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Presented By:
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Mr. Chairman and members of the Committee:

Thank you for the opportunity to address the committee. My name is Stephen Durrell. I am the Assistant Attorney General assigned to the Lottery as their Chief Counsel for the last 11 years.

Before we begin, I want to make absolutely clear that today I am not representing the Attorney General, nor his opinions on sports wagering. Likewise, I am not representing the current gubernatorial administration, or the next administration today, nor their opinions on sports wagering.

As legal counsel to the Lottery, I am here to discuss the Kansas constitution, current statutes and what models would be workable to establish sports wagering under our law.

I am also able to discuss what other states are doing regarding the implementation of sports wagering and some of the pitfalls and warnings they are seeing in their attempts to bring a sports book program into life.

Any thoughts I offer or questions I answer are based on my own interpretations of the law and also what I see happening around the nation and world.

1. Based on your agenda, you have heard from previous speakers on the history of how we got here, so I won't repeat that information (i.e., the repeal of PASPA).
2. In the many Sports Wagering meetings I have attended over the last several years, it's been a common theme that states must avoid the "GOLD RUSH" mentality towards Sports Wagering. This means implementing sports wagering must be done consciously, and with intent. The goal is to allow flexibility in the implementation of such a program and to "get it right" rather than just "get it done".
 - a. I have been warned on numerous occasions to be careful in dealing with experts, consultants, lobbyists, and other special interests, on these matters. To keep the state's interests at the forefront, rather than listen to special interests and their needs.
 - b. The state must be cautious of "pie in the sky" estimates on revenue. Sports wagering is a small margin business, but as the owner and operator of whatever

sports wagering platform is implemented, the state is in a good position to realize some revenue.

- c. While the state is going to make money on such a venture, it will not create a windfall of billions of dollars .
3. I have had the privilege of speaking at the Global Gaming Exposition in September and at the International Sports Wagering Symposium in NYC last week regarding the interaction of sports wagering and traditional lotteries.

Some of the things I have learned are:

- a. The integrity or licensing fee promoted by some sports leagues is not being viewed favorably by platforms or states that are being asked to consider it.
 - i. The request for a fee is not consistent across leagues. The NCAA and NFL do not appear to want such a fee.
 - ii. The belief is that there isn't enough bottom line revenue to include league fees. Platforms also seem to feel that the leagues are going to be making significant additional revenue from increased viewership. For example, the leagues (or at least some of them) are apparently in the process of negotiating new contracts with television networks now because bettors:
 - 1. Watch more games over a season;
 - 2. Watch more games on game day;
 - 3. Watch more of the actual game during the game (i.e. more minutes of a game); and,
 - 4. Watch through the commercials for statistics on other games.
 - iii. Some states have stated that some (not all) of the leagues have expressed resistance to giving additional contractual consideration above or beyond the games they are already going to offer anyway, regardless of wagering or "fees".
 - 1. Some leagues have shown an unwillingness to allow use of intellectual properties (marks, trademarks, symbols or logos), not to mention the "official data" in exchange for fees.
 - 2. Some states argue this creates an invalid contractual relationship as there is no consideration being given to the state in return for the fee. The games are going to be played and broadcast regardless of the fee or wagering, so what other consideration does a state get for the fee? Use of team logos? Names? Official data? Or, do the leagues want to charge states three or four additional times for logos, names, and data,?
 - iv. The general consensus seems to be that:
 - 1. Most games do have high degrees of integrity now, which would and should continue even with the advent of legal sports wagering.

2. The real danger from game tampering comes from the illegal markets, which obviously exist now.
3. A statistic mentioned at one of the conferences I attended stated that only .001% of games worldwide on a yearly basis may have been tampered with. The conclusion from this statistic is that tampering is extremely uncommon.
- v. There seems to be a general consensus by states and other platforms that many of the leagues are handling the issue of revenue sharing the wrong way and that the leagues should be rushing to embrace sports wagering in a legal forum because it's going to:
 1. Increase viewership and related broadcast revenues.
 2. Increase other revenues (e.g. merchandise sales).
 3. Decrease wagers in the illegal forums.
- b. One huge issue states are concerned about is mandating or legislating that only "official data" provided by the leagues can be used in a sports wagering platform. While the sentiment is understandable, the outright effect may be that it creates an unintended but clear "monopoly" for the leagues on data. That fails to take into account the possibility that other vendors might offer the same data of equal accuracy and better value or that it might already be available in the public forum.
- c. Most states agree that leagues should absolutely have a voice in what types of wagers to take, but they should in no way have the ability to dictate it. Requesting versus demanding what wager types should be allowed or disallowed seems to be the agreed upon approach. (Example: Major League Baseball asking that wagers not be taken on minor league games for integrity reasons might be seen as a legitimate request whereas a demand that a state not take wagers on the World Series might not be reasonable). Kansas, as a "state owned and operated" enterprise could probably not delegate such an authority and remain within the scope of the law.
- d. The consensus also seems to be that it is up to the leagues to deal with their player associations on possible revenue sharing issues, just as they would with a new broadcasting contract for additional funds.
4. Per the Kansas Constitution sports wagering must be state-owned and operated. This is absolutely essential in Kansas and there is no other way to operate it. How the "state-owned and operated" model is implemented is a matter of discussion:
 - a. The State will probably have to have final ownership, and ultimate control on (but not limited to) issues such as:
 - i. What types of bets are allowed.
 - ii. On what sporting events to offer wagering.
 - iii. Sole discretion to set the wagering line.
 - iv. Ability to cancel wagers or stop betting completely.

- b. How the state-owned and operated casino gaming model was constructed is a good example:
 - i. The state contracted with “managers” to do day-to-day activities, but the state has the ultimate control over all gaming operations.
 - ii. This allows for possibly shared risk with a sports wagering operator.
 - iii. This also potentially allows for a shorter start-up time window.
 - iv. All revenues go to the State first, and the State then pays those managers a monthly fee for overseeing the gaming activities.
- 5. The Kansas Lottery recently conducted an RFP to replace its central computer system. With sports wagering already on the horizon, the RFP and resulting contract with Scientific Games International (SGI) included a future option for sports wagering should it become necessary.
- 6. What must the state do to have a successful sports wagering platform?:
 - a. Must be mindful of the interested parties:
 - i. The sports wagering players:
 - 1. The State must create an easy to use system that is competitive and will incentivize players to draw away from the illegal markets.
 - 2. The revenue numbers recently quoted of \$75 million, appear to anticipate utilization of mobile sports wagering implemented with a mobile app with the State being the “house” and not running the platform through anyone but a contracted manager.
 - a. A player would probably have to enroll in the Lottery’s player’s club program (under the current system), and be able to wager through the mobile app. This would ensure that the Lottery:
 - i. Knows who the player is.
 - ii. Knows the player is over 21.
 - iii. Knows the player is located geographically in the state.
 - iv. And potentially if there are issues with problem gambling, the state might be able to provide direct help resources to a player.
 - ii. The four casinos:
 - 1. Not sure all of them will want a sports wagering system, especially if it’s not their own, as the gaming must be state-owned and operated.
 - 2. But, it is anticipated the casinos should be provided the opportunity to be involved with the wagering platform to potentially have a system at their facilities (or other ways) that that mutually benefits the state and the casinos.

3. This does not mean that the casinos must be the sole avenue of a sports wagering platform to the public (as in some states). The State's current laws require that the state own and operate the games, not the casinos. In reality the casinos don't have to be used for any of the state's distribution of sports wagering methods.
- iii. Traditional Lottery Retailers:
 1. Most of the state's current 1700+ retailers aren't going to want, or be able to accept, sports wagers.
 2. We don't want or expect a convenience shop clerk to try and explain sports wagering to a customer while the store is trying to conduct other business. That method doesn't benefit either party.
 3. Some retail locations might be able to house wagering kiosks. The Lottery could determine which locations are best for such devices, and the parameters under which traditional retailers would be eligible to have kiosks placed at their locations, much like how the new vending machines are being placed.
 - iv. It is the consumer that will ultimately dictate how this program will best work. Take for example 3-D television. The TV industry tried to force 3-D TV on electronics consumers and the consumers rejected it.
- b. We have to make sure any new sports wagering platform is safe and secure.
 - i. It must be geographically located to assure players are located within Kansas and that the participants are over 21 years of age.
 - ii. Last week in New York, the Sports Wagering Integrity Monitoring Association ("SWIMA") was announced. This new voluntary organization's goals are to allow the sharing of sports wagering "line" or "betting" data across multiple operators in multiple states. This new program may be instrumental in helping to ensure the integrity of sports matches.
 - c. As always, we must make sure we address the issue of problem gambling to the best of our abilities.
 - i. The state must continue to transfer money to the Problem Gambling and Addictions Grant Fund.
 - ii. The state must also provide for a voluntary self-exclusion program for online and all other methods of sports wagering similar to that currently implemented under the Kansas Expanded Lottery Act.
 - d. The State should continue to address the issue of illegal wagering:
 - i. We must give law enforcement additional tools and resources needed to fight this reportedly \$150-500 billion a year problem nationwide.
 1. It may be helpful to have stiffer criminal penalties for game fixing, player interference, causing through ones actions a player to lose

eligibility or a sports league or team to forfeit games, and of course, illegal online wagering.

2. Some states have implemented state based “education” programs, run by the state, to help college and professional sports players know what to look for and how they might be approached to “throw” a game or “shave points”, for instance.
3. Some European countries have created an online “app” where a player who is approached to influence a sporting event can anonymously report that interaction to regulators and law enforcement.
4. The state could also potentially aid law enforcement by specifically enumerating in statute that wagering on sports in this state is only permitted via state-owned and operated platforms, with all other sports wagering presumed illegal.

Thank you very much for your time and attention today. If there are any questions I can answer, or any additional information the Lottery can provide, please don't hesitate to ask.