

**CORRECTED**  
*SESSION OF 2011*

**SUPPLEMENTAL NOTE ON HOUSE  
SUBSTITUTE FOR SENATE BILL NO. 216**

As Recommended by House Committee on  
Health and Human Services

**Brief\***

House Sub. for SB 216 would amend the Kansas Indoor Clean Air Act, which bans smoking in enclosed areas or public places while providing specific exemptions where smoking is allowed. The bill would delete the current law's smoking ban exemption for the gaming floor of a lottery gaming facility or racetrack gaming facility. The bill would add a smoking ban exemption for any annual benefit cigar dinner or other annual smoking event conducted for charitable purposes by certain not-for-profit organizations. These organizations must have held charitable events during the previous three years.

**Background**

SB 216, as amended by Senate Committee of the Whole, would have made changes to current law regarding emergency medical services provided by individuals regulated by the Board of Emergency Medical Services. The House Committee on Health and Human Services deleted the bill's original contents and substituted the contents of Sub. for HB 2340 as amended by House Committee of the Whole.

With respect to Sub. for HB 2340, the 2010 Legislature created the Kansas Indoor Clean Air Act, which banned

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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>

smoking in specific public and private locations and made the act of smoking in those locations a cigarette or tobacco infraction. The Act included exemptions for locations not defined as an enclosed area, certain outdoor areas, private homes, designated hotel/motel rooms, gaming floors, adult care homes, tobacco shops, and specified clubs.

The contents of Sub. for HB 2340 originated as HB 2039. Testimony before the Committee in support of HB 2039 was provided by representatives of the Kansas Medical Society, the Kansas Academy of Family Physicians, the Health Care Foundation of Greater Kansas City, and Kansas University School of Medicine. Testimony in opposition was provided by representatives of Penn National Gaming, Inc., Kansas Speedway Development Corporation, Butler National Corporation, and Peninsula Gaming, LLC. Written neutral testimony was provided by a representative of the Kansas Health Institute.

The House Committee of the Whole amended HB 2340 to provide an exemption for annual charitable smoking events by not-for-profit organizations.

The fiscal note prepared for HB 2039 states the Kansas Lottery consulted with the gaming facility managers, who indicated the facilities currently operating or being constructed could suffer a significant reduction in revenue should the exemption to the smoking ban be eliminated. Information provided by the gaming facility managers, independent experts in the gaming field, and independent gaming studies estimate an annual average revenue drop of between 10 and 30 percent could be expected.

The fiscal note further states that under current law, the distribution of gaming facility revenue is based on a formula detailed in the Kansas Expanded Lottery Act and by the contract between each gaming facility manager and the Kansas Lottery.

The following table shows the estimated revenue decreases expected under the bill.

**FY 2012 Revenue Changes As Reported In HB 2039 Fiscal Note  
(Now Sub. for HB 2340)**

Revenue Recipient	Percentage Received	Total Before Bill*	Total Estimated If Bill Passes**	Difference
Gaming Facility	73 %	\$ 59,860,000	\$ 47,888,000	\$ (11,972,000)
ELARF***	22	18,040,000	14,432,000	(3,608,000)
Cities/Counties	3	2,460,000	1,968,000	(492,000)
Where Facility Is PGAGF****	2	1,640,000	1,312,000	(328,000)
<b>TOTAL</b>	<b>100 %</b>	<b>\$ 82,000,000</b>	<b>\$ 65,600,000</b>	<b>\$ (16,400,000)</b>

\* Fiscal note estimates state-owned gaming facilities will generate a total of \$82 million.

\*\* Fiscal note bases its estimate on a 20.0 percent drop in revenues.

\*\*\* Expanded Lottery Act Revenues Fund

\*\*\*\* Problem Gambling and Addictions Grant Fund

The fiscal note also states that net gaming revenue would be reduced further in FY 2013 and beyond. Competitors in the region operating without a smoking ban could further affect revenue at state-owned lottery gaming facilities beyond the projected 10 percent to 30 percent revenue decrease. Any fiscal effect resulting from the bill is not reflected in *The FY 2012 Governor's Budget Report*.