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February 14, 2018

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

Dear Representative Barker:

SUBJECT: Fiscal Note for HB 2517 by House Committee on Appropriations

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2517 is respectfully submitted to your committee.

HB 2517 would authorize the Kansas Lottery to use lottery ticket vending machines to sell lottery tickets. The lottery ticket vending machines, also known as electronic product dispensers, would allow a purchaser to manually check the status of a lottery ticket and could be used to display advertising, promotions, and other information pertaining to the Kansas Lottery. The bill would allow no more than two lottery ticket vending machines at each Kansas retailer selling location. The Kansas Lottery would be authorized to rent or buy lottery ticket vending machines to place at lottery retailer locations. The bill would null and void any lottery ticket or share purchased by a person under 18 years of age. The bill would extend the sunset provision in the statute governing the operation of the Kansas Lottery until July 1, 2037. Under current law, the agency will be abolished on July 1, 2022.

The bill would authorize transfers from the Lottery Operating Fund to the Community Crisis Stabilization Centers Fund and Clubhouse Model Program Fund of the Kansas Department for Aging and Disability Services from additional revenue generated from the sale of lottery tickets at lottery ticket vending machines. The additional revenue would be distributed as follows: 75.0 percent to the Community Crisis Stabilization Centers Fund and 25.0 percent to the Clubhouse Model Program Fund. The total amount of the transfer would not exceed \$4.0 million in FY 2019 and \$8.0 million in FY 2020, 2021, 2022, and 2023. The bill would require monthly transfers beginning on July 10, 2018.

Before any casino manager, racetrack gaming facility manager, or facility owner licensee pays any prize that requires the completion of an Internal Revenue Service form W-2G, the

manager or licensee would be required to check if the winner is listed on the state debtor files maintained by the Department of Administration. If it is determined that the person is a state debtor, then the prize must be withheld to the extent of the amount owed. The manager or licensee would not be subject to any civil, criminal, or administrative liabilities for any prize that was mistakenly withheld provided that it was not due to any intentional, malicious, or wanton act by the manager or licensee. The only remedy for a person whose winnings are wrongfully withheld would be to submit an appeal to the Department of Administration. Withheld winnings must be submitted to the State Treasurer and credited to the Department of Administration's Setoff Clearing Fund. The Department of Administration would be permitted to work with the manager or licensee for the purposes of the state debt setoff program. The bill would clarify that this program would not apply to Native American Tribal gaming facilities.

The bill would authorize licensees under the Charitable Gaming Act to enter into contracts with the Kansas Lottery to sell instant bingo tickets from instant bingo vending machines. The bill would allow no more than two instant bingo vending machines at each licensee's premises where bingo is conducted. The bill would take effect upon publication in the *Kansas Register*.

The Kansas Lottery indicates HB 2517 would authorize the use of lottery ticket vending machines at lottery retailer locations and has the potential to increase sales by improving product availability and efficiently delivering lottery products to its customers. The Kansas Lottery indicates that at least 38 other lottery jurisdictions in the United States use lottery ticket vending machines and this method of dispensing lottery products to customers is often requested by lottery retailers. The Kansas Lottery indicates that it plans to deploy between 300 and 400 lottery ticket vending machines among its current 1,735 lottery retailers. The Kansas Lottery indicates that allowing lottery ticket vending machines is estimated to increase the Kansas Lottery's year end transfer to the State General Fund. Once fully implemented, the Kansas Lottery estimates that the lottery ticket vending machines will increase sales by at least \$25.0 million and the year-end transfer amount by at least \$8.0 million. The Kansas Lottery indicates that it is currently implementing a new central gaming system that will be operational on July 1, 2018, and it will be seven to ten months after that date for procurement, implementation, and a phased roll out of lottery ticket vending machines under the provisions of this bill. The Kansas Lottery indicates that there would be little significant net revenue from the lottery ticket vending machines in FY 2019 and the most significant related revenue gains would be projected for FY 2020 and in future fiscal years. The Kansas Lottery is unable to estimate the additional expenses for this program because it has not determined the most cost-efficient method to acquire lottery ticket vending machines and to place them at lottery retailer locations. In other lottery jurisdictions, lottery ticket vending machines have been purchased, leased, or acquired from a revenue sharing agreement.

The Kansas Lottery indicates that very few lottery tickets are purchased by persons under 18 years of age. It is unknown how many lottery tickets would be voided under this provision; however, it is estimated to be negligible.

The Kansas Lottery indicates extending the sunset provision would have no fiscal effect unless the sunset provision takes effect on July 1, 2022. The sunset date for the operation of the Kansas Lottery was created by the 1992 Legislature to occur on July 1, 1996 and was extended by

the 1995 Legislature (until July 1, 2002), the 2001 Legislature (until July 1, 2008), and by the 2007 Legislature (until July 1, 2022). The Kansas Lottery indicates that if it were to be abolished on July 1, 2022, sales of on-line lottery games would end July 1, 2021 and instant lottery ticket sales would end January 1, 2022, to allow the required time for lottery players to redeem winning tickets. Proceeds from lottery tickets sales support economic development initiatives, prison construction and maintenance projects, local juvenile detention facilities, treatment of problem gambling and other addictions, veterans' programs, and the State General Fund. On behalf of the state, the Kansas Lottery is also the owner of gaming operations at the four state-owned casinos and contractual obligations with expanded lottery gaming facility managers extend past the current sunset date. Proceeds from state-owned gaming operations are used to reduce state debt, reduce KPERS actuarial liability, increase the number of engineering graduates from the state's universities, and treat problem gambling and other addictions.

The Kansas Lottery indicates that by extending the sunset date, the bill has the potential to reduce costs by allowing it to negotiate longer term contracts with vendors. The Kansas Lottery indicates that its vendors make significant financial investments to provide services and products to the Kansas Lottery. The sunset date may occur prior to expiration of the contract between the Kansas Lottery and its vendors or before the vendor has recovered initial upfront investments, which creates uncertainty in the contract negotiating process. Extending the sunset date would eliminate this uncertainty.

At this time, the Kansas Lottery is unable to determine the administrative costs related to the requirement to enter into contracts with licensees under the Charitable Gaming Act to sell instant bingo tickets from instant bingo vending machines. These organizations are licensed and regulated by the Department of Revenue. The bill requires that the Kansas Lottery own or lease instant bingo vending machines, which may create additional capital outlay expenses which could reduce the year-end transfer to the State General Fund. The Kansas Lottery is unable to determine how many nonprofit organizations might seek to place these vending machines at their location. If 200 organizations opt to use them, the Kansas Lottery estimates that additional capital outlay costs of \$2.0 million are possible (200 licensees with up to 2 machines each at up to \$5,000 per machine). The net profits from the tickets dispensed by those machines would be paid to the licensee and would not have a fiscal effect on state revenues. The Kansas Lottery indicates that it would be required to charge the users of these machines to recover all related costs.

The Department of Revenue indicates that the bill has the potential to reduce the amount of revenue collected for charitable gaming. However, a precise estimate was not estimated by the Department. According to the Department, the bill would require \$5,460 from the State General Fund in FY 2019 to implement the bill, revise publications, and make computer system changes.

The Kansas Department for Aging and Disability Services indicates that the bill would provide up to \$4.0 million in FY 2019 and up to \$8.0 million in FY 2020, 2021, 2022, and 2023 to fund community mental health programs. However, the Kansas Lottery indicates that transfers would not likely total the \$4.0 million in FY 2019.

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The Department of Administration indicates that expanding the debt setoff program would require computer programming to make sure that prizes or winnings at state-owned gaming facilities would be subject to the debt setoff program. The debt setoff program intercepts debts owed to state agencies, municipalities, district courts, and state agencies in other states. Debts include, but are not limited to child support, taxes, educational expenses, fines, services provided to the debtor, and court ordered restitution. The Department of Administration indicates that the costs associated with programming existing software to implement the debt-setoff requirements of the bill would be negligible and could be absorbed within existing resources. The Department of Administration indicates the bill would increase debt setoff revenue annually by up to \$100,000 starting in FY 2019 by requiring casino managers, racetrack gaming facility managers, or facility owner licensees to assist in the collection of debts. With an increase of \$100,000 in debt setoff revenue in FY 2019, the bill would also allow the Department of Administration to receive up to \$17,000 in collection assistance fees that would be used to help run the debt setoff program.

The Kansas Racing and Gaming Commission indicates that implementation of the debt setoff program would likely require gaming facility managers to make changes to their internal controls. The Kansas Racing and Gaming Commission indicates that the costs to review internal controls and audit requirements of gaming facility operators related to the debt setoff program are estimated to be negligible and could be absorbed within existing resources. Any fiscal effect associated with HB 2517 is not reflected in *The FY 2019 Governor's Budget Report*.

Sincerely,



Larry L. Campbell
Chief Budget Officer

cc: Stephen Durrell, Lottery
Lynn Robinson, Department of Revenue
Cody Gwaltney, Aging & Disability Services
Colleen Becker, Department of Administration
Brandi White, Racing & Gaming Commission