

ADVOCATE

RESPONSIBLE GOVERNMENT THROUGH RESPONSIBLE CITIZENSHIP

Report on Gambling Legislation

Summer 2009

A Special Session is called. Are slots next?

The battle over expanded gambling has raged for years; now it has shifted to by-passing the people in a Special Session.

After years of strong debate, various proposals of casino legislation, and advertisements about how much good expanded gambling will do for Kentucky, the theme has taken an almost surreal turn. A Special Session has been called during the sleepy summer months and the plan is slots with some in the legislature wanting to by-pass the citizens they always claimed to serve.

What is next on this roller coaster ride? Though Gov. Steve Beshear did not focus on the “slots-at-the-tracks” bill in his call for the Special Session, everyone in Frankfort knows that he can easily raise the stakes and elevate the issue, even after June 15, when the session has begun.



“We can’t take any chances,” said Kent Ostrander, executive director of The Family Foundation. “Once gambling is authorized and gets its roots down, there is no stopping it, or the destruction it brings.”

Special Session has begun. In times past, testimony against such legislation has been limited or denied altogether.

Martin Cothran, spokesman for Say No To Casinos is upbeat. “I’m optimistic that the people of Kentucky will see it and react to it for what it is: An unconstitutional bailout of some of Kentucky’s wealthiest that will bring harm to the families of this state.”

Foes of gambling expansion are concerned about what legislative games might be played once the

“The entire concept of this slots-at-the-tracks plan is bad – it’s predatory gambling pushed by government onto its own citizens. AND, this course of action is bad – it’s a deliberate attempt to by-pass the people,” said Ostrander.

The Special Session could extend for more than two weeks but legislators are hopeful to be done before the Fourth of July weekend. Some simply want to cut the

budget like businesses and families are having to do in a time of recession, rather than trying to extract more funds from their constituents via gambling and enlarge government.

Others are committed to expanded gambling as the answer to Kentucky’s

economic woes, and this time its slots at the horse tracks.

The ultimate question is whether the people will engage. That will determine all.

“The entire concept of this slots-at-the-tracks plan is bad – it’s predatory gambling pushed by government onto its own citizens. AND, this course of action is bad – it’s a deliberate attempt to by-pass the people.”

– Kent Ostrander
The Family Foundation

Some things to ask about . . .

Why has the Governor not been fully open about his intent to include the “slots-at-the-track” bill in his Special Session?

You would think that with this mammoth expansion of gambling (\$676 million to \$1.2 billion to be lost annually), we would have expected to have all of the details for weeks before the call for this new Special Session.

When those pushing expanded gambling say “We can raise ‘X’ million dollars,” who do they include in the word “We”?

It seems like it’s “We politicians” can get this much money out of the people. Or it’s “We

(Continued on page 6)

“If we act, we can stop this scheme. If we do not act, we will have slots.” ■ It’s Simple Truth

#1 Call - The Legislative Message Line (See page 8)

#2 Connect - Get ongoing updates (See page 8)

#3 Rally - Join us Tuesday, June 16 (See page 8)



A Rally is scheduled for noon in the Capitol Rotunda to allow the citizens of Kentucky to formally object to this plan to massively expand gambling and to protest the deliberate way “slots” leaders are by-passing the people AND the Constitution.

The slots plan is **H-U-G-E!** It dwarfs all other gambling venues in Kentucky **COMBINED.**

It's been marketed as just another game for the Lottery, but it literally will replace horses as Kentucky's "Signature Industry."

Most Kentuckians are not aware of the immense size of the slots proposal that is being pushed. Based on the Legislative Research Commission's (LRC) calculations, \$6.76 **BILLION** will have to be wagered in order to achieve the \$667 million of revenue that is claimed to be generated. Doing the math, that means Kentucky citizens will have to gamble \$6.76 **BILLION** and **LOSE** \$676 million each year. That's over 14 times the amount that is currently wagered at race tracks alone and almost four times what is currently wagered at race tracks, charitable gambling and the Lottery **COMBINED.**

Let this sink in: The wagering at race tracks will increase 14 times "overnight." All wagering in Kentucky must increase four times "overnight."

Using the projections of the plan's lead advocate, House Speaker Greg Stumbo, the numbers are even worse: \$12 **BILLION** gambled, \$1.2 **BILLION** lost. That amounts to over 25 times the current volume of gambling at race tracks and almost seven times the total amount currently being wagered at the "big three" gambling venues. More, Stumbo's \$12 **BILLION** gambled is almost \$3 **BILLION** more than the state budget!

Does everyone understand why the horse industry wants control?

What is even worse is that the track owners get the lion's share of the gross profits. And race winners get some, but the everyday horseman in Kentucky only gets the leftovers.

Back to the basic numbers to do more math. There are roughly 4

Expanding gambling **AND** addictions

One will always cause the other.

Kentucky currently has 35,000 pathological gamblers and 70,000 problem gamblers according to the Kentucky Council on Problem Gambling. Pathological gamblers are unable to control their gambling and spend all they can earn, borrow and steal. The problem gambler has negatively impacted all areas of life, is frequently divorced, and has only marginal control over gambling.

The proposed \$676 million losses by slot gamblers (the Legislative Research Commission's estimate on losses, not Greg Stumbo's \$1.2 billion estimate) is larger than all current losses to Kentucky's three largest gambling venues: horse racing, charitable gambling and the Lottery **COMBINED.** In fact, the amount placed at risk will be four times the amount currently risked at those three, so a case could be made that addictions will quadruple.

With slot venues dotting Kentucky's landscape at its eight horse race tracks, it can be *conservatively* projected to at least double the number of pathological and problem gamblers. This means there will be at least another 35,000 pathological gamblers (and all the crimes they commit) and another 70,000 additional problem gamblers with ruined families.

The growth of addictions will mean at least 200,000 Kentuckians will be damaging or ruining their lives and the lives of their families by losing their homes, jobs, other assets and relationships. Over 200,000 families will be damaged in an ongoing way!

Is this the growth we want?

million Kentuckians. Let's say as many as half will gamble at the slots (which is a very high number given that children under 21 cannot gamble), then the following figures are true:

Using the LRC numbers, 2 million citizens must wager \$3,380 each year. Using Stumbo's numbers, each of those 2 million will have to gamble \$6,000 each year.

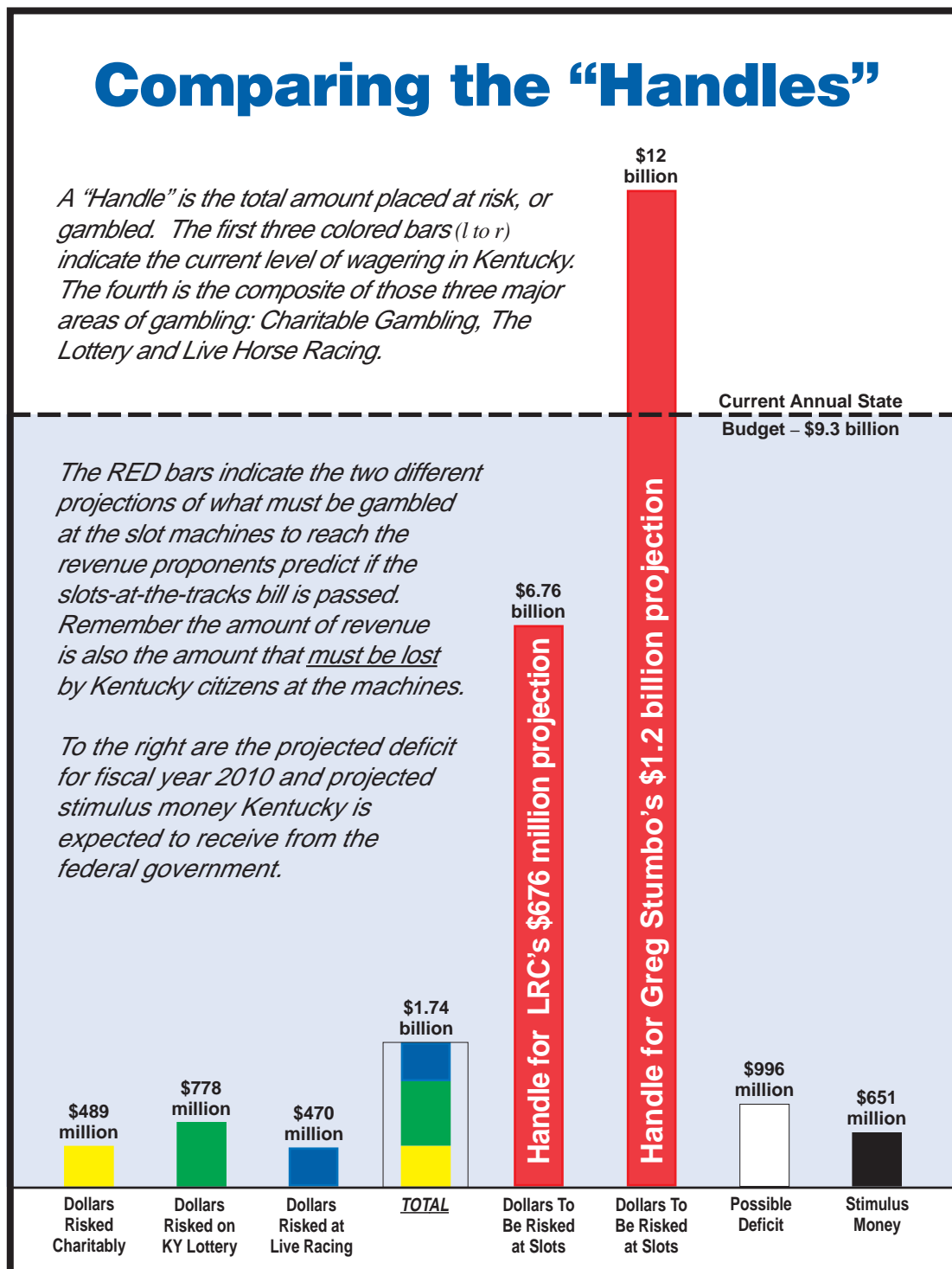
Is this concept good public policy for Kentucky, or is it really only good for those who own the slot machines at the tracks?

Comparing the "Handles"

A "Handle" is the total amount placed at risk, or gambled. The first three colored bars (l to r) indicate the current level of wagering in Kentucky. The fourth is the composite of those three major areas of gambling: Charitable Gambling, The Lottery and Live Horse Racing.

The RED bars indicate the two different projections of what must be gambled at the slot machines to reach the revenue proponents predict if the slots-at-the-tracks bill is passed. Remember the amount of revenue is also the amount that must be lost by Kentucky citizens at the machines.

To the right are the projected deficit for fiscal year 2010 and projected stimulus money Kentucky is expected to receive from the federal government.



The Family Foundation pledges legal action

At a May 28 Frankfort news conference, Kent Ostrander pledges court case if the Special Session authorizes slots.

Editor's Note: Copied below are the prepared remarks offered by Kent Ostrander, executive director of The Family Foundation, at a news conference at the Capitol.

"My purpose today is to speak in an affirmative way to assure Kentuckians that their case will be heard and, more importantly, that their place will not be forgotten. Though we wish no ill to Kentucky's horse industry, there are those using it who want to rob Kentucky citizens of their assets through slot machines. In pushing to get their way, they are trying to rob those same citizens of their constitutional right to participate in this major decision for the future of the Commonwealth.

The Family Foundation is committed to seeing that the constitution is upheld and will take legal action if the Governor calls a Special Session, adds expanded gambling to the call for the Session and oversees the passage of gambling expansion via the current unconstitutional slot-at-the-tracks plan.

The passage of any law, whether simple statute or constitutional amendment, has both a substance and a process component. We have always opposed the substance of expanded gambling efforts because it has government encouraging its own people to lose so that it (and its close friends) might gain. But with this effort, the process has been commandeered and is in violation of our state's most important body of law – the constitution.

Allow me to digress into the details of the problem:

Please understand, both the letter of the law and the spirit of the law – of the State Constitution – are being violated by the current slots-at-the-tracks effort.

Regarding the letter of the law, the Constitution, as amended in 1988 by The Lottery Amendment, clearly forbids slot machines:

*Section 226 Article 3 explicitly states, '**Except as provided in this section, lotteries and gift enterprises are forbidden . . .**'*

The question can then be raised, 'Does the lottery section authorize slots-at-the-tracks? Here is the actual ballot language of the 1988 Lottery Amendment:

GENERAL ELECTION NOV. 8, 1988 CONSTITUTIONAL AMENDMENT

#1: Shall Section 226 of the constitution be amended to provide that the General Assembly may establish a Kentucky State lottery; may establish a state lottery to be conducted in cooperation with other states; and that any lottery so established shall be operated by or on behalf of the Commonwealth of Kentucky?

It clearly never said anything about authorizing slot machines.

If you were to ask any aware Kentucky citizen at the time of that vote in 1988 whether the ballot measure included 'slots-at-the-tracks,' not one, whether for the Lottery or against, would say 'Yes, it included slots-at-the-tracks.'

So much for the letter of the law.

Regarding the spirit of the law, ALL recent governors who have considered expanded gambling have asked for a constitutional amendment process so that the people would have their proper place of ratification or rejection after the members of the General Assembly passed their recommendation by a 3/5 majority in each Chamber. That includes Governors Brereton Jones, Paul Patton, Ernie Fletcher (he was never a proponent) and our current Governor, Steve Beshear. During his gubernatorial cam-

paign, Beshear was quoted as saying,

'It is time to put this question on the ballot and let the people of Kentucky decide. As Governor of this state, I will make sure that the people have an opportunity to make that choice.'

(We at The Family Foundation would correct his verbiage because the actual process is for the legislature to agree to propose a constitutional amendment with super 3/5 majorities in both the House and Senate and THEN the people have the right and responsibility to ratify or reject the proposal. That requires legislators to be accountable for their recommendation to the people and allows the people to have the last word.)

Similarly, all opinions offered by Kentucky's Attorneys General, except one, have consistently maintained that a constitutional amendment would be needed to expand gambling in the Commonwealth, and in particular, to bring casino-style slots into the state. That includes opinions by Robert Stephens, Chris Gorman and most recently, Ben Chandler, who concluded in 1999 very pointedly,

'The Kentucky Constitution does not authorize the General Assembly to permit the Kentucky Lottery Corporation to operate video lottery terminals; therefore, such authority must be established by constitutional amendment.'

The fact that the current slots-at-the-tracks plan violates the constitution is reflected by the fact that even the horse industry has promised that the people would be involved in this issue with their major 'Let the People Decide' campaign. Only the opinion of Greg Stumbo, as Attorney General in 2005, suggests that the people of Kentucky can be bypassed in this process. He was the sponsor of the original Lottery Amendment in 1988 and he is the prime mover of this effort.

It is important to point out that during the debate of the 1988 Lottery Amendment, Rep. Bill Donnermeyer, who was advocating for the bill on behalf of Greg Stumbo, emphatically assured Rep. Louis Johnson from Owensboro that the amendment would 'not allow for slot machines or anything like that.' Speaker Stumbo, who was presiding as the Majority Leader at that time, did NOT correct Rep. Donnermeyer, which would have been his constitutional duty, given his sworn oath to uphold the constitution that they were attempting to change.

It is as though Greg Stumbo is on his own legal island – and from constitutional perspective, it's a 'Fantasy Island.'

In conclusion, I pledge that The Family Foundation will take all legal action necessary to stop this 'slots' effort that is attempting to by-pass the people of Kentucky, thus violating both the letter and the spirit of the law as written in our state constitution."

NOTE: The likelihood of a lawsuit if the "slots-at-the-tracks" gambling plan is passed is no substitute for the bedrock American process of responsible citizens contacting their legislators to let their opinion be fully articulated and heard.



Will the Constitution become a casualty of the slots-at-the-tracks bill?

An analysis suggests that in an effort to have their way, those pushing expanded gambling are willing to make exaggerated claims as well as now violate the very constitutional principles they once espoused.

Those who have argued against the introduction of casino-style gambling in Kentucky have always pointed to a list of potential casualties that would follow from it. The list includes small businesses operating in areas close to casinos that would suffer lost business, local communities that would have to increase law enforcement to deal with increased crime, as well as problem gamblers who would have their problem made worse.

Critics of the plan say that we can add another potential casualty to the list: the state Constitution.

Last year, proponents of a casino bill talked of “letting the people decide” on the issue, portraying Kentucky’s constitutional ratification process as a ballot referendum, which opponents argue is a

completely different thing. This allowed lawmakers, they say, to shirk their constitutional responsibility to vote for a constitutional amendment because they think it’s a good idea the voters should ratify, rather than wash their hands in regard to the issue itself, and asking the people to do what the Constitution expects them to do themselves.

This year, the casino industry is back with a new message, and critics are charging that it is an even more self-

serving constitutional fiction: that the Lottery Amendment of 1988 authorized video slot machines. “This will come as news to the Kentuckians who actually voted for the Lottery,” said Martin Cothran, spokesman for Say No To Casinos. “Kentuckians were told they were not voting for other kinds of gambling.”

This wouldn’t be the first time a Lottery promise was broken, Cothran points out.

Break their promises? “If they do, then they can simply change their now abandoned slogan from last year, ‘Let the people decide,’ to a new one: ‘Let the people be hoodwinked.’”

– Martin Cothran, spokesman for Say No To Casinos

“For years after the Lottery was passed, many legislators confessed that one of the most frequent questions their constituents asked them was, ‘Whatever happened to the Lottery money?’ When the Lottery was passed, voters were told the money would go to education. Only ten years –

and many constituent phone calls – later did the General Assembly attempt to keep the promise.”

Backers of the new plan are promising the same thing: the money will go for education – and a few other things.

“After not doing what they said they were going to do with the Lottery money,” said Cothran, “they are now going to do what they said they were not going to do with the law itself: use it to justify other forms of gambling.”

When asked in 1999 to determine the constitutional status of placing video slot machines at Kentucky’s race-tracks, then Attorney General (now Congressman) Ben Chandler said, “. . . the Attorney General concludes that courts will not interpret the Constitution to authorize the General Assembly to permit the Kentucky Lottery Corporation to operate video lottery terminals.”

In fact, Cothran argues, every opinion rendered by a Kentucky attorney general on this or a related issue has found the same thing – except one. And that one was written by the sponsor of the video slots legislation: Speaker of the House Greg Stumbo. Yet in 2002, Stumbo told a reporter that he agreed with Ben Chandler that voters did not intend to include casino-style games in the Lottery.

“More evidence is in a pamphlet issued by the Legislative Research Commission to Kentucky voters in 1988 that said the state would be adopting a ‘modern day’ state lottery,” said Cothran. “A modern day state lottery in 1988 consisted of instant and online games, not electronic video machines.”

The question of whether the Lottery amendment would include other forms of gambling such as “electronic devices and slot machines” actually came up in the floor debate over the bill when Rep. Louis Johnson introduced an amendment to explicitly prohibit them. But bill sponsor Bill Donermeyer assured Johnson that the Lottery Amendment “does not provide for slot machines or anything like that.”

“That’s what the voters were told and that’s what the

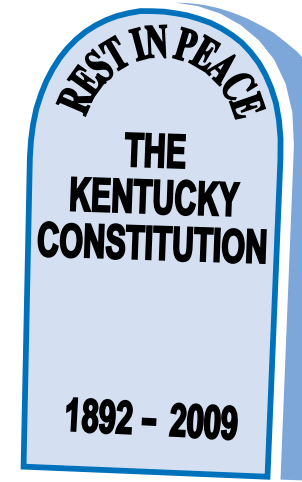
lawmakers who passed the amendment were told.

Courts in states where the same bait and switch has been attempted have consistently ruled such laws unconstitutional,” said Cothran, “including courts in South Dakota, South Carolina, Ohio, Florida, West Virginia, Kansas, and California.”

This doesn’t seem to bode well for a piece of legislation that will surely be challenged in court should it pass the General Assembly in a special session. History has not sided with those trying to expand the reach of the Lottery.

The Lottery Corporation tried in 1989 to implement a “Kentucky Sports Lotto.” But the Lottery Corporation backed off when a legal suit was filed arguing that it was unconstitutional. Cothran pointed out that the group who brought the suit was the Kentucky Thoroughbred Association, a group that is now arguing exactly the opposite.

So are lawmakers going to do with the law itself what



they did with the Lottery money? Break their promises? “If they do,” says Cothran, “then they can simply change their

now abandoned slogan from last year, ‘Let the people decide,’ to a new one: ‘Let the people be hoodwinked.’”

Kentucky Lottery celebrates 20 years

The state boasts of “revenue” while some Kentuckians are simply losing.

The *Courier-Journal* printed a story on April 7 announcing a celebration surrounding the Kentucky Lottery Corporation’s 20th anniversary. Commentators have suggested these Lottery Commission’s promotional announcements are just poorly veiled attempts at boosting predatory gambling’s image in the quest to bring slot machines to Kentucky.

What may raise eyebrows of gambling opponents and policy makers alike in the article is the poster child for the Lottery that the paper interviewed – Charles Conley.

“Charles Conley had stopped at the store on the way to his construction job. He said he has been playing the lottery ‘since day one.’ He said he usually spends \$20 to \$25 in the morning on lottery tickets and the same amount in the evening.

“I usually break even,” Conley said, adding that he wishes he didn’t spend so much money on tickets. “I’m trying to cut back, but I keep playing because of the possibility of winning thousands of dollars.”

**\$50 a day, 5 days a week = \$13,000 annually
\$13,000 annually for 20 years = \$260,000**

The sad part is that this Kentucky construction worker is trying to “cut back” but is convinced by the Lottery Board’s ad campaign that he can win thousands.

David Edmunds of The Family Foundation expressed concern of the intent of policy makers. “When legislators arrive in Frankfort for a Special Session this summer, they must consider whether expanding the Lottery Board’s power to addict citizens to slot machines and bankrupt them during a recession is public policy that they can be proud of.”

“Slots” advocates lack credibility

The actual revenue they claim keeps changing, and they’ve left Kentucky citizens out of the decision.

Either the “slots-at-the-tracks” bill, (HB 158 in the last session), was rapidly growing in its ability to help all Kentuckians, OR its sponsor was telling everyone what they want to hear in order to get support for a lemon of an enterprise.

Regarding the plan’s real dollar value, House Speaker Greg Stumbo appeared on Jan. 3 on WKYT-TV *Kentucky Newsmakers* with Bill Bryant saying that the bill would “generate probably upwards of 500 million new dollars to the state of Kentucky.” A week later, on Jan. 10, he was quoted in an article by *Lexington Herald-Leader* writer Janet Patton saying it would generate \$700 million annually – a \$200 million increase in just over a week.

Then, in the Jan. 31 edition of the *Herald-Leader*, Stumbo was quoted by Patton again, this time estimating that state government would receive \$349 million every year, which by virtue in the formula contained in the bill, \$1 BILLION would have be the total “raised” every year. (The \$349 million would be government’s roughly 35 percent cut, making \$1 billion the full take.)

Even worse, also in late January, the *New Albany Tribune* and the *Jeffersonville Evening News* (Indiana) reported that Stumbo suggested \$1.2 BILLION could be raised. In essence, in less than a month and during a seriously declining economy, the slots plan had more than doubled the financial “good” that it will do.

Many miss the painful fact that what the gambling industry calls “revenue” is actually

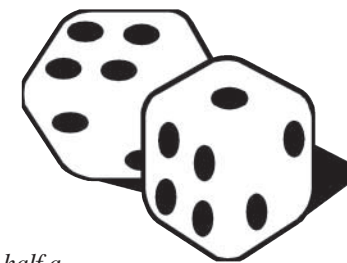
“losses” by their customers. Detractors, however, understand the system and maintain that the first figure – \$500 million – was inflated badly, pointing out Kentucky citizens cannot afford to lose \$500 million every year – a half a

billion dollars every year. And again, they say with certainty that \$700 million could not possibly be lost by Kentuckians annually, and now they regard the \$1.2 billion figure as a joke.

Of equally great concern is the way the “revenues” will be divided. Government claims less than 35 percent, according to the plan. The new horse industry/lottery alliance gets more than 65 percent – basically twice as much as government.

Again detractors point out that legislators, if they really needed money for government, could simply raise taxes a small amount and 100 percent of that money would go to government. Instead, this plan gives two thirds of the money to the operators of the slot establishments/race tracks – folks who already are some of Kentucky’s wealthiest.

One of the biggest concerns for most Kentuckians is that they had always been promised that if casinos were coming to the state, they’d have an opportunity to vote on the issue. This approach by-passes citizens entirely, leaving many to believe it is a deliberate strategy by the pro-casino folks to get what they want without any hassle.



Why are slot profits just for one industry?

The tracks and their owners are the biggest beneficiary of the slots plan, but they aren’t the only ones who are hurting.

Ever since then Attorney General Greg Stumbo released an opinion in 2005 that expanding gambling does not require a constitutional amendment, gambling advocates have had an in-house discussion as to the wisdom of that approach. Supposing Stumbo’s opinion is valid (and many argue it is not), another question arises: If slots are an expansion of the Lottery, then why should the spoils go exclusively to the horse industry, which is currently unrelated to the Lottery? Why not allow current lottery vendors to participate? After all, their industry is hurting just as badly.

Ted Mason, executive director of the Kentucky Grocers Association & Kentucky Association of Convenience Stores, said the economy has hit convenience stores particularly hard. “Convenience stores had a rough year in 2008, especially with high gas prices,” Mason said. “As a result you will see many shuttered convenience stores across the state.”

High food prices also hurt grocery store sales in 2008. There are 625 supermarkets and 2700 convenience stores in Kentucky according to Mason. And there are 2860 lottery outlets across the Commonwealth. Isn’t putting food on the table and gas in the car tank just as important to Kentucky’s economy as horses?

Should slots go exclusively to the tracks, it will inevitably hurt Kentucky Lottery distributors. Research shows that casino expansion siphons money from state lotteries. Convenience stores dependent upon lottery sales are sure to lose out in

those areas closest to the slots.

At the time of this publication, the Office of Communications for the Kentucky Lottery Corporation refused to comment on the prospects of casino-style slot gambling and how it would affect individual retailers and Lottery revenue overall.

In George Orwell’s classic *Animal Farm*, the pigs proclaim that “all animals are equal, but some animals are more equal than others.” The pigs, of course, control the government and proclaim “absolute equality,” but the reality is that power and privilege go to their small elite. So how is creating a new exclusive “business” for the benefit of one industry justifiable?

Section 3 of the Bill of Rights in the Kentucky Constitution says, “All men, when they form a social compact, are equal; and no grant of exclusive, separate public emoluments or privileges shall be made to any man or set of men, except in consideration of public services. . . .”

Giving a special privilege to a single industry is constitutionally questionable. It is also a slap in the face to other businesses that have experienced the economic downturn. According to the Kentucky Cabinet for Economic Development, 83 businesses shut down in Kentucky between January 2008 and April 2009. The closures resulted in the loss of 5,423 full-time jobs.

How do track owners justify slots? Track owners “are more equal than others.”

Some “little” things to think about . . .

Those pushing slots only talk about the money they and the state “need.” They seem to forget from where it all has to come.

Slots will be a **MINOR** source of revenue for the state.

First, the potential revenues are greatly exaggerated. The Legislative Research Commission, whose purpose it is to serve legislators in the General Assembly, estimates a net income of only \$189 million to the state, most of that (\$109 million, according to the plan) is proposed to go back to auto owners in a tax break. Sixty million dollars are designated for *new spending* – according to the plan. That leaves only \$20 million to help with the alleged billion dollar deficit; yet even that \$20 million is designated to cover the already granted sales tax exemption to the horse farms. Almost no assistance to the deficit! Secondly, though Greg Stumbo has said \$1.2 billion in revenue, the LRC estimate of \$676 million is more realistic. But even that is more than Kentuckians can scrape together to “donate” to the tracks – remember, what “slots folks” call revenue is actually the amount citizens must lose.

Most casino jobs are **LOW paying.** Most are minimum wage service in food and housing or casino floor jobs partially dependent upon tips from people who are losing. To prevent cheating, the casinos abruptly change people to a different one of the three shifts, disrupting child care and other parts of their lives. Floor jobs are high stress. The \$30,000-plus “average” salaries frequently cited as the “good jobs” at casinos are inflated by the larger management salaries. Even if a worker did make \$30,000 per year that would amount to \$14 per hour, which is below the average family income in Kentucky.

Casinos at the horse tracks will **MOVE MONEY OUT** of state.

Many of their purchases/expenditures are and will be made out of state. A majority of the horse farms are owned by out-of-state interests. Similarly, most horses raced here are owned by out-of-state owners, especially in the biggest races with the highest stakes. Churchill Downs is at least 96 percent owned by out-of-state interests. Turfway Park is half-owned by Harrah’s (an out-of-state corporation). Bluegrass Downs is wholly owned by Players International (another out-of-state corporation).

The money will come from the **POOR** and **MIDDLE CLASS**.

The gamblers will not be the “mint julep” crowd of Derby fame – they don’t like slots! The “slot barns” will be within easy driving distance, according to the plan – just a subsidized bus ride away. Slot venues like this move money from the many to the few, they do not manufacture or produce anything, and they damage the economy further. They will remove revenue from all kinds of businesses, including other current gambling enterprises: from charitable gambling (up to a third); from horse racing itself (attendance has declined as much as 80 percent at tracks with casinos); and the Lottery (up to 20 percent).

Casinos **INCREASE POVERTY.** 17.2 percent of Kentucky citizens currently live in poverty. This could easily increase to 25 percent.

Casinos **INCREASE ADDICTION.** We currently have 35,000 pathological gamblers and 70,000 problem (at risk) gamblers, according to the Kentucky Council on Problem Gambling. These figures *conservatively will double, possibly triple*, since even the smaller LRC estimate of revenues requires that Kentuckians gamble nearly four times as much as at present on the current “big three” – horse racing, the Lottery and charitable gambling. **FOUR TIMES AS MUCH GAMBLING!** Remember, slots are the most addictive form of gambling.

This bill is a good deal **ONLY for the horse **TRACKS**.** Kentucky will get less than a third of the revenues where other states get around 40 percent and up to 50 percent. Horsemen (breeders and horse owners) currently receive about half of net revenues on live racing at the track and half of what is received by the originating track for simulcasting. Under the slots plan, horsemen will receive only one dollar of six retained by the track. Yes, they will get more than they do now, but the tracks and their owners get the big haul. This effort is **NOT FOR** the horse industry of Kentucky, it is **FOR** the track owners!

Some “little” things to ask about . . . *continued from page 1*

politicians and track owners” can get them to lose this much. It just doesn’t seem that they are including “us” – the ones that have to lose.

Why does Churchill Downs not have the money it needs to boost its purses to a competitive level when it advertised just several years ago of investing \$121 million to renovate its facilities?

You would think that they would have better managed their assets. That makes this whole thing feel like a bailout for a mismanaged corporation that is being paid for with losses from everyday Kentucky citizens.

And if Churchill Downs wants to help government so much by “raising revenue” through slots, why did they deed over all of their property to the City of Louisville for 25 years and rent it back for \$1 a year to avoid paying property taxes?

Yes. That’s right. Churchill is not currently paying property taxes on the \$121 million of improvements AND the previous value of their holdings. Every other business is paying property taxes. Why does Churchill Downs now need more of the citizens’ money?

Why do those pushing gambling always exaggerate their claims as to how much will be “gained”?

The primary bill sponsor, Greg Stumbo, has said \$1.2 billion annually. The Legislative

Research Commission estimates about half of that – \$676 million.

Is it possible that the horse industry has poorly marketed itself and is asking us to fix their poor business strategy?

Maybe if the horse industry marketed “horse racing” rather than just “gambling” they would draw new clientele — Racing IS the sport of Kings! (And gambling isn’t.)

Why did they say “Let the people decide” last year and are now pushing a bill that keeps citizens from having a real say in the decision?

It seems that they’ll say whatever they have to in order to get what they want! The fact is that they failed with the constitutional amendment that is required by law and they’re now settling for something less.

If Kentucky already struggles with addictions to alcohol, substances like meth and oxycontin, tobacco and even food (obesity is rampant), why are we even considering the introduction of slot machines?

Slot machines are regarded as the crack cocaine of gambling. It looks like the drive for money is more important than the care for the people of Kentucky. The whole concept seems to be to place machines around the state that will extract funds from the players at a rapid rate and have a very small staff to keep the machines working.

Why does the Constitution prohibit gambling?

A brief Kentucky history can explain

If we fail to learn from the mistakes of the past, we are doomed to repeat them in spades.

Over a hundred years ago, in 1891, the Commonwealth adopted the first prohibition of lotteries in the Kentucky Constitution. Contrary to what gambling lobbyists say, constitutional framers did not base this decision on some long-held puritanical belief system. The vigorous debate about the public policy implications of gambling had been going on for centuries.

Lotteries had been in use in the early colonies and funded the establishment of many Ivy League colleges. After the Civil War, entities in the South turned to lotteries for reconstruction.

The Louisiana Lottery was notorious among these schemes with offices operating in every major city and widespread corruption. In 1868, the Louisiana Lottery Company was authorized and granted a 25-year charter with a criminal syndicate from New York greasing the skids with bribes and establishing the syndicate as the sole lottery provider. Attempts to repeal the charter were defeated with assistance of more bribes to legislators.

The Louisiana Lottery survived until Congress enacted a prohibition against moving lottery tickets across state lines by any method. By the end of the century, 35 states, including Kentucky, had written prohibitions against lotteries into their constitutions and no state permitted the operation of lotteries.

In Kentucky, the framers adopted Section 226, Article 3 of the Constitution in response to the overwhelming public opposition to lotteries. This strong opposition was articulated by Kentucky Delegate Robert Rodes of Warren County during the Constitutional debate of 1890:

“The newspapers have called lotteries vampires, one of those big Brazilian bats that fans you gently to sleep while it sucks the last drop of blood from you. Some other newspapers call it a political ‘octopus,’ the appellation of the great, large-eyed, huge monster of the deep, with its hundred tentacles reaching out and drawing you in its close embrace with the hug of death. Lotteries are doing those very things, and anything that does it belongs properly and ought to be inserted in the Bill of Rights, the right intention of which is to protect the people and save them from such an unspeakable lot.”

The Lottery Amendment:

Did voters approve slot machines when they voted in 1988?

#1 Letter of the Law - Section 226, Article 3 of Kentucky’s Constitution explicitly states that, *“Except as provided in this section, lotteries and gift enterprises are forbidden.”* There is no mention of slot machines or VLTs in the constitution!

#2 Legislative Intent - In the 1988 floor debate, House leaders assured people that the amendment *“did not provide for slot machines or anything like that.”* [See www.youtube.com/watch?v=Do1cJ-UV--I](http://www.youtube.com/watch?v=Do1cJ-UV--I)

#3 Judicial Interpretation - The legal case decisions and every Attorney General’s opinion except one have all concluded that the voters did not approve slot machines when they voted for the Lottery Amendment. The legal decisions have also found that pyramid schemes, slot machines, Keno, and other games are unconstitutional as well.

Kentucky’s founding statesmen understood the grave dangers of a statewide system of hoodwinking citizens. In 1891, the lottery was the only public system of gambling, as slot machines were invented four years later and the word “casino” was yet to enter the American lexicon. The

drafters did not see a widespread problem with individual citizens betting on a card game, on the speed of a horse, or the width of a river.

In 1897, the U.S. Supreme Court described the motivation of the constitutional framers, stating:

“This court had occasion many years ago to say that the common forms of gambling were comparatively

innocuous, when placed in contrast with the widespread pestilence of lotteries; that the former were confined to a few persons and places, while the latter infested the whole community, entered every dwelling, reached every class, preyed upon the hard earnings of the poor, and plundered the ignorant and simple.”

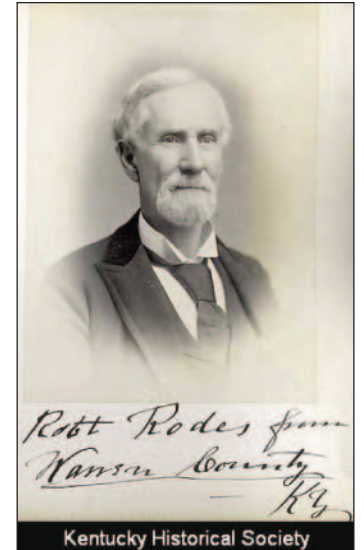
This intent to protect the citizenry has motivated the constitutional prohibition to be historically applied by the courts to include pyramid schemes, slot machines, and casino-style gambling. The constitutional language prohibits all lotteries as well as “gift enterprises,” “privileges granted for such purposes,” the exercise of “such privileges,” and “schemes for similar purposes.” This comprehensive language reflects the framers’ intent to extend the broad prohibition of lotteries to include these similar schemes that subject the citizenry to “such an unspeakable lot.”

If lottery operators had access to the new technology of slot machines in 1891 and attempted to set those up in their offices, the legislative history suggests that the framers would have made those unconstitutional as well. For almost 100 years, the Kentucky Constitution protected citizens from the “pestilence of lotteries” until 1988 when voters approved the Lottery Amendment.

In our past, even the media had concerns:

“The newspapers have called lotteries vampires, one of those big Brazilian bats that fans you gently to sleep while it sucks the last drop of blood from you . . .”

**– Robert Rodes
Constitutional
Delegate 1890**



The Kentucky Citizen ADVOCATE

The Kentucky Citizen ADVOCATE is published by The Family Foundation of Kentucky, a non-profit educational organization that works in the public policy arena on behalf of the family and the values that make families strong.

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Alms for the rich

At a time when many Kentuckians are losing their jobs, being put on furlough by their employers, and can't pay their mortgages, it is hard to envision why some people would want to pass legislation that would fatten the bank accounts of the wealthy horse racing tracks and horse farms, many of which are not even owned by Kentuckians.

It's even harder to envision how they think they can do it in clear violation of Kentucky's Constitution.

The legislation, which could be taken up in a special legislative session recently called by Gov. Steve Beshear, proposes to put video slot machines at Kentucky's horse tracks. Video slot machines are the most predatory form of gambling, and they direct their appeal toward gamblers at the low end of the economic scale. These are people who could never even think of affording the lifestyle of those who would benefit under proposed legislation from the money these low-end gamblers will lose.

The chief impetus for the bill comes from the horse industry, which has come, gold-plated cup in hand, and tried to convince state lawmakers that good public policy demands alms for the rich.

As one former legislator likes to say, "When poor people beg, they do it on the street corners. But when rich people beg, they do it in the halls of power." If the horse industry is in such financial straits, how can it afford the army of high priced lobbyists it has sent to the state capitol? And where are they getting all the money they have dumped into the advertising campaign that has now hit radio stations across the state?

The loudest voice calling for passage of the legislation is Churchill Downs, the state's largest horse racing track, and one which is almost exclusively owned by out-of-state investors. It argues that low purses threaten to kill horse racing in the state, which cannot compete with horse tracks in other states whose purses are subsidized by the profits from video slots.

If Churchill Downs is concerned about purses, why couldn't it have used some of the \$121 million it recently lavished on remodeling the clubhouse to fund them? In fact, if things

are so bad, how could Churchill Downs have afforded the project in the first place?

But even if bailing out a rich industry by expanding gambling in Kentucky served some public purpose, it would run head-on into the state's Constitution.

Up until the last legislative session, expanded gambling advocates were pushing for a constitutional amendment because they believed – like everyone else – that the voters in 1988 approved only a state lottery, not other forms of gambling.

KEEP, the horse industry's largest lobbying group, pledged it would only support legislation that guaranteed the money would go to education. They did so in order to avoid a replay of anger over the Lottery proceeds not going to education, as voters were promised, until ten years later. And Gov. Steve Beshear said the following in his campaign for governor,

a statement that is still on his campaign's web page: "It is time to put this question on the ballot and let the people of Kentucky decide. As Governor of this state, I will make sure that the people have an opportunity to make that choice."

But now all the rhetoric about "letting the people decide" has been discarded, the victim of political expediency. Now the message is that, without knowing it, voters actually approved slot machines in 1988.



Martin Cothran is senior policy analyst for The Family Foundation

**As one former state legislator likes to say,
"When poor people beg,
they do it on the street corners.
But when rich people beg,
they do it in the halls of power."**

Someone's going to get hoodwinked. It might as well be you.

There is nothing in the ballot language of the Lottery Amendment even hinting that voters were voting for anything remotely resembling video slots. In fact, not only did the Legislative Research Commission limit its discussion to instant and online games in its explanation to voters in 1988, but when the amendment was debated on the floor of the House, bill sponsor Bill Donnermeyer assured his fellow lawmakers that the Lottery Amendment did "not provide for slot machines or anything like that."

After playing fast and loose with the Lottery money in the 1990s that was supposed to go to education, are lawmakers now going to tell

Kentuckians that it was all part of a bait-and-switch strategy to get them to vote for something they had no intention of voting for?

The proponents of expanded gambling are again making big promises to the people of Kentucky. They would be a lot more believable if their record on keeping past promises wasn't so bad.

Please Act!

#1 Call the toll-free Message Line – 800-372-7181 and leave a message for your state senator and state representative. (The receptionist will help you find out who they are if you don't know.) Ask that they . . .

"Vote AGAINST ANY expansion of gambling! No slots in KY!"

Both spouses call! —Evenings until 11pm EST Mon-Thur.

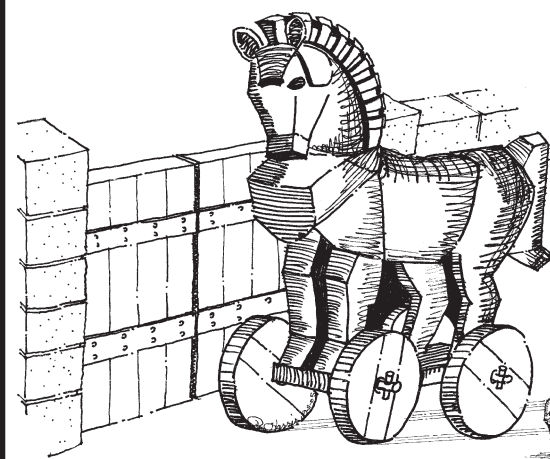
#2 Connect with daily email updates for two weeks. YOU and your relationships are critically important. YOU are the salt! Call: 859-255-5400 Email: tffky@mis.net

#3 Come and bring others (even the kids) to demonstrate to legislators AND the Governor that we don't want all that slots and expanded gambling bring into our Commonwealth.

Rally! Noon Tuesday, June 16
Capitol Rotunda



The Slot's Trojan Horse



"If they fall for this one, we'll need an even larger one to haul away their money."