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House Bill 2752
An Act concerning gaming; relating to the Kansas Expanded Lottery Act

House Federal and State Affairs
March 13, 2018

OPPOSITION TESTIMONY

Good morning Chairman Barker and Members of the House Federal and State Affairs Committee:

Kansas Entertainment, LLC appreciates the opportunity at this informational hearing to express our concerns with HB 2752.

By way of information, Kansas Entertainment, LLC is a joint-venture partnership of Penn Hollywood Kansas, Inc., and Kansas Speedway Development Corporation, and was selected by the State of Kansas in 2009 to develop a destination casino for the Northeast Kansas Gaming Zone.

Kansas Entertainment supports sports wagering in Kansas in the event the current federal ban¹ is eliminated through judicial or legislative action, yet we strongly oppose HB 2752.

Sports wagering can become an attractive amenity at the State's casinos with a reasonable regulatory framework. Two key benefits derived from a fair and viable sports wagering law would be 1) enhanced foot traffic at the state-owned brick and mortar casinos that will result in additional spending on hotel rooms, food and beverage and play on other casino games; and 2) regulation of what is now an illegal activity, thereby providing security and confidence to the sports betting customer.

¹ Enacted 25 years ago, the Professional and Amateur Sports Protection Act of 1992 (28 U.S.C. ch. 178 § 3701 *et seq.*) prohibits states from legalizing sports betting. PASPA granted immunity to four states which had previously allowed sports betting inside their borders. Those states are Nevada, Delaware, Oregon, and Montana. New Jersey has challenged the PASPA. A decision in *Christie v. NCAA, et al.*, No. 16-476 is pending before the United States Supreme Court.

Unfortunately, HB 2752 includes onerous provisions that make it economically unfeasible for the casinos or racetracks to operate sports wagering. It also grants the professional sports leagues (“leagues”) extraordinary regulatory powers by granting control over wagering and real-time access to confidential consumer information and locations. Those powers are best left to established state regulators and law enforcement officials who are experienced in overseeing gaming operations and whose only interest is in promoting and protecting the public and the consumer.

In current form, HB 2752 would not reduce illegal sports betting with unregulated and/or offshore internet sites that do not pay taxes nor are subject to regulatory oversight. Arguably, the most egregious provision of HB 2752 is the “integrity fee” of 1% of the total amount wagered, or “handle.” A typical sports book has operating margins of 2% to 5%. The 1% “integrity fee” on handle equates to 20 to 25% of net revenue, thus making that already thin margin even thinner. For example, a bet in a Nevada sports book is where a person bets \$11 to win \$10. If the 1% of handle “integrity fee or royalty” was in place, the leagues would take a large slice of the profit pie, forcing the legal U.S. sports books to require players to risk \$12 or \$13 to win \$10. As a result, the “integrity fee or royalty” in HB 2752 would cause legal sports books in the United States to have less favorable betting odds than the illegal sites and places potential legal sports wagering in Kansas at a distinct competitive disadvantage.

No other state or jurisdiction in the world has such an “integrity fee” and Kansas Entertainment suggests Kansas should not be the first.

We also object to the provision that sports book operators only utilize data and associated video provided by the leagues, when such data and video signals are widely available to the public through multiple commercial sources. This is another effort by the leagues to control information and data to their benefit in hopes of creating a new revenue stream. Additionally, it should also be known that the leagues have already placed a significant stake in sports wagering platforms, as DraftKings, which has received millions of dollars of investment from MLB, recently hired personnel with sports book experience in an apparent move toward becoming an online sports book. Likewise, the NBA has a similar relationship with FanDuel which is also likely exploring a comparable move into the sports book space.

It would take too long to discuss all of the structural flaws in HB 2752 but several key issues are noteworthy: 1) the absence of a definition for “sports wagering revenue”; 2) the absence of a definition for “sporting event”; 3) language violating Article 2 Section 1 of the Kansas Constitution by delegating legislative authority to a private entity (see New Section 5(b) (page 4); and the references throughout the legislation to someone other than the lottery “conducting” and “operating” sports wagering falls short of constitutional requirements.

We also believe that all sports betting activity should be conducted solely through interactive sports wagering platforms of the brick and mortar lottery gaming facilities to maximize economic benefits for the State of Kansas, local communities and management companies with lottery contracts. Moreover, this provides more control of the qualification of a person who seeks to play, the model adopted by Nevada, among other states with legislation pending.

All the above concerns, among others in HB 2752, are critically important due to the thin margins in sports betting, and a real-life example can be found in sports betting on the recent Super Bowl.

Data from this year's Super Bowl demonstrates the pitfalls of HB 2752. In February, bettors in Nevada placed \$158.6 million in bets on the Super Bowl, but the sports books' total win only amounted to \$1.1 million, a hold percentage of just 0.7 percent. Under the leagues' proposal, sports books would have to pay the leagues 1% of \$158.6 million, or roughly \$1.6 million, more than wiping out all income from the event.

Nevada has effectively overseen sports betting for decades without such provisions, and this model has worked for gaming companies, law enforcement, state regulators, and state taxpayers alike. Kansas would benefit from following this model instead of the language you have before you today.

For guidance on model legislation, one can look to West Virginia which has just recently developed a sports wagering framework for a regulated industry under the oversight of the Lottery Commission. The West Virginia model allows the state's five gambling establishments to apply for a license to operate sports betting. Bettors who are at least 21 years old and located in West Virginia would be permitted to wager on collegiate and professional events. Those wagers can be placed either in person or via mobile/internet betting platforms through the state's five gambling operators. The West Virginia model does not include an "integrity fee". Governor Jim Justice of West Virginia indicated on March 10 he would allow the sports betting bill to become law.

Currently, legislation is being drafted based upon the West Virginia model for introduction in this Committee.

If passed in current form, HB 2752 will place Kansas "brick and mortar" gaming and racing venues at a significant economic and competitive disadvantage. In turn, this will severely hamper the State from realizing the full benefits of existing gaming operations, and to the extent allowed by law, licensed legal sports books.

On behalf of Kansas Entertainment, we respectfully urge the Committee to oppose this bill in its current form and consider legislation modeled after West Virginia law, should the Committee decide to move forward with sports wagering legislation this year.

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On behalf of Kansas Entertainment, LLC

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Attachment: Sports Book Revenue Flow Chart

The Professional Sports Leagues' Proposed Integrity Fee Will Ruin Any Chance for Legal Sports Betting in Kansas.

On average, 95% of all money wagered at a sportsbook is paid to the winning bettors. The sportsbook then pays taxes, wages, and other expenses on the remaining 5%. The profit margins on sports betting is very thin.

HB 2752's "Integrity Fee", or what NBA Commissioner Adam Silver called "a royalty to the league", destroys the economic viability of legal sportsbooks.

