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MEMORANDUM

To: Chairman Estes
Members of the 2018 Special Committee on Federal and State Affairs

From: Jason B. Long, Senior Assistant Revisor

Date: December 4, 2018

Subject: HB 2792 – Kansas Sports Wagering Act.

House Bill No. 2792 (HB 2792) would create the Kansas Sports Wagering Act (Act). The Act would be a part of and supplemental to the Kansas Lottery Act in much the same manner as the Kansas Expanded Lottery Act (KELA) currently operates. Because all forms of lotteries must be owned and operated by the State, many of the provisions of the Kansas Lottery Act and KELA would be applicable to sports wagering under HB 2792. It is currently unlawful in Kansas for any individual to bet on or take bets on sports events. Due to federal law at the time it was drafted, HB 2792 would not be effective until such time as the Executive Director of the Kansas Racing and Gaming Commission (KRGK) has certified that federal law does not prohibit states from conducting or authorizing sports wagering.

Sections 1 through 8 of HB 2792 constitute the Kansas Sports Wagering Act. Section 1 authorizes the Kansas Lottery (Lottery) to conduct sports wagering. Sports wagering may be conducted by the Lottery on its own, through lottery retailers contracting with the Lottery, or through casino and racetrack facility managers pursuant to their management contracts under KELA. The bill also allows the Lottery and facility managers to contract with sports wagering platform vendors to offer sports wagering through the internet and mobile device applications. Any entity conducting sports wagering is referred to as a sports wagering operator.

Section 2 of the bill contain regulations on the operation of sports wagering. Persons under 21 would be prohibited from placing bets, and individuals could place themselves on a self-exclusion list so that operators can prevent such individuals from placing bets.

Section 3 requires that operators must use reasonable methods to prevent individuals with a conflict of interest from placing bets, such as operator and platform directors, officers,

employees, and family members of such individuals, and athletes, coaches, referees, and other individuals connected with a sports team or sports governing body. A sports governing body, which is the entity that governs a particular sport, such as the National Football League, may request that certain sports events be excluded from sports wagering. The KRGC will determine whether to approve or deny any such requests.

Section 4 of the bill provides that a sports governing body may sue any person who knowingly engages in conduct to improperly influence the outcome of a sports event for financial gain.

Operators are required to report potentially illegal activity to the sports governing body. Operators also must maintain records of betting activity, including personally identifiable information. If a sports governing body requests real-time sharing of such information, then the operator is required to provide it, excluding personally identifiable information.

Operators use data on sports events in conducting sports wagering, and the bill establishes two categories of sports wagers for purposes of what data source operators may use. Tier one wagers are bets on the final score or outcome of an event, and operators may use any data source for information regarding such wagers. Tier two wagers are all other types of bets and the operator may only use official league data provided by the pertinent sports governing body.

Sections 6 and 7 of the bill govern distribution of the proceeds from sports wagering. First, each sports governing body will receive a fee of 0.25% of the total amount wagered on events governed by that particular body. These payments are to be made once each calendar quarter. The revenues from sports wagering, which are determined after the sports governing body fees are paid, are distributed to either the lottery operating fund or the sports wagering receipts fund depending on the type of operator conducting the sports wagering. Revenues from sports wagering conducted by casino and racetrack facility managers will be deposited in the sports wagering receipts fund and the State will then receive 6.75% of such revenues with the remainder going to the manager. Revenues from sports wagering conducted by the Lottery or lottery retailers will be deposited in the lottery operating fund.

Section 10 amends K.S.A. 21-6403 to exempt sports wagering from the criminal gambling laws. Section 11 amends K.S.A. 21-6507 to create the new crime of misuse of nonpublic sports information, which is placing a sports wager based on nonpublic information. A violation of this subsection would be a level 5, nonperson felony.

Sections 12 through 23 make amendments to existing Kansas Lottery Act and KELA statutes to incorporate the operation of sports wagering into those acts. Section 12 adds the relevant definitions for sports wagering, including "sports wagering," "sports governing body," "sports wagering operator," and "sports wagering revenue." Sections 16 and 17 amend the casino and racetrack management contract statutes to include provisions to allow sports wagering at such facilities. Section 18 amends existing background check law to require additional background checks for all personnel and entities involved in sports wagering.

Once again, HB 2792 would become only become effective when the Executive Director of KRGC has certified that federal law does not prohibit states from conducting or authorizing sports wagering.