

HB 2173 Opposition Testimony of Clark D. Stewart, CEO

Butler National Corporation

19920 W. 161st Street, Olathe, KS 66062

Tel: (913) 780-9595 Fax: (913) 780-5088

Chairman Barker and members of the House Federal and State Affairs Committee: Butler National Corporation, strongly oppose HB 2173 because the bill is not in the best interest of the State, the bill violates the State commitments and the bill dilutes revenues to the State.

There has not been any form of legal horse or dog racing at any track in Kansas for nearly ten years. The tracks have not been maintained. The proposed bill allows, without competition or a commitment to build new infrastructure, one track owner to open multiple gaming facilities and dilute the destination tourism impact of KELA.

Before discussing our opposition, we find one favorable aspect of the bill. We are in favor of the Child Support collection efforts from past-due debtors at Kansas gaming facilities. We believe that the language in any bill related to this activity should more accurately reflect the relationship of the managers to the State. As described in the Kansas Expanded Lottery Act (KELA), gaming revenue at the facility belongs to the State, not the manager. Any prize money due to a patron is money the State owes to the patron. The manager is merely the agent for the State. Accordingly, language should be added for immunity, including Kansas Tort Claims Act protections as well as indemnity for the managers since managers have no obligation to otherwise perform such activity. With these additions, we would aggressively assist with Lottery collection efforts.

With respect to our opposition of HB 2173, the most significant defect is the incomplete treatment of damages. The bill omits a substantial element, the manager recovery of lost profits, in contract or otherwise. This number could be significant multiples of the privilege fee plus interest.

The proposed legislation also ignores the dilution effect of revenue to the State. There is one limited pool of discretionary funds available for gaming. KELA requires the destination/tourism element for lottery gaming facilities. The tracks lack this important element (most notably no investment in infrastructure). Boot Hill Casino made a significant investment in infrastructure and tourism. Working with the community, the facility draws people from many surrounding states. The addition of multiple casinos, particularly one in the Wichita market, dilutes the destination-oriented indirect economic benefits to Southwest Kansas by making straight gambling available with little required investment. Furthermore, the more facilities in metropolitan areas, the less likely patrons will travel to the rural areas to experience the destination effect.

In summary, the State awarded Management Facility Contracts to four managers in four separate zones after conducting rigorous hearings and encouraging those participating in the process to invest hundreds of millions of dollars to develop and manage the best possible destination facilities. Having awarded the contracts, it seems manifestly unfair to permit similar facilities to compete notwithstanding the clear language of KELA and the various Management Contracts. These managers invested millions of dollars in developing destination facilities in the expectation that the State would live up to its management contracts and commitments. In these financial times, it is not fair or reasonable to allow a single track owner to seriously jeopardize all four developments and the regions they serve. Butler National Corporation and its employees, most of which are native Kansas citizens, oppose HB 2173.

BUTLER NATIONAL CORPORATION

Clark D. Stewart
President and CEO