

PROTEST

MR. SPEAKER: Pursuant to Article 2, Section 10, of the constitution of the State of Kansas, we hereby protest the passage of **SB 66** as Amended by the House Committee of the Whole. The base bill dealing with the extension of the Kansas Lottery entered legitimately into the legislative process; however, the amendment passed by the House Committee of the Whole to allow privately-owned and operated casinos in Kansas under the guise of "management contracts" is an affront to the legislative process, entered into in an unconstitutional manner, and flanked by deceit and unethical maneuvering.

SB 66 now marks a sharp departure from good government and good governance. Under the influence of a coalition of a few legislators working behind closed doors with gambling interests, the proper legislative process was averted and stifled. **SB 66** is now the greatest gamble of all—one that dangerously gambles with the very future of Kansas and her families.

Termed "economic development" and "revenue generation" by its proponents, the amendment foisted upon the Kansas House doesn't come close to living up to its billing. The taxing rate of gambling in other states drastically dwarfs that of the agreement struck between the select group of legislators and gambling lobbyists. In Maine, the state collects 61%; in Rhode Island, 60%; in Pennsylvania, 52% with a \$50 million privilege fee; in Florida, 50%; in Illinois, up to 50%; and in Indiana, up to 30%. Our own neighbors in Missouri collect upwards of 27 - 28%, and are reviewing a possible increase. The proponents of the amendment to SB 66 settled for a paltry 22% for our state, showing that the interest and focus of the legislation were not on economic development or revenue generation, but rather on strong-arming through an agreed-upon negotiation rife with greed, corruption, and improper political ties. At a mere 22% tax rate return for the state, there is little doubt that this legislation is of, by, and for the gambling industry. And to add further insult, the meager 22% is to remain fixed, in contract, for 15 years.

Moreover, there is no precedence in this nation for a state-owned casino. Dozens upon dozens of critically-important questions—ranging from financial questions to the breadth and depth of the state's liability to crucial public safety issues—were unable to be answered by the proponents of this amendment. While the proponents were quick to state that Kansas would receive "new" income from expanded gambling, they were unable to quantify the real loss our citizens will suffer when millions of dollars are removed from our state economy in gambling losses. In fact, our citizens must lose an estimated \$900+ million each year in order for the state to make approximately \$200 million each year. What effect on our social systems will a loss of more than \$900 million—much of which is proven to come from our citizens who can least afford to be gambling—have? Neither could the proponents quantify the financial loss to both small and large businesses in the casino zones. There was no attempt made to answer the critical "return on investment" question as the financial and emotional impacts of this legislation are literally unknown. And though proponents acknowledged the negative effects of gambling, they displayed antipathy at the mention of well-documented increases in bankruptcy, embezzlement, theft, fraud, divorce, suicide, and criminal activity associated with gambling.

Sadly, the full impact of the now-amended **SB 66** will be as much of a surprise to Kansans as was the 98-page amendment for the more than 100 House members who were not provided a written copy before or at the time it was offered. If this were a proper and viable proposition, would not the state of Nevada engage in such an agreement? If this were a proper and viable proposition, would not the proponents have run it through the legislative committee process? We know not what we've entered into, but one thing is certain: the state of Kansas will bear great liability by stepping into this arena.

With the legislative committee process averted, and constituent and expert testimony non-existent, the usual opportunity for combing through the language of a bill to find flaws and make improvements did not occur. For the majority of legislators not involved in the closed-door negotiations, and without the proponents' ability to answer key questions, it is virtually impossible to comprehend or understand the future ramifications of this unprecedented and far-reaching legislation.

From an historical perspective, it is well to note that the Constitution of the state of Kansas states that our lottery games must be "state-owned and operated." **SB 66** only requires that the state have operational oversight of the lottery machines; however, even its detailed provisions do not mesh with this policy statement. Language was written into the bill in an effort to convince our judicial branch of government that the Legislature was simply following its prior decision. The Kansas lottery, in fact, has no direct involvement in the operation of table games in this amendment. Further, it is the contract managers who will decide how many slot machines are to be placed in each facility, how many slot machines are to be operational, what kind of slot machines are to be used, and what table games are open, in addition to numerous other decisions. The Constitution of the state of Kansas requires the state to be the operator, but with all key decisions made by the "contract manager," who is the actual operator?

Moreover, the casino slot machines authorized by this bill will dispense the cash for the winnings. The so-called "contract managers" will receive more than 70% of the receipts after payouts to run their business and make their profit. These "contract managers"—or more accurately casino operators—will receive profits in excess of \$50,000,000.00 per year

for each casino an amount far greater than what Kansas—the alleged “owner and operator”—will receive. This method of “doing business” is not synonymous with the typical Kansas business owner/operator model where the owner knows and negotiates for his business a contract that is beneficial for the business. At best, we the state of Kansas are only a silent partner without the authority to direct operations.

Further, it should be noted the Governor appointed a special committee, the Governor's Gaming Committee, to study how gambling should be expanded in Kansas. This committee advised the Kansas Legislature to first create only one destination casino in Wyandotte County, and then to proceed in other areas of Kansas after conducting the appropriate feasibility studies. The Kansas Lottery contracted with Christiansen Capital Advisors, LLC, for a study of gambling; however, that study did not provide an economic impact assessment of the effect of gambling on Kansas communities as a whole. Additionally, an interim legislative committee did a gambling study in 1995; however the legislature did not follow up on its recommendations. To date, the Kansas Legislature has not contracted with any experts to provide independent advice as to how Kansas should structure its law if it chooses to expand gambling. The Kansas Legislature has not sought legal advice to determine if the privately-owned casinos that would be authorized by the amendment to **SB 66** would in fact be constitutional in light of the Kansas Supreme Court's earlier ruling that requires operations to be “state-owned and operated.”

Finally, last year, the Kansas Legislature received a study conducted by Dr. Bill Thompson, University of Nevada at Las Vegas, covering the best method for expanding gambling in Kansas. Most of his suggestions were simply ignored. With neglect to previous reviews, the small coalition of legislators—along with gambling lobbyists—has taken Kansas down an irreversible path previous studies have warned against.

Important public policy issues raised when the amendment to **SB 66** appeared on the House floor for the first time for public review were received with closed ears, as all amendments—regardless of merit—were defeated. Common-sense amendments such as: providing auditor oversight in the bidding process; directing monies toward Kansas debt reduction; increasing problem gambling addiction grants by 2%; requiring 2-5 years experience for the racing and gaming commission executive director; limiting the proximity of “payday loan” shops to casinos; improving conditions for public roads surrounding casinos; studying increased use of public assistance programs and crime rates; increasing the state's profit from 22% to at least 24%; and—perhaps the most stunning—clarifying ballot language to include either “state-owned and operated casinos” or simply “casinos” in place of “expanded lottery gaming facility” to eliminate confusion at the ballot box, were all DEFEATED by the tight-knit coalition formed to protect the gambling lobby's delicately-balanced legislation. The Senate was then presented with a bill that could not be amended.

Kansas now becomes the only state in the nation to create the faade of owning and operating casinos. We vigorously protest the enactment of **SB 66** as it lacks the honesty and scrutiny Kansans demand from their elected public officials and the proper legislative hearings from the public and experts. Further, it is full of creative “wordsmithing” meant to confound and confuse the Kansas voter into thinking they are voting for an “expanded lottery gaming facility,” rather than the reality of the legislation. And while the proponents feign concern by passing a 25-year moratorium on any future expansion of gambling, those familiar with the process know this measure can be quickly repealed with future legislation.

Governor Sebelius gleefully proclaims the passing of this legislation “an historic” moment in Kansas. It is indeed historic, but not happily so. Rather, this is truly a dark day in the state of Kansas and for the now-tainted legislative process. Kansans deserve better.

With respect to our constituents, the legislative process, and our state, we submit this protest.