

SESSION OF 2017

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2313

As Amended by Senate Committee on Federal
and State Affairs

Brief*

HB 2313 would amend the Kansas Lottery Act to allow the use of lottery ticket vending machines, amend law concerning underage purchasing of lottery tickets, repeal the sunset provision for the Kansas Lottery in current law, amend law directing transfers from the Lottery Operating Fund, and amend law concerning the State Debt Setoff Program.

Lottery Ticket Vending Machines

The bill would allow the Kansas Lottery to use lottery ticket vending machines to sell lottery tickets. The bill would also amend the definition of "lottery machine" by removing the term "lottery ticket vending machine" from the definition of "lottery machine." The bill would further amend the definition of "lottery machine" to specify that lottery ticket vending machines are not considered lottery machines. Games on lottery machines are prohibited under law that would remain unchanged by the bill (KSA 2016 Supp. 74-8710).

The bill would also create a definition for "lottery ticket vending machine" as follows:

- "Lottery ticket vending machine" would mean a machine or similar electronic device owned or leased by the Kansas Lottery, the sole purposes of which are to:

*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>

- Dispense a printed physical ticket, such as a lottery ticket, a keno ticket, a pull tab ticket, or an instant bingo ticket, or a coupon, the coupon of which must be redeemed through something other than a lottery ticket vending machine, after a purchaser inserts cash or other form of consideration into the machine;
- Allow purchasers to manually check the winning status of a Kansas Lottery ticket; and
- Display advertising, promotions, and other information pertaining to the Kansas Lottery.

The bill would state a lottery ticket vending machine shall not:

- Provide a visual or audio representation of an electronic gaming machine;
- Visually or functionally have the same characteristics of an electronic gaming machine;
- Automatically determine or display the winning status of any dispensed ticket;
- Extend or arrange credit for the purchase of a ticket;
- Dispense any winnings;
- Dispense any prize or dispense any evidence of a prize other than the lottery ticket, keno ticket, pull tab ticket, or instant bingo ticket, or any free Kansas Lottery ticket received as a result of the purchase of another Kansas Lottery ticket;
- Provide free games or any other item that can be redeemed for cash; or
- Dispense any other form of a prize to a purchaser.

Further, the bill would allow lottery ticket vending machines to dispense only the printed physical lottery ticket, keno ticket, pull tab ticket, or instant bingo ticket, including any free Kansas Lottery ticket received as a result of the purchase of another Kansas Lottery ticket, and change from a purchase to the purchaser. The bill would specify any winnings from a lottery ticket vending machine could be redeemed only for cash or check by a lottery retailer or by cash, check, or other prize from the office of the Kansas Lottery.

Underage Purchasing of Lottery Tickets

The bill would provide any lottery ticket or share of a ticket purchased by an individual under the age of 18 would be null and void and could not be redeemed for a prize.

Lottery Sunset Provision

The bill would repeal the sunset provision for the Kansas Lottery. Under current law, the Kansas Lottery will be abolished on July 1, 2022.

Transfers from the Lottery Operating Fund

The bill would authorize moneys in the Lottery Operating Fund (Fund) be used for transfers to the Community Crisis Stabilization Centers Fund and Clubhouse Model Program Fund of the Kansas Department for Aging and Disability Services.

The bill would specify that, of moneys deposited in the Fund in excess of the amounts deposited during FY 2017, moneys would be distributed as follows:

- 75 percent of the moneys deposited in the Fund from the sale of lottery tickets *via* lottery ticket

vending machines would be transferred to the Community Crisis Stabilization Centers Fund; and

- 25 percent of the moneys deposited in the Fund from the sale of lottery tickets *via* lottery ticket vending machines would be transferred to the Clubhouse Model Program Fund.

Such transfers could not exceed \$4.0 million in the aggregate for FY 2018 or \$8.0 million in the aggregate for FY 2019, 2020, 2021, and 2022. The bill would require transfers be made on July 1 and October 1 of 2017 and January 1, April 1, July 1, and October 1 of 2018, 2019, 2020, 2021, and 2022.

State Debt Setoff Program

The bill would amend the State Debt Setoff Program (Program) in several ways.

The bill would add a new term, “third party vendor” (vendor), defined as any person the Director of Accounts and Reports (Director) enters into an agreement with, to execute the collection of a debt as required by the Program. Vendors would be added to the list of entities who may set off the amount of debts owed to them under the law.

The bill would require the Director to enter into agreements with vendors for participation in the debt setoff program for the purpose of collecting debts. Each such contract would be required to include a provision agreeing to defend, indemnify, and hold harmless the vendor for all claims, demands, suits, actions, damages, judgments, costs, charges, and expenses brought or asserted against the vendor arising from the vendor’s performance of an agreement to facilitate the collection of debts.

The bill would specify vendors would be acting as agents for the State and would not be subject to civil,

criminal, or administrative liability for actions taken under the bill, unless such actions were intentional, malicious, or wanton. The State would be required to indemnify the vendor for expenses, losses, damages, and attorney fees arising from the performance of activities under the bill, and the vendor would have all the protection of the State under the Kansas Tort Claims Act. The sole remedy at law for persons claiming wrongful withholding of prizes would be an appeal to the Department of Administration.

The bill would also require the Director to provide identifying information on debtors to any third-party vendor for the purpose of assisting in the collection of a debt.

Vendors would be required to check the state debtor files before paying moneys on behalf of the State for any gambling winnings requiring completion of a federal tax form. If the person winning the prize is listed in the state debtor files, the prize would be withheld by the vendor to the extent of such debt. Withheld moneys would be transmitted to the State Treasurer and deposited in the Setoff Clearing Fund.

The bill would not apply to Native American tribal gaming facilities.

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

Background

The bill was introduced in the House Committee on Federal and State Affairs at the request of the Kansas Lottery. In the House Committee hearing, the Director and Executive Director of the Kansas Lottery and representatives of the Petroleum Marketers and Convenience Store Association (PMCA) of Kansas and HyVee, Inc., appeared in support of the bill. Written-only proponent testimony was provided by Boyd Gaming Corporation; Consentino's Food Stores; Murphy USA, Inc.; QuikTrip Corporation; Johnson's General

Stores; and QuikTrip Corporation, Kansas City Division. No other testimony was provided.

The House Committee amended the bill by adding a provision concerning underage purchasing of lottery tickets and adopting a technical amendment.

The House Committee of the Whole amended the bill by adding provisions related to:

- Transfers from the Lottery Operating Fund; and
- The State Debt Setoff Program (HB 2402).

A hearing on HB 2402 has not been held and no background or fiscal information is available on the bill.

The Senate Federal and State Affairs Committee held hearings on the subject of the bill, as introduced, which included hearings on SB 168 (abolishing the Kansas Lottery sunset provision) and SB 169 (lottery ticket vending machines). The Senate Committee did not hold a separate hearing on HB 2313, as amended, by the House. In the Senate Committee hearings on SB 168 and SB 169, the Director and Executive Director of the Kansas Lottery and representatives of PMCA of Kansas and HyVee, Inc., appeared in support of the bills. Written-only proponent testimony was provided by Boyd Gaming Corporation; Consentino's Food Stores; Murphy USA, Inc.; QuikTrip Corporation; Johnson's General Stores; and QuikTrip Corporation, Kansas City Division. No other testimony was provided.

The Senate Committee amended the bill to make it effective upon publication in the *Kansas Register*.

According to the fiscal note prepared by the Division of the Budget on HB 2313, as introduced, the Kansas Lottery indicates the use of lottery ticket vending machines at lottery retailer locations has the potential to increase sales by

improving product availability and efficiently delivering lottery products to its customers. The Kansas Lottery indicates 38 other lottery jurisdictions in the United States use lottery ticket vending machines and this method of dispensing lottery products to customers is often requested by lottery retailers. The Kansas Lottery indicates allowing lottery ticket vending machines is estimated to increase the Kansas Lottery's year end transfer to the State General Fund (SGF) by \$4.0 million in FY 2018 and by \$8.0 million in FY 2019. The Kansas Lottery is unable to estimate the additional expenses for this program because it has not determined the most cost-efficient method to acquire lottery ticket vending machines and to place them at lottery retailer locations. In other lottery jurisdictions, lottery ticket vending machines have been purchased, leased, or acquired from a revenue-sharing agreement.

The Kansas Lottery also indicates eliminating the sunset provision would have no fiscal effect unless the sunset provision takes effect on July 1, 2022. The sunset date for the operation of the Kansas Lottery was created by the 1992 Legislature to occur on July 1, 1996, and was extended by the 1995 Legislature (until July 1, 2002), the 2001 Legislature (until July 1, 2008), and the 2007 Legislature (until July 1, 2022). The Kansas Lottery indicates, if it were to be abolished on July 1, 2022, sales of online lottery games would end July 1, 2021, and instant lottery ticket sales would end January 1, 2022, to allow the required time for lottery players to redeem winning tickets. Proceeds from lottery tickets sales support economic development initiatives, prison construction and maintenance projects, local juvenile detention facilities, treatment of problem gambling and other addictions, veterans programs, and the SGF. On behalf of the State, the Kansas Lottery is also the owner of gaming operations at the four State-owned casinos and contractual obligations with expanded lottery gaming facility managers extend past the current sunset date. Proceeds from State-owned gaming operations are used to reduce state debt, reduce Kansas Public Employees Retirement System actuarial liability, increase the number of engineering graduates from the

state's universities, and treat problem gambling and other addictions.

The Kansas Lottery further indicates that by eliminating the sunset date, the bill has the potential to reduce costs by allowing it to negotiate longer-term contracts with vendors. The Kansas Lottery states its vendors make significant financial investments to provide services and products to the Kansas Lottery. The sunset date may occur prior to expiration of the contract between the Kansas Lottery and its vendors or before the vendor has recovered initial upfront investments, which creates uncertainty in the contract negotiating process. Eliminating the sunset date would eliminate this uncertainty. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2018 Governor's Budget Report*.