

Approved \_\_\_\_\_

3/30/87  
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Senator Edward F. Reilly, Jr. at \_\_\_\_\_  
Chairperson

11:00 a.m. ~~xxx~~ on March 26, 1987 in room 254-E of the Capitol.

All members were present, ~~except~~

Committee staff present:

Mary Galligan, Legislative Research  
June Windscheffel, Secretary to the Committee

Conferees appearing before the committee:

Mr. Phil Wilkes, Kansas Department of Revenue  
Mr. W. Robert Alderson, Jr., Kansas Racing Charities, Inc. (KRCI)  
Mr. Bob Runnels, Kansas Catholic Conference  
Mr. Rocky Chambers, President, Greenwood County Fair Association, Eureka  
Mr. Al Becker, American Quarterhorse Association, AHC; KQHRA

The Chairman introduced Mr. Phil Wilkes, and stated that Mr. Wilkes had explained various aspects of HB 2044, concerning the Kansas parimutuel racing act. His explanation had been passed out for the Committee to use in its perusal of the parimutuel bill. (Attachment #1)

The first conferee to appear concerning HB 2044, concerning the Kansas parimutuel racing act, was Mr. W. Robert Alderson, Jr., who represented the Kansas Racing Charities, Inc. Mr. Alderson's statement is attached to these Minutes. (Attachment #2). He appeared as a proponent of the bill. His memorandum included introductory remarks, which stated that KRCI believes it is appropriate for the enabling legislation to permit racetrack developers to make reasonable and legitimate profits from racetrack operations, so as to encourage well-qualified persons and businesses to become licensed in Kansas. Mr. Alderson's statement also includes a Summary of Proposals, concerning: 1. Unqualified commitment for financing; 2. Advance payment of taxes and fees; 3. Taxes; and 4. Financing of racetrack facilities. He answered questions from the Committee.

Mr. Bob Runnels, Executive Director of the Kansas Catholic Conference, and spoke under the authority of the Roman Catholic Bishops of Kansas. He presented his testimony (Attachment #3) to the Committee. His statement also expresses the support of other religious denominations. He presented a proposed amendment which would prohibit any new racetrack facility from operating within 2,500 feet of any school or church. Mr. Runnels also responded to questions by the Committee.

The next conferee was Mr. Wayne C. "Rocky" Chambers, President, of the Greenwood County Fair Association. A brochure entitled "Eureka Downs" was before the Committee, which included a feasibility study of parimutuel horseracing at that facility. Mr. Chambers' formal presentation was also part of that packet. (Attachment #4) He stated that it is important to be known that the Greenwood County Fair Association is a purely "Not for Profit" organization and not one penny of the funds derived from the activities at Eureka Downs goes into any individual pocket. The funds generated are committed to improved services and facilities and to provide an annual Greenwood County Fair. The Chairman asked if the study is based on the current tax rate that was in the bill, and Mr. Chambers said it was.

Mr. Al Becker, a Past President of the American Quarterhorse Association, and lifelong member of the Kansas Quarterhorse Racing Association, was the next proponent of HB 2044. Mr. Becker also served as a member of the Governor's State Task Force on Parimutuel. He stated that the present legislation

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,  
room 254-E, Statehouse, at 11:00 a.m. ~~p.m.~~ on March 26, 1986

represents many months of study and work reviewing all the laws of all states that have come before the Task Force. He said this bill affords that the best citizens of Kansas be allowed to serve on the Commission. Each of the licensees must serve to the letter of the law. Every year two licenses are up for review. He said they would hope there would be both dog and horse facilities in the metropolitan areas. It appeared a workable solution to the Task Force.

Mr. Becker said the economic impact of the horse racing industry is quite extensive in Kansas. In a recent survey by Peat, Marwick, and Mitchell it showed that there are 3,148 owners and breeders of quarterhorses. If you consider that 18-20% of those horses are bred and raised for racing it would mean that we would have 17,000 quarterhorses. In the United States there are two million plus quarterhorses.

The Chairman thanked all the conferees for appearing and stated that the hearings on HB 2044 would continue tomorrow.

Senator Bond moved that a Committee bill relating to the disposal of low-level radioactive wastes be introduced. The motion was seconded by Senator Morris. The motion carried. Attachment #5.

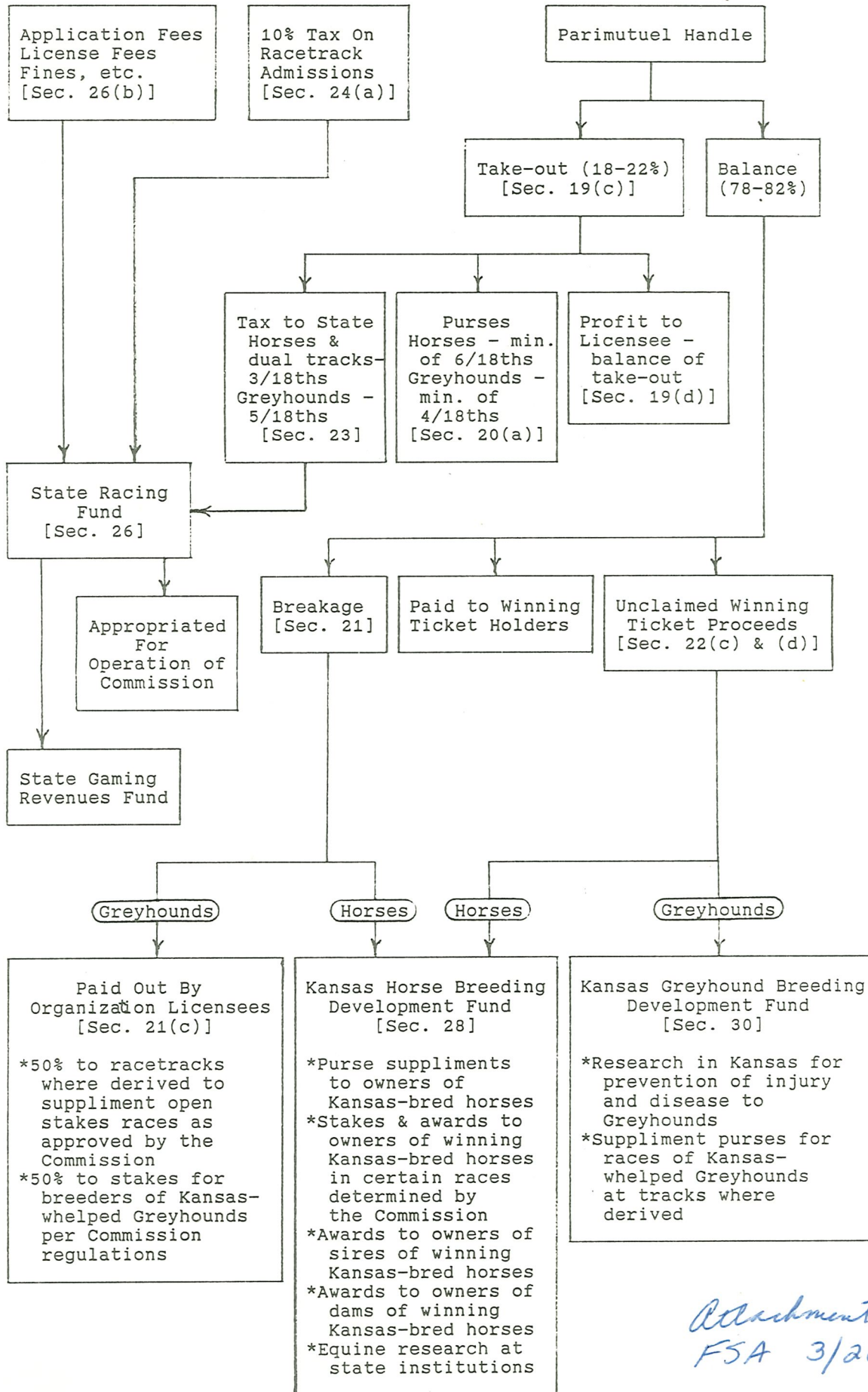
Senator Arasmith moved that the Minutes of March 23 and March 24, 1987, be approved. Seconded by Senator Daniels. The motion carried.

The Chairman announced that the Committee will meet tomorrow to continue hearings on HB 2044. Also, the Committee will meet on Monday, at 11:00 a.m., to hear testimony concerning the bill until noon. Then it will meet from 12:00 to 12:30 p.m. to discuss bills previously heard.

The meeting was adjourned.

Disposition of Funds

3/26/87  
 JW  
 Attachment #1



Attachment #1  
 FSA 3/26/87

House Bill 2044 - Kansas Parimutuel Racing Act

Tax and Other Distributions From Parimutuel Wagering Pools

Horse Racing

Take-out varies between 18 and 22% of pool [Sec. 19(c)]  
 Parimutuel tax is 3/18ths of the total daily take-out  
 [Sec. 23(a)]  
 Purses are a minimum of 6/18ths of the total weekly take-out  
 [Sec. 20(a)]  
 Licensee's commission is the balance of the take-out, which is  
 approximately 9/18ths [Sec. 19(d)]

<u>Take-out</u>	<u>Distribution of Take-out</u>			<u>Approximate Amount Returned to Winners Including Breakage</u>
	<u>Effective Tax Rate*</u>	<u>Purses*</u>	<u>Approx. Amount Retained By Licensee*</u>	
18%	3.00%	6.00%	9.00%	82%
19%	3.17%	6.33%	9.50%	81%
20%	3.33%	6.67%	10.00%	80%
21%	3.50%	7.00%	10.50%	79%
22%	3.67%	7.33%	11.00%	78%

\*Computed as a percent of each pool

Greyhound Racing

Take-out varies between 18 and 22% of pool [Sec. 19(c)]  
 Parimutuel tax is 5/18ths of the total daily take-out  
 [Sec. 23(a)]  
 Purses are a minimum of 4/18ths of the total weekly take-out  
 [Sec. 20(a)]  
 Licensee's commission is the balance of the take-out, which is  
 approximately 9/18ths [Sec. 19(d)]

<u>Take-out</u>	<u>Distribution of Take-out</u>			<u>Approximate Amount Returned to Winners Including Breakage</u>
	<u>Effective Tax Rate*</u>	<u>Purses*</u>	<u>Approx. Amount Retained By Licensees*</u>	
18%	5.00%	4.00%	9.00%	82%
19%	5.28%	4.22%	9.50%	81%
20%	5.55%	4.44%	10.00%	80%
21%	5.83%	4.67%	10.50%	79%
22%	6.00%**	4.89%	11.00%	78%

\*Computed as a percent of each pool

\*\*Would be 6.11% except for the 6% constitutional limitation

Information Regarding License Terms in Other States

Prepared By:  
 D. Philip Wilkes, Staff Attorney  
 Kansas Department of Revenue

<u>State</u>	<u>Year Started</u>	<u>Type of Racing</u>	<u>Major Tracks in Operation</u>	<u>License Term</u>
Arkansas	1935	Greyhounds	1 Greyhound	Franchises - no expiration date Same
		Horses	1 Thoroughbred	
California	1933	Horses only	5 Thoroughbred 3 Quarterhorse 2 Harness	Annual (per race meeting)
Colorado	1949	Greyhounds	5 Greyhound	Annual
		Horses	None (2 went out of operation in 1984)	Annual
Iowa	1983	Greyhounds	3 Greyhound	3 years
		Horses	None yet but a Thoroughbred track is being built	3 years
Kentucky	1900?	Horses only	4 Thoroughbred 3 Harness	Annual
Massachusetts	1934	Greyhounds	3 Greyhound	Annual
		Horses	1 Thoroughbred 1 Harness	Annual
Minnesota	1984	Horses only	1 Thoroughbred	Annual
Missouri	1984	Horses only	None yet	Annual
Nebraska	1935	Horses only	5 Thoroughbred 3 Quarterhorse	Annual
New Jersey	1940	Horses only	2 Thoroughbred 1 Harness 2 Mixed	Annual
New Mexico	1933	Horses only	4 Mixed (T & Q)	Annual
New York	1941	Horses only	4 Thoroughbred 4 Harness	Annual
Oklahoma	1983	Horses only	1 Mixed (T & Q) 1 Thoroughbred under construction	Annual

# House Bill No. 2044 - Kansas Parimutuel Racing Act

## Information Regarding Take-outs, Taxes and Purses in Other States

Prepared By:  
D. Philip Wilkes, Staff Attorney  
Kansas Department of Revenue

(Revised 3/11/87)

### Alabama

#### Greyhounds (3 major tracks):

Take-out: 18%  
Taxes: 4% (except 8% in Mobile County)  
Purses:  
Licensee: Balance after payment of taxes and purses

### Arizona

#### Horses:

Take-out: W/P/S - 18%; 21% on 2 horses; 25% on 3 or more horses  
Taxes: 2 to 5% depending upon size of handle  
May be decreased by 1% for approved capital improvement project  
Purses:  
Licensee: Balance after payment of taxes and purses

#### Greyhounds (6 major tracks):

Take-out: 18% on W/P/S; 21% on 2 dogs; 25% on 3 or more dogs  
Taxes: Large counties: 7.5%  
Small counties: 5.5% of first \$65,000; 7.5% of excess  
May be reduced by 1% for approved capital improvement projects  
Purses: Must be at least 3.25% of handle plus one-half of the take-out  
exceeding 18%  
Licensee: Balance after payment of taxes and purses

### Arkansas

#### Greyhounds (1 major track):

Take-out: 18%  
Taxes: 7%  
Purses:  
Licensee: 11% less purses paid out

## **Colorado**

### Horses (there are no major tracks in operation at this time):

Take-out: W/P/S - 18.5%  
Exotic - 21.5% (difference of 3% goes to breeder's and purse fund)

Taxes: Fairs - 4%  
Major tracks - 1%

Purses: Fairs - 11% + \$75 each  
Major tracks - 8.75%

Licensee: Fairs - approx. 3.5%  
Major tracks - 8.75%

### Greyhounds (5 major tracks):

Take-out: All bets - 15%

Taxes: 4%

Purses: 3% by agreement (not set by law or reg.)  
The Greyhound owners are wanting more and will be meeting with the Racing Commission to discuss what can be done.

Licensee: 8%

## **Connecticut**

### Greyhounds (1 major track):

Take-out: 19%

Taxes: 8.5%

Purses:

Licensee: 10.5% less purses paid out

## **Florida**

### Horses:

Take-out: 17.6 to 18.1% on straight bets; 19 to 22% on exotics

Taxes: 3.3%

Purses: minimum of 7.5%

Licensee:

### Greyhounds (18 major tracks):

Take-out: 17.6% on W/P/S  
19 to 21% on exotic bets

Taxes: 7.6% of handle in excess of \$25,000 per performance plus a daily license fee of \$80 per race from tracks whose previous season's daily handle exceeded \$100,000 and a \$50 license fee per race from those tracks which did not.

Purses:

Licensee: Balance of take-out after payment of taxes and purses

## **Illinois**

### Horses:

Take-out: 17 to 25%

Taxes: complex

Purses:

Licensee: Balance after payment of taxes and purses

## **Iowa**

### Horses (no major tracks yet but one has been approved):

Take-out: W/P/S - 16%

Exotic - allowing 18%

Average is about 17%

Taxes: Fairs - 6% (state gets 5%, county gets 0.5%, city gets 0.5%)

Major tracks - state will credit back all of its share (5%) to the licensee for debt service on track construction, making the effective tax only 1%

Purses: 5.5% by agreement (not set by law or reg.)

Licensee: Fairs - 5.5% average

Major tracks - 5.5% average + 5% tax credit = 10.5% total

### Greyhounds (3 major tracks):

Take-out: W/P/S - 16%

Exotic - 18%

Average is about 17%

Taxes: 6% (state gets 5%, county gets 0.5%, city gets 0.5%)

Purses: 3% (set by commission rule)

Licensee: 7% on W/P/S and 9% on Exotic (average is about 8%)

## **Massachusetts**

### Greyhounds (3 major tracks):

Take-out: 19%

Taxes: 7% (drops to 6.5% when track hits 1985 handle)

Purses: 4%

Promotion Fund: 0.5%

Capital Improvement Fund: 0.5%

Licensee: 7% (increases to 7.5% when track hits 1985 handle)



## Minnesota

### Horses (1 major Thoroughbred track):

Take-out: W/P/S - 17%  
Exotic - 23%  
Average at major track - 20%

Taxes: State receives - 1.75% under \$48 million handle  
6.00% over \$48 million handle  
Averaged 4.45% in 1986 at major track  
To breeder fund - 0.8%

Purses: Minimum of 5% by law, however track actually paid 8% in 1986

Licensee: Approx. 6.75% in 1986 for major track

## Missouri

### Horses (no major tracks yet):

Take-out: W/P/S - 18%  
Multiple - 2 horses - 20%; 3 horses - 25%

Taxes: W/P/S - 1% under \$100 million handle  
2% between \$100 million and \$150 million handle  
4% over \$150 million handle  
Multiple - 2 horses - 1.25% under \$100 million handle  
2.00% between \$100 and \$150 million handle  
4.00% over \$150 million handle  
3 horses - 1.5% under \$100 million handle  
2.0% between \$100 and \$150 million handle  
4.0% over \$150 million handle

Breeder fund: W/P/S - 0.5% regardless of size of handle  
Multiple - 2 horses - 0.75% regardless of size of handle  
3 horses - 1.00% regardless of size of handle

Purses: Apparently not set by law or regulation. No meaningful data yet.

Licensee: Balance after payment of taxes, breeder fund and purses.

## Nebraska

### Horses (5 thoroughbred and 3 small quarterhorse tracks):

Take-out: Small tracks (tracks racing 4 days per week or less) -  
W/P/S - 18% and Exotic - 20% (average is about 19%)  
Large tracks (tracks racing more than 4 days per week) -  
W/P/S - 15% and Exotic - 20% (average is about 18%)

Taxes: 5% but the first \$7 million of handle is exempt  
Averaged 3.2% for CY86  
(Total tax was \$4,938,000 on handle of \$153,796,000 for CY86)

Purses: Not set by law or reg. but traditionally half of whatever licensee gets. About 7.3% for CY86.

Licensee: Traditionally about half of take-out after payment of tax.  
About 7.3% in CY86.

## **New Hampshire**

### Greyhounds (3 major tracks):

Take-out: 19% on W/P/S; 25% on exotic bets

Taxes: 6% on handle up to \$100,000  
7% on \$100,000 to \$200,000  
9% on \$200,000 to \$300,000  
10% on handle over \$300,000  
Plus 4% of the 6% difference in take-out on exotic bets

Purses:

Licensee: 13% on handle up to \$100,000, less purses paid out  
12% on \$100,000 to \$200,000, less purses paid out  
10% on \$200,000 to \$300,000, less purses paid out  
9% on handle over \$300,000, less purses paid out  
Plus 2% of the 6% difference in take-out on exotic bets

## **New Mexico**

### Horses (4 mixed tracks):

Take-out: W/P/S - 18.75%; Exotic - 21%; Average is about 20%

Taxes: Major tracks - 2% of first \$200,000/day (all returned to the track  
for payment of debt on capital improvements)  
2.5% of between \$250,000 and \$350,000/day  
3.5% of between \$350,000 and \$400,000/day  
6.0% of over \$400,000/day  
Average for major tracks was about 3.5% for CY86

Fairs - 2% regardless of handle

Average for all licensees was about 1.4% for CY86

Purses: Traditionally half of handle after payment of taxes.  
Was about 7.7% in CY86

Breeders' awards: one-eighth of one percent

Licensees: about 7.7% + \$5,000/day from tax credit for capital improvements  
= about 8.3% for major tracks

## Oklahoma

### Horses (1 mixed, medium-size track; have major track under construction):

- Take-out: W/P/S - 18%  
Exotic - 20% (but extra 2% goes to state general revenue fund)
- Taxes: 2% on first \$100 million handle  
4% on next \$50 million handle  
6% on handle over \$150 million  
Was 2% in CY86 because handle was only \$48 million  
Law provides that once a track retires its debt, then the tax is 6% regardless of the size of the handle.
- Purses: Minimum of 6%
- Licensee: 10% on first \$100 million handle  
8% on next \$50 million handle  
6% on handle over \$150 million  
Was 10% in CY86 because handle was only \$48 million  
Law provides that once a track retires its debt, then the licensee gets 6% regardless of the size of the handle.

Oklahoma law changed to the present split from a straight 6%-6%-6% split effective October 1985. This was done because their one intermediate-size track was having a financial struggle.

## Oregon

### Greyhounds (1 major track and 2 non-profit fairs):

- Take-out: For profit track - 16.5% (except 18.5% on 3 or more dogs)  
Non-profit fair - 16% (except 22% on 3 or more dogs)
- Taxes: For profit track - 6.5% (except 7.28% on 3 more dogs)  
Non-profit - 2.5% (except 7.5% on 3 or more dogs)
- Purses:
- Licensee: Balance after payment of taxes and purses

## Rhode Island

### Greyhounds (1 major track):

- Take-out: 18% on W/P/S; 19% on exotic
- Taxes: 6% (city receives 0.5%)
- Purses:
- Licensee: 12% less purses paid out (1% additional on exotic pools for capital improvement fund)

## **South Dakota**

### Greyhounds (2 major tracks):

Take-out: 16.25% on W/P/S; 18.25% on exotic

add 1% to above if handle exceeds \$8 million

Taxes: Varies from 3 to 7% depending upon size of handle and type of bet

Purses:

Breeders Fund: Varies from .25 to .875% depending upon size of handle and type of bet

Licensee: Varies from 9 to 14.75% less purses paid out, depending upon size of handle and type of bet

## **Vermont**

### Greyhounds (1 major track):

Take-out: 20% on W/P/S; 25% on exotic

Taxes: 2 to 8% depending upon the size of the handle

Purses:

Licensee: Balance after payment of taxes and purses

## **West Virginia**

### Greyhounds (2 major tracks):

Take-out: 16.3%

Taxes: 4 to 8% depending upon size of handle (additional 0.1 % to city)

Purses:

Licensee: 8.2 to 12.2%, depending upon size of handle

3/26/87  
Attachment #2

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MEMORANDUM

**TO: Senate Committee on Federal and State Affairs**  
**FROM: Kansas Racing Charities, Inc.**  
**DATE: March 26, 1987**  
**RE: Testimony on House Bill No. 2044**

INTRODUCTORY REMARKS

I am Bob Alderson, and I am appearing today as a proponent of House Bill No. 2044 on behalf of Kansas Racing Charities, Inc. (KRCI). KRCI is a nonprofit corporation which was formed for the purpose of becoming licensed to operate a racetrack facility in the State of Kansas, within the parameters of the recently-adopted constitutional amendment and the enabling legislation. KRCI was incorporated by former Congressman Larry Winn, Jr., and attached to this testimony is a list of the persons who join Congressman Winn on KRCI's Board of Directors.

KRCI has been assisted in its review of HB 2044 by Paul W. Bryant, Jr. His experience and expertise in the racing industry has been of great benefit to us in the development of our recommendations regarding this legislation. Corporations in which Mr. Bryant is the principal stockholder have financed the construction and served under contract to manage two racetrack facilities in Alabama and one in Iowa. KRCI has entered into an agreement with Mr. Bryant, whereby a Kansas corporation has been formed by him to finance the construction and serve as the manager of any racetrack facility for which KRCI becomes licensed.

Even to a casual observer, it is apparent that HB 2044 is the product of a significant amount of time and effort by the State Task Force on Parimutuel, the Special Committee on Federal and State Affairs, which introduced the bill after its study last interim, and by the House Committee on Federal and State Affairs, which held nearly two weeks of hearings earlier this session. As a result of the efforts of these bodies, HB 2044, as amended by the House, provides a good framework for regulating horse and greyhound racing in Kansas.

Attachment #2  
FSA 3/26/87

However, we believe HB 2044 can be made even better--better in terms of accomplishing the intent of the voters who approved the constitutional amendment last fall; better in terms of promoting the public's interest in having legislation which will make it as tough as possible for organized crime to infiltrate the racing industry in Kansas; and better in terms of encouraging the development and operation of racetrack facilities that will make Kansas a showcase of horse and greyhound racing.

Also, in light of the fiscal uncertainty confronting the 1987 Legislature, it is imperative that the legislation enabling and regulating parimutuel racing be premised on fiscally sound policies. Regulation of the racing industry must be self-sustaining, and the initial cash flow burden should be absorbed by the racing industry, to the greatest extent possible, and not by the state treasury. Moreover, in addition to the favorable impact the development of racetrack facilities will have on our economy, the state's fiscal projections dictate that the tax revenues accruing to the state from the operation of these facilities should be maximized.

KRCI believes it is appropriate for the enabling legislation to permit racetrack developers to make reasonable and legitimate profits from racetrack operations, so as to encourage well-qualified persons and businesses to become licensed in Kansas. Anything less than that will encourage the potential participation in the Kansas racing industry by persons who might be willing to "cut corners" to make a profit. However, in light of the State's current financial difficulties, it is equally important that the legislature ensures that the state treasury will derive the maximum benefit and that the enabling legislation does not sanction windfall profits to any segment of the racing industry.

These are the concerns that have guided our review of HB 2044, and it is from this perspective that we would offer our proposals for the Committee's consideration. The balance of this Memorandum contains KRCI's principal recommendations, each of which begins on a separate page to facilitate its location, and they are preceded by a summary with page references.

KRCI appreciates the opportunity to participate in these proceedings. We will make available to the Committee and its staff any of our resources or information deemed necessary to your deliberations.

SUMMARY OF PROPOSALS

<u>Proposal</u>	<u>Page</u>
<b>1. Unqualified commitment for financing</b> Unqualified committment necessary at time of application to: a. prevent undue delay in constructing racetracks; b. allow commission to investigate source of construction funds; and c. assure commission of applicant's financial strength.	4
<b>2. Advance payment of taxes and fees</b> Require applicants to make advance payment of taxes and fees which will: a. fund commission's activities prior to operation of racetracks; and b. alleviate burden on state treasury.	8
<b>3. Taxes</b> Parimutuel tax structure should be established so as to: a. Maximize tax revenues; b. not give preferential tax treatment to dual facilities; and c. maximize amount of money wagered.	11
<b>4. Financing of racetrack facilities</b> Assure financial viability of racetracks by providing: a. maximum license period of 25 years; b. exclusive territory licenses; and c. maximum of 300 racing days annually.	18

UNQUALIFIED COMMITMENT FOR FINANCING

KRCI proposes that an applicant who seeks a license to construct a racetrack facility provide to the Racing Commission a firm commitment for the financing of such construction. We recommend that HB 2044 be amended to provide that, at the time such applicant submits to the Commission the detailed plans for the construction of the racetrack facility, the applicant also will submit a commitment for financing the construction by a financial institution or other source which, in the opinion of the Commission, is able to provide such financing. Such financing commitment must be unqualified, except as to the grant of the license in accordance with the terms of the application.

This proposal has a dual purpose. It not only provides to the Commission significant assurance that the racetrack facility will be constructed in an expeditious and timely manner, but it also closes a loophole in the bill which provides the potential for organized crime to infiltrate the Kansas racing industry.

Whether the Kansas economy profits from the advent of parimutuel wagering on horse and greyhound racing depends in large measure on the timely construction and operation of racetrack facilities. It will do no good for the legislature to expedite its consideration and passage of enabling legislation, or for the Racing Commission established thereby to give prompt consideration to the applications for licenses, if the construction



of racetrack facilities are delayed due to the licensee's inability to obtain adequate financing. Absent a requirement in HB 2044 that an applicant provide the Commission with an unqualified commitment for such financing prior to the issuance of the license, there is a significant likelihood that inordinate delays in the construction of racetrack facilities will occur. The experiences of other states which do not require firm financing commitments testifies to that fact.

Iowa is such a state. The law authorizing parimutuel wagering in Iowa was enacted in 1983. In the spring of 1984, the Iowa Racing Commission issued a license for a horse racetrack facility in Des Moines, based on the belief that the facility could be constructed with proceeds of industrial revenue bonds. To date, these bonds have not been sold, and the facility has not been constructed.

Early in 1984, the Iowa Racing Commission also granted a license for a facility in Waterloo. A firm financing commitment to the applicant was not required, and the licensee was nearly two years in obtaining the requisite financing. Also, the original license for the greyhound racetrack facility in Council Bluffs was issued without an unqualified commitment for financing. The licensee was unable to obtain the necessary financing, and it was necessary to seek alternative financing from Mr. Bryant.

The State of Alabama also has had similar experiences. A racetrack facility for horses in Birmingham was licensed in 1983, without an

unqualified commitment for financing the applicant's construction of the facility. This facility finally opened approximately two weeks ago.

Thus, to avoid similar experiences in Kansas, the legislature should require that an applicant furnish an unqualified commitment for financing. Newspapers have recently recounted the financing difficulties experienced by applicants for licenses in Missouri. Apparently, none of the applicants has been able to obtain the financing necessary to construct a horse racing facility in western Missouri. Such delay works to our state's benefit. If a racetrack facility with guaranteed financing can be licensed in eastern Kansas prior to the time when financing is available to build a racetrack in western Missouri, such financing might be forever lost to the Missouri applicants. We should capitalize on this opportunity by ensuring that applicants in Kansas have the financial wherewithal to construct a racetrack without undue delay after the license is issued.

Requiring an unqualified financing commitment also will close one of the avenues available to organized crime to become an integral part of the racing industry in Kansas. In our judgment, it is imperative that the Kansas Racing Commission has unequivocal knowledge of the source of the moneys used to finance the construction and operation of racetrack facilities. The Commission's background investigations of the applicant and the promoter may reveal that they are "beyond reproach." However, if the Commission does not have the opportunity to similarly investigate the

source of funds used to finance the track, there can be no assurance that the funds will not ultimately be provided by organized crime.

Even though the promoter honestly believes at the time the application is filed that the financing sources identified to the Commission will provide the necessary funding, the experiences in other states which do not require unqualified financing commitments demonstrate that the promoter's expectations are often unrealized. Typically, what happens in this event, is that the promoter then must "shop the deal" to obtain the financing. This is the opportunity for which organized crime has been waiting.

To some extent, House amendments recognize the concerns embodied in our proposal. These amendments authorize the Racing Commission to revoke a license issued to construct a racetrack facility, if the licensee has been unable to obtain an unqualified financing commitment within 90 days after the license is issued. In our judgment, these amendments do not accomplish their intended purpose. They will do little to alleviate the potential for delays in constructing racetrack facilities.

Accordingly, we urge that HB 2044 be amended to require an unqualified financing commitment.

ADVANCE PAYMENT OF TAXES AND FEES

We believe the bill could be significantly strengthened by requiring that any applicant for a license to construct a racetrack facility (other than the associations identified in section 14 of the bill) deposit with the Racing Commission, at the time of making application, an advance against the taxes and fees that would be paid by the applicant, if the license were granted and the applicant constructed and operated a racetrack facility. The amount of deposit should vary with the number of racing days applied for by the applicant. If the number of racing days applied for is less than 150 days, we suggest that the amount of deposit should be \$250,000, and if the number of racing days applied for is 150 days or more, the amount of deposit should be \$500,000.

If the application is denied, the deposit would be refunded. But, if the application is granted by the Commission, the amount of deposit would then be credited to the appropriate funds in the state treasury, as an advance payment of the racing day license fees and the taxes on parimutuel wagering for which the licensee will be obligated after the commencement of racing at the licensee's racetrack facility.

The purpose of this recommendation is two-fold. First, it provides the Racing Commission with an indication of the applicant's financial strength and stability, and as a consequence, it will provide additional assurance

to the Commission that, once the license is granted, the licensee will proceed with due dispatch to construct the racetrack facility and have it in operation as quickly as possible.

Equally as important, though, is the fact that the sums deposited by applicants who are granted a license will significantly ease the state's burden in funding the operations of the Racing Commission prior to the time when revenues are generated by the racetrack facility. The projected costs of funding these operations in the interim are not insignificant, and the House Committee heard testimony that prior projections as to the required funding may be too low. And, in light of the diminishing general fund balance, the cost of the Racing Commission's start-up funding becomes even more significant.

The House Committee also was advised by a staff attorney for the Department of Revenue that Governor Hayden wants to ensure that the operations of the Racing Commission are self-sustaining, and he offered an amendment to that end which was adopted by the Committee. However, this amendment merely provides for depositing taxes on parimutuel wagering in the state racing fund (out of which the Commission's operations are funded) instead of the state gaming revenues fund created by K.S.A. 1986 Supp. 79-4801. While this amendment is intended to provide sufficient funds to operate the Commission during the time when revenues generated by racetrack facilities are relatively small, it does not alleviate the state's burden of funding

the Commission prior to the time when racetracks are operating and generating any revenues whatsoever.

Even though the state may eventually be reimbursed for the start-up costs by the revenues accruing from the operation of racetrack facilities, why should the state treasury bear the initial cash flow burdens? We believe it is only appropriate that the segment of the racing industry that will profit the most from the advent of parimutuel wagering on horse and greyhound racing in Kansas should sustain these cash flow burdens.

TAXES

KRCI has an interest in becoming licensed only to operate a facility for racing greyhounds. It has no interest in becoming licensed to build and operate a facility for horse racing or a dual facility for racing both horses and greyhounds. Our comments, therefore, will be confined to the appropriate rate of tax on parimutuel wagering at greyhound races, including the rate of tax provided by House Committee amendment on parimutuel wagering at facilities which conduct both horse and greyhound races.

By way of background, it is to be noted that HB 2044 establishes the various parimutuel taxes as fractions (expressed as 18ths) of the "takeout," i.e., the amount of money withheld from each parimutuel pool for the payment of purses, taxes and the portion to be retained by the licensee, rather than expressing taxes as percentages of the handle. Expressing taxes in this fashion is prompted by the fact that the bill authorizes a takeout ranging from 18% to 22% of the handle. Thus, as the takeout increases, it is intended that the taxes will correspondingly increase. However, when the takeout is 18%, the amount of revenue produced by a tax of 3/18 equals the amount produced by a 3% tax on the amount wagered ("handle"), and a tax of 5/18 of the takeout produces the same revenue produced by a 5% tax on the handle. Therefore, for purposes of simplicity, this testimony will reference the taxes as percentages of the

handle, even though recognizing that these references are not precise when the takeout is greater than 18%.

Taxes at dual facilities. As HB 2044 was introduced, it provided for a 3% tax on parimutuel wagering at horse races and a 5% tax on parimutuel wagering on greyhound races. The House Committee, however, amended the tax provisions to include a 3% tax on parimutuel wagering on all races conducted by a facility licensed for both horse and greyhound racing. KRCI is opposed to this amendment and urges the Senate Committee to delete it from the bill.

We believe the House Committee amendment providing for a 3% tax at dual facilities is inappropriate for several reasons. First, it is inequitable that the tax on parimutuel wagering at a facility licensed only for greyhound racing is 5%, while the tax on parimutuel wagering on greyhound races at a dual facility is only 3%.

Second, the state is being deprived of a significant amount of tax revenues which could be generated from parimutuel wagering on greyhound races conducted at a dual facility. Without question, greyhound racing can be conducted profitably with a parimutuel tax of 5%, a fact recognized by both the Task Force and the interim committee, and the state should generate as much tax revenues from racing activities within the state as possible.



Even though the establishment of racetrack facilities at which parimutuel wagering is authorized will have a favorable impact on our economy, we believe these facilities should render a direct benefit on our state treasury, as well. That objective is not accomplished to the fullest extent by reducing the parimutuel tax on greyhound races conducted at a dual facility. For example, it is conservatively estimated that a greyhound racetrack facility in the eastern part of the state would generate an annual handle of \$200 million or more. Even if greyhound racing at a dual facility in the same location would produce a handle of only one-half that amount, the state will be deprived of at least \$2 million in tax revenues annually, if the parimutuel tax is 3%, rather than 5%.

That same reasoning dictates against the proposal offered by some proponents that, to resolve the disparity of the parimutuel tax imposed on greyhound racing at dual facilities and that imposed at facilities licensed only for greyhound racing, the parimutuel tax imposed on all racing, both horses and greyhounds, should be 3%. To do so would deprive the state of significant tax revenues which can be derived from parimutuel wagering on greyhound races.

It should be recognized also that the tax revenues lost by the state at dual facilities, as a result of the reduced parimutuel tax on greyhound racing at these facilities, will accrue to the benefit of the organizations

licensed to operate these facilities. In effect, the loss to the state treasury translates into a windfall profit for these licensees.

It was suggested by various proponents during the House Committee hearings that a reduced parimutuel tax on greyhound races conducted at dual facilities will enhance the financial feasibility of constructing and operating these facilities. That may be true, but we question why the state should encourage the construction of dual facilities. In enacting our state's parimutuel legislation, the Kansas Legislature should profit from the experiences in other states which have legalized parimutuel wagering on horse and greyhound racing. In this regard, history does not favor dual facilities. There are no dual facilities in the United States. Those which have been tried have failed, and there is nothing to indicate that our efforts would have any greater chance for success.

Taxes on greyhound races. KRCI would support an increase in the tax on parimutuel wagering at greyhound races to 6%, the maximum tax permitted under our constitutional amendment. It is apparent that various members of this Committee are concerned about the revenues to be realized by the state under the bill's current tax provisions. KRCI shares that concern, and we would hope that increasing the tax to its constitutional limit would alleviate some of these concerns. It is necessary and appropriate to address this issue in HB 2044, in light of the fiscal crunch confronting the 1987 Legislature.

One of the fiscal concerns being addressed by this legislature is the distribution of state tax revenues to units of local government. Thus, if the parimutuel tax on greyhound racing is increased from 5% to 6%, we would propose that the additional revenues derived from such increase be distributed to units of local government. In particular, we believe that the units of local government in which racetrack facilities are located should share in the tax revenues generated by these facilities.

Amount of takeout. As previously discussed, the bill establishes a takeout of 18% of the handle, with authority vested in the Racing Commission to permit a takeout up to 22% on multiple or exotic bets. In recognition of the potential of the takeout to range from 18% to 22%, the taxes and purses are expressed as fractions of the takeout, rather than percentages of the handle. This is premised on the theory that the amounts derived for taxes and purses (and the resulting organization licensee's retainage) will increase as the amount of takeout increases.

However, we believe that this premise is not entirely accurate, and we recommend that the takeout be limited to 18% of the handle in all instances. Not only will the taxes and purses be simpler to compute and understand, since they can be expressed as percentages of the handle, rather than fractions of the takeout, we believe that the amounts are potentially greater than they would be under the bill's current provisions.

Based on the experience at tracks in other states, we believe that limiting the takeout to 18% will generate greater tax revenues, for example, than by allowing the takeout to increase to as much as 22%. The experience of other tracks indicates that the money wagered on an average racing day "turns over" about five times. Thus, the greater the amount of money returned to the bettors on each race, the greater the total amount of money wagered on that day will be, thereby correspondingly increasing the tax revenues derived from that racing day. The same result would also obtain for the purses and the organization licensee's retainage, as well.

There is another important aspect of this proposal. Bettors who are knowledgeable about parimutuel wagering pay close attention to the amount of takeout at the tracks they patronize, because they know that the lower the takeout the more money there is to be returned to the bettors who hold winning tickets. Even bettors who are less knowledgeable learn over a period of time that they seem to fare better at tracks having lower takeouts, even though they may not realize the reasons for their success. If the Kansas economy is to flourish, as anticipated, by the advent of parimutuel wagering on horse and greyhound racing, we must do all that we can to attract patrons to the tracks in our state. Maximizing the amount of money returned to the bettors at our tracks is one way to assist in that effort.

One final comment on this proposal is appropriate. Our constitutional amendment provides for a maximum tax equal to 6% of the amount wagered.

However, under the bill's current provisions which express the tax as a fraction of the takeout and authorize a takeout of as much as 22%, that constitutional limit could be exceeded. To illustrate, if the takeout on a particular greyhound race is 22%, a tax of 5/18 of the takeout will actually produce an amount equal to 6.1% of the total amount wagered on that race ( $5/18 \times .22 = .061$ ). This infirmity provides another reason for limiting the takeout to 18% and expressing the tax as a percentage of the handle.

FINANCING OF RACETRACK FACILITIES

We have previously discussed the extreme importance of assuring that licensees are financially viable. This is clearly in the best interests of the state, in particular, and the entire racing industry, in general. Thus, it is incumbent on the legislature to enact legislation which will accomplish that objective. Specifically, HB 2044 should include provisions which will facilitate the ability of organization licensees to obtain the requisite financing. For such purpose, we would suggest three amendments.

Term of license. As recommended by the Special Committee on Federal and State Affairs, HB 2044 originally provided in Section 13 that the Racing Commission could issue licenses to organization licensees for periods not to exceed 25 years. However, the House Committee reduced this to 10 years. KRCI urges that the bill be amended so as to delete the House Committee amendment and restore the 25-year limitation.

The minutes of the Special Committee reflect a concern that 10 years is not a sufficient length of time in which to amortize the significant amount of debt which will be incurred by a licensee in constructing a racetrack facility. We share that concern.

Although the provisions recommended by the Special Committee allow the Racing Commission discretion in determining the duration of a license, by providing it shall not exceed 25 years, such provision evidences a

legislative intent that a license extending for 25 years is not inappropriate. This will at least allow the Commission the discretion to determine a license period which is of sufficient duration to amortize a licensee's debt obligation.

It also should be noted that, if a nonprofit corporation's debt must be amortized over a relatively short period of time, this will increase the amount of the debt service payments to the extent that it will preclude or greatly restrict the licensee's charitable distributions until the debt is satisfied. Extending the amortization period will enhance the nonprofit corporation's ability to make charitable distributions concurrent with its debt service payments.

Exclusive licenses. Our review of HB 2044 does not reveal any expression of intent with respect to the Racing Commission's authority to grant licenses with exclusivity clauses, which clauses would restrict competition among tracks located within geographic areas. KRCI believes that such an expression of legislative intent is necessary and appropriate, and it proposes that language be inserted in HB 2044 clarifying that the Racing Commission has such authority. KRCI also proposes that the National Greyhound Association and the various fair associations be exempt from any exclusivity requirement. Such a statement would be similar to the provision in Section 15 with respect to the maximum number of years for which a track license may be issued by the Commission.

Exclusivity provisions are commonly employed in the racing industry for the purpose of protecting the financial integrity of racetracks. Exclusivity clauses also assist track developers in obtaining financing. The presence of such provisions can be vital to the ability of organizations to obtain licenses and to continue their operations.

Number of racing days. The number of racing days to be allowed at race tracks is important to the viability of the tracks. The ability of greyhounds, for example, to race at a particular track for 300 days each year improves the ability of the track's developer to obtain financing. Long racing seasons also increase state revenues, increase the total amount of purses available to local breeders and makes possible the permanent, rather than seasonal, employment of racetrack personnel.

KRCI proposes that a statement of legislative intent be inserted in the bill to direct the Racing Commission to allow a maximum of 300 racing days at each track annually. It is our belief that such a statement will greatly assist the Racing Commission in designating the number of racing days to be permitted to licensees.



**BOARD OF DIRECTORS**

**KANSAS RACING CHARITIES, INC.**

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**Larry Winn, Jr.** Former Congressman Winn represented the Third District in the U.S. House from 1966 until his retirement in 1984. He is District Chairman of the Johnson County Boy Scouts of America, on the Board of Directors of the Alzheimer's Disease and Related Disorders Association and Past Honorary Chairman of the Johnson County Cancer Gala.

**Paul H. Henson.** Mr. Henson is Chairman of the Board of United Telecommunications, Inc. He is also Founder and Past Honorary Chairman of the Johnson County Cancer Gala and Past Chairman of the Heart of America United Way.

**Lynn L. McCarthy.** Mr. McCarthy is President of J.C. Nichols Company. He is Past Chairman and President of the Heart of America Boy Scouts, has been active in youth programs including Junior Achievement and YMCA football, and is a Director of the Kansas City Wheelchair Association.

**James S. DeGoler.** Mr. DeGoler is owner of DeGoler Pharmacies, and he is President of the Kansas City, Kansas, Board of Education; a Trustee and Treasurer of the Bethany Medical Center Board of Trustees; Past President of the Kansas City, Kansas Chamber of Commerce; and Past Chairman of Cancer Action, Inc.

3/26/87  
Attachment #3

TESTIMONY

KANSAS CATHOLIC CONFERENCE

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE  
H.B. 2044 - March 1987 - 11:00 a.m.

Chairman Reilly, and members of the Senate Federal and State Affairs Committee:

My name is Bob Runnels. I am Executive Director of the Kansas Catholic Conference speaking under the authority of the Roman Catholic Bishops of Kansas.

I come today to speak in support of an amendment to House Bill 2044.

The amendment I propose is as follows:

"No persons who operate a facility for the conducting of races among dogs, horses, or other animals for the purpose of allowing persons to place bets upon the outcome of these races shall be licensed to operate and construct a new racetrack facility at any place within a distance of two thousand five hundred (2,500) feet of any school or church, measured from the property line of the racetrack property to the property line of the school or church."

We ask that you consider the following criteria. Wherever located, a racetrack by its very nature, will have a major impact on the surrounding area. It and its related activities will directly affect the quality of living up to a half mile and possibly even more in all directions from the track site. A track creates a high intensity of activity --

Attachment #3  
FSA 3/26/87

noise, traffic, commercialism and other disruptive influences.

It can have an even greater adverse affect than industrial and commercial activity from which neighborhoods and residential areas are traditionally protected in all communities.

Churches and schools are a vital part of neighborhood and residential living. This is evidenced by the fact that they are and have always been permitted and encouraged in single family residential areas.

People expect churches to be afforded a certain kind of environmental sanctuary which respects its location as a focal place for neighborhood and community worship to Almighty God.

Schools are an integral part of neighborhood and residential living. Much the same as said about churches can be said about schools.

Additionally, special consideration is needed for limiting traffic, noise and maintaining an environment which is not detrimental to the learning process and the safety and education of children.

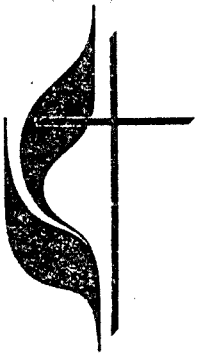
Many church leaders besides our own have our same concerns and they will have testified to these already today, or later.

I am commissioned to add the support of Bishop Gene Schmidt for the Kansas Missouri Synod Lutheran Church and Bishop Roger Gieschien of the Lutheran ACL. Also attached to this testimony is a letter of endorsement for this amendment from the Kansas East Conference Council on Ministries of the United Methodist Church.

I have not talked to any church leader who has not expressed his concern and support.

(3)

We ask your favorable vote on adding the above language  
as an amendment to H. B. 2044.



Kansas East Conference Council on Ministries • The United Methodist Church

Frank Dorsey  
Council  
Director

Lynn Dyke  
Associate  
Director

Jay Henderson  
Associate  
Director

Becky Wheaton  
Administrative  
Secretary

Terri Bynum  
Director of  
Communications

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P.O. Box 4187 • 4201 S.W. 15th • Topeka, Kansas 66604 • 913-272-9111

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February 16, 1987

Robert H. Miller, chp.  
State and Federal Affairs  
Suite 115 South  
State House  
Topeka, KS 66612

Dear Representative Miller:

The Board of Church and Society of the Kansas East Annual Conference took official action at its last meeting to support the amendment to the pari-mutual gambling bill that would prohibit racetracks and gambling operations within 2,600 feet of a school or church.

We hope you will do everything in your power to make such an amendment with regards to regulations concerning pari-mutual gambling.

Sincerely,

Frank L. Dorsey  
Executive Director

FLD/bw

cc: Phyllis Southard, chair  
Board of Church and Society  
Jay Henderson, staff relating  
to Board of Church and Society

3/26/87  
Attachment #4

# Report To The Kansas Senate

*Federal and State Affairs Committee*

by

Wayne C. "Rocky" Chambers  
*President*

Greenwood County Fair Association  
Eureka Downs  
Eureka, Kansas

Chairman Reilly and Committee Members:

My name is Wayne C. "Rocky" Chambers, President of the Greenwood County Fair Association, owners and operators of Eureka Downs. I thank you for the opportunity to appear before this committee to present our comments on proposed House Bill No. 2044.

As a general statement, we endorse the provisions of the proposed legislation. We believe the document to be workable and responsive to the singular status of Eureka Downs. At this time I would like to express our appreciation to Representative Miller, the House Federal & State Affairs Committee, the House of Representatives as a whole and the pre-cursor groups: the Governor's Task Force and the Joint Interim Committee in recognizing the unique status of The Greenwood County Fair Association and Eureka Downs.

It is important to be known that the Greenwood County Fair Association is a purely "Not For Profit" organization and not one penny of the funds derived from the activities at Eureka Downs goes into any individual pocket. All funds generated are committed to improved services, improved facilities and to our chartered task, to provide an annual Greenwood County Fair. We believe that the majority of Kansas voters, last November, believed they were supporting this type of *pari-mutuel* operation.

The Greenwood County Fair Association is the sole owner of all real and installed property at the fair grounds. We are stockholder owned and are not an element of, or responsible to any individual, other organization, or units of local government. Because of our organizational structure, our status is clear cut, and we're ready to go without need for negotiation or special sanctioning.

Our first comment is directed toward Section 14, Sub. Paragraph (a)(2), page 27 of the proposed document.

"the Greenwood County Fair Association or the Anthony Fair Association with respect to race meetings conducted by such association at Eureka Downs or Anthony Downs, respectively, for which the number of race meetings and days, and the dates thereof, shall be specified by the commission."

Attachment #4  
FSA 3/26/87

We firmly believe this section should be retained as written. We believe retention of this so-called "Grandfather Clause" is necessary to provide an early *Pari-Mutuel* presence in Kansas. **Eureka Downs** is in the unique position to provide that important contribution at the earliest possible date.

We believe that our request for special consideration is justified in that the Greenwood County Fair Association and **Eureka Downs** have been primarily responsible for keeping the sport of horse racing alive and well in the State of Kansas. Our first recorded horse racing activity at the Greenwood County Fair grounds was a harness race event in 1872, 114 years ago. **Eureka Downs** as an entity was born in 1961, when our facilities and racing activities were sanctioned by the American Quarter Horse Association. Over these years we have gained the knowledge and experience and have constructed the facilities to expedite transition into a *pari-mutuel* environment with minimal delay. It is crucial during the start-up period that the Kansas *Pari-Mutuel* Program not be curtailed by placing undue restrictions on the one facility that can serve almost immediate notice that **Kansas Is In The *Pari-Mutuel* Business.**

We do have an additional concern that approval of the enabling legislation may run into unexpected road blocks and that expeditious implementation will be delayed, to the detriment of the entire *pari-mutuel* program.

We have done our homework - - - - - To minimize the time required to introduce *Pari-Mutuel* at **Eureka Downs**:

(a) Phase II of our Feasibility Study is nearly completed, indicating **Eureka Downs** can sustain a significant construction and *pari-mutuel* racing program; (A copy of the advanced executive summary, with projected economic impact, is included in the booklet provided you.)

(b) A Financial Plan has been completed. Its implementation is awaiting designation of **Eureka Downs** as a sanctioned Kansas Track with sufficient racing days, as allocated by the Racing Commission, to implement our complete program. Our finance committee has an active program in progress to provide interim financing;

(c) A Construction Plan has been developed, only awaiting the actions just mentioned. We are now in the design phase of this program;

(d) A Personnel Management Plan has been approved to introduce a full-time professional staff. A nationwide search for a highly qualified General Manager is currently under way;

(e) A Marketing Plan has been developed to sell **Eureka Downs** to our potential market area, and only awaits final approval of the steps necessary to implement *pari-mutuel* in Kansas.

In the mean time, as we're waiting in the wings, our 1987 *non-pari-mutuel* racing meet will kick off on the 5th of April. Estimated purse for the 24 racing days will exceed \$800,000.

Greenwood County, like other small communities in Kansas, is undergoing an economic regression. Agriculture and oil activities, long the main stay of our local

tax base, have suffered a significant decline. Fluctuation of economic activities in major population centers have a direct bearing on the economic well being of the smaller communities surrounding them. The combination of these negative factors has resulted in an un-employment rate of 7.3% in our county, well above the state average.

The people of our community, as well as the units of local government, are firmly behind us. Rightly so, they believe the expansion of **Eureka Downs**, with first class facilities and an outstanding racing program, will contribute materially to the economic growth of our community and in turn, the State of Kansas.

For a period of time **Eureka Downs** will be the "Only Game In Town". We have the organization, the facilities and the capability to be in the forefront, to be a model for, and to be the **Flag Ship** for *Pari-Mutuel* racing in Kansas for the years to come.

Thank you again for the opportunity to appear before you.



# **Business & Industrial Planning Associates**

4851 Twin Valley Drive

Austin, Texas 78731

512/451-4444

*Advance Executive Summary*

## **THE FEASIBILITY OF PARI MUTUEL HORSE RACING AT EUREKA DOWNS, GREENWOOD COUNTY, KANSAS**

*Prepared for:*

**THE GREENWOOD COUNTY FAIR BOARD  
Eureka, Kansas**

12 March 1987

*By:*

**W. Lawrence Prehn  
Executive Director**

## EXECUTIVE SUMMARY

Eureka Downs has been operating as a successful horse racing track in Eureka, Greenwood County, Kansas, for more than 50 years. With this heritage, and as a result of the recent ratification of pari mutuel racing in the state, the Greenwood County Fair Board is making plans for expansion of the racing program to include pari mutuel wagering on mixed horse racing (thoroughbred and quarter horse) at the existing track with major improvements to the grandstand and barn facility areas.

Business & Industrial Planning Associates, a consulting firm in applied economics with considerable experience in the conduct of race track feasibility studies, has evaluated the potential for all types of racing - thoroughbred, quarter horse, standardbred (harness horse), and greyhound - at Eureka Downs. Working closely with the Greenwood County Fair Board, Business & Industrial Planning Associates has selected mixed horse racing (providing races for both thoroughbred and quarter horses) as best for conduct at Eureka Downs. The evaluation of potential for pari mutuel horse racing at Eureka Downs has taken into account the provisions of the newly passed *Kansas Pari Mutuel Racing Act*, the nature and extent of the market support potential for horse racing at Eureka Downs, and comparative experience at similar operations in other parts of the United States. This report presents the results of that feasibility evaluation, and this *Section* of the report provides a brief summary of the important results which are discussed in more detail in the main text of the report.

Some 273,000 people will be living within 50 miles (the primary market support area) of Eureka in 1990, with an additional 1,855,000 from 50 to 100 miles (the secondary area), for a total of 2,128,000 population. This number of people, based on experience elsewhere, is expected to generate an average daily attendance at horse racing of 2,290 and an annual total attendance of 229,000, assuming 100 racing days per season. This attendance will generate a need for grandstand seating for 2,000 people in general admission and clubhouse areas, with additional seating in the concourse and apron (front) areas for overflow crowds. It is suggested that specific provision be made for expansion of these areas as the needs are proved and funds from operations are available.

The financial analysis, summarized in *Table I*, on the following page, shows an initial operating revenue (assumed to be 1988 for full operations) of \$3,671,000 in constant, 1987 dollars, with operating expenses of \$3,543,000 for the assumed 100 racing days. This leaves a net operating surplus of \$129,000 for first year operations (a value of \$134,000 in current dollars assuming a four percent rate of inflation). Operating revenues grow to \$6,419,000 by the fifth year (1992) and \$7,102,000 the tenth (1997) offset by \$5,114,000

*Table 1*

**SUMMARY PRO FORMA STATEMENT  
PARI MUTUEL HORSE RACING AT EUREKA DOWNS**  
*(thousands of 1987 dollars)*  
**1988-1997**

<b>Year</b>	<b>Operating Revenue</b>	<b>Operating Expense</b>	<b>Net Operating Surplus</b>	<b>Value in Current Dollars<sup>1</sup></b>
1988	3,671	3,543	129	134
1989	4,376	3,895	481	521
1990	5,388	4,466	922	1,037
1991	6,232	4,982	1,251	1,463
1992	6,419	5,114	1,305	1,588
1993	6,550	5,222	1,328	1,680
1994	6,683	5,338	1,346	1,771
1995	6,820	5,450	1,370	1,875
1996	6,959	5,573	1,387	1,974
1997	7,102	5,711	1,391	2,059

<sup>1</sup>Value of net operating surplus assuming four percent inflation rate.

Source: Business & Industrial Planning Associates-Austin.

and \$5,711,000 in operating expenses, respectively, for net operating surpluses of \$1,305,000 and \$1,391,000, respectively. If it is assumed that municipal bonds of some sort are appropriate, that the average term would be 9.9 years and interest of 8.23 percent, and an overcoverage of 25 percent (generation of 25 percent more net operating surplus than required as a safety margin), then the average debt carrying capacity for the first three years of operation (current dollar basis) would be some \$3.7 million, somewhat more than the \$2.9 million planned for expenditure on the first phase of upgrading and improving the physical facilities at Eureka Downs. The average debt carrying capacity for the first five years would be \$6.3 million, and \$9.3 million for the first ten years of operations, a sufficient coverage with safety factor for improving the facilities as horse racing operations proceed.

Accordingly, horse racing at Eureka Downs will be financially feasible.

A sensitivity analysis shows that the *minimum* number of racing days for financial feasibility will be 75, although 100 days assures good racing for the benefit of the public, the horsemen, and the State of Kansas.

An analysis has also been made of the economic benefits which might be expected to accrue to Greenwood County as the result of establishing pari mutuel wagering at Eureka Downs. Both the construction period and annual operations (using 1990 as a guide) have been evaluated and multiplying factors taken into account (reflecting the *overall* impact of each new job and each new dollar of spending in the area) with the results summarized in Table 2, below.

Table 2

SUMMARY OF ECONOMIC BENEFITS<sup>1</sup>  
 PARI MUTUEL HORSE RACING AT EUREKA DOWNS

Item	Construction Phase	Annual Operations
New jobs created <sup>2</sup> (number of people)	92	203
Total new payroll	3,234	1,685
New employee spending	970	506
New visitor spending	---	7,587
New purchases of materials and supplies	3,308	4,016
Local sales tax revenues generated <sup>3</sup>	43	114
State sales tax revenues generated	181	456
Personal income tax revenue generated	156	81
Corporate income tax generated	15	---
Pari mutuel tax revenues to Kansas	---	907
Breakage returns to Kansas	---	236
Admissions tax revenues to Kansas	---	46
Purses to owners, breeders, and trainers	---	<u>1,814</u>
<b>Total dollar impact</b>	<b>7,999</b>	<b>17,447</b>

<sup>1</sup>Includes both direct (on-site) and indirect (additional) benefits with multiplier effect.

<sup>2</sup>Full-time equivalent of part-time employment.

<sup>3</sup>Assuming Eureka elects to impose its optional one percent sales tax.

Source: Business & Industrial Planning Associates-Austin.

This analysis shows that the effective *total aggregate dollar impact* of pari mutuel horse racing at **Eureka Downs** will be more than \$17 million annually during operations. The impact of construction will be some \$8 million. This economic impact will be vitally important for Greenwood County, suffering from the downturn in both the petroleum and agricultural industries, and for the State of Kansas.

## W. LAWRENCE PREHN

### *Qualifications in Race Track Feasibility Studies*

Larry Prehn has been conducting or directing studies in applied economics for over thirty-two years, having started in technical market studies at Stanford Research Institute, then with Southwest Research Institute in Houston and San Antonio, later with Economics Research Associates, and now with his own consulting firm. His studies have dealt with such diverse fields as real estate and land development; management support; recreation and tourism; race track economics; technical market evaluation; public facility feasibility planning; and community and urban economics. All of these studies have involved some form of economic (financial) feasibility analysis, demographic profile evaluation, projections and forecasts, and working closely with client planning teams. Study organization consists of data gathering [documentation], evaluation within the framework of client objectives [analysis], and presentation in form suitable to the client's specific needs [report preparation and production].

Race track feasibility studies have dealt with evaluation of market support factors, prediction of attendance and pari mutuel handle, estimation of per capita spending patterns based on real track experience, derivation of pro forma statements of expected financial performance together with cash flow analysis and estimation of rates of return on invested capital, and evaluation of economic benefits which the community, county, and state might expect from the establishment of racing. Physical planning as well as operating guidelines for proposed tracks have been provided, together with estimates of costs involved. These studies have been concerned, in detail, with all types of racing: thoroughbred, standardbred, and quarter horse, and greyhound dog racing. Specific track studies have included proposed tracks in Memphis; Des Moines; Adams County (near Denver - two separate studies); Tacoma; Love County, Oklahoma (north of Dallas-Fort Worth); Bluegrass Meadows, Kentucky (two studies, one for Bowling Green and one for Franklin); The Shorelands in Hayward (to combine, eventually, all San Francisco Bay Area racing); Eureka Downs, Coffeyville, and Great Bend in Kansas; four greyhound tracks in Texas, two in Missouri, and one in McKeesport, Pennsylvania [pending ratifications of pari mutual law]. A recent related study involved analysis of the pari mutuel laws in all states conducting thoroughbred racing in order to derive a capital assistance program equitable for application in California. The Shorelands study has been ongoing and has included participation in the implementation of results, going through various permit procedures, presentations before the California Horse Racing Board, and much more. Statewide studies, to examine the economic impact of pari mutuel wagering on the state, have been conducted for Tennessee and Iowa. Iowa has recently legalized pari mutuel wagering, and such is under consideration in Tennessee.

From 1975, when Larry Prehn founded his own firm, to date, he has served as a principal consultant to such national firms as Harrison Price Company, Economics Research Associates, Laventhol & Horwath, and to several major corporations on a sustaining basis. He was Director, Department of Social and Management Sciences at Southwest Research Institute for eleven years (in Houston and San Antonio); served in 1962 and 1963 as manager of commercial and industrial development for Clear Lake City, next to NASA's Johnson Space Center in Houston (with the Del E. Webb Corporation); and was responsible for program development and project work for eight years with Stanford Research Institute in Menlo Park and Phoenix. He holds a bachelor's degree in chemical engineering from Rice University (1943), and a master's in engineering from Cornell University (1946). He was an ordnance engineer with the United States Navy and served three years each in chemical engineering pilot plant research at ESSO Laboratories in Baton Rouge and production research at Atlantic Laboratories in Dallas.

*Business & Industrial Planning Associates*

**SUMMARY OF PARI MUTUEL BENEFITS TO KANSAS  
PARI MUTUEL HORSE RACING AT EUREKA DOWNS  
TYPICAL GOOD YEAR - 1991  
(constant, 1987 dollars)**

**PLANNING FACTORS**

Total annual attendance (number of people) <sup>1</sup>	233,900
Average per capita pari mutuel handle	\$120
Total annual pari mutuel handle	28,068,000
Effective total takeout from pari mutuel handle <sup>2</sup>	5,557,460

**DIRECT BENEFITS TO THE STATE OF KANSAS**

Pari mutuel tax (3/18th of takeout)	926,240
Breakage <sup>3</sup>	241,390
Admissions tax <sup>4</sup>	<u>46,780</u>
<b>Total Direct Benefits to the State of Kansas</b>	<b>\$1,214,410</b>

<sup>1</sup>Based on 100 racing days and an average daily attendance of 2,229.

<sup>2</sup>Based on 18 percent takeout for straight and 22 percent for exotic wagering, and 55 percent straight wagering.

<sup>3</sup>Breakage assumed at 0.86 percent of total handle (all designated for Kansas Horse Breeding Development Fund).

<sup>4</sup>Based on an average admission of \$2.00 per capita.

Source: Business & Industrial Planning Associates-Austin.

**GREENWOOD COUNTY FAIR ASSOCIATION, INC. BOARD OF DIRECTORS**

**EXECUTIVE COMMITTEE**

**GENERAL MANAGER**

**ADMINISTRATIVE OFFICE**  
Disbursements-Purchasing  
Insurance-Taxes  
Bookkeeping-Budget  
Records-Reports-Agenda  
Internal Auditing-Files  
Deposits-Cash Flow  
Personnel-Payroll  
Horsemen's Bookkeeper  
Correspondence-Minutes

**PUBLIC RELATIONS**  
News Director  
News Releases  
Publications/Advertising  
Printing

**SECURITY OFFICE**  
Policing  
Investigations

**MAINTENANCE MANAGER**  
Grandstand Maintenance  
Grounds Maintenance  
Stall Maintenance  
Equipment Maintenance

**DIRECTOR OF MUTUELS  
AND  
COMPUTER OPERATIONS**  
Calculating/Money Room  
Sellers/Cashiers  
Mutuel Reports  
Computer Operator

**DIRECTOR OF RACING &  
RACING SECRETARY**  
Announcer  
Futurity-Derby Nominations  
Futurity-Derby Payments  
All Racing Personnel  
Track Superintendent  
Stall Superintendent

**OPERATIONS MANAGER**  
Admissions/Parking  
Box Seat Sales  
Club Seat Sales  
Season Tickets  
Mail Room/Programs

**CONCESSIONS  
MANAGER**  
Food  
Liquor  
Restaurant



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1987 Non-Pari-Mutuel Race Dates

# 1987

# 1988

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DECEMBER 1988						
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# Eureka Downs

Racing Capital of Kansas

Quarter Horse Races

Weekends April—August

Post Time 1:00 p.m.

Eureka, Kansas

Admission — Adults \$3.00  
(includes a program)

Children \$1.00



*They're Off!*

Join the crowds for fun and excitement!

EUREKA DOWNS 1987 RACE DATES ●

APRIL							MAY							JUNE							
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	
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NEARING THE FINISH LINE

For additional information contact:  
**LYNN G. BRADEN**, Consultant  
P.O. Box 228, Eureka, Kansas 67045  
Race Office: (316) 583-5528  
Home Phone: (316) 583-6661

— or —

**WAYNE C. (ROCKY) CHAMBERS**  
President, Greenwood Co. Fair Association  
P.O. Box 228, Eureka, Kansas 67045  
Race Office: (316) 583-5528  
Home Phone: (316) 583-6111

For other recreational activities contact:  
**THE EUREKA AREA CHAMBER OF COMMERCE**  
P.O. Box 563, Eureka, Kansas 67045



ELECTRONIC TOTE BOARD



## Eureka Downs Eureka, Kansas

Located in the scenic Flint Hills of Kansas, Eureka Downs is a non-pari-mutuel track featuring the finest in Quarter Horse racing.

Noted for its fast track, Eureka Downs attracts the best of racing Quarter Horses from throughout the United States and Canada. All races are sanctioned by the American Quarter Horse Association and feature the latest in timing and photo finish equipment.

To enhance spectator enjoyment, the grandstand is angled to provide an unobstructed view of the entire track; the saddling paddock is located directly in front of the grandstand; and an electronic scoreboard in the infield provides almost immediate race results.

Races are scheduled each 15 minutes to provide a full afternoon of action-packed, fun-filled, professional Quarter Horse racing.

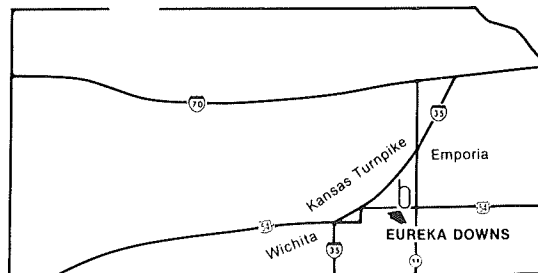
## Pari-Mutuel is Coming

Eureka Downs will be the site of the first pari-mutuel races in Kansas. Be a part of history by attending the races already scheduled and join us in anticipation of more races when pari-mutuel is enacted in Kansas.

**Win** — at Eureka Downs

**Place** — Eureka, Kansas

**Show** — Horse Racing Excitement



Eureka is located in South Central Kansas, 50 miles South of Emporia on Highway 99 or 60 miles East of Wichita on Highway 54.



## Flying to Eureka?

Eureka Airport, located approximately one-mile north of Eureka, has a 3500 ft., lighted, hard-surface runway. Fuel and other services are available.

## 1987 EUREKA DOWNS FEATURE RACES — ESTIMATED PURSES TOTALING OVER \$800,000.00

RACE	TRIALS	FINALS	DISTANCE	EST. PURSE	ADDED MONEY
Bluestem Spring Futurity	April 18	April 26	300 yds.	\$ 35,000	\$ 1,000
Bluestem Spring Derby	April 19	April 26	330 yds.	\$ 25,000	\$ 1,000
Flinthills Futurity	May 9	May 17	330 yds.	\$ 50,000	\$ 1,000
Flinthills Derby	May 10	May 17	350 yds.	\$ 25,000	\$ 1,000
Missouri Bred Quarter Horse Futurity	May 10	May 17	350 yds.	\$ 20,000	
Bobby Miller Memorial		May 17	330 yds.	\$ 1,000	\$ 500
NEKQHA Purse		June 14	350 yds.	\$ 1,000	\$ 500
NEKQHA Futurity	June 6	June 14	350 yds.	\$100,000	\$ 2,500
NEKQHA Derby	June 7	June 14	400 yds.	\$ 50,000	\$ 2,500
President's Handicap		June 28	400 yds.	\$ 700	\$ 200
Kansas-Bred Futurity	June 27	July 4	350 yds.	\$ 70,000	\$ 3,000
Kansas-Bred Derby	June 28	July 4	400 yds.	\$ 20,000	\$ 1,500
Mitchell Veterinary Supply Independence Day Classic		July 4	870 yds.	\$ 1,750	\$ 750
Kansas Jackpot Futurity	July 18	July 26	350 yds.	\$250,000	\$25,000
Kansas Jackpot Derby	July 19	July 26	400 yds.	\$ 25,000	\$ 4,300
S. A. Pappan Memorial		Aug. 2	330 yds.	\$ 700	\$ 200
Magic Circle "Rags to Riches" Classic (2 yr. old)	Aug. 1	Aug. 9	350 yds.	\$ 30,000	
Poor Folks Derby	Aug. 1	Aug. 9	400 yds.	\$ 7,500	
Poor Folks Futurity	Aug. 2	Aug. 9	350 yds.	\$ 10,000	
Magic Circle "Rags to Riches" Classic (3 yr. old & up)	Aug. 2	Aug. 9	400 yds.	\$ 7,500	
Chas. Elvin Dunn Memorial		Aug. 9	300 yds.	\$ 700	\$ 200
Eureka Downs Invitational		Aug. 23	440 yds.	\$ 3,000	\$ 1,000
Autumn Allowance (2 yr. old)	Aug. 23	Aug. 30	350 yds.	\$ 25,000	
Autumn Allowance (3 yr. old & up)	Aug. 23	Aug. 30	400 yds.	\$ 6,000	
Greenwood County Fair Association Director's Memorial		Aug. 30	400 yds.	\$ 3,000	\$ 1,000

◆ MANY OTHER EXCITING RACES SCHEDULED ALONG WITH THE FEATURE RACES LISTED ABOVE ◆

# Eureka Downs

Eureka, Kansas



PROPOSED NEW GRANDSTAND

"Racing Capital of Kansas"

SENATE BILL NO. 406

By Committee on Federal and State Affairs

AN ACT relating to the disposal of low-level radioactive wastes; establishing the Kansas low-level radioactive waste disposal authority; prescribing powers and duties therefor; amending K.S.A. 1986 Supp. 48-1622 and repealing the existing section; also repealing K.S.A. 1986 Supp. 48-1620.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. As used in this act:

(a) "Authority" means the Kansas low-level radioactive waste disposal authority;

(b) "Department" means the department of health and environment;

(c) "Disposal site" means the property and facilities acquired, constructed and owned by the authority at which low-level radioactive waste may be processed, placed in storage or disposed of permanently.

(d) "Low-level radioactive waste" shall have the meaning ascribed thereto by subsection (k) of K.S.A. 48-1603, and amendments thereto;

(e) "On-site operator" means a person who is employed by or who contracts with the authority and who is responsible for supervising the overall operations of the disposal site.

(f) "Operation" means the control, supervision and implementation of the actual physical activities involved in the receipt, processing, packaging, storage, disposal and monitoring of low-level radioactive waste at a disposal site and the maintenance of the disposal site and any other responsibilities designated by the authority as part of the operation.

(g) "Person" means an individual, corporation, partnership, firm, association, trust, estate, public or private institution,

group, government or governmental subdivision or agency, or other legal entity or any legal successor to or representative, agent or agency of any of these; and

(h) "Secretary" means the secretary of health and environment.

(i) "Storage" means the holding of low-level radioactive waste temporarily.

New Sec. 2. (a) In furtherance of the policy of this state with respect to the disposal of low-level radioactive waste as contained in K.S.A. 48-1601, and amendments thereto, there is hereby created the Kansas low-level radioactive waste disposal authority. The authority shall be composed of five members who shall be appointed by the governor subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto, of whom one shall be a medical doctor trained in nuclear medicine and licensed to practice medicine in this state, one shall be a nuclear engineer, one shall be a geologist and two shall represent the interests of the general public. The members of the authority shall serve for four year terms. In the case of a vacancy in the membership of the authority, the vacancy shall be filled for the unexpired term by appointment in the same manner that the original appointment was made.

(b) The authority shall elect one member as chairperson of the authority and another as vice-chairperson. The authority shall also elect a secretary-treasurer who need not be a member of the authority. Three members of the authority shall constitute a quorum and the affirmative vote of three members shall be necessary for any action taken by the authority.

(c) Members of the authority attending meetings of such authority or attending a subcommittee meeting thereof authorized by the authority shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

New Sec. 3. The authority shall have exclusive jurisdiction with respect to the site selection, preparation and construction,

operation, maintenance, decommissioning, closing and financing of disposal sites. Notwithstanding the foregoing, the department and the secretary shall continue and retain all of their respective authorities and duties to regulate, inspect and monitor any such disposal sites.

New Sec. 4. For the purpose of carrying out this act, the authority may:

(a) Apply for, accept, receive and administer gifts, grants and other funds available from any source;

(b) enter into contracts with the federal government and its agencies, the state and its other agencies, other states, interstate agencies, local governmental entities and private entities for the purpose of carrying out this act;

(c) conduct, request and participate in studies, investigations and research relating to selection, preparation, construction, operation, maintenance, decommissioning, closing and financing of sites and processing, storage and disposal of low-level radioactive waste;

(d) advise, consult and cooperate with the federal government and its agencies, the state and its other agencies, other states, interstate agencies, local governmental entities within the state and private entities;

(e) acquire, hold and dispose of real and personal property and exercise the power of eminent domain in the manner provided by law in the exercise of its powers and duties under this act;

(f) issue revenue bonds of the authority payable solely from fees pledged for their payment;

(g) construct and equip facilities to process, store and dispose of low-level radioactive wastes;

(h) make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act;

(i) employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as may be necessary in its

judgment, and to fix their compensation; and

(j) do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

New Sec. 5. (a) The authority shall develop and operate or contract for operation of one disposal site for the processing, storage and disposal of low-level radioactive waste in Kansas.

(b) (1) The authority shall make studies or contract for studies to be made of the future requirements for disposal of low-level radioactive waste in this state and to determine the areas of the state that are relatively more suitable than others for low-level radioactive waste disposal activities.

(2) In studying present and future requirements and relative suitability, the authority and any persons with which it contracts under this section shall consider the following:

(A) The volume of low-level radioactive waste generated by type and source categories for the expected life of the site;

(B) geology;

(C) surface characteristics (topography);

(D) other aspects of transportation and access;

(E) meteorology;

(F) population density;

(G) surface and subsurface hydrology;

(H) flora and fauna;

(I) current land use;

(J) the proximity to sources of low-level radioactive waste, including related transportation facilities and costs, to the extent that the proximity and transportation costs do not interfere with selection of the best site for protecting public health and the environment;

(K) other site characteristics as may need study on a preliminary basis that would require detailed study to prepare any application or license required for site operation; and

(L) alternative management techniques, including aboveground isolation facilities, waste processing and reduction both at the site of waste generation and at an authority disposal



site, and waste recycling.

(3) The studies may be performed either by the authority's staff or under contract with others.

(4) No low-level radioactive waste may be disposed of in a landfill below the natural level of the disposal site unless:

(A) State or federal regulatory programs for low-level radioactive waste preclude or recommend against aboveground disposal; or

(B) the authority, subject to legislative approval, has determined that below ground disposal provides greater protection than aboveground disposal for the environment and public health for the period of time for which the low-level radioactive waste may continue to pose a hazard to the environment and public health.

(c) (1) On completion of the studies required by this section, the authority shall select two or more potential disposal sites for further analysis.

(2) The authority shall evaluate or contract to have evaluated the preoperating costs, operating costs, maintenance costs and costs of decommissioning and extended care and the socioeconomic, environmental and public health impacts associated with each of these potential sites.

(3) Socioeconomic impacts to be evaluated shall include fire, police, educational, utility, public works, public access, planning and other governmental services and assumed and perceived risks of the disposal sites and disposal activities.

(4) Public officials and members of local boards or governing bodies of local political subdivisions of the state within which a potential site is located shall be invited to participate in appropriate evaluation activities.

(d) (1) On receiving the results of the studies and evaluations required under this act, the authority shall select the site that appears from the studies to be the most suitable for a disposal site and shall hold a public hearing to consider whether or not that site should be selected as the disposal site

and give 30 days notice thereof, published once a week for four consecutive weeks preceding the hearing, in the official county newspaper of the county of the proposed disposal site. The hearing shall be commenced in the county seat at the county courthouse in which the proposed disposal site is located.

(2) Before giving notice of the hearing, the authority shall prepare a report that includes detailed information regarding all aspects of the disposal site selection process, criteria for site selection as established by the appropriate licensing authority, and summaries of the studies and evaluations required under this section and shall make this report available to the public. The authority may contract for the distribution of the report and may hold or contract with others to hold informational seminars for the public.

(3) On a thorough consideration of the studies and evaluations relating to site selection required under this section, the criteria required to be used in those studies, and testimony and evidence presented at the hearing, the authority shall determine if the proposed disposal site should be selected, and if the authority selects that site as the disposal site, the authority shall issue an order designating that site as the proposed disposal site, shall issue a final report, and shall prepare necessary applications, disposal plans, and other material for obtaining licenses and other authorizations for the disposal site. If the authority determines that the proposed site should not be selected, it shall issue an order rejecting selection of the site and shall call another hearing to consider another site that appears from the studies and evaluations under this section to be suitable. The authority shall continue to follow the procedures under this section until a suitable disposal site is selected.

(4) A copy of the final report and order selecting a disposal site shall be submitted to the governor and to the legislature for informational purposes.

New Sec. 6. (a) The authority shall submit to all federal

and state agencies from which it must obtain licenses and other types of authorization to construct and operate disposal sites necessary applications and information to obtain those licenses and authorizations.

(b) The authority shall cooperate with appropriate federal and state agencies in the licensing and authorization process and shall supply any additional information and material requested by those agencies. As a condition for obtaining a license, the authority shall submit to the department or its designee evidence as to the reasonableness of any technique to be practiced at the proposed disposal site for managing low-level radioactive waste. Before determining the techniques to be used, the authority shall study alternative techniques for managing low-level radioactive waste, including waste processing and reduction at the site of waste generation and at the disposal site, and the use of aboveground isolation facilities.

(c) If the application of the authority for a license for the proposed disposal site is denied, the authority shall give notice and hold a hearing on an alternative site, and shall consider and select an alternative site for the disposal site in the manner provided by this act for the selection of the original proposed disposal site.

(d) The authority shall provide financial security for perpetual care of a disposal site in the form and manner required by federal and state agencies under federal and state laws and rules adopted under those laws. Supplemental financial security shall be provided as required by any federal or state agency.

Sec. 7. K.S.A. 1986 Supp. 48-1622 is hereby amended to read as follows: 48-1622. (a) The secretary is authorized to enter into negotiations for a compact with other states for the establishment and operation of a regional low-level radioactive waste disposal site which, before being put into effect, shall be ratified by the legislatures of three states and consented to by the Congress of the United States.

(b) The state authority is authorized to accept or acquire,

by gift, transfer or purchase, from another governmental agency or private person, suitable sites including land and appurtenances for the disposal of low-level radioactive waste. Sites received by gift or transfer are subject to approval and acceptance by the legislature.

(c) Lands and appurtenances which are used for the disposal of low-level radioactive waste shall be acquired in fee simple absolute and used exclusively for such purpose, unless or until the secretary determines that such exclusive use is not required to protect the public health, safety, welfare or environment. Before such site is leased for other use, the secretary shall require and assure that the low-level radioactive waste history of the site be recorded in the permanent land records of the site. All low-level radioactive material accepted by the site operator or by any agent of the site operator for disposal on a low-level radioactive waste disposal site shall become the property of the state.

(d) The state authority is authorized to arrange for the availability of a service for disposal of low-level radioactive waste by contract operation of a disposal site acquired pursuant to subsection (b) or already owned by the state or operate and manage the same itself. A contract operator shall be subject to the surety and long-term care funding provisions of this act and to appropriate licensing by the United States nuclear regulatory commission or by the secretary under K.S.A. 48-1607, and amendments thereto.

(e) The secretary shall not approve any application for a license to receive low-level radioactive waste from other persons for disposal on land not owned by the state or federal government.

New Sec. 8. (a) The authority shall cause to be constructed on the disposal site all works and facilities and improvements necessary to prepare for processing, storage and disposal of low-level radioactive waste.

(b) Preparation and construction of works and facilities at

the disposal site shall be done in a manner that will comply with the rules and standards for disposal sites adopted by federal and state agencies and with the disposal plans of the authority.

(c) The authority may contract with any person to construct any part of the works and facilities or from time to time make improvements at the disposal site, provided the contract specifically provides for termination by the authority for failure of the contractor to comply with federal and state standards and rules or with the authority's disposal plans.

(d) Construction contracts and contracts for the purchase of materials, machinery, equipment or supplies shall be subject to the provisions of K.S.A. 75-3738 et seq., and amendments thereto.

New Sec. 9. (a) (1) Subject to the limitations in this section and section 10, each disposal site shall accept all low-level radioactive waste that is presented to it and that is properly processed and packaged.

(2) The secretary shall adopt rules and regulations relating to the packaging of low-level radioactive waste, and an inspector employed by the department shall inspect all packaged low-level radioactive waste before it is transported to a Kansas disposal site. The rules and regulations of the department shall provide that the department charge a reasonable fee for the inspection. The fee shall be limited to the cost of the inspection of the low-level radioactive waste.

(b) For shipments of low-level radioactive waste that are in excess of 75 cubic feet, the person making the shipment shall give the on-site operator of the disposal site written notice of the shipment containing information required by the authority at least 72 hours before shipment of the low-level radioactive waste to the disposal site begins.

(c) On arrival of a shipment of low-level radioactive waste at a disposal site, the on-site operator or agent shall determine that the waste complies with all laws, rules and standards relating to processing and packaging of low-level radioactive

waste before the waste is accepted for disposal at the disposal site.

(d) If low-level radioactive waste that is not properly processed or packaged arrives at a disposal site, the on-site operator or the operator's agent shall properly process and package the waste for disposal and charge the person making the shipment the fee required by section 11.

(e) The on-site operator or agent shall report to the federal and state agencies that establish rules and regulations and standards for processing, packaging and transportation of low-level radioactive waste any person who delivers to a disposal site low-level radioactive waste that is not properly processed or packaged.

New Sec. 10. (a) Only low-level radioactive waste that is generated within the state of Kansas or within states with which Kansas has entered into a compact relating to low-level radioactive waste disposal may be accepted by a disposal site.

(b) The authority shall exclude certain types of low-level radioactive waste from a disposal site if the low-level radioactive waste is incompatible with disposal operations.

New Sec. 11. Disposal sites shall be used for permanent storage of low-level radioactive wastes, and the authority may adopt any methods and techniques for processing, storage and disposal that comply with federal and state standards for low-level radioactive waste processing, storage and disposal and that protect the public health and safety and the environment. Also, the authority may provide facilities at disposal sites for processing and packaging low-level radioactive waste for disposal.

New Sec. 12. (a) To protect the public health and safety and the environment, the authority, after notice and hearing, shall adopt an emergency response plan for each disposal site to be implemented in the event a disposal site becomes a threat to the public health or safety or the environment.

(b) The authority shall cooperate with and seek the

cooperation of federal and state agencies responsible for regulating disposal sites and of federal, state and local agencies engaged in disaster relief activities.

New Sec. 13. On finding by the authority, after notice and hearing, that a disposal site should be closed, the authority and any operator with which it has contracted shall proceed with decommissioning of the disposal site in compliance with federal and state laws and rules and standards adopted under those laws and with rules and plans of the authority.

New Sec. 14. At least 60 days before each regular session, the authority shall submit to the appropriate committees of the legislature a biennial report that shall serve as a basis for periodic oversight hearings on the authority's operations and on the status of interstate compacts and agreements.

New Sec. 15. The authority shall ensure that the design of facilities for low-level radioactive waste disposal incorporates, insofar as possible, safeguards against hazards resulting from warfare and local meteorological conditions including, without limitation, such phenomena as violent storms, tornados, earthquakes, earth tremors and susceptibility to flooding.

New Sec. 16. (a) Expenses of the authority shall be paid from fees authorized and collected under this section and appropriations made by the legislature.

(b) (1) The authority shall have collected a waste disposal fee to be paid by each person who delivers to the authority low-level radioactive waste for disposal.

(2) The authority shall adopt and periodically revise by rule and regulation a schedule of waste disposal fees based on the volume of low-level radioactive waste delivered for disposal and the relative hazard presented by each type of low-level radioactive waste that is delivered to the disposal site. In determining relative hazard, the authority shall consider the radioactive, physical and chemical properties of each type of low-level radioactive waste.

(3) Waste disposal fees adopted by the authority shall be

sufficient to allow the authority to recover operating and maintenance costs, expenses incurred before beginning operation of the site amortized over a period of not more than 20 years beginning on the first day of operation of the disposal site, an amount necessary to meet future costs of decommissioning and closing the disposal site, an amount necessary to pay licensing and monitoring fees and to provide security for perpetual care of a disposal site required by the department under laws and rules and regulations of the secretary.

(c) The authority shall adopt and periodically revise by rule and regulation a schedule of processing and packaging fees based on the volume of improperly processed or packaged low-level radioactive waste delivered for disposal and on the cost to the authority for processing and packaging the waste properly in compliance with federal and state standards.

New Sec. 17. The authority is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of revenue bonds of the authority for the purpose of paying all or any part of the cost of acquisition and construction of disposal sites. The principal of and the interest on such bonds shall be payable solely from waste disposal fees. The bonds of each issue shall be dated, shall bear interest at such rate not exceeding the maximum rate of interest prescribed by K.S.A. 10-1009, and amendments thereto, shall mature at such time not exceeding 40 years from their date, as determined by the authority, and may be made redeemable before maturity, at the option of the authority, at such price and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of the bonds and shall fix the denomination of the bonds and the place of payment of principal and interest, which may be at any bank or trust company within or without the state. The bonds shall be signed by the chairperson of the authority or shall bear a facsimile signature of the chairperson attested by the secretary-treasurer of the authority. In case any officer whose



signature or a facsimile of whose signature appears on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. All bonds issued under the provisions of this act shall have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state. The authority may sell such bonds in such manner and for such price as it determines will best effect the purposes of this act.

The proceeds of the bonds of each issue shall be used solely for the payment of the cost of acquisition and construction of disposal sites for which such bonds have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the authority provides in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue exceed such cost, surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which are mutilated, destroyed or lost. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau or agency of the state and

without any other proceedings or the happening of any other conditions or things than those proceedings or conditions which are specifically required by this act.

New Sec. 18. Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision thereof, but all such bonds shall be payable solely from the revenues received from waste disposal fees. All such revenue bonds shall contain on the face thereof a statement to the effect that neither the state nor the authority shall be obligated to pay the same or the interest thereon except from revenues of disposal sites for which they are issued and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledge to the payment of the principal of or the interest on such bonds.

All expenses incurred in carrying out the provisions of this act shall be payable solely from funds provided under the authority of this act and no liability or obligation shall be incurred by the authority hereunder beyond the extent to which moneys shall have been provided under the provisions of this act.

New Sec. 19. The waste disposal fees derived from the disposal site in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the waste disposal fees so

pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another.

New Sec. 20. In the discretion of the authority any bonds issued under the provisions of this act may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the waste disposal fees to be received, but shall not convey or mortgage any disposal site. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the disposal site in connection with which such bonds shall have been authorized, the waste disposal fees to be charged, and the custody, safeguarding and application of all moneys.

It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as

depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the disposal site.

New Sec. 21. All moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as waste disposal fees, shall be deemed to be trust funds to be held and applied solely as provided in this act. The resolution authorizing the bonds of any issue or the trust agreement securing such bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustees of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this act and such resolution or trust agreement may provide.

New Sec. 22. Any holder of bonds issued under the provisions of this act and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the state or granted hereunder or under such trust agreement or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this act or by such trust agreement or resolution to be performed by the authority or by any officer thereof, including the fixing, charging and collecting of waste disposal fees.

New Sec. 23. The exercise of the powers granted by this

act will be in all respects for the benefit of the health and welfare of the people of the state and, as the acquisition, construction and operation of disposal sites by the authority will constitute the performance of essential governmental functions, the authority shall not be required to pay any taxes or assessments upon the income derived from disposal sites or property acquired or used by the authority under the provisions of this act. Any bonds issued under the provisions of this act, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the state. The authority shall pay payments in lieu of ad valorem property taxes as determined in negotiation with the board of county commissioners of the county wherein a disposal site is located.

New Sec. 24. Bonds issued by the authority under the provisions of this act are hereby made securities in which all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now or may hereafter be authorized by law.

New Sec. 25. To provide for the payment of the costs of acquisition and construction of disposal sites, the pooled money investment board is authorized and directed to loan to the authority sufficient funds therefor, except that no such loan shall be made unless the terms thereof have been approved by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c. The pooled money investment board is authorized and directed to use any moneys in the active accounts, inactive

accounts or time deposits, open accounts, of the state of Kansas to provide the funds for such loan. Such loan shall bear interest at a rate equal to the interest rate being paid on state inactive account moneys at the time of the making of such loan. The loan principal and interest thereon shall be payable solely from revenues derived from charges imposed for the use of the disposal site, or as otherwise provided by law. Such loan shall not be deemed to be an indebtedness or debt of the state of Kansas within the meaning of section 6 of article 11 of the constitution of the state of Kansas.

Sec. 26. K.S.A. 1986 Supp. 48-1620 and 48-1622 are hereby repealed.

Sec. 27. This act shall take effect and be in force from and after its publication in the Kansas register.