

BOYDGAMING

DATE: March 11, 2020
TO: **HOUSE FEDERAL & STATE AFFAIRS COMMITTEE**
FROM: Ryan Soultz, Vice President of Governmental Affairs, Boyd Gaming Corporation
SUBJECT: Testimony opposing HB 2671

Chairman Barker, Vice Chairman Awerkamp, Ranking Minority Member Ruiz, and fellow members of the Committee;

Boyd Gaming is one of the largest casino entertainment companies in the United States, owning and operating 29 casinos in 10 states, including the Kansas Star Casino in Mulvane.

The Kansas Star has helped fulfill the policy goals of the Kansas Expanded Lottery Act (KELA) through job creation, capital investment and generating revenues for government. The Kansas Star has generated nearly \$400 million in revenues for the State of Kansas and local governments since the property opened in 2012, and proudly employs more than 800 team members.

The Kansas Star's impact, however, extends beyond generating government revenues and jobs for our team members. The Kansas Star contributes \$1.5 million each year to the Kansas All-Star Scholar Fund. This fund assists families and teachers in buying school and classroom supplies while also providing scholarships to graduating high school seniors in our community. Two hundred and ninety-four members of the Class of 2019 received nearly \$300,000 in scholarship awards last year from the Kansas All-Star Scholar Fund to help defray from their post-secondary education costs.

As you and your colleagues know, sports betting has been a very active topic in state legislatures across the country since the 2018 U.S. Supreme Court ruling that repealed the Professional & Amateur Sports Protection Act (PASPA) and upheld States' rights to legalize and regulate gaming within their borders.

Today, 20 states have exercised those rights to legalize and regulate sports betting. Kansas is fortunate that it can learn from the models that have worked well in many of those states and the models that have failed to produce the desired results in others.

While we are pleased that you and your colleagues are considering sports betting legislation, it must be noted that the states that have had the best results share certain common characteristics that:

- Limit legal sports betting venues to those that meet licensing standards for gaming. Suitability requirements ensure that only reputable operators are involved. This fosters public confidence that winning bets will be paid out, that issues concerning abnormalities or suspicious wagers are reported to regulators, and that the State will receive its share of revenue.

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- Authorize mobile sports wagering through casinos and their partners. As a highly regulated industry, casino gaming companies may only associate and conduct business with reputable entities and individuals. Through such relationships – subject to all necessary regulatory approval and oversight – casinos and their mobile sports wagering platform providers can cross-promote and market each other’s brands to drive activity from the illegal, offshore sites to legal, regulated ones while also creating relationships with new customers to visit brick-and-mortar facilities.
- Assess a low tax rate or revenue-sharing requirement on sports betting revenues. Sports wagering is a volatile business with hold rates of 5-6%, much lower than the typical casino games. This volatility and low hold rate translate to small operating margins. Moreover, tax rates that are too high make it difficult for legalized sports betting to accomplish a key policy goal of moving activity from the offshore sites to legal, regulated ones. A high tax rate will force legal bookmakers to recover that tax through pricing which may be reflected in less attractive odds than what is offered by offshore sites or other illegal bookmakers.
- Recognize the respective and separate roles of regulators, operators and sports governing bodies. Allowing operators, subject to regulatory oversight and approval, to book bets on various sporting events and use publicly available information to settle wagers is the standard in 17 of the states that currently have legalized sports betting. Several federal courts have held that the statistical information from a sporting event is not intellectual property because the outcome of those events are facts. More simply stated, the courts have held that facts are not subject to copyright. This separation is also established by allowing regulators and law enforcement to make decisions on when sports books should share sports wagering information with a league due to integrity concerns so that law enforcement activities aren’t jeopardized by a private entity.

These characteristics are in the framework of SB 283 and that’s why we support that bill. It follows the example of Nevada, New Jersey, Indiana, Iowa, Mississippi, West Virginia and others. These are states where sports wagering has proven itself to be a key amenity to drive additional visitation to casinos and where a competitive mobile sports wagering landscape has helped generate revenue, engage new customers, and provide bettors a safe, regulated environment for sports betting as an alternative to offshore sites.

Unfortunately, HB 2671 shares many of the characteristics from states that have not had the most success or that could complicate compliance and oversight.

- HB 2671 would allow a sole-source sports betting model that has proven to put the State and taxpayers at risk. The model contemplated in HB 2671 would give the Lottery Commission the ability to implement sports betting under the same framework as Oregon or Rhode Island. The Oregon Lottery, through its ScoreBoard app, the only legal mobile sports wagering platform in the State of Oregon will lose \$5.3 million in FY 2020. That is compared to the Lottery’s original projections of \$6.3 million in net profit in FY 2020.

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So instead of generating revenue for the State, the ScoreBoard app will actually be a financial loss for Oregon in FY 2020.

The situation in Rhode Island has not been much better. The Rhode Island legislature was among the first to authorize sports wagering after PASPA's repeal. The forecast at the time was that the Rhode Island Lottery would transfer \$20 million in annual sports wagering revenues to the State General Fund. However, the results have fallen significantly short of those projections. The sole source sports betting model in Rhode Island has one bookmaker supplying odds and other services to Rhode Island's casinos for their retail sports books and to the Lottery's sports betting app. In FY 2019, the Lottery only transferred \$3 million in sports wagering revenues to the State General Fund even with the State of Rhode Island retaining 51% of sports betting proceeds from the retail books and app.

- HB 2671 would create over 1,000 venues in the State of Kansas for legal sports betting. A key question for the committee to consider is whether those locations, their owners, operators, and employees can meet the suitability requirements and oversight standards of the gaming industry. Those are necessary to ensure that bets are settled fairly, that minors and other restricted persons are not betting, and suspicious or other improper activity is quickly reported to regulators and law enforcement. Again, these are all important in instilling the public's confidence in legal sports betting.
- The revenue sharing requirements, or tax rates, for sports betting in HB 2671 are much higher than those in the most successful jurisdictions. A 14% tax on retail sports betting revenue and a 20% tax on mobile sports betting are certainly above the rates imposed in successful jurisdictions such as Nevada (6.75%), Iowa (effective 7.5%), New Jersey (9.25% retail, 14.25% mobile) and Indiana (9.5%). The rates in HB 2671 hamper the legal, regulated books and apps ability to effectively compete against the untaxed, unregulated offshore sites.
- HB 2671 gives great authority to the sports governing bodies to not only have a monopoly in terms of them or their authorized resellers being the only suppliers of data to settle in-game wagers but also gives them access to individual bettors' information. As noted earlier, decisions on when sports books and regulators should be required to share sports wagering information with a league due to integrity concerns should be made by law enforcement to ensure that sharing such information would not interfere with any investigation by law enforcement.

Again, we appreciate that you and your colleagues are interested in passing sports betting legislation in Kansas. However, based upon our more than 40 years of experience in operating sports books in Nevada and being at the forefront of sports betting's legalization throughout the country over the last few years, we cannot support HB 2671. Instead, we urge you to adopt SB 283 that has the tenets to deliver Kansas a successful sports betting framework.