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SUPPLEMENTAL NOTE ON SENATE BILL NO. 66

As Amended by House Committee of the Whole

Brief*

SB 66, as amended, would create Kansas Expanded Lottery Act which would authorize the following:

- Create “gaming zones” (casinos): Northeast Kansas Gaming Zone (Wyandotte County); Southeast Kansas Gaming Zone (Crawford and Cherokee counties); South Central Kansas Gaming Zone (Sedgwick and Summer counties); and the Southwest Kansas Gaming Zone (Ford County); and
- Parimutuel licensee location which means a racetrack facility owned or managed by the parimutuel licensee. A parimutuel licensee location may include any existing structure at such racetrack facility or any structure that may be constructed on real estate where such racetrack facility is located.

The Kansas Lottery Commission would be responsible for ownership, and operational control of all provisions of the Act and would be authorized to enter into contracts with the gaming managers for gaming at the exclusive and nonexclusive gaming zones. The Kansas Racing and Gaming Commission (KRGCC) would be responsible for oversight and regulation of lottery gaming facility operations. The KRGCC would be allowed up to 25 officers and employees to be in the unclassified service to implement, administer and enforce the provisions of the Kansas Expanded Lottery Act.

*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>

The Kansas Lottery would be abolished on July 1, 2022. In addition, the retail outlets for the Lottery would no longer have to display the lottery retailer certificate.

Gaming Zones (Casinos)

The Kansas Lottery would be responsible for considering and approving proposed lottery gaming facility management contracts with one or more prospective lottery gaming facility managers.

Lottery gaming facility managers would either be a resident Kansas American Indian tribe that has sufficient financial resources and three consecutive years of experience in management of class III gaming, or not a resident Kansas American Indian tribe that has sufficient financial resources, three consecutive years of experience class III gaming, and also would have to be current in filing in taxes to the state and local governments.

The Lottery Gaming Facilities Contract would contain the following main provisions:

- Have an initial term of 15 years from the date of opening the gaming facility;
- Specify the amount to be paid to the manager;
- Establish a mechanism for payment of expenses;
- Include a provision for the lottery gaming manager to pay the costs of oversight and regulation of the operation of the lottery gaming facility by the KRGC;
- An investment in infrastructure, including ancillary lottery gaming facility operations of at least \$225,000,000 in the northeast, southeast and south central gaming zones, and \$50,000,000 in the southwest gaming zone;

- Establish a gaming privilege fee of \$25,000,000 to be paid by the prospective lottery gaming manager except the privilege fee for the southwest gaming facility zone manger of \$5,500,000; and
- Establish the disposition of revenues as follows:
 - Not less than 22.0 percent of the gaming revenues to the state;
 - 2.0 percent to the Problem Gambling and Addictions Fund which may be used to treat alcoholism, drug abuse and other addictive behaviors;
 - 1.5 percent to the city;
 - 1.5 percent to the county (3.0 percent if the casino is located in a gaming zone of only one county and is not located in the city);
 - 1.0 percent to the host county (2.0 percent if the casino is located in a gaming zone consisting of more than one county and is not located in a city);
 - 1.0 percent to the nonhost county if the casino is located in a gaming zone consisting of more than one county.

General Provisions

The bill would establish time limits and procedures from the time of submission of contract proposals until the Lottery enters into a contract agreement with lottery gaming facilities managers. The Lottery would solicit proposals, approve gaming zone contracts (casinos), and submit them to Lottery Gaming Facility Review Board for consideration.

The bill would create a seven-member Lottery Gaming Facility Review Board. The Board would consist of three

members appointed by the Governor, two members appointed by the President of the Senate, and two members appointed by the Speaker of the House. The Board would be responsible for determining which lottery gaming facility management contract best maximizes revenue, encourages tourism, and serves the best interest of Kansas. The board would be under the control of the KRGC.

County Vote

Approved contracts from casinos would then be submitted to the county where an election would be held to approve or disapprove the contracts. Any election held prior to December 31, 2004, for approval would not be valid and if the voters voted against a contract, it would be null and void.

Racetrack Gaming Facilities

The Kansas Lottery would be responsible for considering and approving proposed racetrack gaming facility management contracts with one or more prospective racetrack gaming facility managers. The prospective managers would have to have sufficient financial resources, and also would have to be current in filing taxes to the state and local governments.

The bill would make the following main provisions:

- Authorize a maximum of 2,800 electronic gaming machines at all locations;
- Establish the number of live greyhound and horse races to be conducted at each parimutuel track prior to authorization of placement of electronic gaming machines; and
- Establish the distribution of electronic gaming revenue as follows:
 - 25.0 percent to the racetrack gaming facility manager;

- 7.0 percent to the Live Greyhound Racing Purse Supplement Fund (not more than \$3,750 per machine);
- 7.0 percent to the Live Horse Racing Purse Supplement Fund (not more than \$3,750 per machine);
- 1.5 percent to the city;
- 1.5 percent to the county (3.0 percent if the track is not in a city);
- 2.0 percent to the Problem Gambling and Addictions Grant Fund which may be used to treat alcoholism, drug abuse and other addictive behaviors;
- 1.0 percent to the Kansas Horse Fair Racing Benefit Fund;
- 40.0 percent to the state;
- 15.0 percent for expenses; and
- \$2,500 per electronic gaming machine.

The bill would specify the number of days that a racetrack would have to conduct live horse or greyhound racing before the track would be eligible to receive electronic gaming machines. Electronic gaming machines would be required to pay out not less than 87 percent of the amount wagered per machine, and machines would be linked to a central Lottery communications system to provide monitoring and auditing procedures to take place.

For racetracks, the Lottery would submit proposed contracts to KRGC for approval or disapproval.

County Vote

Approved contracts from racetracks would then be submitted to the county where an election would be held to approve or disapprove the contracts. Any election held prior to December 31, 2004, for approval would not be valid and if the voters voted against a contract, it would be null and void.

Prohibitions

- A lottery gaming facility manager could not be a racetrack gaming facility manager and a racetrack gaming facility manager could not be a lottery gaming facility manager;
- Eminent domain could not be used to acquire any interest in real property for use in a lottery gaming enterprise;
- Revenue bonds, tax increment financing or similar financing could not be used to finance any part of any lottery gaming enterprise or any racetrack gaming facility;
- Counties could not exempt from or effect changes in the Kansas Lottery Act nor the Kansas expanded Lottery Act.
- Cities, counties or local municipalities would be prohibited from levying taxes, fees, charges, transfers or distributions, other than those specified in the Act from or against lottery gaming facility revenues of lottery gaming facilities or net electronic gaming machine income of racetrack gaming facilities. In addition, the bill would prohibit the imposition of any tax on amounts wagered on electronic gaming machine games.
- The Kansas Lottery, lottery gaming facility managers, racetrack gaming facility managers, lottery gaming facility management contracts and racetrack gaming facility management contracts would not be subject to the provisions of major procurement contracts statute.

Enforcement Provisions

The bill would create enforcement provisions that include:

- Prohibiting the State, until July 1, 2032, from entering into management contracts from more than four lottery gaming facilities, from designating additional areas where the operation of lottery facilities could be authorized, and from operating an aggregate of more 2,800 electronic gaming machines at parimutuel tracks. If these provisions are violated, the State would be required to repay the racetrack gaming facility manager an amount equal to the privilege fee plus 10 percent interest.
- Requiring that each lottery gaming facility manager and each racetrack gaming facility manger post one or more signs at the location to inform patrons of the toll-free number available to provide information and referral services regarding compulsive or problem gambling.
- The Kansas Lottery and the KRGC would be granted rule and regulation authority to provide for implementation, administration, and enforcement provisions of the Act.

Funds

The bill would create the Expanded Lottery Act Revenue Fund. The revenue from the net electronic gaming machine income and lottery gaming facility revenue would be submitted daily by the lottery gaming facility manager and racetrack gaming facility manager to the Executive Director of the Lottery who, in turn, would remit such revenues to the State Treasurer who would credit those revenues to the Expanded Lottery Act Revenue Fund. Separate accounts would be maintained for receipt of moneys from each lottery gaming facility manager and racetrack gaming facility manager.

The moneys in the Fund from the casinos would be distributed or transferred only for the purposes of reduction of

state debt, state infrastructure improvements and reduction of local ad valorem tax in the same manner as provided for allocation of amounts in the Local Ad Valorem Tax Reduction Fund.

The would create the Live Horse Racing Purse Supplement Fund, from which 25 percent would be credited to the Kansas Horse Breeding Development Fund, and 2 percent to the Live Horse Racing Purse Fund Purse fund for registration, administration, development, representation, and promotion of Kansas horse racing and breeding industry. An amount equal to 50 percent would be credited to purse supplements for registered Kansas bred foals, and the remainder for breed awards for Kansas bred horses. Similar disposition of revenues would occur in the Live Greyhound Racing Purse Supplement Fund. All purse supplements would be paid according the point schedule in effect on January 1, 2003, at the respective parimutuel licensee locations. All purse supplements paid pursuant to the Act would be in addition to purses and supplements already in statute.

Twenty-five percent of the Horse Fair Racing Benefit Fund may be expended on capital improvements to racetrack facilities on or adjacent to premises used by a fair association to conduct fair racing activities.

The bill would require the KRGC to establish a Greyhound Promotion and Development Fund which would be funded through a voluntary greyhound purse checkoff program which would allow for the deduction of 2 percent from all purses paid to kennels and greyhound owners who participated in the program. The Fund would be used for development, promotion, and representation of the greyhound industry in Kansas.

The bill would create the Problem Gambling and Addictions Grant Fund to be administered by the Kansas Department of Social and Rehabilitation Services. The current Problem Gambling Fund would be abolished and the funds transferred to the new Fund. Moneys in the new fund would be

used to treat alcoholism, drug abuse and other addictive behaviors.

Court Action

The bill would require any action challenging the constitutionally or otherwise arising out of the Act to be brought in the district court of Shawnee County. The bill also would provide for the final decision of the district court to be appealed to the Kansas Supreme Court.

The bill would take effect upon publication in the *Kansas Register*.

Background

SB 66 was amended by the House Committee of the Whole by deleting all of the provisions in the original amended bill with the above provisions.

**Kansas Legislative Research Department
Estimated Fiscal Note:**

Table 1

**Estimated Maximum State Revenues from Racetrack Gaming Facilities *
as Proposed by SB 66 for FY 2008**

Machines		2,800
Payout/Machine/Day	\$	200
Number of Days		365
Total Net Revenue from Electronic Gaming Machines	\$	204,400,000
Total Amount of Money Bet	\$	1,367,907,692
State's Percentage of Revenue		40 percent
Total State Revenue (2,800 X \$200 X 365 X 40%)	\$	<u>81,760,000</u>
One-Time Privilege Fee	\$	<u>7,000,000</u>
Total State Revenue	\$	<u>88,760,000</u>

The State Revenue would be deposited in the Expanded Lottery Act Revenue Fund to be expended for reduction of state debt, state infrastructure improvements and reduction of local ad valorem tax.

* Assumptions

- 2,800 electronic gaming machines would be in place;
- Electronic gaming machines will be in place for Fiscal Year 2008;
- Each gaming machine would produce revenue of \$200 per day;
- Electronic gaming machines would be in place at the beginning of FY 2008; and
- Each subsequent fiscal year would not include the one-time privilege fee.

FY 2009	\$81,760,000
FY 2010	\$81,760,000
FY 2011	\$81,760,000

Table 2

**Estimated Maximum State Revenue Per Year from Four Destination
Casinos* as Proposed by Sub. for SB 66**

Gross Revenue - Wyandotte County	\$ 258,600,000
Gross Revenue - Crawford and Cherokee Counties	183,800,000
Gross Revenue - Sedgwick and Sumner Counties	191,000,000
Gross Revenue -Ford County	<u>27,900,000</u>
Total Gross Revenue	<u><u>\$ 661,300,000</u></u>
Percentage of Gaming State's Revenue	At least 22 percent
State Revenue– Wyandotte County (amounts wagered to generate state revenue)	\$ 56,892,000
State Revenue– Crawford and Cherokee Counties (amounts wagered to generate state revenue)	40,436,000
State Revenue– Sedgwick and Sumner Counties	42,020,000
State Revenue– Ford County	6,138,000
Total State Revenue from Four Casinos Per Fiscal Year	145,486,000
One-Time Casino Managers' License Fees	<u>80,500,000</u>
Total State Revenue Generated	<u><u>\$ 225,986,000</u></u>

The State Revenue would be deposited in the Expanded Lottery Act Revenue Fund to be expended for reduction of state debt, state infrastructure improvements and reduction of local ad valorem tax.

* Estimates are based on the 2004 Christiansen Capital Advisor's Report and the 2006 Supplemental Report;

Assumption that the destination casinos would not produce revenue, except for one-time privilege fee, until Fiscal Year 2010; the state revenue percentage would be 22.0 for the purposes of this table; and

Each subsequent FY would not include the one time privilege fee.

FY 2008	\$ 80,500,000
FY 2009	0
FY 2010	\$145,486,000
FY 2011	\$145,486,000