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## **SPECIAL COMMITTEE ON FEDERAL AND STATE AFFAIRS**

### **STATE OF KANSAS**

December 4, 2018

Room 548-S Statehouse

### **KANSAS SPORTS BETTING LEGISLATION TESTIMONY**

Good afternoon Chairman Estes and Members of the Special Committee on Federal and State Affairs.

By way of introduction, my name is Troy Stremming, and I appear before you today to provide testimony on behalf of Kansas Entertainment, LLC. Also in attendance with me are our statehouse consultants: Whitney Damron, Bill Sneed, Riley Scott and John Bottenberg. In addition to my testimony, all of us will be available to respond to any questions you may have.

Let me begin by stating how much we appreciate the opportunity to offer testimony and express our thoughts on the potential of sports wagering legislation in Kansas.

By way of information, Kansas Entertainment, LLC is a joint venture partnership of Penn Hollywood Kansas, Inc., and Kansas Speedway Development Corporation, and was selected by the State of Kansas in 2009 to develop a destination casino for the Northeast Kansas Gaming Zone.

As you know, in May of 2018, the United States Supreme Court overturned the federal ban on sports wagering, ruling that the Professional and Amateur Sports Protection Act of 1992 (PASPA) was unconstitutional. At that time, Nevada was the only state that offered single-game betting on college and professional sports. Now each state has the opportunity to set their own policy to legalize and regulate sports wagering. Already, the states of Delaware, Mississippi, New Jersey, Pennsylvania, Rhode Island and West Virginia have passed legislation and are currently taking wagers on sporting events. Penn National Gaming operates in four of these jurisdictions and offers a sportsbook at 11 of our 40 casino properties throughout the U.S. In addition, Penn National will offer mobile wagering in several of these states in the near future.

It's important to note that despite PASPA's attempt to prohibit sports betting in the U.S., Americans have continued to embrace it as a form of entertainment and placed bets on their favorite sports teams. However, instead of placing bets in a regulated environment, backed by consumer protections, the vast majority of sports wagering today takes place underground. By way of example, \$58 billion in bets will be placed on college and NFL football this season--\$56 billion of it through illegal channels. In fact, collectively each year, Americans place nearly \$150 billion in illegal sports bets. Much of this illegal activity occurs through mobile applications and offshore websites that require little to no background to establish an account.

Now that the federal ban has been lifted, it is critical for states like Kansas to legalize sports betting to establish a safe and effective framework that protects consumers, increases transparency and creates state tax benefits.

Too often, when faced with this task, government and some private sector stakeholders begin their work with the misperception that sports betting is a "cash cow" for the casino industry. In reality, sports betting is a low-margin business, which is not viable for our industry without the proper policy environment.

As a means of illustration, for every dollar a legal, regulated sportsbook accepts in wagers, it pays back, on average, 95 cents to winning bettors. That means for every dollar wagered, the sportsbook initially retains 5 cents. This is prior to paying for labor, marketing, technology, and federal and state taxes.

In contrast, illegal wagering operators have little overhead or tax and regulatory compliance outlays. This competitive advantage allows them to enjoy higher profit margins, while being able to offer consumers better paying odds. In our shared goal to stomp out illegal sports betting, it is imperative that policy makers recognize these dynamics and establish policy that allow legal sportsbooks to offer a safe and compelling alternative to consumers.

To this point, and to ensure the integrity of sports betting in Kansas, we believe the appropriate licensing and strict regulation of sports wagering should be placed within the oversight of the Lottery Commission.

Further, we believe strongly in a "bricks and mortar" approach to sports wagering, that would allow the Kansas Lottery to contract with state-owned and operated casinos and the pari-mutuel tracks, should they choose to reopen under current law.

Whether placing a bet in person or through a mobile application (geo-fenced inside the state), we strongly support all sports betting activity being conducted solely on interactive sports wagering platforms operated through the "brick and mortar" gaming facilities. This will provide more control over the qualification of a person who seeks to place a wager, and run the platform through a previously licensed, and highly regulated business enterprise located in the State of Kansas. Furthermore, geo-fencing (or technologically tracking the location of the mobile device being used to place a wager) will ensure that utilization of a mobile wagering platform is being utilized within the borders of the state, and therefore in compliance with the U.S. Supreme Court's allowance of "intrastate wagering."

Utilizing the state gaming facilities to house Kansas sportsbooks and offer interactive sports wagering platforms will also maximize economic benefits for the State of Kansas and local communities. As casino operators will utilize sports betting as just one lever to further engage with their guests in an interactive fashion that will enhance our land-based businesses. These visits will allow us to grow our traditional gaming business, while simultaneously growing tax revenue for the state and local community, as we would presume traditional gaming options will be taxed at a much higher rate than sports wagering.

More directly to this point, we believe it is critically important to ensure that the tax rate on these modest revenues does not undermine the regulated sports betting operators' ability to compete against illegal offshore alternatives. Specifically, we propose matching the long-standing Nevada tax rate of 6.75% of sports wagering revenues retained after all winners are paid.

Allowing for "integrity" or "royalty" fees to be paid to the professional sports leagues would set a bad state policy and will undercut the economic viability of legalized sports betting. In fact, of the previously mentioned states that have passed laws legalizing sports wagering, none of those states have allowed for "integrity" or "royalty" fees. We strongly believe these types of arrangements should reside outside the statutory and regulatory framework and left to private business contracts between interested parties like casino operators and the professional sports leagues. Several of these types of agreements have recently been entered into between such interested parties. For example, MGM Resorts and Major League Baseball just confirmed a league-wide gaming partnership within the past two weeks, which followed similar agreements signed between MGM Resorts and the National Basketball Association (NBA) and the National Hockey League (NHL).

If the Special Committee would foresee seeking guidance on model legislation, we would recommend looking to the State of West Virginia, which recently approved a sports wagering framework for a regulated industry under the oversight of the state Lottery Commission. The West Virginia model allows the state's five gambling establishments to offer sports betting within their respective casinos and to apply for a license to operate an interactive sports wagering platform. Bettors that are at least 21 years of age and located in the State of West Virginia can place wagers on collegiate and professional sporting events. Those wagers can be placed either in person or on a mobile betting platform through the state's five gambling operators. It's also worth noting that the West Virginia model, like all other states that have legalized sports wagering, does not include an "integrity" or "royalty" fee.

This concludes my formal testimony, and I will be happy to answer any questions you may have at this time.

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On behalf of Kansas Entertainment, LLC

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