



My name is Steve Brunk and I'm here representing the Family Policy Alliance of Kansas. We regularly communicate with thousands of individuals and families across our state. Additionally, Family Policy Alliance works in conjunction with over 40 Policy Councils across the country to promote a state and nation where God is honored, religious liberty flourishes, families thrive, and life is cherished.

To that end, we are here today as an opponent of HB 2173. and SB 207

There are three main reasons we oppose this bill.

First, the moral and cultural degeneration that occurs around gambling has been widely documented in academic literature. Gambling, like drugs and smoking, has an addictive nature to it. Too many individuals fall victim to that addiction, resulting in personal calamity like debt and bankruptcy, job loss, and divorce. These ills in turn create a strain on community and government resources. The regressive nature of these pernicious effects means the harms disproportionately affect those who can least afford it.

Additionally, studies show that property values often fall around gambling facilities, causing long term economic loss to local units of government.

We ought not expose our communities to such potential degradation.

Second, we have concerns about the financial cost of this legislation. HB 2173 violates our non-compete contracts with the existing casino managers and opens Kansas taxpayers up to a huge penalty, estimated between \$100-\$120 million plus damages. That massive fine would be paid by the taxpayers directly to out-of-state casino managers. At a time of budget uncertainty, imposing another liability of such size would be unwise.

Finally, from a practical aspect, we would be working against our own state interests. The KS constitution says the lottery and now the "Expanded Lottery" (casinos and race tracks) must be state owned. Allowing a new vendor to open and operate a race track with slot machines would be competing against our own financial interests.

SB 207  
HB 2173 is a huge risk for Kansas families while the potential rewards inure to the benefit of out-of-state gambling facility owners/managers. It's a gamble the Family Policy Alliance of Kansas and our supporters implore you not to make.

4021 SW 10<sup>th</sup> Street, Suite 311

UNLEASHING CITIZENSHIP  
FamilyPolicyAllia

Senate Fed and State Committee  
Date 3-23-17  
Attachment # 18

# Casino bill would render state liable for over \$100 M

On January 26, 2017, HB 2173 to expand casino gambling was introduced in the House Federal and State Affairs Committee. The bill contains many objectionable legal and ethical provisions. But, the most onerous provision is that it would render the state liable for over \$100 million. Provisions in this bill would breach the Kansas Expanded Lottery Act (KELA) contracts the state entered into with the four destination casino managers, thereby requiring the state refund privilege fees plus 10 percent interest compounded annually. **THIS AMOUNT IS APPROXIMATELY \$110 MILLION.**

In 2007, Senate Bill 66 (SB 66) was enacted, authorizing the state to own and operate a destination casino in each of four zones and slot machines at the three parimutuel racetracks, subject to approval by local voters. Voters approved the casinos in all of the counties except Sedgwick County, where voters rejected both a destination casino and slot machines at the Wichita Greyhound Park

In order to maximize casino investments, tourism and revenue to the state, KELA prohibited any additional casino expansion until the year 2032. Specifically, KELA specified that state contracts with destination casino managers contain a provision "requiring the state to repay to the lottery gaming facility (destination casino) manager an amount equal to the privilege fee paid by such lottery gaming facility manager, plus interest on such amount, compounded annually at the rate of 10 percent," if the state violated certain provisions. [KSA 74-8734(h)(19)]

**SB 66 PROVIDED FOR ONLY ONE REFERENDUM ON EACH QUESTION.** It did not provide for a revote. Nevertheless, last year, HB 2537 was introduced with a provision authorizing a revote in Sedgwick County on slot machines at Wichita Greyhound Park. The Attorney General stated, in AG Opinion 2016-6, that, since the bill contained this provision, **simply enacting the bill would be a breach of the contracts the state has with the destination casinos.** Such a breach would render the State liable to refund the privilege fees of all destination casinos, plus 10 percent interest, compounded annually.

HB 2173 contains essentially the same provision as HB 2537, authorizing a revote in Sedgwick County on slot machines at Wichita Greyhound Park. **So, the AG's conclusion in opinion 2016-6 also applies to HB 2173.**

HB 2173 seeks to relieve the state of this liability by requiring the racetracks owner place money into escrow to cover the liability only if a destination casino manager (1) files or joins in legal action against the state and (2) places \$5 million into escrow as liquidated damages. This provision ignores the contracts between the state and destination casino managers and seeks to impose a \$5 million burden on a destination casino manager if the manager initiates a lawsuit against the state for breach of contract.

**BUT, CASINO MANAGERS HAVE NO INCENTIVE TO PLACE \$5 MILLION INTO ESCROW.** They have contracts with the state for refund of their privilege fees, plus interest, if the state violates the prohibition. If the state refuses to refund the privilege fees plus interest, the casinos may simply file a suit against the state, for, probably, much less than \$5 million. So, it is conceivable, and even likely, that none of the casino managers will place \$5 million into escrow, **leaving the state liable for \$110 million.**

Furthermore, if the state placed slot machines at WGP, the destination casino manager in Sumner County would have a strong claim for damages, in the hundreds of millions of dollars, from lost market share. (AG Opinion 2016-6, p 19)

**CONCLUSION:** HB 2173, if enacted, would expose the state to a liability of over \$100 million for refund of destination casino privilege fees, plus 10 percent interest compounded annually. Provisions in the bill that seek to transfer this liability to the racetracks owner would be ineffective, since destination casino managers would likely pursue their remedies under their contracts with the state.