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**Senate Federal and State Affairs Committee  
Testimony re: SB 267  
Presented by Jeremy Kudon  
on behalf of  
Fantasy Sports Trade Association  
March 10, 2015**

Mister Chairman, Members of the Committee:

Good morning, my name is Jeremy Kudon, and I am outside counsel to the Fantasy Sports Trade Association (FSTA), an organization that represents the interests of more than 120 member businesses, including ESPN, NBC, Fox Sports, CBS, NFL.com, FanDuel, Yahoo! Sports, and DraftKings. We respectfully ask you to support SB 167 and remove any doubt about the legality of fantasy sports in Kansas.

The FSTA exists for a simple reason. Fantasy sports are rapidly becoming our new national pastime. Nearly 40 million Americans participate in some form of fantasy sports, whether it's a football or baseball league with their friends from college, a basketball league with their co-workers, or, more recently, daily or weekly contests against players from across the country.

Our national obsession with fantasy sports does not end at the Kansas border. I suspect that everyone in this room either knows someone who plays fantasy sports or has done it themselves. In fact, we estimate that nearly 500,000 Kansas residents participate in fantasy sports. And they do so because fantasy sports are a form of entertainment that allows players to have a deeper appreciation for the sports that they love.

We are here today because half a million Kansas residents could soon lose this right. Last August, the Kansas Gaming & Racing Commission updated its Frequently Asked Questions about the legality of fantasy sports. The Commission included new language in this section of its website stating that "[i]f a fantasy sports league has a buy-in ... and gives a prize, then all three elements of an illegal lottery are satisfied." This opinion was based on the Commission's view that fantasy sports contests are predominantly games of chance.

SB 267 would confirm that fantasy sports contests that meet certain specified criteria are games of skill and legal under Kansas law. The legislation is consistent with the experience of anyone who has even dabbled in fantasy sports. As many of you know, fantasy sports have been around since the early 1980s. In both season-long and the newer daily or weekly contests, participants select a team of real world athletes and accumulate points based on



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how their players perform in an actual game. The goal—regardless of format—is to select a team of players that will score the most possible points.

As you can imagine, it takes a lot of skill to assemble a fantasy team. It's not enough to know the most popular teams and their most recognizable stars—you need to understand scoring systems, the particular strengths of different players, and the quality of that week's matchup. Indeed, there are a number of long-standing businesses that are built on the backs of the research they have compiled and provided to participants to give them an edge on competitors. People don't pay for advice, research, and analysis to inform what side of a coin flip to pick—fantasy sports is a game of skill where the effort a participant puts in significantly impacts the outcome.

But don't just take our word for it. In 2006, Congress passed the Unlawful Internet Gambling Enforcement Act, which makes it illegal to gamble on the internet. That law expressly carves fantasy sports out of the definition of unlawful "internet gambling" and acknowledges that fantasy sports contests are games of skill provided they meet certain criteria—to which all FSTA member fantasy providers adhere. The importance of this carve-out is unmistakable. Congress looked at this issue and determined that fantasy sports are not inherently games of chance, but rather, can be structured to ensure that they are contests of skill. All SB 267 does is take those criteria and make them part of Kansas law. It's that simple and it's that narrow.

The Gaming Commission's view is also at odds with the approach taken by the major sports leagues, media, and the vast majority of other states. For example, Major League Baseball, one of the most anti-gambling organizations in the world has fully embraced fantasy games and has even partnered with fantasy sports providers. And every major sports journalism outlet, including Yahoo!, ESPN, NBC, and CBS—all of which have historically refrained from encouraging, promoting, or abetting gambling—actively support and promote participation in fantasy sports.

This legislation will not open the door to other contests, like blackjack, poker, or sports betting. It will not even open the door to all fantasy sports contests. Instead SB 267 is narrowly and specifically tailored to fantasy sports that meet criteria that other contests cannot meet. Only those contests that are "games of skill" will be legal under Kansas law. Most importantly, SB 267 will give 500,000 Kansas residents peace of mind that they can continue participating in the fantasy sports contests that they love.