Written Testimony of Kalshi Inc.
Illinois Senate Subcommittee on Gaming, Wagering, and Racing
April 6, 2026

Sub-Chair Cunningham and Members of the Senate Subcommittee on Gaming, Wagering and Racing:

Kalshi Inc., the parent company of KalshiEX LLC ("Kalshi"), the first federally regulated event contracts exchange in the United States, submits this testimony in opposition to Senate Bill 4168, the Prediction Markets Regulation and Taxation Act ("SB4168" or the "Bill").

Thank you for the opportunity to submit written testimony regarding SB4168. We appreciate the Subcommittee's attention to this evolving area of law and policy, and we recognize and respect the State's interest in consumer protection, market integrity, and the development of sound regulatory frameworks for emerging products and technologies.

This testimony is submitted in a constructive spirit. It is intended to identify several serious concerns that, in our respectful view, warrant careful consideration before SB4168 proceeds further in its current form.

The Subcommittee should first understand what prediction markets like Kalshi actually are—and the substantial public value they provide—before evaluating whether SB4168 is an appropriate response. Kalshi is a federally licensed exchange, designated by the Commodity Futures Trading Commission ("CFTC") as a designated contract market ("DCM"). It is regulated under a federal law called the Commodity Exchange Act ("CEA") alongside entities like the Chicago Mercantile Exchange and the Intercontinental Exchange. It operates a nationwide platform on which users buy and sell event contracts—financial instruments known as derivatives whose prices are driven by market forces, not set by the platform. These markets serve important public functions: facilitating hedging by businesses and individuals, generating predictive information that has proven more accurate than traditional sources, and fostering transparency through publicly visible trading activity.

As drafted, SB4168 raises substantial legal and practical concerns. Most notably, it would classify as gambling an activity already subject to comprehensive and exclusive federal oversight, raising serious constitutional and structural questions, including the prospect of federal preemption and prolonged jurisdictional conflict.[1] The Bill also appears likely to create

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[1] Although the regime contemplated by the Bill excludes sports event contracts, state regulation of sports event contracts traded on DCMs such as Kalshi is also preempted by federal law, and the legal, policy, and commercial concerns reflected in this testimony—including with respect to proposed licensing and taxation—apply with equal force to any attempted application of state law to sports events contracts.

significant commercial and operational burdens that would not meaningfully regulate prediction markets in Illinois so much as effectively preclude their operation in the state. These issues warrant careful reconsideration before the State adopts a framework that may prove both difficult to administer and vulnerable to legal challenge.

I. What Prediction Markets Are—and Why They Matter

SB4168 proceeds from the premise that prediction markets should be treated as gambling activity subject to state gaming regulation. That premise should be examined with care, beginning with an understanding of how these markets actually function and the value they provide to the public.

DCMs Like Kalshi Are Not "The House": Prediction markets are event-based markets in which participants trade contracts tied to the outcome of future events. In structure and operation, these markets differ in important respects from traditional sportsbook or casino products. Kalshi's platform operates as an exchange rather than as a house counterparty taking positions against customers or profiting from customer losses in the manner traditionally associated with gaming enterprises. Contract prices are determined by supply and demand among market participants, not set by the platform, and those prices are bounded by limits of $0.00 to $1.00 per contract. This differs markedly from the traditional sportsbook model, where the house sets the odds, may restrict successful bettors, and does not allow participants to freely exit their positions. Kalshi, by contrast, welcomes successful traders—their participation helps make markets more predictive and therefore more useful. Traders on Kalshi can exit positions at any time by selling to others on the exchange at prevailing market prices and can place limit orders to manage their risk.

Hedging and Informational Value: Kalshi's markets serve a wide range of hedging and risk-management purposes that have no parallel in traditional gambling. A property owner on the Gulf Coast, for example, can take a position on the number of hurricanes there will be to hedge his risk of loss from a storm. Kalshi offers thousands of markets covering political elections, legislative outcomes, Supreme Court decisions, tariff announcements, the level of the national debt, recession timing, solar capacity installations, weather events, natural gas prices, rent price growth in cities including Chicago, product launches by companies, and thousands of other events—all providing genuine hedging utility to businesses, investors, and individuals. Even in the sports context, TV networks, sponsors, apparel manufacturers, sports bars, and hotels all have legitimate financial interests in the outcomes of games and athletic performance that could be hedged through these markets. Even sportsbook operators have financial exposure to event outcomes and have used Kalshi's markets to manage that risk. And although not all participants may be hedging, that has never been a requirement of a derivatives market—just as one need not own a cornfield to trade corn futures. Allowing more participants into markets creates more accurate prices and increases hedging utility for everyone.

The public information generated by prediction markets is also significant. Prices on Kalshi reflect the aggregated views of informed participants with real financial stakes, making them a

powerful tool for forecasting future events. For example, CNN has partnered with Kalshi to cover elections using its market data. Academics, researchers, and the general public all benefit from access to real-time probabilistic information about future events.

Consumer Protections Already in Place: Kalshi also goes beyond what is required under its federal regulatory obligations to protect consumers. In addition to complying with CFTC standards—which include real-time market surveillance, anti-manipulation protections, and financial integrity requirements—Kalshi has voluntarily implemented deposit caps, self-imposed trading breaks, and self-exclusion tools that allow users to restrict their own access to trading. Kalshi maintains a 24/7/365 monitoring team using both human staff and algorithmic tools to detect and address suspicious trading activity. Kalshi also partners with organizations like Integrity Compliance 360 for its sports offerings—an organization that helps monitor for activity from prohibited users, including athletes in games for which there are markets on Kalshi.

Kalshi's compliance framework also incorporates specific safeguards against insider trading. Participant eligibility rules prohibit trading by individuals with access to material nonpublic information, and Kalshi screens certain politicians, government officials, athletes, and individuals associated with sports markets at onboarding—either preventing platform access or imposing special trading restrictions.

Those distinctions matter. Whether all such activity can properly be classified as gambling for purposes of Illinois law is not a simple or purely semantic question. It is a threshold issue with substantial implications for the validity and workability of the Bill. Indeed, Illinois's Criminal Code already exempts from gambling certain options and securities transactions when conducted through registered persons—recognizing that financial instruments settled by payment of price differences are not inherently gambling.[2] A legislative framework built on a blanket classification of federally regulated prediction markets as gambling may fail to account for features of these markets that are materially different from conventional gaming activity and that have already been recognized in federal regulatory and judicial contexts.

II. SB4168 Presents Federal Preemption and Constitutional Concerns

The most significant concern presented by SB4168 is its conflict with existing federal regulatory authority. We recognize that detailed legal arguments are better suited to a courtroom than a committee hearing. But the Subcommittee should be aware—at a practical level—of the serious legal risks the Bill presents, which directly affect whether the proposed framework is viable and whether its enactment would expose the State to costly and prolonged litigation.

Kalshi operates under comprehensive federal regulation. To operate its exchange, Kalshi had to obtain CFTC designation as a DCM, which requires compliance with twenty-three "core principles" specified by the CEA and CFTC regulations. Those core principles charge DCMs with, among other things, the responsibility to prevent manipulation and price distortion. DCMs

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[2] 720 ILL. COMP. STAT. 5/28-1 (2025).

are subject to ongoing CFTC oversight: they must report market data to the CFTC daily, submit rules for review, hold quarterly meetings with the CFTC, and communicate with the CFTC on a near-daily basis.

Federal law gives the CFTC "exclusive jurisdiction" over the trading of derivatives on DCMs—including event contracts, which are "swaps" within the meaning of the Commodity Exchange Act. Congress granted the CFTC this exclusive jurisdiction in 1974 precisely because of concerns that states might try to regulate derivatives markets, leading to conflicting regulations that would produce, in the words of one Senator during the legislative debates, "total chaos."[3] The CFTC itself has confirmed this understanding, stating that "due to federal preemption, event contracts never violate state law when they are traded on a DCM."[4]

SB4168 would reclassify this federally regulated activity as gambling, subject it to state licensure and taxation, and expose participants to criminal consequences under Illinois law. As reflected in the Department of Justice ("DOJ") and CFTC's lawsuit against the State, that approach raises serious constitutional concerns—including federal preemption under the CEA—and creates the prospect of prolonged jurisdictional conflict. The core issue is straightforward: there is a strong argument that a state cannot criminalize conduct that federal law expressly permits and regulates as part of a federally supervised market. This is not a minor drafting issue. It goes to the heart of whether the proposed framework is legally sustainable.[5]

The Subcommittee should also be aware that this is not a hypothetical risk. Kalshi is currently involved in numerous lawsuits across the country in which these very preemption issues are being actively litigated. Multiple federal courts have already recognized that the CEA preempts state gambling laws as applied to trading on DCMs. If SB4168 were enacted, there is a significant likelihood that it would face immediate legal challenge. Indeed, the DOJ and CFTC commenced a lawsuit against the State and various government officials just last week in the United States District Court for the Northern District of Illinois; the lawsuit asks the court to declare unlawful the State's attempt to apply provisions of the Illinois Sports Wagering Act, Criminal Code, and Administrative Code to events contracts traded on CFTC-regulated DCMs because such efforts undermine uniform application of federal law.

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[3] Hearings Before the S. Comm. on Agric. & Forestry, 93d Cong., 2d Sess. 685 (1974) (statement of Sen. Clark).

[4] *KalshiEX v. CFTC*, No. 24-cv-5205 (D.C. Cir. Oct. 16, 2024), Appellant's Br. at 27.

[5] To be clear, the CEA's exclusive regulatory regime for DCMs is not to the exclusion of state regulation of sportsbooks or other gaming operators. It is well-settled in the law that federally-regulated DCMs and state-regulated sportsbooks, casinos, and the like can and do operate without concurrent federal and state regulation.

III. The Bill's Economic Structure Raises Significant Concerns

The Bill's economic structure raises a separate and substantial concern. SB4168 would impose a $1,000,000 initial license fee, a $1,000,000 annual renewal fee, and a 50 percent tax on adjusted gross receipts attributable to Illinois residents.

As a practical matter, those terms appear likely to function not as a workable regulatory framework but as a barrier to lawful operation. A 50 percent tax on adjusted gross receipts is extraordinarily high—far exceeding the rates imposed on analogous financial services or digital transactions. Combined with $1,000,000 in initial and annual licensing costs, this structure would make it economically infeasible for any platform to serve Illinois residents, depriving them of the hedging, informational, and transparency benefits these markets provide.

Further, any state tax that effectively functions as a prohibition may conflict with the CFTC's exclusive jurisdiction over derivatives traded on DCMs. The Supreme Court has long recognized that a tax so severe that it functions as a penalty rather than a revenue measure may exceed a state's constitutional authority. A 50 percent gross receipts tax on an online exchange that does not rely on physical, in-state infrastructure in the way a brick-and-mortar business does raises serious constitutional issues. State taxes must also be proportional to the extent of the taxpayer's contacts with the state and the state services it uses and must not create the risk of double or multiple taxation if adopted by other states—a particularly acute concern for a nationwide online platform.

A regime that is economically infeasible does not create meaningful regulation; it effectively discourages participation by regulated operators. If the Bill's practical effect is to drive regulated participants out of the Illinois market, then the State will not have achieved a stable oversight regime. It will instead have created a structure that limits lawful participation while leaving unresolved the same consumer, enforcement, and policy questions that the legislation seeks to address.

IV. The Bill May Undermine Rather Than Advance Consumer Protection

SB4168 also appears likely to create consequences that cut against the consumer-protection objectives that may animate it.

If the regulatory and economic burdens imposed by the Bill make lawful participation in Illinois impracticable, regulated entities may simply cease offering services to Illinois residents. That would not necessarily eliminate consumer demand. It may instead redirect that demand toward offshore, unregulated, or otherwise less transparent alternatives that lie beyond the practical reach of Illinois regulators.

That outcome would be counterproductive. Consumers would lose access to a platform that operates under rigorous federal oversight, with real-time market surveillance, anti-manipulation protections, public trading data, voluntary consumer-protection tools, and 24/7 monitoring. The

State would lose visibility into activity that would likely continue elsewhere. And Illinois residents would lose the hedging, risk-management, and informational benefits that these markets provide.

And from a consumer protection standpoint, all trading activity on Kalshi is public—anyone can see all trading activity and prices in real time. That means if anything unusual happens, such as suspicious trading patterns before a game or other event, the public can see it immediately. This differs from traditional sportsbooks, which do not publicly report activity as it happens. For example, when recent sports integrity incidents involved allegations concerning professional athletes in the NBA and MLB, the platforms involved were aware of unusual activity, but the public learned of it only after charges were filed. On Kalshi, such unusual activity would be visible to the public in real time. This transparency is a natural feature of exchange-based market infrastructure, and it directly serves the kind of consumer protection and market integrity objectives that the Subcommittee rightly cares about.

V. The Subcommittee Should Reconsider the Bill Before Moving Forward

These concerns do not suggest that the State lacks any legitimate interest in this area. Nor do they suggest that prediction markets should be free from scrutiny. They do, however, strongly suggest that SB4168, as currently drafted, proceeds on legal and regulatory assumptions that are open to serious questions and may lead to results the Senate does not intend.

At a minimum, the Subcommittee should carefully consider whether it is prudent to move forward with legislation that:

1) rests on a contested classification of an activity that is already federally regulated as a derivatives market—rather than a gambling operation—with comprehensive consumer protections, market surveillance, and anti-manipulation safeguards already in place;

2) appears likely to trigger substantial constitutional and preemption disputes, of the kind already being litigated in lawsuits across the country, with multiple federal courts having already recognized that the CEA preempts state gambling laws as applied to trading on federally regulated exchanges;

3) imposes an economic structure that may function as a prohibition rather than a regulatory regime, and that raises independent constitutional concerns; and

4) risks redirecting Illinois consumers away from a transparent, federally regulated exchange and toward less accountable alternatives, diminishing rather than preserving the hedging, informational, and risk-management benefits that prediction markets provide.

Those are not abstract policy concerns. They are foundational questions that go directly to the Bill's legality, effectiveness, and practical consequences. In our respectful view, they warrant reconsideration of SB4168 in its current form.

VI. **Conclusion**

We appreciate the opportunity to share this perspective. Prediction markets raise novel questions, but novelty alone does not justify a framework that may be constitutionally vulnerable, commercially unworkable, and counterproductive from a consumer-protection standpoint.

For these reasons, we respectfully urge the Subcommittee and Senate to reconsider SB4168 in its current form. During this reconsideration, the State should examine the interaction between state and federal law and assess the likely consequences of the proposed fee and tax structure in order to avoid unnecessary legal conflict and unintended harm to Illinois consumers.

We remain committed to engaging constructively with lawmakers on workable solutions that respect the existing federal regulatory framework.

Respectfully submitted,

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