	G-TECH (the on-line game vendor for the Lottery, G-TECH has experience with video lottery terminals in other states)	Reported as being based on national survey data of demographics and consumer behavior applied to specific market areas identified for the Kansas racetracks. This estimate was developed in December 2001.
\$331 million	Kansas Lottery	Based on the ratio of Kansas and West Virginia instant lottery game sales applied to West Virginia's racetrack gaming machine revenues. This estimate was developed in February 2002. (The Lottery also developed an estimate of \$385 million in January 2001.)
\$350 - \$400 million	Kansas Racing, Inc. (connected to the Kansas City track, on behalf of racing interests)	Reportedly based on market analysis and knowledge of the industry and specific markets. This estimate was developed in February 2002. (Kansas Racing, Inc. also provided an estimate of \$260 million in March 2000.)
\$408 million	Robin Jennison (lobbyist, on behalf of racing interests)	Based on Iowa slot machine statistics and an assessment of the Kansas City gaming market. Estimated net revenues on a statewide basis are at least \$732 million. The \$408 million figure is a shorter-term estimate for the existing track facilities. This estimate was developed in January 2002.

The estimates for which we could review the methodology were based on reasonable but different methodologies. Future revenues from slot machines at Kansas racetracks isn't something that can be known with any degree of certainty for a number of reasons:

- It requires looking into the future
- There's no history of past slot machine revenues at the racetracks to build on
- Arguably the most comparable information on which to build an estimate—slot machine revenues at the tribal casinos in Kansas—isn't publicly available

That leaves the use of estimation methods that involve a large number of assumptions (for example, the degree to which people in Kansas will or won't behave like people in other states with slot machines) and estimates (such as the number of machines that might be put in a particular location, or how far how many people might travel to play those machines).

Given that degree of uncertainty, there are any number of reasonable approaches to arriving at an estimate of slot machine revenues at Kansas racetracks, some more complicated than others. Given the uncertainty involved in this situation, and the limited resources available to some parties for that effort, all the methods we reviewed seemed reasonable. We weren't able to gather as much detail about the method used for the estimate developed by Kansas Racing, Inc. as we could about the others, but on its face that method seems reasonable.

The amount of anticipated net revenues included in the fiscal note doesn't reflect the more recent estimates. It was developed based on an estimate provided by the Kansas Lottery early in 2000, about 2 years ago. Since that time, the Lottery also has developed an estimate of \$385 million early in 2001, and an estimate of \$331 million early in 2002.

All of the recent estimates except Mr. Jennison's tend to cluster fairly closely around \$325 million. The lowest of those other estimates is \$270 million, only about 17% less than \$325 million. The mid-point of Kansas Racing's estimated range is \$375 million, only about 15% more than \$325 million. The estimates G-TECH and the Kansas Lottery are both within 2% of \$325 million.

The remaining recent estimate (\$408 million) reflects a more optimistic assessment of how well the Kansas City track would be able to compete in the Kansas City gaming market. Two of the estimates, those provided by G-TECH and Mr. Jennison, include specific figures for each of the 3 Kansas racetracks. Those estimates are shown in this table. The only significant difference

between the two estimates arises from differing estimates at the Kansas City track. If allowed to put in slot machines, that track would be competing directly with 4 Kansas City, Missouri, riverboat casinos.

Track	Jennison	G-TECH
Wichita	\$146 million (1,500 machines @ \$268/day)	\$149 million (1,675 machines @ \$245/day)
Pittsburg	\$97 million (1,000 machines @ \$267/day)	\$98 million (1,350 machines @ \$200/day)
Kansas City	\$65 million (500 machines @ \$303/day)	\$76 million (1,100 machines @ \$190/day)
Estimated Total of Net Revenues	\$408 million	\$323 million

Using the most current annual reported net slot machine revenues for that market (\$550 million), Mr. Jennison is estimating that the Kansas City track would acquire 30% of that market. That would make the track the biggest slot machine revenue operation in the market. G-TECH's assessment is not as optimistic, estimating that the Kansas City track would acquire about 14% of the Kansas City market. That would put the track at parity with the 2 smaller existing riverboat casinos in that market.

People we spoke with generally urged some degree of caution in dealing with the estimates. They generally acknowledged that these estimates shouldn't be expected to be exact because they're based at least in part on educated guesswork. Further, they pointed out that it would most likely take some time for net revenues to reach their eventual levels. That argues for caution in budgeting for anticipated revenues from slot machines at Kansas racetracks.

Based on the 5 Recent Estimates Discussed Above, The State Could Actually Receive Between \$54 and \$82 Million Annually, Net of Regulatory and Other Costs

House Bill 2183 calls for the slot machine net revenues to be distributed to track owners and to the State for regulation of gaming activities, problem gambler programs, live racing purse supplements, and education programs. In dealing with this area, the question arises about how much revenue the State might get from slot machines to fund its other programs. The current provisions of HB 2183 call for net revenues from slot machines to be split generally as follows:

**Split of Net Slot Machine Revenues
called for by HB 2183**

Machine Operators	71.75%
Education Programs	20.00
Live Horse Racing Purse Supplements	3.50
Live Dog Racing Purse Supplements	3.50
Regulatory Activities	1.00
Problem Gambler Programs	0.25
TOTAL	100.00%

Although all net revenues except those paid to machine operators would end up in State funds, only the amounts earmarked for education programs would represent net amounts available for the State's other programs and activities. Under House Bill 2183, that would be 20% of the net revenues. With net slot machine revenues estimated at between \$270 and \$408 million a year, that would result in net amounts available to the State of between about \$54 and \$82 million a year.

Under House Bill 2183, Kansas would retain a smaller percentage of the net revenues than retained by most of the other states we reviewed. To provide comparative information, we reviewed selected other state statutes to identify the amounts of net revenues they retained. That information is as follows:

**Percentage of Net Revenues Returned by
Selected Other States and as Called For by HB 2183**

Oregon	56%
Iowa (increasing gradually to this maximum)	36
Delaware	35
West Virginia	34
Kansas	20
Missouri	18

APPENDIX A

Scope Statement

This appendix contains the scope statement approved by the Legislative Post Audit Committee for this audit on January 30, 2002. The audit was requested by Representative Vern Osborne.

SCOPE STATEMENT

Expanded Gaming: Reviewing the Reliability of Estimates of Potential Revenues That Might Accrue to the State from Allowing Slot Machines At Race Tracks

In recent years, there have been a number of proposals for expanded gaming at parimutuel tracks located near Kansas City, Wichita, and Pittsburg. Most of those proposals have included allowing slot machines to attract larger crowds to the tracks. However, to date, none of those proposals has been allowed by the Legislature.

The State currently is experiencing budget shortfalls estimated to be about \$426 million. In his state of the State address, the Governor indicated that although he was not including expanded gaming as a source of new revenue in his budget, he was willing to consider adding slot machines at the parimutuel racetracks. Proponents of expanded gaming have put together estimates of the amounts of money that might be generated from slot machines under various scenarios.

Legislators have expressed concerns about the soundness of the estimates and which numbers appear to be most realistic and reliable. A 100-hour audit of this topic would address the following question.

What recent estimates have been made of the potential revenues the State might receive from authorizing slot machines at the racetracks, and which of those estimates appear to be most reliable? To answer this question, we would determine what estimates have been put forth for consideration by the 2002 Legislature, and who prepared those estimates. We would contact the authors of those estimates to determine what methodologies they used to arrive at the amount of total revenue that might be generated, and the amount of tax revenue that might accrue to the State. We would gather information from the American Gaming Association, the Missouri Gaming Commission, and the Iowa Racing and Gaming Commission that would allow us to assess the accuracy of the estimates that have been made. Both Missouri and Iowa have slot machines in operation which could provide good information about the amount of revenue they generate. We would also look at the taxing structure of slot machines in Missouri and Iowa to see how it compares to the tax structure that was assumed in each proposal we review.

Estimated Time to Complete: 100 hrs.

APPENDIX B

Agency Response

On February 11, 2002, we provided copies of the draft audit report to the Kansas Lottery, Racing and Gaming Commission, and Division of the Budget. The response we received is included as this Appendix.

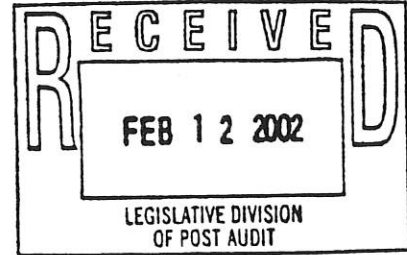


Bill Graves
Governor

Ed Van Petten
Executive Director

February 11, 2002

Ms. Barbara J. Hinton
Legislative Post Auditor
Legislative Division of Post Audit
800 SW Jackson, Suite 1200
Topeka, Kansas 66612



Re: Estimates for Expanded Gaming

Dear Ms. Hinton:

Thank you for the opportunity to review a draft of the Legislative Post Audit report regarding estimates of potential revenues that might accrue from the State allowing slot machines at racetracks. You and your staff are to be commended on compiling substantial reliable data in a very short period of time.

I have thoroughly reviewed the market analysis, which we provided to your auditors, regarding the GTECH study, and fully discussed the reasoning for their feeling that the Kansas City market would not be a rapid expansion in the area. I believe it is safe to assume that the Kansas City market has by far the most competition for the entertainment dollar, and therefore, feel comfortable that the analysis is reasonable.

I would also like to reiterate that I have studied many other states regarding this issue, and the proposition as stated that would allow the State of Kansas only 20 percent of net machine revenue is not reasonable. There are many factors to take into consideration on this matter. However, as owner and operator of the proposed gaming, the State should receive a much larger percentage of the revenue in an amount as may be suggested by the Governor. I realize that it was not within the scope of your audit to determine this factor, but I would simply point out that some states only pay 15 to 20 percent to the racing industry and operate their facilities in a way vastly different than the proposal before the legislature at this time.

Again, thank you for the time and consideration you and your office have put into this project.

Sincerely,

Ed Van Petten
Executive Director

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Other States' Split of Net Slot Machine Revenues

State	% to SGT	County City	Breeder Burses	States Operators	Others	Small Assistant Fund
Delaware	35%	0%	11%	49%	5%	0%
West Virginia	34%	2.0%	17%	47%	0%	0%
Iowa	36%	1.0%	20%	42.7%	0%	.3%
Missouri*	18%	2.0%				
Oregon*	56%					

*Information for Oregon and Missouri was not readily available.



[Home](#) > [Full Text of Bills](#) > Fiscal Note for House Bill No. 2183

February 12, 2001

The Honorable Doug Mays, Chairperson
House Committee on Federal and State Affairs
Statehouse, Room 170-W
Topeka, Kansas 66612

Dear Representative Mays:

SUBJECT: Fiscal Note for HB 2183 by House Committee on
Tourism

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2183 is respectfully submitted to your committee.

HB 2183 would amend the Kansas Lottery Act to allow the operation of electronic gaming machines at certain parimutuel licensee locations. The bill defines an "electronic gaming machine" as any device, that upon the insertion of cash, tokens, or electronic cards, will allow the user to play certain games authorized by the Lottery. The player could receive cash, tokens, merchandise, or credits redeemable for cash. Unlike previous electronic gaming bills, this bill would allow games, such as craps, poker, blackjack, roulette, keno, and baccarat, to be played on the machines. Progressive pay machines would also be permitted.

The bill would allow operation of electronic gaming machines only in counties where voters have voted to permit the machines at parimutuel licensee locations. This type of location is defined as one that has been authorized to conduct live horse or greyhound racing, under the Kansas Parimutuel Racing Act, or had authorization pending prior to February 1, 2000. In addition, the transportation of gambling devices to parimutuel licensees in Kansas would be permitted, which is currently against the law. The bill would state that all bets must be done in person. Also, individuals could not place bets for people not in attendance. Nobody under 21 years of age would be permitted in the area of gaming, except employees of the

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facility who are 18 years or older and are not directly involved in gaming.

The Executive Director of the Lottery could contract with licensees in only those counties that have approved electronic gaming machines. The Kansas Lottery would be required to approve all proposed games. At least weekly, the Kansas Lottery would remit to the State Treasurer all "net machine income" to be deposited into the Electronic Gaming Machine Fund. This fund would maintain separate accounts for each gaming machine operator. Not less than once a week, the State Treasurer would distribute from total receipts credited to each account an amount of 1.0 percent to the Electronic Gaming Machine Operation and Regulatory Fund, 0.25 percent to the State Gaming Revenues Fund for possible transfers to the Problem Gambling Grant Fund, 3.5 percent to the Live Horse Racing Purse Supplement Fund, 3.5 percent plus \$60 per point for each point awarded at live races of Kansas-Whelped greyhounds to the Live Dog Racing Purse Supplement Fund, and 20.0 percent to the Kansas Education Enhancement Fund. The remaining funds would be remitted to each gaming machine operator.

The Kansas Racing and Gaming Commission would be responsible for the inspection and certification of electronic gaming machines. The Commission would be able to adopt and enforce rules and regulations regarding security, safety, and honest conduct at all parimutuel licensee locations. The agency would require an annual audit of lottery gaming machine operators contracting with the Kansas Lottery, to be conducted by a licensed accounting firm at the operator's expense. Also, following three years of operation by each lottery gaming machine operator, the Racing and Gaming Commission would be required to prepare a report on the economic effect of such operations. The report would include the costs and benefits as well as the use and distribution of income generated by lottery gaming operations.

The bill would require the Executive Director of the Kansas Lottery to contract with parimutuel licensees for the operation and management of electronic gaming machines. Contract requirements would state that electronic gaming machines could pay out no less than 87.0 percent of the amount wagered, and that all machines would be linked through a central communications system, approved by the Kansas Lottery. Also, all locations that operate electronic gaming machines would be required to post signs related to compulsive and problem gaming. The bill would establish criminal punishment for violations of the new additions to the Kansas Lottery Act.

This bill creates several funds. The Electronic Gaming Machine Operation and Regulatory Fund would be used for the expenses of the Kansas Lottery and the Kansas Racing and Gaming Commission for the operation and regulation of electronic gaming machines. The bill would provide that any funds in excess of those needed for operations could be transferred to the State Gaming Revenues Fund. The Live Horse Racing Purse Supplement Fund and the Live Dog Racing Purse Supplement Fund would be used for distribution as purse supplements in accordance with the rules and regulations of the Kansas Racing and Gaming Commission.

The State Technologically Literate Work Force Development Fund would be used to fund the K-12 Technology Fund at the Department of Education and the Kan-Ed Internet Backbone Project as well as instructional and technology equipment for higher education. The amounts credited to the fund could not exceed \$25.0 million and anything over \$25.0 million would be credited to the Economic Development Initiatives Fund. The following agencies could receive appropriations from the fund: colleges and universities under the

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control of the Kansas Board of Regents, any community college, Washburn University, the State Library, and the board of education of any school district. For annual appropriations, the Legislature would be limited to cash on hand in the fund as of December 31, immediately preceding the legislative session. This bill would forbid the use of these funds for replacement of property taxes or State General Fund support.

According to the Kansas Lottery, HB 2183 would generate approximate "net machine revenues" to the Electronic Gaming Machine Fund in the amount of \$210,600,000 each year. This amount is based on per capita comparisons with the State of West Virginia, which has legalized electronic gaming devices at parimutuel racing facilities. According to the formula in the bill, the Electronic Gaming Machine Fund would be distributed as follows: Electronic Gaming Machine Operations and Regulatory Fund—\$2,106,000, Problem Gambler Fund—\$1,053,000, payments to counties with electronic gaming machines—\$3,159,000, Live Horse Racing Purse Supplement Fund—\$7,371,000, Live Dog Racing Purse Supplement Fund—\$7,371,000; Kansas Education Fund—\$42,120,000, and the gaming machine operators—\$147,420,000.

To implement HB 2183, the Kansas Lottery estimates expenditures of \$185,087 annually, including \$174,887 for 3.0 enforcement agents, 1.0 computer programmer, and 1.0 accountant position, together with equipment costs of \$10,200. These expenditures would be funded from the Electronic Gaming Machine Operations and Regulatory Fund.

The bill authorizes 1.0 percent of the net income generated from electronic gaming machines be transferred to the Electronic Gaming Machine Operations and Regulatory Fund (EGMORF). The Lottery and the Commission would pay expenses associated with operations and regulation under this bill, from the EGMORF. The Commission estimates that the 1.0 percent of net income would be \$2.7 million. Because the Commission would be responsible for the inspection and certification of all electronic gaming machines, the agency states the first year of operation would cost \$3,255,233 from the EGMORF. This estimate includes new positions: 1.0 Deputy Director of Gaming, 40.0 enforcement agents, 1.0 Assistant Attorney General, 1.0 computer programmer, 2.0 auditors, and 13.0 support staff positions, at a cost of \$2,397,893, including fringe benefits and overtime. Other operating expenditures are estimated at \$887,340. The agency estimates expenditures of approximately \$3.0 million for the next three years. The agency believes that there would be an increase in its revenues; however, not enough to meet the costs listed above.

The bill would also provide that any funds in excess of those appropriated to the EGMORF would be transferred to the State Gaming Revenues Fund. Total expenditures from this fund by the two agencies are estimated at \$3,440,320. Neither of the agencies' revenue estimates would cover both agencies' costs. Consequently, it does not appear that there would any excess income to be transferred to the State Gaming Revenues Fund. Any fiscal effect as a result of this bill is not accounted for in *The FY 2002 Governor's Budget Report*.

Sincerely,

Duane A. Goossen

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2/11/2002 9:45 AM

Director of the Budget

cc: Jim Giordano, Lottery Cheryl Dolejsi, Racing & Gaming

Marvin Burris, Board of Regents Dale Dennis, Department of Education

Lisa Becker, SRS Steve Neske, Revenue

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