

Approved \_\_\_\_\_

1/20/88  
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

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

11:00 a.m./~~p.m.~~ on January 13, 1988 in room 254-E of the Capitol.

All members were present. ~~except~~

Committee staff present:

Mary Galligan, Legislative Research  
Emalene Correll, Legislative Research  
Mary Ann Torrence, Assistant Revisor of Statutes  
June Windscheffel, Committee Secretary

Conferees appearing before the committee:

Senator Leroy Hayden  
Jimmy D. Grenz, Kansas Racing Commission  
Janet A. Chubb, Kansas Racing Commission  
Mark Roberts, Kansas Racing Commission

The Chairman announced that today the Committee was to hear from the Kansas Racing Commission staff. It would be an historical perspective, as to what has been done, as well as to plans for the future. Also perhaps suggested needs to the current statute.

Senator Leroy Hayden was present to introduce Mr. Jimmy D. Grenz, the Executive Director of the Commission. He said he was honored to have known Mr. Grenz for years and to introduce him today. He also spoke highly of the staff present: Mrs. Janet Chubb, Assistant Attorney General, and Mark Roberts, head of security.

A briefing paper prepared by staff concerning Parimutuel Wagering was before the Committee. (Attachment #1) It gives a complete overview of the act in laymen's terms.

Mr. Grenz made his presentation, and a copy of his remarks is part of these Minutes. (Attachment #2) He also answered many questions from the Committee, following which he was thanked by the Chairman for his fine presentation. Mrs. Chubb also assisted in answering Committee questions.

There was discussion concerning the Kansas Bureau of Investigation (KBI) charging for investigative work it performs for the Racing Commission. The Chairman said with the Committee's permission he would speak to Ways and Means Committee and the Governor's staff about the issue of reimbursement. To see whether or not the charging of the applicant might be the way to go.

The meeting was adjourned at noon.

January 13 1988  
Attachment #1

### Parimutuel Wagering

H.B. 2044 creates the Kansas Racing Commission composed of five Kansas residents, no more than one of whom can be from the same congressional district, appointed by the Governor for staggered three-year terms. The Commission is authorized to license and regulate all aspects of racing and parimutuel wagering in the state. No more than three members of the Commission may belong to the same political party. Compensation, in addition to mileage and subsistence paid for meetings of the Commission, will be determined by the Governor.

The Governor also is authorized to appoint, subject to confirmation by the Senate, an executive director of the Commission. The executive director will serve at the pleasure of the Governor, be a full-time unclassified employee and receive compensation as determined by the Commission. The executive director is authorized to recommend to the Commission the number and qualifications of employees necessary to implement the act, employ persons for positions approved by the Commission, and perform other duties as directed by the Commission.

The Commission has sole authority to allocate race days and hours and review and approve all proposed construction and major renovations of racetracks. The Commission is authorized to exclude persons from races or racetrack facilities and suspend horses or greyhounds from races if the animals are involved in a violation of the racing law or regulations. The Commission is authorized to adopt rules and regulations providing for drug testing of any licensees and officers, director, and employees of licensees.

- The Commission is required to appoint three employees: an inspector of parimutuels; an animal health officer; and a director of security, all of whom will serve in the unclassified service. All of the Commission's other employees will be in the classified civil service. The director of security is required to be a professional law enforcement officer with education and

Senate FSA  
1/13/88  
Attachment #1

experience in law enforcement. The full-time animal health officer and any part-time assistants must be veterinarians. The animal health officer or assistant animal health officers are permitted to administer drugs to racing animals as authorized by the rules and regulations of the Commission. The Commission is authorized to require licensees to reimburse the state for the salaries of the assistant animal health officers. The Attorney General is authorized to appoint up to two Assistant Attorneys General to work for the Commission.

Employees designated by the executive director with the approval of the Commission will have law enforcement powers in the execution of duties imposed by the act. Any employees certified to carry firearms will be required to successfully complete the firearms training course required for law enforcement officers.

The Commission is authorized to appoint an advisory committee composed of people knowledgeable in the horse and greyhound breeding and racing industries. The members of the committee would serve without compensation.

The bill establishes a number of prohibited acts and prescribes criminal penalties. Commission members are prohibited from having direct or indirect financial interest in any racetrack facility in Kansas during, or for five years immediately following, their term on the Commission. Members, employees or appointees of the Commission are prohibited from:

- participating in or having a financial interest in a licensed concessionaire business, an owner or manager license, or any business that sells goods or services to an organization licensee;
- participating directly or indirectly as an owner, trainer or jockey of an animal racing in Kansas;
- betting on races; or

- accepting compensation, gifts, loans or other favors or services from any licensee.

Members, employees or appointees of the Commission, or their families, are prohibited from:

- holding a license issued by the Commission; or
- entering into any business dealing with an owner or lessee of a racetrack in Kansas.

Other prohibited acts include:

- possession of a parimutuel ticket by a minor or selling a parimutuel ticket or interest in a ticket to a minor;
- placing bets for persons who are outside the racetrack;
- entering an ineligible animal in a race;
- providing false information on a horse registration application;
- conducting an unlicensed race for the purpose of betting;
- running a racing animal in an improper class or grade or under a false name;
- using any device other than a whip or mechanical hare to affect a racing animal's speed during a race;

- using or administering drugs to a racing animal in violation of rules and regulations of the Commission;
- altering or attempting to alter the natural outcome of a race;
- failing to report violations of the prohibition against artificially affecting the speed of a racing animal;
- falsifying or making false statements in regard to the racing record, pedigree, identity or ownership of a racing animal;
- knowingly passing or attempting to pass an altered or forged parimutuel ticket; or
- using any animal or fowl in the training of racing greyhounds.

Under the act, only nonprofit organizations may be licensed to conduct races and the licenses may be for an exclusive geographic area. All persons working in the parimutuel operation are required to be employees of the nonprofit organization. Officers, directors, or members of organization licensees, other than county fair associations, are prohibited from having direct or indirect financial interest in a racetrack during or for five years immediately following the member's term with the licensee and are prohibited from receiving compensation in excess of that provided by law for most state boards and commissions. Those individuals are also prohibited from entering into business dealings with the licensee or, as private individuals, with a facility owner licensee, facility manager licensee, or concessionaire. Officers, directors, and members of organization licensees are prohibited from betting on races held in Kansas.

An application fee of \$5,000 is required for a license to conduct horse or greyhound races at which parimutuel wagering is conducted. The application fee for a license to conduct horse races without parimutuel wagering is \$500. A license fee of \$200 for each day of racing is required as prescribed by rules and regulations of the Commission. County fair associations applying for organization licenses to conduct only harness racing without parimutuel wagering will be charged \$50 and no license fee will be charged for less than ten days of racing.

The Commission is authorized to establish lower application and license fees for county fair associations if they conduct no more than two race meetings per year for a total of 21 or fewer racing days in the county where the association is located. Lower application and license fees may be set by the Commission for the associations at Eureka Downs or Anthony Downs for the number of meetings and days specified by the Commission.

All contracts and agreements proposed by the licensee and plans for construction of racetracks must be approved by the Commission. Licensees may conduct races only within a single county that approved the parimutuel racing amendment at the November, 1986 general election.

No officers, stockholders, directors, employees, or agents of the licensee could ever have been convicted of racing or gambling offenses, sale or possession of controlled substances, operation of any illegal business, repeated acts of violence or any felony. Organization licenses may be issued for a maximum of 25 years and reviewed annually. The Commission is authorized to suspend or revoke an organization license or impose a fine up to \$5,000 or both for certain violations of the act. Changes in ownership or control or contracts of licensees require Commission approval.

Organization licensees, other than county fair associations, are required to distribute all of their net earnings (except amounts necessary for debt service and track maintenance) to other nonprofit, tax exempt, charitable, Kansas organizations that must spend the funds in Kansas. Licensees are prohibited from distributing more than 25 percent of their net earnings during any one year to any one organization.

Applicants for organization licenses who propose to construct a racetrack or applicants for facility owner licenses are required to pay a deposit of \$500,000 for 150 racing days or more or a deposit of \$250,000 for less than 150 racing days. The Commission is authorized to establish a lesser deposit for county fair associations and the licensee operating races at the state fairgrounds. The deposit would be refunded if the application is denied or when the terms of the license are met. If a licensee fails to meet the terms of the license, the deposit would be forfeited.

Applicants for organization or facility owner licenses who propose to construct a track are required to submit a plan for financing with the application. The Commission is specifically authorized to approve the plan for financing as part of the licensing procedure, to reject applications based on the financing proposal, and to suspend or revoke a license if the approved financing plan is not followed. The Commission also is authorized to issue a conditional license pending proof of financing. The duration of the conditional license will be set by the Commission.

The Commission is authorized to issue facility owner licenses to individuals, the state of Kansas or any of the state's political subdivisions. The Commission is also authorized to issue facility manager licenses to any person who meets the legal requirements. The licenses may be issued for a maximum of 25 years. The application fee for either is \$5,000.

Any person working on the track, including an owner of racing animals, is required to have an occupation license issued by the Commission. Occupation licenses may be issued for a period of up to three years and the maximum license fee will be \$200. The Commission is given broad authority to conduct background examinations of applicants for occupation licenses.

All concessionaires and businesses that operate within the racetrack facility would have to be licensed by the Commission. The procedures and requirements would be similar to those for occupational licensees. A concessionaire license may be issued for a period up to 10 years.

The Commission is authorized to appoint and pay stewards and racing judges at each race meeting and to require an organization licensee to reimburse the Commission for compensation paid to the stewards and judges.

A minimum of between 78 and 82 percent of the total parimutuel wager pool, depending upon the type of wagers, would be returned to bettors. The remainder of the pool, known as the takeout, would be used to pay purses to race winners and taxes to the state with the balance going to the organization licensee. Minimum purses for greyhound races must total  $\frac{4}{18}$  of the takeout and minimum purses for horse races must total  $\frac{6}{18}$  of the takeout. The tax rate on greyhound races conducted at single purpose tracks is  $\frac{3}{18}$  of the takeout for the first through fourth years of racing,  $\frac{4}{18}$  for the fifth year, and  $\frac{5}{18}$  for the sixth and subsequent years. At dual tracks, the tax rate on greyhounds is  $\frac{3}{18}$  of the takeout for the first through seventh years,  $\frac{4}{18}$  for the eighth and ninth years, and  $\frac{5}{18}$  for the tenth and subsequent years. The tax rate on horse races is  $\frac{3}{18}$  of the takeout at any type of facility. Other provisions regarding dual tracks include: a penalty of 2 percent of the daily handle from the opening of the track to the originally specified completion date that would be imposed for failure to complete an approved



dual facility; facility owners or organization licensees authorized to build a dual facility would have their licenses revoked if facilities are not built according to plans approved by the Commission; and organization licensees granted licenses for dual tracks would be required to conduct horse races on no less than 20 percent of their approved annual racing days. The tax revenue would be deposited in the State Racing Fund. A 10 percent tax will be imposed on admission charges. Revenue from the admissions tax will also be deposited in the State Racing Fund. Expenditures, in accordance with appropriations acts, will be made from the Racing Fund for operation of the Commission. Any amount in the fund in excess of the amount appropriated will be transferred on July 15 of each year, or at other times as provided by law, to the Gaming Revenues Fund.

An additional \$.20 per admission will be charged on all admissions, whether paid or unpaid, to tracks exempt from local property taxes. The tax will be remitted to the state for disbursement to the county or city and county in which the racetrack is located.

The Kansas Horse Breeding Development Fund and the Kansas Greyhound Breeding Development Fund are created. Revenue for the two funds will be derived from unclaimed winning ticket proceeds and breakage (the result of rounding off odd cents on paybacks to bettors). Expenditures from the funds will be for supplemental purses for Kansas bred animals and for research, and 15 percent of the greyhound fund will be provided to the Department of Commerce for the promotion of greyhound-related tourism.

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## Overview of Kansas Racing Commission

- I. Constitutional Amendment to Allow Parimutuel Racing of Horses and Greyhounds in the State of Kansas Approved by Kansas Voters in the 1986 November General Election
- II. Legislative Action- HB 2044 1987
  - A. Approved May 15, 1987
  - B. Published in Kansas Register May 28, 1987
- III. Commission Appointments
  - A. Chief Alfred Schroeder, chairman
  - B. Dr. Harry D. Anthony, vice-Chairman
  - C. Mr. Bert Cantwell, member
  - D. Mrs. Kay Arvin, member
  - E. Mr. Phil Martin, member
- IV. Commission Meeting and Trips
  - A. First meeting August 14, 1987
  - B. Meeting almost weekly since that time
  - C. Educational trips to
    1. Colorado
    2. Nebraska
    3. Oklahoma
  - D. Future educational trips planned to Iowa and Kentucky
  - E. October 23, 1987 informal presentations 15 Groups
- V. Assistant Attorney General Assigned to Commission
  - A. Draft regulations governing applications
  - B. Work with advisory committee formulating proposed regulations
  - C. Temporary regulations are completed and have been reviewed by Attorney Generals Office and the Department of Administration and tentatively approved by the Commission
  - D. Public hearing to be conducted at 11:00AM, Friday, January 15th at the Racing Commission offices-128 N. Kansas Ave.
  - E. State rules and regulations board next step. Can possibly be done by January 25, 1988. Upon approval we will be in a position to accept application.
- VI. Executive Director - Begins November 9, 1987
  - A. Budget preparation
    1. Fiscal 88
    2. Fiscal 89

*Senate FSA  
1/13/88  
Attachment #2*

B. Becoming educated about State Government

VII. Staffing - Total Fulltime Authorized 14

A. Non classified

1. Executive Director
2. Security Director
3. Animal Health Officer - advertise February
4. Inspector of Parimutuels
5. 2 Assistant Attorney General - 1 on staff at present time

B. Classified

1. 2 Office Assistant II
2. 1 Secretary III
3. 1 Office Specialist
4. 2 Security Investigators
5. 2 Auditors II

VIII. Housing = Too small perhaps

A. State architect reviewing - review completed- do not get to move this year.