

April 8, 2013

The Honorable Arlen Siegfried, Chairperson
House Committee on Federal and State Affairs
Statehouse, Room 185-N
Topeka, Kansas 66612

Dear Representative Siegfried:

SUBJECT: Fiscal Note for HB 2406 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2406 is respectfully submitted to your committee.

HB 2406 would amend the Kansas Expanded Lottery Act. Current law allows a state-owned lottery gaming facility, or destination casino, to be approved in the southeast gaming zone, consisting of Crawford and Cherokee Counties. The bill would allow only one lottery gaming facility to be approved in either the southeast gaming zone or the new north central gaming zone, which includes Geary County. The bill would reduce the minimum investment required for a manager of a lottery gaming facility in the southeast gaming zone from \$225.0 million to \$50.0 million and would establish a minimum investment amount for the new north central gaming zone at \$50.0 million. The privilege fee for the southeast gaming zone would also be reduced from \$25.0 million to \$5.5 million and privilege fee for the north central gaming zone would be set at \$5.5 million. Any privilege fees that are paid by potential managers in the southeast and north central gaming zones would be nonrefundable unless the lottery gaming facility management contract is not approved by the Lottery Gaming Review Board or the background investigation is not approved by the Kansas Racing and Gaming Commission. Additionally, the bill would allow the Expanded Lottery Act Revenues Fund (ELARF) to be used for deferred maintenance at state universities.

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.

HB 2406 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. The proposed changes to the privilege fee amounts, minimum investment levels, and location of possible gaming zones may encourage potential gaming facility managers to submit proposals for either the southeast or north central gaming zones. 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 it is determined that HB 2406 violates this provision, the state would be required to refund privilege fees from already selected gaming facility managers plus 10.0 percent interest. Currently, the state has received \$55.5 million in privilege fees from three gaming facility managers and it is estimated that interest payments would require an additional \$16.5 million 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 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 \$1.1 million and 16.00 FTE positions to regulate the gaming operations at either the northeast or south central gaming zone. Start-up costs of approximately \$175,000 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 an additional gaming facility would likely increase demand for services provided by its Problem Gambling Program. The Department indicates that the amount of additional spending would be proportional to current spending levels for problem gambling and addiction services.

A reliable estimate of the revenue that might be generated as a result of HB 2406 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. The bill would allow the Board of Regents to receive money from the ELARF for deferred maintenance

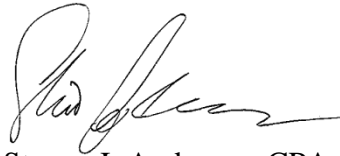
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expenditures; however, the amount would be determined by an appropriations bill or other legislation. Any fiscal effect associated with HB 2406 is not reflected in *The FY 2014 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", with a long horizontal flourish extending to the right.

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

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