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MEMORANDUM

To: Chairman Barker
Members of the House Committee on Federal and State Affairs

From: Jason B. Long, Senior Assistant Revisor

Date: February 13, 2018

Subject: HB 2545 – Amendments regarding racing and gaming.

House Bill No. 2545 (HB 2545) creates new law and makes various amendments concerning horse and greyhound racing in Kansas and Kansas lottery gaming conducted at horse and greyhound racetracks.

Sections 2 and 7 of the HB 2545 pertain to the authorization of a racetrack gaming facility located in Sedgwick County. Section 7 amends K.S.A. 74-8743 to authorize a vote by the electorate of Sedgwick County on whether the Kansas Lottery should be permitted to place slot machines at the Wichita Greyhound Park. If a petition requesting such an election is signed by at least 5,000 Sedgwick County voters and submitted to the Board of County Commissioners, then the Board is required to submit the question at an election to be held within 120 days after the petition is deemed valid. Upon approval by a majority of the votes cast, the Kansas Lottery may enter into a contract for the management of a racetrack gaming facility at the Wichita Greyhound Park under the Kansas Expanded Lottery Act (KELA).

A vote on the question of whether slot machines would be permitted at a racetrack facility in Sedgwick County was held around the time the Kansas Expanded Lottery Act was enacted, and the question was not approved by the voters. The potential for a new election on this issue and for a racetrack gaming facility to be opened in Sedgwick County has led to the issue of whether such action would create a violation of state law or a breach of the management contracts that the Kansas Lottery has already executed with existing lottery gaming facility managers. Section 2 of the HB 2545 addresses this potential issue.

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Under Section 2, the Attorney General may file an action within 90 days after HB 2545 becomes effective seeking a declaratory judgement on whether the amendments to K.S.A. 74-8743 constitute a violation of state law. This action must be filed in the Kansas Supreme Court.

Upon a final order in the Attorney General's lawsuit, or upon execution of a racetrack gaming facility management contract, whichever occurs later, a lottery gaming facility manager will then have 60 days to file an action seeking a judgment that the racetrack gaming facility management contract violates state law or constitutes a breach of an existing lottery gaming facility management contract. Such lawsuit cannot seek injunctive relief, but can only claim monetary damages. Such monetary damages are limited to the privilege fee paid by the lottery gaming facility manager plus interest accrued from the date when the lawsuit could first be filed. Additionally, only the lottery gaming facility manager operating in the same gaming zone as the racetrack gaming facility that is the subject of the lawsuit may file such an action.

If an action is properly filed under this section, then the racetrack gaming facility manager, or a third party on behalf of the manager, must submit a letter of credit to the Executive Director naming the Kansas Lottery as the beneficiary. The letter of credit shall be in an amount equal to the monetary damages that may be awarded in the lawsuit as determined by the Executive Director.

If there is a final court order requiring the Kansas Lottery to return the privilege fees plus interest to the lottery gaming facility manager, then the Executive Director must execute the letter of credit. The Kansas Lottery would then be required to repay the racetrack gaming facility manager in the form of monthly payments that will be not less than 50% of the revenue the Kansas Lottery receives from the racetrack gaming facility under the KELA. If the final court order does not require the return of any privilege fee, then the Executive Director must issue a letter of cancellation of the letter of credit.

In conjunction with sections 2 and 7, HB 2545 also amends various sections of the KELA. First, subsection (ff) is added to K.S.A. 74-8702 to define similar gaming facilities so as to clarify that racetrack gaming facilities offering only slot machines are not considered similar to lottery gaming facilities, which offer multiple types of gaming. K.S.A. 74-8741 is amended to clarify that any racetrack gaming facility management contract include the distribution of slot machine income that is provided by law. K.S.A. 74-8744 is amended to reduce the minimum number of slot machines at each racetrack gaming facility from 600 to 400. Also, HB 2545 strikes language regarding allocation of slot machines that is contingent on management contracts being in effect in all four gaming zones.

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K.S.A. 74-8747 is amended with respect to the distribution of the slot machine income produced at a racetrack gaming facility. Below is a chart comparing the distribution under current law with the distribution under HB 2545:

Current Law	HB 2173
40% credited to the expanded lottery act revenues fund	22% credited to the expanded lottery act revenues fund
25% to the racetrack gaming facility manager	Remaining balance to the racetrack gaming facility manager
7% to the live horse racing purse supplement fund, with a per machine limit	7% the first two years, 10% in years 3 and 4, and 14% thereafter of income from facilities licensed to conduct live horse races to the live horse racing purse supplement fund
7% to the live greyhound racing purse supplement fund, with a per machine limit	7% of income from facilities licensed to conduct live greyhound races to the live greyhound racing purse supplement fund
3% to the county in the NE gaming zone, or 1.5% to each the county and the city in the NE gaming zone if facility is in a city	2% to the county in the NE gaming zone, or 1% to the county and 1% to the city in the NE gaming zone if facility is in a city
2% to the host county and 1% to the other county in the SE or SC gaming zones, or 1% to each the host county, other county, and the city in the SE or SC gaming zones if facility is in a city	2% to the county in the SC gaming zone, or 1% to the county and 1% to the city in the SC gaming zone if facility is in a city; 2% to the county and 1% to the other county in the SE gaming zone, or 1% to each county and 1% to the city in the SE gaming zone if facility is in a city
2% to the problem gambling and addictions grant fund	0.5% to the problem gambling and addictions grant fund
1% to the horse fair racing benefit fund	1% of income from the facility in the NE gaming zone to the horse fair racing benefit fund
Not included	0.1% of income from the facility in the SC gaming zone to the horse council fund
15% for gaming expenses	Not included

Section 1 of HB 2545 requires that if any person wins a prize at a lottery gaming facility or racetrack gaming facility that would require the completion of IRS Form W-2G, then prior to payment of the prize amount such person is to be matched against the state debtor files under the state debtor setoff statutes. Section 16 amends K.S.A. 75-6204 to conform with the provisions of Section 1.

The remaining sections of HB 2545 pertain to horse and greyhound racing. Section 3 requires the official breed registering agencies for horses and greyhounds to make

recommendations to the Kansas Racing and Gaming Commission on programs to benefit economic development in rural Kansas. Section 4 creates the Kansas horse council fund to be used to develop, promote, and represent the equine industry in Kansas.

Sections 9, 12 through 15 make amendments regarding horse and greyhound racing, fair association racing licenses and simulcast licenses. These amendments include:

- Removing the requirement that the racing organization be a nonprofit.
- Reducing the fair association application and license fees from \$500 to \$50 and \$100 to \$25, respectively.
- Changing in the required number of days of live racing to apply for a simulcast license.

If enacted, HB 2545 would be effective on July 1, 2018.