

February 29, 2012

The Honorable Steve Brunk, Chairperson
House Committee on Federal and State Affairs
Statehouse, Room 149-S
Topeka, Kansas 66612

Dear Representative Brunk:

SUBJECT: Fiscal Note for HB 2426 by Representative Fawcett

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2426 is respectfully submitted to your committee.

HB 2426 would amend the Kansas Expanded Lottery Act. Current law allows a state-owned lottery gaming facility or destination casino to be approved in the southeast gaming zone, consisting of Crawford and Cherokee Counties. The bill would allow only one lottery gaming facility to be approved in either the southeast gaming zone or the new north central gaming zone, which includes Geary County. The bill would establish a minimum investment level of \$225.0 million and would require a privilege fee of \$25.0 million if a lottery gaming facility is approved in the new north central gaming zone, which are the same amounts that are required under current law if a lottery gaming facility is approved in the southeast gaming zone. Additionally, the bill would expand the allowed uses of the Expanded Lottery Act Revenues Fund (ELARF) to include 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.

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.

HB 2426 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 lottery gaming facility manager in the southeast or north central gaming zone is approved by the Kansas Lottery and a background investigation is approved by the Kansas Racing and Gaming Commission. The proposed changes that would allow an additional location of possible gaming zones may encourage potential gaming facility managers to submit proposals for either the southeast or north central gaming zones. The Kansas Lottery indicates that the state is prohibited from designating additional areas of the state where gaming facilities are authorized until July 1, 2032. If it is determined that HB 2426 violates this provision, the state would be required to refund privilege fees from already selected gaming facility managers plus 10.0 percent interest. Currently, the state has received \$55.5 million in privilege fees from three gaming facility managers and it is estimated that interest payments would require an additional \$10.0 million presumably to be paid from the State General Fund.

The Kansas Lottery indicates that it would need to hire between two and three new employees for a 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 the Lottery Gaming Facility Review Board is responsible for reviewing each applicant in each gaming zone and selecting the lottery gaming facility manager in each gaming zone that will provide the highest economic benefits to the State of Kansas. The previous costs associated with reviewing and selecting managers by the Lottery Gaming Facility Review Board ranged from approximately \$750,000 to \$1,550,000. The Kansas Racing and Gaming Commission indicates that it is unable to provide a precise estimate of the costs associated with reviewing applications from the southeast or north central gaming zones because the costs would vary depending on the number of applications and if one or more applications were received from each of the gaming zones that are allowed under the bill.

The Kansas Racing and Gaming Commission indicates that it would need approximately \$1.0 million and 16.00 FTE positions to regulate the gaming operations at either the northeast or south central gaming zone. Start-up costs of approximately \$150,000 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 opening this facility. The lottery gaming facility would be billed for all direct costs at the facility and would pay a portion of indirect costs for all general gaming regulatory operational expenses.

A reliable estimate of the revenue that might be generated as a result of HB 2426 cannot be made without a detailed market study, which would include an estimate as to when the facility would be operational, the location of the facility, and the size of the gaming facility. The bill

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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. Any fiscal effect associated with HB 2426 is not reflected in *The FY 2013 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson". The signature is fluid and cursive, with a long horizontal stroke at the end.

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

cc: Kathy Lewis, Racing & Gaming
Stephen Durrell, Lottery
Faith Loretto, KPERS