

SESSION OF 2005

**SUPPLEMENTAL NOTE ON
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2481**

As Recommended by Senate Committee on
Ways and Means

Brief*

The bill would authorize the Kansas Lottery to implement additional gaming in certain specified locations and facilities within the state under provisions of the Kansas Expanded Lottery Act. The Kansas Lottery would be the licensee and owner of all software programs used for gaming, with each electronic gaming machine or terminal, and each individual lottery game, to be approved by the Kansas Lottery. The bill would define two types of electronic gaming machines, video lottery machines and video lottery terminals, depending upon what type of facility uses the technology.

The bill would authorize two categories of facilities to conduct gaming in certain enumerated geographic locations, with limits set on the maximum number of gaming devices at each location and each facility. For the first category, there could be more than one approved gaming facility in each location and the number of gaming devices would be set by contracts with the Kansas Lottery. The second category would have more specific limitations for both the number of sites and number of gaming devices per site. Local elections would be required before gaming or parimutuel facilities could be approved for operations. Potential locations for gaming would include:

Category 1: Destination Facilities. Five locations would be defined as destination development zones, with the maximum number of video lottery machines to be authorized and located in each facility by contract with the Kansas Lottery in the following five zones: Wyandotte County, Crawford and Cherokee counties, Sedgwick County, Ford County and Geary County. No limits on the number of

*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>

video lottery machines per site would be imposed by the bill, nor on the number of sites within each zone.

Category 2: Parimutuel Facilities. Five locations would be defined as parimutuel race tracks, with a maximum of 5,500 video lottery terminals (VLTs) allocated among race track facilities in Wyandotte County (2,000 VLTs), Sedgwick County (1,500 VLTs), Crawford and Cherokee counties (1,500 VLTs), and not more than an aggregate of 500 VLTs to be divided between facilities in Greenwood and Harper counties.

The bill would provide for the allocation of the majority of electronic gaming machine revenue to prizes, with the remaining amount to be deposited into either the Lottery Gaming Facility Fund by destination facilities in Category 1, or into the Lottery Video Revenue Fund by parimutuel facilities in Category 2, with both new funds to be established in the State Treasury. Proceeds in each fund would be divided among a number of intermediate purposes by formulae treating the revenue derived from destination facilities in Category 1 differently than from parimutuel facilities in Category 2.

After deductions for the various intermediate purposes, such as transfers and payments, including an amount of revenue to be paid to lottery gaming facility managers of Category 1 sites and video lottery parimutuel sales agents of Category 2 sites as defined in the bill, a residual portion of revenue would accrue to the state, with such balance to be deposited in the Kansas Education Opportunity Trust Fund (described below) and dedicated to funding for preschool, kindergarten, elementary, secondary, and postsecondary education.

The bill would create the new trust fund and establish the purposes for which money deposited could be spent, subject to appropriations by the Legislature. The bill would provide that any money appropriated would be in addition to any state revenues identified on the effective date of this bill, and used to fund educational programs. In addition, the bill would require the Governor to certify all payments and transfers had been authorized by appropriations acts of the Legislature and conform with provisions in the bill.

An advance funding payment called an accelerated lottery gaming facility net payment from Category 1 facilities and an accelerated video lottery net payment from Category 2 facilities would be required by the

bill to secure \$15,000 per electronic gaming machine for the date with payments due by May 31, 2006 and to be deposited into the Kansas Education Opportunity Trust Fund.

The bill would change the current statutory date for abolition of the Kansas Lottery from July 1, 2008 to July 1, 2022.

Background

The Senate Ways and Means Committee held its public hearing on SB 294, as introduced, on March 14, 2005. Conferees addressing the Committee included representatives from: Kansas Greyhound Association, River Fall Gaming, Butler National Corporation, Mayor and City Manager of Junction City, Geary County Economic Development Commission, Boot Hill Gaming, Unified Government of Wyandotte County, Kansas Thoroughbred Association, Stand Up for Kansas, Prairie Band Potawatomi Nation, Kickapoo Tribe, Sac and Fox Nation, American Legion, Veterans of Foreign Wars, Ranch Bowl West. Written testimony was submitted by the Kansas Greyhound Association, Kathy Bassett, and Dr. Paul Barkey.

SB 294, as introduced, would have created the Kansas Expanded Lottery Act. The act would have authorized the operation of electronic gaming machines at lottery gaming facilities in designated locations and the use of video lottery terminals at parimutuel licensee locations. The Senate Ways and Means Committee at its meeting of March 30, 2005, adopted a series of amendments to the bill as introduced, and amended the original provisions from SB 294, with amendments, into Senate Substitute for HB 2481. A provision relating to Kansas Development Finance Authority bonds was deleted from the amended bill, and numerous technical and clarifying amendments were made in SB 294 and incorporated into Senate Substitute for HB 2481.

The bill would create a number of funds in the State Treasury, including the Video Lottery Revenues Fund, the Video Lottery Oversight Fund, the Live Horse Racing Purse Supplement Fund, the Live Greyhound Racing Purse Supplement Fund, the Greyhound Promotion and Development Fund, and the Kansas Education Opportunity Trust Fund. The Video Lottery Revenues Fund would maintain separate accounts out of which each video lottery sales agent would be paid. Moneys from the Video Lottery Oversight Fund would be used to pay

the expenses of the Kansas Lottery associated with the administration and enforcement of the Video Lottery Program.

The Live Horse Racing Purse Supplement Fund and the Live Greyhound Racing Purse Supplement Fund would be used for the distribution as purse supplements in accordance with the rules and regulations of the Kansas Racing and Gaming Commission. The Greyhound Promotion and Development Fund would be used for the development, promotion, and representation of the greyhound industry in Kansas. This fund would receive revenue through a voluntary greyhound purse checkoff program, which would deduct 2.0 percent from purses paid to kennels and greyhound owners that participate in the program.

One fiscal estimate suggested by a proponent of the bill indicates 10,000 electronic gaming machines would generate \$150 million in FY 2006 under provisions requiring accelerated lottery gaming facility net payments. Any number of fewer or additional electronic gaming machines would subtract or add from this estimated amount by \$15,000 per device.

According to the Director of the Budget, the Kansas Lottery indicates that it is difficult to estimate the fiscal effect without information concerning the number of lottery gaming facilities and the number of gaming machines that would be operated. In addition, the Lottery knows of no other state, for comparison purposes, that authorizes and operates lottery gaming facilities. The bill would have a fiscal impact on education. According to the bill as introduced, not less than 24 percent of the gross revenues would be deposited in a trust account for education. The additional revenue would be distributed to by appropriations acts to enhance education at the preschool, kindergarten, elementary, secondary, and postsecondary education levels. The Senate Ways and Means Committee amended the bill to establish a new trust fund for education and to increase the state's share of net revenues from 65 percent to 78 percent, with the minimum floor to remain not less than 24 percent of gross revenues, according to information presented to the Committee by Senator Barone.

According to the Kansas Lottery, the bill could generate approximately \$264.0 million in net income each year at parimutuel licensee locations. Under the bill, a total of 5,500 lottery machines could be operated under the Video Lottery Program. Assuming each machine

generated \$48,000 in revenue, annual net revenues could reach \$264.0 million. The agency could not estimate costs associated with administering its new responsibilities. However, the bill indicates that these costs would be financed by the net income generated at parimutuel licensee locations.

The fiscal note submitted by the Director of the Budget does not include revenue estimates for lottery gaming facilities.

The Kansas Racing and Gaming Commission assumes passage of the bill could lead to increased wagering at current racetracks as well as the reopening of the Camptown Greyhound Park, since the operation of video lottery terminals at racetracks could increase the amount of activity in that industry. The parimutuel wagering taxes collected by the Commission from Camptown would cover operating costs related to the reopening of the facility. The Commission estimates that the bill could increase its operating expenditures by \$2,056,779 in FY 2006. These costs include salaries of \$1,608,729 for 20.00 FTE positions and \$448,050 for other operating expenditures. Any parimutuel wagering taxes collected would be in addition to revenue generated from the operation of electronic gaming machines. The bill also would require the Woodland Racetrack to run a 65-day horse meet. Currently, the facility runs a 30-day horse meet. The extension of the horse meet would increase the agency's operating expenditures and increase the parimutuel wagering taxes collected from the facility. It is assumed that the additional revenue would cover the agency's increased costs.

The bill would have a fiscal effect on the Department of Social and Rehabilitation Services (SRS). According to the bill, the Problem Gambling Grant Fund would receive 0.5 percent of net income generated by video lottery terminals. The additional revenue would allow SRS to continue treatment of pathological gamblers in its Problem Gambling Program.

Under the bill, affected cities and counties would each receive 2.0 percent of the lottery gaming facility income and 1.5 percent of the video lottery net income. The Kansas Association of Counties indicates that there may be costs to the counties associated with operating ballots for voters to decide whether to allow the operation of video lottery terminals in their county. Any fiscal effect as a result of this bill would not be accounted for in *The FY 2006 Governor's Budget Report*. One clarifying amendment to the original bill's provisions would allow

counties to receive 4.0 percent of the lottery gaming facility income and 3.0 percent of the video lottery net income if no cities were eligible for payments.