

January 29, 2019

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 2032 by Representative Frownfelter

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2032 is respectfully submitted to your committee.

HB 2032 would add a provision to the Kansas Expanded Lottery Act that if sports gambling is authorized by the Kansas Lottery, then it would be required to be conducted solely at a racetrack gaming facility and would be managed and operated by one or more racetrack gaming facility managers. The bill also provides a definition of sports gambling.

The Kansas Lottery indicates it is unable to provide an estimate of the fiscal effect for HB 2032, because it is unclear if any sports gambling would be authorized under the bill. The bill would not require additional staffing or expenditures by the Kansas Racing and Gaming Commission or the Kansas Lottery, unless a contract with a racetrack gaming facility manager is approved by the Kansas Lottery and a background investigation is approved by the Kansas Racing and Gaming Commission. Racetracks 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 operate a sports gambling operation.

If a parimutuel racetrack receives a license to open a parimutuel racetrack, the Kansas Racing and Gaming Commission indicates it would need approximately \$1.8 million and 21.00 FTE positions for each parimutuel racetrack that reopens for the annual costs to regulate activities at a parimutuel racetrack. 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 addition of sports gambling would also require additional staff time to modify regulations, facility operator internal controls, and audit programs. However, it is estimated that the costs associated with these activities would be negligible and, under the Kansas Expanded Lottery Act, would be reimbursed by gaming facility operators.

The Attorney General's Office indicates the bill has the potential to increase litigation costs by at least \$100,000 from the State General Fund for the next two to four years. There would be potential litigation regarding the constitutionality of a racetrack gaming facility operating a sports gaming operation. In addition, allowing expanded gaming at a facility that is not owned by the state may lead to litigation over the terms of existing contracts with the current operators at state-owned gaming facilities. This specialized litigation would likely require the hiring of outside counsel at a significant cost. Litigation on these issues would involve action at the District Court level followed by action at the Appellate Court level that could continue for two to four years. Litigation would not start until the effective date of the bill so there would be little, if any, costs that would be incurred in FY 2019.

A reliable estimate of the revenues generated from a sports gambling operation at a racetrack gaming facility cannot be made without a detailed market study, which would include an estimate as to when the facility would be operational, the location of the gaming facility, the size of the facility, and if the facility would impact revenues from existing gaming facilities. Any fiscal effect associated with HB 2032 is not reflected in *The FY 2020 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Campbell", written in a cursive style.

Larry L. Campbell
Division of the Budget

cc: Stephen Durrell, Lottery
Brandi White, Racing & Gaming Commission
Willie Prescott, Office of the Attorney General