

CORRECTED
SESSION OF 2011

**SUPPLEMENTAL NOTE ON
SUBSTITUTE FOR HOUSE BILL NO. 2340**

As Amended by House Committee of the Whole

Brief*

Sub. for HB 2340 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

The 2010 Legislature created the Kansas Indoor Clean Air Act, which banned 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.

HB 2340, as introduced, would have amended the Kansas Indoor Clean Air Act to provide a smoking ban exemption for bars that sell lottery tickets. The House Committee on Health and Human Services deleted HB 2340,

*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>

as introduced, and inserted the language of HB 2039, as introduced, resulting in a substitute bill.

Testimony before the House Committee on Health and Human Services in support of the bill 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 the bill to provide an exemption for annual charitable smoking events by not-for-profit organizations.

The fiscal note for the original HB 2340 related to bill provisions that have been deleted.

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 percent 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)
TOTAL	100 %	\$ 82,000,000	\$ 65,600,000	\$ (16,400,000)

* 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*.