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April 3, 2018

The Honorable John Barker, Chairperson  
House Committee on Federal and State Affairs  
Statehouse, Room 285-N  
Topeka, Kansas 66612

Dear Representative Barker:

**SUBJECT:** Fiscal Note for HB 2793 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2793 is respectfully submitted to your committee.

HB 2793 would allow lottery gaming facility managers and racetrack gaming facility managers to offer sports wagering at their facility or through an interactive sports wagering system that allows sports wagering to be conducted over the internet, including but not limited to, through websites and mobile device applications. Sports wagering would be limited to any professional or collegiate sport or athletic event, motor race event, or any other special event authorized by the Kansas Lottery Commission. Sports wagering would not include horse or greyhound racing that is regulated under the Kansas Parimutual Racing Act or fantasy sports leagues. The bill would make other technical corrections to the Kansas Expanded Lottery Act.

The Executive Director of the Kansas Lottery would be allowed to enter into contracts with lottery gaming facility managers or racetrack gaming facility managers for conducting, operating, and managing sports wagering on behalf of the Kansas Lottery. If the lottery gaming facility manager or racetrack gaming facility manager agrees to offer sports wagering, the Kansas Lottery would be the licensee and owner of all software programs used in offering sports wagering. All sports wagering would be under the ultimate control of the Kansas Lottery. If a lottery gaming facility manager or racetrack gaming facility manager offer sports wagering, then the management contract would include a provision that 6.75 percent of the sports wagering revenues (total revenues from sports wagering at a gaming facility after all related prize payments are made) would be distributed to the Expanded Lottery Revenues Fund (ELARF).

The bill includes definitions of interactive sports wagering, sporting event, sports wagering, sports wagering revenue, and wager or bet. The Kansas Lottery would have the authority to write rules and regulations on sports wagering. The bill would prohibit any

person from serving as the Executive Director, a member of the Kansas Lottery Commission, or an employee of the Kansas Lottery while or within five years after holding a financial interest, being employed by, or acting as a consultant to any interactive sports wagering system. It would also be illegal for these individuals to accept any compensation, gift, loan, entertainment, favor, or service from any interactive sports wagering platform, and any violation of this provision could be punishable as a class A misdemeanor. The bill would also prohibit the Executive Director of the Kansas Lottery, members of the Kansas Lottery Commission, employee or agent of the Kansas Lottery, Executive Director of the Kansas Racing and Gaming Commission, members of the Kansas Racing and Gaming Commission, and any employee or agent of the Kansas Racing and Gaming Commission to place a sports wager at a lottery gaming facility or racetrack gaming facility. The lottery gaming facility manager and any employee of the lottery gaming facility manager would not be allowed to place a sport wager at a lottery gaming facility, and the racetrack gaming facility manager and any employee of the racetrack gaming facility manager would not be allowed to place a sports wager at a racetrack gaming facility.

The bill would require the Kansas Racing and Gaming Commission to establish certification requirements and enforcement procedures for employees of a lottery gaming facility manager or racetrack gaming facility manager who are directly involved in the conduct, operation, or management of sports wagering. The certification requirements and enforcement procedures would also apply to persons that provide goods or services related to sports wagering, including management services. The certification requirements would include compliance with security, fitness, and background investigations and would be valid for only one year. The Kansas Racing and Gaming Commission would have the power to suspend, revoke, or not renew a certification if it finds that the certificate holder has knowingly provided false or misleading information to the Kansas Lottery or Kansas Racing and Gaming Commission; has been convicted of a felony, gambling-related offense, or any crime of moral turpitude; has violated any provision of any contract between the Kansas Lottery and the certificate holder; or has violated any provision or rules and regulations of the Kansas Expanded Lottery Act.

The bill would become effective no earlier than July 1, 2018, and only after a certification from the Executive Director of the Kansas Racing and Gaming Commission that federal law does not prohibit the state from authorizing and conducting sports wagering is published in the *Kansas Register*.

HB 2793 would not require additional staffing or expenditures by the Kansas Racing and Gaming Commission, the Kansas Lottery, or any other state agency unless federal law removes the current prohibition on states from authorizing and conducting sports wagering.

The Attorney General's Office indicates the bill has the potential to increase litigation costs starting in FY 2019. However, the Office did not provide an estimate of the additional litigation costs or how long the estimated litigation costs would continue from enactment from the bill, or if the bill would require the hiring of outside counsel.

The Kansas Racing and Gaming Commission indicates that the bill would require at least 3.00 additional FTE positions and \$265,000 annually for ongoing costs to regulate sports wagering. Actual costs would vary as the Commission would determine the industry specific tools

necessary to regulate this industry. Sports wagering at parimutuel racetracks would require the racetrack to reopen, likely with electronic gaming machines. Racetrack gaming facility managers would first be required to obtain a parimutuel license from the Kansas Racing and Gaming Commission before they could negotiate with the Kansas Lottery for a contract to offer sports wagering or electronic gaming machines. To operate electronic gaming machines, a contract with a racetrack gaming facility manager would have to be approved by the Kansas Lottery and a background investigation would have to be approved by the Kansas Racing and Gaming Commission. The Commission indicates that it would need approximately \$1.8 million and 21.00 FTE positions for each parimutuel racetrack that reopens for the annual costs to regulate both the racing and gaming activities. Start-up costs of approximately \$450,000 per facility would also be needed for expenses, such as background investigations, licensing equipment, software licenses, computer equipment, furniture and supplies, and other expenses that would be associated with reopening each facility. Funding for regulating racing activities has primarily come from the transfer of parimutuel tax receipts to the State Racing Fund. The appropriations bill each year provides the authority for the Kansas Racing and Gaming Commission to bill each facility for all costs related to regulating racing activity.

The Kansas Lottery indicates that it would need to hire between two and three new employees for each parimutuel gaming facility that could open as a result of this bill. However, without knowing the size of the proposed facility and when the facility would open, the Kansas Lottery is unable to make an estimate of its gaming related expenses. The Kansas Lottery indicates that when it has negotiated contracts with gaming facility managers, it has required that all of its gaming related expenses be reimbursed by the manager. Direct gaming expenses are billed directly to the specific gaming facility manager and indirect expenses are prorated to all managers. The Kansas Lottery indicates that it is unable to estimate the additional expenses to implement a sports wagering system because it unknown how widespread sports wagering would be offered and the most cost-efficient and secure method to deliver that system.

The Kansas Lottery indicates the sports wagering industry operates significantly different from the existing casino gaming. To achieve the maximum desired return on all bets placed, a sports wagering operator seeks to create equal wagering on both sides of a sporting event. A lopsided distribution of the wagers creates risk for the operators and the potential to pay out significantly more than what is taken in. Approximately 95.0 of the gross amounts wagered on sporting events goes back to the winning wager, which leaves 5.0 percent for administrative costs, taxes, and profit.

The Kansas Lottery is unable to provide an estimate of additional revenues from offering sports wagering at lottery gaming facilities, racetrack gaming facilities, or over the internet through an interactive sports wagering system without a detailed market study. The Kansas Lottery indicates that a well-designed and well-implemented sports wagering system would generate significant revenues in future years, but it is doubtful that it could be implemented to have significant effect in FY 2019.

There are two studies (Eilers-Krejciak and AGA-Oxford) on potential nationwide and state-specific projections for revenues and gross wagering. The studies indicate that gross wagers placed

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in Kansas could reach nearly \$1.0 billion with limited availability of sports wagering (sportsbooks only available at casinos, no online betting) or more than \$2.0 billion with convenient availability of sports wagering (sportsbooks at casinos, retail locations, and online) that is fully implemented. The proposed bill would implement a sports wagering system that could be characterized as somewhere in the middle of these scenarios. The studies use a number of variables to estimate the impact of sports wagering in Kansas, including comparing certain demographics in Kansas to Nevada where sports wagering is legal, the number of existing gambling outlets, and the level of spend in those outlets to help determine the perceived competitiveness of the market. The studies also suggest that a large portion of currently illegal sports betting would shift to legal markets. If the bill allows \$1.5 billion in gross wagers placed in Kansas, then after approximately 95.0 percent of the gross amount sports wagers are paid to the winning wagers, then approximately 5.0 percent or \$75.0 million would be available. Using this scenario under the provisions of the bill, the ELARF would receive \$5,062,500 and the gaming facilities would receive a total of \$69,937,500 for operational costs, taxes, and profit. Any fiscal effect associated with HB 2793 is not reflected in *The FY 2019 Governor's Budget Report*.

Sincerely,



Larry L. Campbell  
Chief Budget Officer

cc: Stephen Durrell, Lottery  
Brandi White, Racing & Gaming Commission  
Willie Prescott, Office of the Attorney General  
Ashley Michaelis, Judiciary  
Scott Schultz, Sentencing Commission