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300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: Chairman Barker and Members of the Committee on Federal and State Affairs
From: Office of Revisor of Statutes
Date: February 17, 2021
RE: House Bill 2199

House Bill 2199 would authorize sports wagering in Kansas. The bill contains 14 new sections of law that would be a part of the Kansas Expanded Lottery Act (KELA). Because the Kansas Constitution requires that all forms of lotteries must be owned and operated by the State, many of the provisions of the Kansas Lottery Act and the KELA would be applicable to sports wagering under HB 2199.

Section 1 of the bill would authorize the Kansas Lottery to conduct sports wagering. Under the bill, sports wagering could be conducted by the Lottery, itself, through sports wagering retailers who contract with the Lottery to conduct sports wagering on behalf of the State, or through casino and racetrack facility managers pursuant to their KELA management contracts. The bill would allow the Lottery to approve interactive sports wagering platforms for use by the Lottery and the facility managers to offer sports wagering through the internet and mobile device applications.

Under the bill, any entity conducting sports wagering is referred to as a sports wagering manager and the bill defines sports wagering as placing bets on one or more sports events or any portion of a sports event. A sports event excludes horse and greyhound races subject to the Kansas Parimutuel Racing Act and any event where a majority of the participants were under 18 years of age.

The bill would establish two categories of sports wagers for purposes of what data source a sports wagering manager may use to verify the outcome of a sports event. Tier one wagers are bets on the final score or outcome of a sports event, and managers may use data from any source for determining such wagers. Tier two wagers are all other types of bets and the manager may only use official league data provided by the relevant sports governing body, provided official league data is readily available and accessible on commercially reasonable terms.

Section 2 pertains to contracts between the Lottery and sports wagering retailers. Retailers would be selected by the Lottery similar to how lottery ticket retailers are selected under current law. The Lottery could not contract with more than 1,200 sports wagering retailers.

Section 3 would permit the Lottery to select an interactive sports wagering platform for online sports wagering. Any casino or racetrack facility manager that contracts to manage sports wagering may use the selected platform and may request the Lottery's approval of one additional platform. The casino or racetrack facility manager may also request approval of one additional graphical user interface, or skin, that is unique to the manager.

Section 4 would allow the Lottery and any casino or racetrack facility manager to enter into a marketing agreement with a professional sports team for the purpose of offering sports wagering at the home stadium of the sports team. The marketing agreement must specify that only the Lottery or the manager can conduct sports wagering, and that the sports team is acting solely for purposes of marketing. A "professional sports team" is defined as an athletic team that competes at the major league level in baseball, basketball, football, ice hockey, or soccer.

Section 5 would establish regulatory restrictions on advertising by sports wagering managers. This includes not targeting minors or vulnerable people, disclosing the identity of the manager, providing problem gambling and addiction support information, and not using false or deceptive advertising.

Section 6 would allow a sports governing body, such as the National Football League, to request that certain sports events be excluded from sports wagering. The Lottery would review any requests and receive input from sports wagering managers before determining whether to approve or deny any such request.

Section 7 would require that sports wagering managers use reasonable methods to prevent individuals with a conflict of interest from placing bets, such as the manager and platform providers, officers and employees of such entities and their family members, and athletes, coaches, referees, and other individuals connected with a sports team or sports governing body. Sports wagering managers would also be required to cooperate with investigations and report potentially illegal activity to the Lottery, the Kansas Racing and Gaming Commission, and the sports governing body in certain instances.

Section 8 would require sports wagering managers to maintain records of betting activity, including personally identifiable information. This information would be required to be made available upon request, except if a sports governing body requests real-time sharing of such information, then the manager is not required to provide video recordings or any personally identifiable information. All disclosures must be subject to a data-sharing agreement between the Lottery and the sports governing body pursuant to Section 9 of the bill.

Section 10 would provide a cause of action for the State and a sports governing body against any person who knowingly engages in conduct to improperly influence the outcome of a sports event for financial gain.

Section 11 would provide for individuals to place themselves on a self-exclusion list so that sports wagering managers can prevent such individuals from placing bets.

Section 12 would establish the sports wagering receipts fund. All revenues from sports wagering would be deposited weekly in the sports wagering receipts fund. Each month the Lottery would certify the amounts to be paid to the sports retailers and the casino and racetrack facility managers pursuant to their management contracts. The remainder would be transferred to the lottery operating fund.

The bill would provide that the State's portion of sports wagering revenues from wagers placed with sports wagering retailers would be whatever is specified in the contracts with the sports wagering retailers. In the management contracts with the casino and racetrack facility managers, the State's percentage would be 20% for wagers placed through a mobile application and 14% for wagers placed in person. Sports wagering revenues are all wagering revenue generated from sports wagering that is an amount equal to the total wagers less any voided wagers and any amounts paid as prizes.

Section 14 of the bill would create the new white collar crime fund to be administered by the Attorney General. The first \$750,000 of lottery operating revenue from sports wagering would be transferred to the white collar crime fund to be used to investigate and prosecute gambling and other financial crimes.

Regarding sports wagering under tribal gaming compacts, Section 15 of the bill would require the Governor to exercise good faith in negotiating existing tribal gaming compacts to include sports wagering.

HB 2199 also includes provisions to allow what is known as iLottery. Sections 21 and 24 of the bill remove the current prohibitions on internet-based lottery games. The bill would allow the Lottery to sell online lottery ticket games if the game did not: (1) Functionally operate the same as a slot machine; (2) allow for the redemption of prizes of \$600 or more; and (3) extend credit for the purchase of a lottery ticket.

HB 2199 would also amend various statutes in the Lottery Act and the KELA to provide for the regulation of sports wagering. Section 21 would add new rules and regulations requirements for the Lottery to regulate sports wagering. Section 28 would amend the criminal history record check certification statute to require the same background checks for individuals

involved in offering sports wagering. Section 29 would include sports wagering in the gambling prohibition on individuals under 21. Finally, Section 31 would apply the same prohibition on gambling by individuals with a conflict of interest to sports wagering.

With respect to the criminal provisions of the bill, Section 17 would amend K.S.A. 21-6403 to exempt sports wagering from the criminal gambling laws. Section 16 would create the new crime of misuse of nonpublic sports information, which is placing a sports wager based on material nonpublic information. A violation of this section would be a level 5, nonperson felony. In Section 18, the bill would also raise the penalty for sports bribery if the offense was committed with the intent to obtain financial gain in connection with a sports wager from a level 9, nonperson felony to a level 5, nonperson felony.

Section 32 would amend the current statutory prohibition against gray machines to specify that the State, through the Attorney General and the KRGC, have original jurisdiction to investigate and prosecute violations of the gray machine prohibition.

Sections 33, 34, and 35 amend the state debt setoff statutes to include sports wagering retailers as an entity that may act on behalf of the State in withholding prize winnings from individuals who have a debt owed to the State or a municipality.

Lastly, section 36 would increase the transfer amount to the Problem Gambling and Addictions Grant Fund from \$80,000 to \$100,000 per year.