

March 24, 2021

The Honorable John Barker, Chairperson
House Committee on Federal and State Affairs
Statehouse, Room 285A-N
Topeka, Kansas 66612

Dear Representative Barker:

SUBJECT: Fiscal Note for HB 2444 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2444 is respectfully submitted to your committee.

HB 2444 would allow the Kansas Lottery to enter into a contract with one or more licensed interactive sports wagering platforms to offer sports wagering in the state on behalf of the State of Kansas through the Kansas Lottery. The Kansas Lottery would be allowed to select an interactive sports wagering platform that would be best able to serve the public convenience and promote sports wagering with marketing plans developed by the Kansas Lottery. The bill would allow the Kansas Lottery to enter in to marketing agreements with professional sports teams for the purpose of marketing sports wagering at their primary facilities. A professional sports team is defined as an athletic team that operates at the major league level in the sport of baseball, basketball, football, ice hockey, or soccer. The marketing agreement would allow sports betting at kiosks located at the professional sports team's primary facility and could provide access to mobile device applications to allow sports wagering through the interactive sports wagering platform at the primary facility. The marketing agreement would prohibit any owner, director, officer, employee, or agent of the professional sport team from taking any bets, paying out any prizes, or having any control or access to the interactive sports wagering platform. The Kansas Lottery would have the authority to write rules and regulations to implement the bill. The rules and regulations would specially include provisions for the confidentiality of information submitted by an interactive sports wagering platform, and provisions ensuring the integrity of sports wagering conducted in this state.

All sports wagers accepted on the interactive sports wagering platform would only be accepted from individuals that are physically located in the State of Kansas. Interactive sports wagering platforms would be allowed to offer all types of sports wagering, including in-game

betting. Sports wagering would be allowed on any professional or collegiate sport or athletic event, motor race event, or any other special event authorized by the Kansas Lottery Commission that has not occurred at the time wagers are placed on that event. Sports wagers would not be allowed to be placed on a horse or greyhound race that is authorized under the Kansas Parimutuel Racing Act or any interscholastic sports event involving participants in kindergarten through grade 12.

A sports governing board would be allowed to notify the Kansas Lottery that it desires to restrict, limit, or exclude wagering on its sporting events and the Kansas Lottery would review the request and determine if the sports wagering should be restricted. The bill would allow the state or sports governing body to have a civil case to recover damages or other equitable relief against any person who knowingly engages in, facilitates, or conceals conduct that intends to improperly influence a betting outcome of a sporting event for purposes of financial gain.

The bill would create the White Collar Crime Fund in the State Treasury that would be administered by the Attorney General. The White Collar Crime Fund would be used to investigate and prosecute criminal offenses involving the use of funds derived from illegal activity to make wagers; placing wagers to conceal money derived from illegal activity; the use of other individuals to place wagers as part of any wagering scheme to circumvent any provision of federal or state law; the use of false identification to facilitate the placement of any wager or the collection of any prize in violation of federal or state law; any other unlawful activity involving or facilitated by the placing of wagers; or any other violation of the Kansas Expanded Lottery Act. The fund could also be used to investigate and prosecute criminal offenses involving any financial or economic crime. The Attorney General is authorized to transfer monies from White Collar Crime Fund to any special revenue fund of the Kansas Bureau of Investigation to carry out the purposes of this fund. Beginning on July 1, 2022, and each July 1st thereafter, the first \$750,000 credited to the Lottery Operating Fund from sports wagering revenue would be transferred to the White Collar Crime Fund.

The bill would create a new crime of misuse of nonpublic sports information that is punishable as severity level 5 nonperson felony. Misuse of nonpublic sports information is defined as placing, or causing to be placed, a bet or wager on a sports contest on the basis of material nonpublic information. The bill would increase the severity level for certain sports bribery offences from severity level 9 nonperson felony to severity level 5 nonperson felony.

Under current law, the State Gaming Revenues Fund receives the first \$50.0 million of receipts from regular lottery ticket proceeds and is divided by a formula that first transfers \$80,000 to the Problem Gambling and Addictions Grant Fund at the Kansas Department for Aging and Disability Services. Then 85.0 percent of the rest is transferred to the Economic Development Initiatives Fund, 10.0 percent to the Correctional Institutions Building Fund, and 5.0 percent to the Juvenile Detention Facilities Fund. The bill would increase the Problem Gambling and Addictions Grant Fund transfer by \$20,000, from \$80,000 to \$100,000, and there would also be corresponding reductions in revenue distributed to the Economic Development Initiatives Fund (\$17,000), Correctional Institutions Building Fund (\$2,000), and Juvenile Detention Facilities Fund (\$1,000).

The Kansas Lottery indicates that HB 2444 would require it to incur significant staff, IT, and other startup costs during the sports wagering implementation phase, but it is unable to

estimate specific amounts or positions necessary to implement the provisions of the bill. In addition, the Kansas Lottery is unable to estimate the additional expenses to implement a sports wagering system because it unknown how widespread sports wagering would be offered. The Kansas Lottery indicates that the bill would update the definition of ticket to not only include traditional lottery tickets but would also include a sports wager. Defining a sports wager as a lottery ticket may conflict with current law that prevents lottery tickets to be sold by electronic means, the internet, or by telephone.

The Kansas Lottery indicates the bill would require it to procure a contract with a third-party vendor and then develop the necessary infrastructure to conduct sports wagering. Depending on the length the procurement process, it is estimated this could take up to 12 months before the first legal sports wager would be placed in the state. Without knowing the terms of the contract with the licensed interactive sports wagering platforms, the amount of revenue that would be generated from this sports wagering system are unknown. The Kansas Lottery indicates that this centralized sports wagering model has the potential to increase revenue for the state compared to a decentralized sports wagering model that leverages existing casino infrastructure. However, the centralized sports wagering model has a higher potential for losses or a lower floor on the amount of revenue generated, requires larger up-front investments on behalf of the state, and could take longer to implement.

The sports wagering industry operates significantly different from the existing casino gaming. To achieve the maximum desired return on all bets placed, a sports wagering operator seeks to create equal wagering on both sides of a sporting event. A lopsided distribution of the wagers creates risk for the sports wagering operator and the potential to pay out significantly more than what is taken in. The Kansas Lottery indicates that a contract with the third-party vendor could possibly offer risk-mitigation in exchange for a higher share of revenues. The Kansas Lottery indicates that a well-designed and well-implemented sports wagering system would generate significant revenues in future years, but it is doubtful that it could be implemented to have significant effect in FY 2022. It is also unknown to what extent that this sports wagering system would discourage currently illegal sports betting to shift to legal markets.

The Attorney General's Office indicates that it would be required to review the legality of any proposed rules and regulations from the Kansas Lottery related to sports wagering. The Office indicates the cost to review proposed rules and regulation would be negligible and could be absorbed within existing resources. The bill has the potential to increase funding by up to \$750,000 per year to investigate and prosecute criminal offenses related to sports wagering or illegal gambling activity from the White Collar Crime Fund. The Attorney General's Office would likely hire additional positions to investigate and prosecute white collar crimes; however, a specific determination on how these additional funds would be expended has not been made. The White Collar Crime Fund would also be allowed to be transferred to Kansas Bureau of Investigation to investigate financial and economic crimes. However, the amount of the transfer, if any, would be determined by the Attorney General's Office.

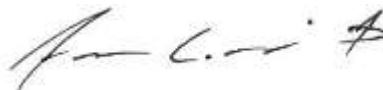
The bill has the potential for increasing litigation in the courts because of the new crimes created by the bill. If it does, the Office of Judicial Administration indicates that there would be a fiscal effect on the operations of the court system. However, it is not possible to estimate the

number of additional court cases that would arise or how complex and time-consuming the cases would be. The fiscal effect would most likely be negligible and could be accommodated within the existing budget resources. The Kansas Sentencing Commission indicates that the bill could have an effect on prison admissions and beds; however, the Commission did not provide a specific estimate.

The Department for Aging and Disability Services indicates that allowing sports wagering activity would likely increase demand for services provided by its Problem Gambling Program. The Department indicates that the amount of additional spending would be dependent on how readily available sports wagering would be offered in the state. The Department also has concerns that the funding mechanism that provides an additional \$20,000 to the Problem Gambling and Addictions Grant Fund would be insufficient to support additional demand for services in its Problem Gambling Program.

The Kansas Racing and Gaming Commission indicates the bill would have no fiscal effect on its operations. Any fiscal effect associated with HB 2444 is not reflected in *The FY 2022 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt
Director of the Budget

cc: Keith Kocher, Lottery
Brandi White, Racing & Gaming Commission
Willie Prescott, Office of the Attorney General
Scott Schultz, Sentencing Commission
Connie Hubbell, Aging & Disability Services
Debbie Thomas, Judiciary
Jeff Scannell, Department of Administration