

March 25, 2013

The Honorable Ralph Ostmeyer, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 136-E
Topeka, Kansas 66612

Dear Senator Ostmeyer:

SUBJECT: Fiscal Note for SB 215 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 215 is respectfully submitted to your committee.

SB 215 would amend the state's Expanded Lottery Act. The bill would reduce the minimum investment required for a manager of a state-owned lottery gaming facility, or destination casino, in the southeast gaming zone from \$225.0 million to \$50.0 million. The privilege fee for the southeast gaming zone would also be reduced from \$25.0 million to \$5.5 million. The bill would also require gaming facility managers to pay for the gaming related expenses of the Kansas Lottery and would make other technical corrections to the Kansas 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 would be required to have between 400 and 1,200 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 change the distribution of electronic gaming machine income from the racetrack gaming facility located in the southeast gaming zone by increasing the amount of income to be received by the racetrack gaming facility manager from 25.0 percent to 27.0 percent and also increasing the amount of revenue that is distributed to the Live Greyhound Racing Purse Supplement Fund from 7.0 percent to 7.5 percent. To balance out these increases, a corresponding reduction in revenues is in the bill. The share going to the Problem Gambling and Addictions Grant Fund would be reduced from 2.0 percent to 0.5 percent and the 1.0 percent share going to the Kansas Horse Fair Racing Benefit Fund would be eliminated. The bill would not change the distribution of revenue credited to the state's share in the Expanded Lottery Act

Revenues Fund (40.0 percent), gaming expenses of the racetrack gaming facility manager (15.0 percent), Live Horse Racing Purse Supplement Fund (7.0 percent), or cities and counties where gaming facilities are located (3.0 percent). The bill would not change the distribution of electronic gaming machine revenue from parimutuel racetracks located in the northeast or south central 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 that would be required to 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. This bill would take effect upon its publication in the *Kansas Register*.

SB 215 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 or lottery 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 would be able to 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 Camptown Greyhound Park in Frontenac to negotiate a contract with the Kansas Lottery in order to reopen this facility with electronic gaming machines. The proposed changes to the privilege fee amount and minimum investment levels for the southeast gaming zone may encourage potential gaming facility managers to submit proposals for this zone.

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 it would need approximately \$1.8 million and 21.00 FTE positions for each parimutuel racetrack that reopens in FY 2014 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 Kansas Racing and Gaming Commission indicates it would need approximately \$700,000 and 11.00 FTE positions to regulate the gaming operations at the 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.

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.

A reliable estimate of the revenue that might be generated as a result of SB 215 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. Any fiscal effect associated with SB 215 is not reflected in *The FY 2014 Governor's Budget Report*.

Sincerely,



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

cc: Stephen Durrell, Lottery
Brandi White, KRGC
Dave Halferty, KDADS