

April 24, 2014

The Honorable Jene Vickrey, Chairperson  
House Committee on Calendar and Printing  
Statehouse, Room 372-W  
Topeka, Kansas 66612

Dear Representative Vickrey:

**SUBJECT:** Fiscal Note for HB 2771 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2771 is respectfully submitted to your committee.

HB 2771 would amend the state's Expanded Lottery Act. The bill would allow the Kansas Lottery to allocate the entire 2,800 authorized electronic gaming machines to be placed at racetrack gaming facilities; however, each racetrack gaming facility must have between 600 and 1,400 machines. Current law allows for the first 2,200 machines to be allocated and then a bidding process to place the remaining 600 machines occurs at a later date. The current bidding process allows lottery gaming facility managers to bid to prevent the placement of additional machines at racetrack gaming facilities. Each horse or greyhound racetrack would be required to conduct a minimum number of races in order to operate electronic gaming machines. The bill would eliminate some of the restrictions on simulcasting and would allow county fair associations to operate simulcasting for additional days.

The bill would change the distribution of net electronic gaming machine revenue from the racetrack gaming facility located in the northeast gaming zone by increasing the amount of revenue distributed to the racetrack gaming facility manager from 25.0 percent to between 60.0 percent and 64.0 percent depending on the year of operation. The amount of revenue that goes to the Live Horse Racing Purse Supplement Fund is increased from 7.0 percent to 10.0 percent in the first and second year of operation and increases to 14.0 percent in the third year and future years of operation, with corresponding decreases in the manager's share. To balance out these increases, a corresponding reduction in revenues is in the bill. The state's share in the Expanded Lottery Act Revenues Fund (ELARF) would be reduced from 40.0 to 22.0 percent; the share going to cities and counties would be reduced from 3.0 percent to 2.0 percent; the share going to the Problem Gambling and Addictions Grant Fund would be reduced from 2.0 percent to 1.0 percent; the 7.0 percent share going to the Live Greyhound Racing Purse Supplement Fund is

eliminated; and the 15.0 percent share of gaming revenues that is to be used for gaming expenses of the racetrack gaming facility manager is also eliminated. Under current law, the 15.0 percent share of revenues can be used for any gaming expenses, subject to the agreement between the Kansas Lottery and the facility manager. The 1.0 percent share going to the Kansas Horse Fair Racing Benefit Fund remains unchanged.

The bill would also change the distribution of net electronic gaming machine revenue from the racetrack gaming facilities located in the southeast and south central gaming zones by increasing the amount of revenue distributed to the racetrack gaming facility manager from 25.0 percent to 66.0 percent. To balance out these increases, a corresponding reduction in revenues is in the bill. The bill would eliminate the 7.0 percent transfer to the Live Horse Racing Purse Supplement Fund if the racetrack is licensed to conduct greyhound races and eliminate the 7.0 percent transfer to the Live Greyhound Racing Purse Supplement Fund if the racetrack is licensed to conduct Horse races. The state's share in the Expanded Lottery Act Revenues Fund (ELARF) would be reduced from 40.0 to 22.0 percent; the share going to the Problem Gambling and Addictions Grant Fund would be reduced from 2.0 percent to 1.0 percent; and the 15.0 percent share of gaming revenues that is to be used for gaming expenses of the racetrack gaming facility manager is also eliminated. Under current law, the 15.0 percent share of revenues can be used for any gaming expenses, subject to the agreement between the Kansas Lottery and the facility manager. The 1.0 percent share going to the Kansas Horse Fair Racing Benefit Fund and the 3.0 percent share going to cities and counties would remain unchanged.

Under current law, the amount of electronic gaming machine revenue that is to be transferred to the Live Horse Racing Purse Supplement Fund and Live Horse Racing Purse Supplement Fund is limited to an average of \$3,750 per machine per location. The bill would remove the earning caps on both of these funds for all gaming zones.

The bill would also increase, from 0.5 to 5.0 percent, the level of ownership in gaming facility managers and those who propose to provide gaming-related goods or services to the gaming facility to determine who must undergo a background investigation by the Kansas Racing and Gaming Commission. The bill adds provisions requiring background investigations of officers, directors, key employees and 5.0 percent owners of these companies, if publicly traded. 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 2771 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 racetrack gaming facility manager is approved by the Kansas Lottery and a background investigation is approved by the Kansas Racing and Gaming Commission. Racetracks would first be required to obtain a parimutuel license from the Kansas Racing and Gaming Commission before they could negotiate with the Kansas Lottery for a contract to operate electronic gaming machines.

The proposed changes to the distribution of gaming facility revenue could provide an incentive for the Woodlands Racetrack in Kansas City and Camptown Greyhound Park in Frontenac to negotiate a contract with the Kansas Lottery in order to reopen these facilities with electronic gaming machines. The bill changes the distribution of electronic gaming machine revenue for Wichita Greyhound Park in Sedgwick County; however, the voters of Sedgwick County did not authorize electronic gaming machines to operate at Wichita Greyhound Park. 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 the intent of the bill is to authorize electronic gaming machines to operate at Wichita Greyhound Park without the approval of local voters, then this may be viewed as an expansion of gaming that is prohibited under the Kansas Expanded Lottery Act. If it is determined that HB 2771 violates this provision, the state would be required to refund privilege fees from already selected gaming facility managers plus a compounded annual interest rate of 10.0 percent. Currently, the state has received \$55.5 million in privilege fees from three gaming facility managers and it is estimated that interest payments would be at least \$23,650,000 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 each 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 it would need approximately \$1.8 million and 21.00 FTE positions for each parimutuel racetrack that reopens for the annual costs to regulate both the racing and gaming activities. Start-up costs of approximately \$450,000 per facility 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 reopening each facility. Funding for regulating racing activities has primarily come from the transfer of parimutuel tax receipts to the State Racing Fund. The appropriations bill each year provides the authority for the Kansas Racing and Gaming Commission to bill each facility for all costs related to regulating racing activity.

The Department for Aging and Disability Services indicates that additional gaming facilities would likely increase demand for services provided by its Problem Gambling Program. The Department indicates that the amount of additional spending would be dependent on the number of additional gaming facilities and would be proportional to current spending levels for problem gambling and addiction services. The Department also has concerns that additional gaming facilities and changes to the share of gaming facility revenues that is distributed to the Problem Gambling and Addictions Grant Fund would not provide adequate funding to support its Problem Gambling Program.

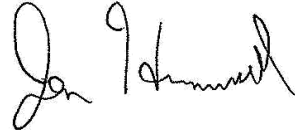
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A reliable estimate of the revenue that might be generated as a result of HB 2771 cannot be made without a detailed market study, which would include an estimate as to when the facility would be operational and the size of the gaming facility. Any fiscal effect associated with HB 2771 is not reflected in *The FY 2015 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Hummell". The signature is fluid and cursive, with the first name "Jon" being more prominent than the last name "Hummell".

Jon Hummell,  
Interim Director of the Budget

cc: Stephen Durrell, Lottery  
Brandi White, KRGK