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**BEFORE THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS**  
**TESTIMONY OF PAUL T. DAVIS**  
**IN SUPPORT OF SUBSTITUTE FOR S.B. 84**

March 18, 2021

Chairman Barker and Members of the Committee:

My name is Paul Davis. I am an attorney who practices with the Topeka law firm of Frieden & Forbes, LLP. I appear at this hearing on behalf of the manager of the Kansas Crossing Casino & Hotel in Pittsburg, Kansas (“Kansas Crossing”), which is a state-owned and -operated casino under the Kansas Expanded Lottery Act, K.S.A. 74-8733 *et seq.* (KELA). Kansas Crossing believes that the Substitute for SB 84 (SB 84) is the right sports wagering bill for Kansas and we urge you to support it. We appreciate the opportunity to share our views regarding sports wagering in the State of Kansas.

Since 2007, KELA has authorized the Kansas Lottery to own and operate up to four (4) casino-style lottery gaming facilities to be developed and managed by private businesses. Each manager was carefully selected to develop and manage a state casino after a rigorous vetting process before the Kansas lottery, the Kansas lottery commission, the Kansas lottery gaming review board and the Kansas racing and gaming commission. SB 84 relies on the KELA framework and authorizes the Kansas lottery to contract with the four existing casino managers to manage sports betting on behalf of the State of Kansas. Sports wagering would be permitted in-person at each casino location and through internet and mobile device applications that can only be used to place sports wagers within the boundaries of Kansas. Internet and mobile access to legal, regulated sports wagering through our state casinos will meet the needs of Kansans while discouraging them from placing illegal sports bets with unregulated, offshore sportsbooks. Through a limited number of physical and virtual outlets, SB 84 will provide our citizens access to competitive and highly regulated sports wagering in Kansas.

When KELA was enacted in 2007, a federal law known as the Professional and Amateur Sports Protection Act of 1992 (“PASPA”) prohibited the State of Kansas from owning, operating or offering any form of sports wagering. For that reason, KELA did not include sports wagering as an authorized form of gaming. However, since the United States Supreme Court determined in 2018 that PASPA is unconstitutional, this State is no longer prohibited by federal law from offering sports wagering. Because sports wagering is a natural fit with other forms of traditional casino gaming at our state casinos, we believe that it should be made available in Kansas under

SB 84.

Boot Hill became the first operating state casino when it opened to the public on December 15, 2009. Kansas Crossing became the last state casino authorized under KELA and opened its doors on March 31, 2017. Our four casino managers have spent approximately \$1 billion in developing and managing their respective casino enterprises, which has catalyzed economic development, job creation and tourism throughout Kansas. During the last fiscal year before the coronavirus pandemic, our state casinos produced approximately \$34.25 million in economic activity per month and more than \$100 million in gaming revenue for the State of Kansas. Since opening, the state casinos have generated more than: \$760 million in gaming revenue for the State; more than \$103 million in gaming revenue for affected local governments; and more than \$69 million in gaming revenue for the Problem Gambling & Addictions Grant Fund.

The managers of our state casinos must spend most of their allocated gaming revenue (*i.e.*, income) on normal operating expenses that the Kansas lottery does not include in its monthly or annual reports. The gaming revenue distributed to each manager constitutes income, but not necessarily profits. Like other private businesses, each manager must pay all expenses incurred in constructing, developing and maintaining multimillion-dollar brick and mortar facilities, and all operating expenses for their state casino, including but not limited to the costs of regulatory oversight, wages and benefits for employees, insurance, utilities, capital improvements, advertising and taxes.

Our casino managers have a time-tested record of success in maintaining the integrity of lottery games, enforcing prohibitions against gaming by underage persons, promoting responsible gaming through self-exclusion lists, fostering substantial economic activity and generating significant gaming revenue for the State of Kansas and local governments. The four managers also have a vested interest in the most effective and efficient implementation of sports wagering in Kansas. Consequently, SB 84 integrates sports wagering into the existing KELA framework and builds upon its success. At the same time, SB 84 does not impose any conditions that would unnecessarily threaten the ability of casino managers to manage economically viable sports wagering activities on behalf of this State.

Sports wagering is a very low margin activity such that out of each \$100 wagered, an average of \$95 is paid out in winnings to patrons. This means that the remaining \$5 received must be sufficient to cover all capital costs and operating expenses – including taxes – associated with sports wagering. The casino manager's share of this \$5 in sports wagering revenue must be large enough to cover the ongoing costs of capital infrastructure, equipment, utilities, insurance, employee wages and benefits, employee training, financial accounting, regulatory compliance, advertising, withholding taxes, real and personal property taxes, federal excise taxes and similar items. Typically, sports books have profit margins of 2% to 5%.

Because sports wagering is a low margin activity, it is important that our state casino managers receive a fair distribution of sports betting revenues if the activity is to be viable and sustainable.

SB 84 provides the State 5.5% of all sports wagering revenue generated on the physical premises of state casinos and 8% of such revenue generated through internet or mobile sports wagering, amounts which are fair and reasonable. The Problem Gambling & Addictions Fund also received 2% of all sports wagering revenue generated from in-person and internet or mobile wagering. If the State's share of sports wagering revenue (which may be referred to in common usage as the tax rate) and other requirements are too high, this margin becomes so thin that authorized sports wagering may be financially unattractive or become economically infeasible and competing with the illegal market may become untenable.

Kansas Crossing thanks you for this opportunity to express its support for SB 84. I will be happy to stand for questions.