

KANSAS OFFICE *of*
REVISOR *of* STATUTES

LEGISLATURE *of* THE STATE *of* KANSAS
Legislative Attorneys transforming ideas into legislation.

300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: Chairman Barker and the Committee on Federal and State Affairs
From: Office of Revisor of Statutes
Date: March 17, 2021
RE: Substitute for Senate Bill 84

Senate Bill 84 would authorize the Kansas Lottery to conduct sports wagering, also known as sports betting, in Kansas. The Lottery could offer sports wagering through lottery gaming facilities (state-owned casinos) by amending the management contracts the Lottery has with the four lottery gaming facility managers. Sections 1 through 10 of SB 84 propose new laws to regulate sports wagering as part of the Kansas Expanded Lottery Act.

Section 2 limits wagering to only individuals who are 21 years of age or older. It also allows for individuals to self-exclude themselves from being able to place wagers.

Section 3 allows each casino manager to use up to three platforms that are approved by the Lottery. Wagers placed through a platform can only be placed if the person is physically located in the state. This section also allows casino managers to contract with a sports facility, such as the Kansas Speedway, for the sports facility to offer an area by the facility where patrons can place sports wagers through a casino manager's platform.

Section 4 authorizes the Kansas Racing and Gaming Commission (KRGC) to adopt rules and regulations on sports wagering advertising.

Section 5 permits the Lottery to restrict, limit or exclude wagering on one or more sporting events by providing notice of such limitations and exclusions to the casino managers.

Section 6 provides the general requirements for casino managers when conducting sports wagering. These include:

- Restricting certain individuals from placing wagers.
- Maintaining the security of wagering data and customer data.
- Cooperating with investigations by the Lottery, KRGC, and law enforcement.
- Reporting criminal, suspicious, and abnormal activity involving sports wagering.

Section 7 requires casino managers to maintain records of persons making sports wagers that total at least \$10,000 within a 24-hour period. The records must be maintained for at least 30 days and must be made available for inspection by the Lottery or KRGC.

Section 8 creates a cause of action for the state to seek damages and other relief against any person who knowingly engages in, facilitates, or conceals conduct intended to improperly influence the outcome of a sporting event for financial gain.

Section 9 establishes a sports wagering receipts fund and provides the procedure for sports wagering revenues to be deposited in the state treasury, and then the disposition of those revenues to the state and the casino managers pursuant to the management contracts that include sports wagering. A casino manager can carry forward negative sports wagering revenues from one return period to the next and have that negative balance applied against the sports wagering revenues in the subsequent period. A negative sports wagering revenue balance cannot be applied to a prior return period.

Section 10 establishes the white collar crime fund. The fund is to be administered by the Governor. Each year the first \$750,000 in sports wagering revenues retained by the state will be transferred to the white collar crime fund. The Attorney General and the KRGC shall annually submit requests to the Governor for the amount of funding each considers necessary to carry out the purposes of the fund. Those purposes are to investigate and prosecute crimes involving wagering activity.

Sections 11, 13, 14, and 15 provides changes to the criminal code with respect to sports wagering. Section 11 creates the new crime of misuse of nonpublic sports information, which is placing a sports wager on the basis of material nonpublic sports information. This would be a level 5 nonperson felony. Section 13 excludes sports wagering as authorized by SB 84 from the criminal definition of "bet." Sections 14 and 15 increase the severity level for the crimes of sports bribery and tampering with sports contest from a level 9 nonperson felony to a level 8 nonperson felony.

Sections 12 and 16 require the Governor to negotiate in good faith with any federally recognized Native American tribe that requests renegotiation of a gaming compact to include sports wagering.

Section 17 amends K.S.A. 74-8702 to add key definitions to the Kansas Lottery statutes for conducting sports wagering. These include definitions for: interactive sports wagering platform; match fixing; sporting event; sports wagering; and sports wagering revenues. The term "sporting event" includes motor races and horse races, but excludes greyhound races and any

event involving high schoolers unless the majority of the participants are at least 18. Sports wagering is defined to exclude parimutuel wagering and fantasy sports leagues. Finally, this section amends the definition of "lottery facility games," which are the games authorized for casinos, to strike the reference to tribal gaming facilities and allow those games that are allowed at licensed gaming facilities in the U.S.

Section 18 directs the Lottery Commission to adopt rules and regulations for sports wagering. It also prohibits certain types of online lottery games. The restrictions on online lottery games are repeated again in Section 21 in the enumeration of unlawful lottery conduct.

Section 19 requires that the first \$750,000 credited to the lottery operating fund would be transferred to the white collar crime fund.

Section 23 amends K.S.A. 74-8734, which is the statute governing casino management contracts. The amendments to subsections (i) and (o) authorize such contracts to include provisions for the management of sports wagering. Under these provisions the state is to retain 5.5% of sports wagering revenues from wagers placed in person at a casino, and 8% of such revenues from wagers placed through a platform. An additional 2% of all sports wagering revenues would be paid to the problem gambling and addictions grant fund.

Section 24 amends K.S.A. 74-8751, which requires the KRGC to conduct background checks and issue certifications for management and employees of organizations involved in casino management. The amendments add provisions for individuals involved in managing sports wagering, and provide for the suspension, revocation or nonrenewal of a certification for certain conduct.

Section 26 allows a patron of a lottery gaming facility to fund an account held by a sports wagering manager for the payment of sports wagers through the use of cash, electronic bank transfers, bank and wire transfers, debit and credit cards, online and mobile application payment systems, promotional funds provided by the lottery gaming facility manager, and any payment method approved by the Kansas lottery. These are exceptions to current law prohibiting the extension of credit to patrons of a lottery gaming facility.

Section 28 amends K.S.A. 74-8758. The statute currently lists those individuals who are prohibited from gambling at a racetrack or lottery gaming facility. This list currently includes immediate family members of officers and employees of the facility managers and vendors contracting with the Lottery to supply gaming equipment. SB 84 would strike these individuals from the prohibition list.

KANSAS OFFICE *of*
REVISOR *of* STATUTES
LEGISLATURE *of* THE STATE *of* KANSAS

Section 30 amends K.S.A. 74-8760 to prohibit certain individuals from placing sports wagers. Those individuals include the same type of individuals who are prohibited from gambling at a casino, and also include sports team owners and employees, and player and referee union members and employees.

Section 31 amends K.S.A. 79-4805 to require the Secretary of the Kansas Department for Aging and Disability Services to ensure that an adequate problem gambling treatment services network is available in Kansas to individuals seeking treatment for a pathological gambling disorder. The use of moneys in the problem gambling and addictions grant fund would be clarified to be used to fund a helpline, for the treatment and prevention of pathological gambling, and other co-occurring behavioral health disorders. The section also declares that it is the intent of the legislature that the moneys in the fund remain intact and not used for any other governmental purposes.

Section 32 amends K.S.A. 79-4806 to increase the annual transfer to the problem gambling and addictions grant fund from \$80,000 to \$100,000.

All other amendments appearing in SB 84 are conforming amendments necessary to effectuate the policy amendments described above.