

SB 455 Opposition Testimony of Clark D. Stewart, CEO

Butler National Corporation

19920 W. 161st Street, Olathe, KS 66062

Tel: (913) 780-9595 Fax: (913) 780-5088

Butler National Corporation would favor legislation in support of regulating and taxing sports related wagering in Kansas if the current federal ban is eliminated through judicial or legislative action, yet we strongly oppose SB 455 because it gives private entities “sports governing bodies”: (a) a Monopoly; (b) Regulatory and Police-like powers; and (c) a tax in the form of a payment to the leagues without consideration and without meaningful benefit.

Three very important factors must be addressed in any proposal to expand gaming in Kansas:

- 1) Is the bill **Constitutional** under Kansas law (**Kansas Lottery must operate** wagering);
- 2) Does it make **Economic Sense**; and
- 3) How is the **State of Kansas** going to **Benefit**?

If structured properly we believe a sports wagering program would meet the requirements of the Kansas Constitution. The manner in which this Bill is written is patently unconstitutional because it ignores the requirement that the program be state owned and operated as is the case in each of the four state owned and operated casinos. We believe that sports wagering should be managed by the existing casinos and owned and controlled by the State. From a Kansas constitutional perspective, numerous provisions of SB 455, violate the law particularly because there are numerous “operators” other than the Kansas Lottery that “operate” or “conduct” the sports wager. Moreover, when the SB 455 is read as a whole, there is very little, if any oversight, regulation or even involvement of the Kansas Lottery in any wager. On its face, the legislation provides the “sports governing bodies” more regulatory control than the state over sports wagering, with limited liability for fraud or wrongdoing.

For any activity, an assessment should be made whether the activity makes any financial sense. There must be a benefit to the citizens of Kansas, not just to the state equipment vendors and major sports organizations. As written, SB 455 does not make economic sense – the private entity is always guaranteed a fee and the State may or may not receive compensation for any bet – this is not right! Sports wagering does not have significant margins. The Bill has numerous unintended consequences that if implemented would violate every Kansas state owned and operated casino contracts.

How are the Citizens of Kansas going to benefit from the legislation? We do not expect Kansas businesses to directly profit from sports wagering in any form. The present-day unregulated off-shore sports books are not few or insignificant. We may have an opportunity for the Lottery to legitimize and fairly operate sports wagering. However, any legislation must benefit the State, by taxing transactions or activities, and making it less burdensome to play with the Kansas Lottery than risk the temptations of the illegal internet sports book. Additionally, the blur between fantasy sports, daily fantasy sports and sports wagering has become negligible. Nevada even regulates fantasy sports. Millions of dollars in fantasy sports transactions are completed and NOT taxed in Kansas each year. Should federal law change, we believe there is an opportunity for the Kansas Lottery to regulate and receive a reasonable amount of income from all sports-related wagering activities. SB 455 fails to reasonably benefit the State or its businesses. We further adopt the testimony presented by Kevin Fowler of the Frieden Unrein & Forbes law firm. We oppose SB 455.

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Clark D. Stewart
President and CEO