

Approved 5-21-1989 [Signature]
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Ginger Barr at
Chairperson

12:40 ~~xxx~~/p.m. on April 25, 1989 in room 519-S of the Capitol.

All members were present except:

Representative Mike Peterson

Committee staff present:

Mary Torrence, Revisor of Statutes Office
Mary Galligan, Kansas Department of Legislative Research
Juel Bennewitz, Secretary to the Committee

Conferees appearing before the committee:

Jim Yonally, TRAK East
Reverend Brent Scott, Girard, Kansas

Resource person available to the committee:

Jimmy Grenz, Executive Director, Kansas Racing Commission

Chairman Barr called the attention of the committee to the following items distributed to the committee:

- a. Bill draft 9 RS 1428, Attachment No. 1.
- b. "The Use of State Regulatory Action Against Criminal Infiltration of Legitimate Business", Department of Justice, Criminal Justice Special Investigation, Division, Attachment No. 2.
- c. An article from The Houston Post dated March 28, 1989, Attachment No. 3.
- d. An article from the Albuquerque Journal dated March 19, 1989, Attachment No. 4.
- e. An article from the Wichita Eagle - Beacon dated April 22, 1989, Attachment No. 5.

The chairman began the meeting by addressing parimutuel. She discussed Sub. HB 2334, introduced by Representative Long, noting the significant changes in that bill:

- a. fingerprinting and background investigations
- b. the \$30,000 providing for the greyhound registry
- c. the Kansas bred program (horses)
- d. elimination of the Administrative Procedures Act (APA) in the granting of a concessionaire's license

Chairman Barr explained that she had contacted other states during the legislative recess and related some of her findings. She cited the importance of the APA and directed the attention of the committee to pages 18 and 20 of Attachment No. 2 which discusses the importance of the Act in deterring organized crime. Next she noted Attachment No. 3 regarding an examination of Delaware North, one of the license applicants for a parimutuel track in Galveston, Texas. Attachment No. 4 discusses R.D. Hubbard (a 50% owner of Sunflower Racing, Inc. a license applicant for the Pittsburg, Kansas track) and the background investigation being conducted by the New Mexico Racing Commission. The article by the Eagle-Beacon notes the opposition to Sunflower's 60 day extension to obtain financing and information on New Mexico's findings. Chairman Barr stated it is not the function of the committee to conduct investigations of applicants, however, the information is important since the APA is involved. As chairman, she strongly recommended the committee assure that concessionaire applicants be subject to the APA. She related discussion with Jimmy Grenz, Executive Director of the Kansas Racing Commission, revealed his interest in the bill, as proposed. He indicated he would not want to endanger the bill's passage as a result of concern over that specific provision. The chairman explained that her investigation emphasizes the importance of the concessionaire's license. Because concessions are an area of high cash flow, if organized crime were involved, that area would provide an opportunity for the "laundering" of money and she advised careful consideration on the part of the committee. Chairman Barr stated she has historically supported parimutuel and still supports "squeaky clean" parimutuel.

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One member noted two parimutuel bills previously passed by the committee and questioned re-addressing the issue. The chairman restated concern for the elimination of the APA as a possible deterrent to organized crime involvement in parimutuel. As sponsor of Sub. HB 2334, Representative Long explained the Racing Commission had requested the provision for eliminating the APA included in the original draft of the bill. In view of information presented, he stated he had an amendment drafted for presentation on the House floor to remove that provision from the bill. Most of the facility owners and/or managers also want to apply for the concessionaire's license. HB 2564 only addresses concessionaire licenses. A concessionaire is defined as one who sells any type of goods e.g. food, beverages hats, programs, etc.

Chairman Barr explained that HB 2562 was never placed on general orders as the bill draft presented to the committee involved more than was voted on by the committee. Regarding HB 2562, Representative Long explained the Speaker had been consulted concerning what was thought to be the intent of the bill and the actual content of the bill. The Speaker invoked his prerogative in sending the bill back to committee.

Chairman Barr suggested introducing a new bill including the contents of Sub. HB 2334 but requiring the concessionaire licensee applicant to be subject to the Administrative Procedures Act. Representative Aylward moved to introduce Attachment No. 1 (HB 2564) as a committee bill, seconded by Representative Long. The chairman clarified the language regarding the horse program has some technical changes, Representative Long (sponsor of Sub. HB 2334) had been notified and approved the changes.

Restrictions on licenses and the investigative procedures of the applicants were discussed. The revisor explained there seemed to be no distinction regarding the type of investigation. There would appear to be more restrictions on the organization and other licenses than the concessionaire's license in the granting of a license. The revisor clarified that HB 2562 would permit the Racing Commission discretion in the granting or denial of a license with the only appeal being to the state supreme court. The APA provides an appeal process for administrative decisions prior to appeal to the state supreme court. Such a prescribed procedure would provide a sound defense for decisions made by the Commission. Chairman Barr explained that the facility owner, facility manager and non-profit organization were excluded from the APA in the original parimutuel legislation to expedite implementation of the industry and the concessionaire license was not addressed.

The vice-chairman addressed the changes in the bill and emphasized those provisions were needed this summer. She advised caution on the part of the committee in making a decision and supported profiting from the experience of other states. Additionally, the timing of the presentation of the desired changes (late in the session), described as "important" was questioned. Representative Aylward suggested the changes could be studied during the summer or early next session. The motion to introduce the bill carried. Representative Sebelius moved to recommend the bill favorably to the committee of the whole, seconded by Representative Aylward. The motion carried on a voice vote.

HB 2562

Mary Torrence reviewed "Proposals Concerning Wagering" which denotes which track employees are permitted to wager under current law and alternatives for consideration by the committee, Attachment No. 6. Attachment No. 6 A lists requirements which could be imposed on concessionaire licensees. Jimmy Grenz explained that facility owner employees could include anyone depending on the type of organization. To clarify, the employees that are exempted from wagering are exempted from wagering anywhere in the State of Kansas. The officers and directors of the non-profit organization (organization licensee) and the employees of the facility owner/manager are prohibited from wagering in Kansas. There is no prohibition against any concessionaire licensee employees from wagering. One member suggested employees be allowed to wager at a track where they are employed according to rules regulations and legislate the management participation in wagering.

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One member of the committee restated the discussion: The facility owner licensee may apply and become the concessionaire licensee. Previous action exempted the facility owner licensee from the APA. Therefore, assumption that a concessionaire employee would be acceptable would not be valid. If the concessionaire were the same as the facility owner, then he may not be permitted to wager. The chairman noted the restatement underscored the complexity of the issue.

The revisor explained that specific employees are listed in Attachment No. 6 as a means of clarification of the intent of who is included in the bill. She related that Mr. Grenz had communicated the makeup of the racing department was not clear in the bill as it previously read. The mutuels department includes the mutuels manager and mutuels clerks. Under current rules and regulations of the Racing Commission, they can wager off duty but not while on duty.

Jim Yonally testified as a proponent of HB 2562 though he did suggest removing the prohibition on the mutuels department from wagering since they are covered under rules and regulations of the Racing Commission, Attachment No. 7. In view of changeability of job titles, Mr. Yonally suggested (reference page two, line 30 of HB 2562) adopting the language, "racing department, as defined by the Racing Commission". As was explained at the March 16, 1989, meeting, in other states the mutuels clerk must buy the ticket if he punches in an incorrect number as that number is fed into a main computer which determines the odds. A member asked if terminating an employee after a certain number of mistakes would solve the problem. Mr. Yonally responded it would solve the problem of the employee but not the problem of the pool as each terminal is hooked into a main computer.

Noting that irregularities do happen in racing, one representative cited the example of the horse that won on a regular basis and passed doping tests until the other horses were checked and found to be doped. The member also asked if the employees' wagers were needed for business. Mr. Yonally expressed concern that an off-duty employee would place a wager and if he won it would constitute illegal gambling. He called it unenforcable to which the member responded there are many such statutes e.g. the alcohol statutes.

In response to a question from a member, staff advised that "mutuels department employee" is in the rules and regulations and not statute.

Another member asked the difference between employee of the profit and not-for-profit organization in potential for harm. Mr. Yonally recognized the assertion as correct but stated the employees would have to be employees of the not-for-profit organization as the constitution provides parimutuel racing is only available if conducted by a not-for-profit organization.

A member expressed concern over the possibility of an employee being approached by the employer to "throw the race". Mr. Yonally urged a review of the requirements for attaining a position on a not-for-profit board claiming that most of the members are not racing enthusiasts but ones whose goal is to earn some profit to be distributed to charitable organizations. On a point of clarification, the chairman asked if Mr. Yonally wanted employees to be able to wager at the track of their employment. The answer was affirmative.

Citing the next part of the amendment which would allow the facility owner licensee to wager, another member asked who the facility owner licensee of TRAK East was. The response was Sunflower Racing, Inc. The member next asked who comprised the ownership to which Mr. Yonally responded Mr. Boushka and R.D. Hubbard. He suggested more information regarding additional owners could be obtained from the lobbyist for Sunflower Racing, Inc. Mr. Yonally explained that since the same owners are the facility owners for the proposed track at Pittsburg, TRAK East would have to insure that employees from the Pittsburg track did not place wagers at TRAK East.

Reverend Brent Scott was a proponent of the bill but requested "or the mutuels department" on lines 30 and 31 be stricken, Attachment No. 8.

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A member asked Rev. Scott: if he had perused Attachment No. 6 and if he thought any of those mentioned would be concerned with the running of a race; if his board had anything to do with appointing the people; and if the board had investigated the track manager. Rev. Scott replied that: he was seeing the list for the first time; the board had interviewed the manager before he was hired; and the Racing Commission had already done the investigation on the track manager. Additionally, Rev. Scott stated it to be his understanding that there was a mutual agreement in the contract with Sunflower Racing, Inc. that the board would have input regarding employment.

Another member asked what charities benefit from the proceeds. Rev. Scott stated it was part of the proposal to the State of Kansas there would be guaranteed monies over the next seven years. It will be the board's job to review applications and distribute the monies. To date there are no guidelines for this process.

In response to a question regarding the types of background checks for employees such as the director of racing, the racing secretary and clerk of scales, etc., Jimmy Grenz explained each had to have a minimal occupational license which would subject them to various levels of investigation by the Racing Commission or the K.B.I. The director of racing has a "full blown" investigation whereas someone with a less complex job, e.g. lure operator, would have an investigation of lesser sophistication. When asked what could disqualify a person for employment, Mr. Grenz responded it would be "essentially the same" as the "laundry list" applicable to the organization licensee applicant. Financial difficulty would not be a disqualifier in and of itself unless there were a history of such difficulty.

Another representative asked whether the Commission had taken a position on which employees should be prohibited from wagering. Mr. Grenz replied that the only one was on mutuels clerks and that is by regulation. The regulations also mention security guards while on duty. Mr. Grenz was also asked if other states had been contacted regarding their experiences with allowing organization licensees and not-for-profit owners to wager. Mr. Grenz responded that often other states allow more latitude than Kansas' original legislation. The employees listed on Attachment No. 6 are the ones with which the Commission would be concerned controlling the outcome of a race. Mr. Grenz stated there are a number of situations, many of which may not even have been thought of by the Commission, and people who could affect the outcome of a race. He affirmed to a member that the Commission's attitude was one of vigilance, and if error were to be made, to err on the side of caution.

The revisor stated the attorney for the Commission related that though they are allowed to wager, by statute, the officers and directors of the county fair association at Eureka Downs were advised by the Commission not to wager. Mr. Grenz affirmed this to be the case.

One member asked if it was Mr. Grenz' suggestion that the legislature direct the Commission to devise and/or limit who can or cannot wager rather than altering statutory language. The response was that it was a good suggestion and regulation permits more flexibility for change. The representative asked if the committee were to do that what kind of procedure would be followed for evaluation and the timetable. Mr. Grenz responded the Commission would probably consult an existing committee comprised of 3 people each from the greyhound and the horse industries. Of concern would be the people who could affect the outcome of a race. It was estimated that two to three weeks would be necessary to draft the regulations and then time would be necessary to process them in which case the Commission might consider adopting an administrative order to serve as a bridge.

In response to another question, Mr. Grenz stated that as a general rule, rank and file employees are not prohibited from wagering in other states. He quoted a statistic, which he could not confirm, that 8 - 9% of the parimutuel handle is generated by employees of the racing facility.

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The chairman related that advice from those having served on racing commissions in other states was to be slow to implement procedures regarding parimutuel and to not allow employees to wager at the track where they are employed. When asked if he had any comments, Mr. Grenz' reply was negative. A member noted that under current rule and regulation jockeys and others "we should be worrying about" can wager.

A letter from four representatives of racetracks and/or organizations in support of HB 2562 but urging striking the language in lines 30 and 31, page two, is Attachment No. 9.

Jon Brax opposed the bill and supported conservative action in granting wagering privileges, Attachment No. 10.

In response to a question, Mr. Brax stated his organization would rather the legislature, who is responsible to the people, rather than the Racing Commission, who is responsible to the governor, determine who be allowed to wager.

Representative Bryant moved to insert language on page two, line 37 (f) "It is a class A misdemeanor for any employee of an organization licensee, employed in the racing department as that is defined by the commission owned or operated by the licensee, seconded by Representative King. The motion carried.

Representative Eckert moved to amend the bill by deleting the language following "employees" on page two, line 39, through "races" on line 41, seconded by Representative Gjerstad. There was discussion regarding apparent conflict of the language of the bill, as drafted, to accomplish Representative Eckert's aim. To clarify the intent, Representative Eckert amended his motion to reinstate 19, 20 27, & 28 on page two. Not disagreeing with the representative's intent, but acknowledging discomfort with the bill, Representative Ensminger made a substitute motion to table the bill and submit it for interim study, seconded by Representative Charlton. Following a voice vote, division was called and the motion carried on a vote of 10 yeas to 9 nays.

After a short recess, Representative Eckert asked to reconsider the vote to table the bill and made a motion to bring the bill off the table, seconded by Representative King. Following a voice vote, division was called and the motion carried on vote of 9 yeas to 8 nays.

Representative Eckert reoffered his amendment to remove "officers and directors" on line 39. He explained it did not affect the other employees or the relatives. He stated his intent to be that these people not be able to bet at their own track as it seemed a conflict of interest. The revisor advised that to accomplish the intent desired by the representative, lines 39-40 would also need to be deleted which would eliminate the facility owner licensee and facility manager licensee because those employees would be prohibited from wagering out right. There was brief discussion over the term facility manager and whether or not it means the manager of the track or whether there would be others affected, e.g. manager of the stables. In an attempt to clarify the intent, one member explained the understanding to be that there are three licensees affected by the bill: the organization licensee, the facility owner licensee and the facility manager licensee, each having its own board of directors, officers and employees. The member then asked Representative Eckert if his intent was to allow the employees to wager no matter where they were and to prohibit the officers and directors from wagering no matter where they were. Representative Eckert answered affirmatively and stated he would not object to an amendment later to limit the prohibition to a track where the officers and directors have an interest. Due to what the revisor termed as the "poor drafting" of the bill, it was discussed that a conceptual motion stating Representative Eckert's intent (as described above) would be in order striking other sections of the bill. Representative Schauf made a substitute motion to incorporate the conceptual motion except to prohibit officers or directors from wagering at a track where they have an interest, seconded by Representative Jones.

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In response to a question from the revisor regarding intent, it was clarified to retain the prohibition of the employees in the racing department from wagering, as defined by the Racing Commission. Another member suggested that as the revisor redrafts the language, she be vigilant regarding section (e) and language regarding jockeys if it is the intent of the committee that jockeys not wager. It was so noted by the revisor. The motion carried.

In view of the many changes and the possible confusion regarding the content of the bill, Representative Wagnon moved to table the bill, seconded by Representative Douville. Following the voice vote, division was called and the motion to table failed on a vote of 9 yeas and 11 nays. Representative Jones moved to recommend the bill favorably, as amended, to the committee of the whole. The motion was seconded by Representative Sutter and carried on a voice vote. Requested to be recorded as voting no were: Representatives Cates, Charlton, Douville, Ensminger, Gjerstad, Sebelius, Sprague and Wagnon.

SB 125

Karen Welch was a proponent of the bill and explained the purpose of a community foundation, that it does not raise money for itself and contributions are made through a foundation, not to it, Attachment No. 11. In response to a question, she explained the exemption from registering is being sought as the foundation does not conduct fundraising activities. There is no information that would not have to be made public as a result of failing to register as the foundation files yearly with the IRS.

Nicki Soice testified in support of the bill noting the Junior League's fundraisers are conducted by its members, all volunteers, and its proceeds go into various projects supported by that organization, Attachment No. 12. At the request of one of the members, qualifications for being a member of the Junior League were given.

One member asked the revisor to explain the practical requirements of sections (2) and (3) on pages four and five. The revisor explained the professional fundraiser is required to register, have a \$5,000 bond and pay a penalty if it did not perform. The member questioned the penalty to people caught unknowingly. Another member asked if criminal penalties were included or if it is bond forfeiture only. The revisor noted there is a section for civil penalties. Attachment No. 13 is a statement from Betty Cleland, The Topeka Zoological Foundation in support of the bill. Representative Sughrue moved to recommend the bill favorably to the committee of the whole, seconded by Representative Sebelius. The motion carried.

SB 78

Representative Mead cited current language regarding indecent liberties with a child under the age of 16 and not married to the offender. The bill would delete "is not married to the offender" and would add new language stating "that shall be a defense to a prosecution of indecent liberties with a child if the child is married to the accused". He stated it would not remove the state's obligation to prove its case but provides a defense for the offender if he was married to the child at the time. He referenced several cases overturned in the Court of Appeals because current law must state that the accused was married to the victim. He maintained that failure to have such a bill resulted in several guilty offenders freed of imprisonment. The bill had twice been tabled in the House Judiciary Committee, had twice failed to be amended into other bills on the floor of the House but was recently passed in the Senate on a vote of 40-0 and assigned to House Federal and State Affairs at the request of Representative Mead. A member, who is also a member of the House Judiciary Committee, explained there was "considerable dissent" in that committee that making a criminal defendant prove a defense is constitutional. Some members of that committee felt it unconstitutional and if the bill were to become law, it could bring a court challenge that could result in the whole law on indecent liberties being struck down. Representative Mead asserted that the Supreme Court striking the whole law was speculative. Another member asked staff if

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a severability clause could be inserted so if this bill were part of the law and struck down, the rest of the indecent liberties statute would stand. The revisor responded it was possible though the court could make its own interpretation. Another member stated affirmative defenses have been recognized by the law on many occasions and did not perceive the bill to be a "problem". One member asked staff the reason for the stricken language in line 23 regarding the elements of indecent liberties. The revisor responded it appeared to revert to the problem the bill attempts to alleviate, that by having that element of crime, it has to be alleged in the complaint. For clarification, another member asked if the intent was that it would be a defense if the accused were married to the victim at the time the indecent liberties allegedly took place. If a child wanted to get married, parental consent would be required. Representative Douville moved to pass the bill favorably, seconded by Representative Bryant. Representative Sprague made a substitute motion to pass favorably but include language "at the time of the incident or the allegation". Representative Douville thought it to be inherent in the question but agreed. Representative Sprague cited lines 33 and 34 as site of inclusion. Representative Douville amended his motion to include Representative Sprague's substitute motion. Representative Sprague agreed to the amended motion as did Representative Bryant as the second. The motion carried.

HB 2223

Chairman Barr directed the attention of the committee to a letter from the State Fire Marshal, Attachment No. 14 and attached bill draft 9 RS 1236, Attachment No. 14A. The letter indicates the Fire Marshal's acceptance of Sub. HB 2223 (Attachment No. 14A). The State Fire Marshal will adopt procedures for certification regarding inspection, installation, servicing and testing procedures for fire extinguishers rather than the distributors being responsible to the manufacturers for certification. Representative Wagnon moved to accept Sub. HB 2223 and recommend the bill favorably, seconded by Representative Sutter. In response to a question from one of the members, Representative Hensley explained there are some industry people on the Fire Marshal's Advisory Committee and the language on page two of the draft was agreed to by them. The motion carried.

The revisor requested the committee introduce a bill reconciling conflicts between several bills that passed, dealing with recodification of Wildlife and Parks. Some of those bills were amended into other bills and reconciliation language is necessary. Representative Aylward moved to introduce the bill, seconded by Representative Douville and it carried on a voice vote.

Representative Roper moved to approve minutes of the March 22, March 23, March 27, March 28, March 29 and March 31, 1989, meetings. Representative Sebelius seconded the motion which carried on a voice vote.

The meeting adjourned at 4:45 p.m. The chairman stated her intent this be the final meeting of the 1989 session but the committee remains on call of the chairman.

PROPOSED BILL NO. _____

By Committee on Federal and State Affairs

AN ACT amending the Kansas parimutuel racing act; amending K.S.A. 1988 Supp. 74-8802, 74-8814, 74-8817, 74-8830, 74-8831 and 74-8832 and repealing the existing sections.

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

Section 1. K.S.A. 1988 Supp. 74-8802 is hereby amended to read as follows: 74-8802. As used in this act unless the context otherwise requires:

(a) "Breakage" means the odd cents by which the amount payable on each dollar wagered in a parimutuel pool exceeds a multiple of \$.10.

(b) "Commission" means the Kansas racing commission created by this act.

(c) "Concessionaire licensee" means a person, partnership, corporation or association licensed by the commission to utilize a space or privilege within a racetrack facility to sell goods.

(d) "Dual racetrack facility" means a racetrack facility for the racing of both horses and greyhounds or two immediately adjacent racetrack facilities, owned by the same licensee, one for racing horses and one for racing greyhounds.

(e) "Executive director" means the executive director of the commission.

(f) "Facility manager licensee" means a person, partnership, corporation or association licensed by the commission and having a contract with an organization licensee to manage a racetrack facility.

(g) "Facility owner licensee" means a person, partnership, corporation or association, or the state of Kansas or any political subdivision thereof, licensed by the commission to construct or own a racetrack facility but does not mean an organization licensee which owns the racetrack facility in which

it conducts horse or greyhound racing.

(h) "Financial interest" means an interest that could result directly or indirectly in receiving a pecuniary gain or sustaining a pecuniary loss as a result of ownership or interest in a business entity or activity or as a result of a salary, gratuity or other compensation or remuneration from any person.

(i) "Greyhound" means any greyhound breed of dog properly registered with the national greyhound association of Abilene, Kansas.

~~(j) "Kansas-bred horse" means any horse dropped by a mare in Kansas and domiciled in Kansas for the first six months of its life.~~

~~(k)~~ (j) "Kansas-whelped greyhound" means a greyhound whelped and raised in Kansas for the first six months of its life.

~~(l)~~ (k) "Minus pool" means a parimutuel pool in which, after deducting the takeout, not enough money remains in the pool to pay the legally prescribed minimum return to those placing winning wagers, and in which the organization licensee would be required to pay the remaining amount due.

~~(m)~~ (l) "Nonprofit organization" means:

(1) A corporation which is incorporated in Kansas as a not-for-profit corporation pursuant to the Kansas general corporation code and the net earnings of which do not inure to the benefit of any shareholder, individual member or person; or

(2) a county fair association organized pursuant to K.S.A. 2-125 et seq. and amendments thereto.

~~(n)~~ (m) "Occupation licensee" means a person licensed by the commission to perform an occupation or provide services which the commission has identified as requiring a license pursuant to this act.

~~(o)~~ (n) "Organization licensee" means a nonprofit organization licensed by the commission to conduct races pursuant to this act and, if the license so provides, to construct or own a racetrack facility.

~~(p)~~ (o) "Parimutuel pool" means the total money wagered by

individuals on one or more horses or greyhounds in a particular horse or greyhound race to win, place or show, or combinations thereof, as established by the commission, and held by the organization licensee pursuant to the parimutuel system of wagering. There is a separate parimutuel pool for win, for place, for show and for each of the other forms of betting provided for by the rules and regulations of the commission.

{q} (p) "Parimutuel wagering" means a form of wagering on the outcome of horse and greyhound races in which those who wager purchase tickets of various denominations on one or more horses or greyhounds and all wagers for each race are pooled and the winning ticket holders are paid prizes from such pool in amounts proportional to the total receipts in the pool.

{r} (q) "Race meeting" means the entire period of time for which an organization licensee has been approved by the commission to hold horse or greyhound races at which parimutuel wagering is conducted or to hold horse races at which parimutuel wagering is not conducted.

{s} (r) "Racetrack facility" means a racetrack within Kansas used for the racing of horses or greyhounds, or both, including the track surface, grandstands, clubhouse, all animal housing and handling areas, other areas in which a person may enter only upon payment of an admission fee or upon presentation of authorized credentials and such additional areas as designated by the commission.

{t} (s) "Takeout" means the total amount of money withheld from each parimutuel pool for the payment of purses, taxes and the share to be kept by the organization licensee. Takeout does not include the breakage. The balance of each pool less the breakage is distributed to the holders of winning parimutuel tickets.

Sec. 2. K.S.A. 1988 Supp. 74-8814 is hereby amended to read as follows: 74-8814. (a) Subject to the provisions of subsection (b), the commission shall establish by rules and regulations ~~application--and--license--fees--not--exceeding--those--provided--by~~ K.S.A.--1987--Supp.--74-8813 an application fee not exceeding \$500

for any of the following which applies for an organization license and the license fee for any of the following granted an organization license shall be \$100 for each day of racing approved by the commission:

(1) Any fair association, other than the Greenwood county and Anthony fair associations, organized pursuant to K.S.A. 2-125 et seq. and amendments thereto, or the national greyhound association of Abilene, Kansas, if: (A) Such association conducts not more than two race meetings each year; (B) such race meets are held within the boundaries of the county where the applicant is located; and (C) such race meetings are held for a total of not more than 21 days per year; or

(2) 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.

(b) The application fee for a county fair association applying for an organization license to conduct only harness horse races without parimutuel wagering shall be \$50 for each application, and no license fee shall be required of such association for any day of a race meeting of less than 10 days of only harness horse racing without parimutuel wagering.

(c) The Kansas bureau of investigation shall investigate the president, vice-president, secretary and treasurer of a county fair association, and such other members as the commission considers necessary, to determine eligibility for an organization license.

(d) Except as otherwise provided by this section, all applicants for organization licenses for the conduct of race meetings pursuant to the provisions of this section shall be required to comply with all the provisions of K.S.A. 1987 1988 Supp. 74-8813 and amendments thereto.

Sec. 3. K.S.A. 1988 Supp. 74-8817 is hereby amended to read as follows: 74-8817. (a) No organization licensee or facility manager licensee shall permit any business not owned and operated

by the organization licensee to sell goods within a racetrack facility where the organization licensee conducts race meetings unless such business has been issued a concessionaire license by the commission.

(b) Businesses required to be licensed pursuant to this section shall apply for concessionaire licenses in a manner and upon forms prescribed and furnished by the commission. The commission shall require disclosure of information about the owners and officers of each applicant ~~and all employees of the applicant who will be working within the racetrack facility and may require such owners, officers and employees to submit to fingerprinting~~ and may require such owners and officers to submit to fingerprinting. The commission also may require disclosure of information about and fingerprinting of such employees of each applicant as the commission considers necessary. Concessionaire licenses shall be issued for a period of time established by the commission but not to exceed 10 years. The commission shall establish a schedule of application fees and license fees for concessionaire licenses based upon the type and size of business. The application fee shall not be refundable if the business fails to qualify for a license ~~and such fee shall include the cost of processing fingerprints if they are required by the commission.~~ If the application fee is insufficient to pay the reasonable expenses of processing the application and investigating the applicant's qualifications for licensure, the commission shall require the applicant to pay to the commission, at such times and in such form as required by the commission, any additional amounts necessary to pay such expenses. No license shall be issued to an applicant until the applicant has paid such additional amounts in full, and such amounts shall not be refundable except to the extent that they exceed the actual expenses of processing the application and investigating the applicant's qualifications for licensure.

(c) The commission may require applicants as a condition of licensure to consent to allow agents of the Kansas bureau of investigation or security personnel of the commission to search

without warrant the licensee's premises and personal property and the persons of its owners, officers and employees while engaged in the licensee's business within the racetrack facility or adjacent facilities under the control of the organization licensee for the purpose of investigating criminal violations of this act or violations of rules and regulations of the commission.

(d) Denial of a concessionaire license by the commission shall be in accordance with the Kansas administrative procedure act. The commission may refuse to issue a concessionaire license to any business if any person having an ownership interest in such business, any person who is an officer of such business or any person employed by such business within the racetrack facility;

(1) Has been convicted of a felony in a court of any state or of the United States;

(2) has been convicted of violation of any law of any state or of the United States involving gambling or controlled substances;

(3) fails to disclose any material fact or provides information, knowing such information to be false, when applying in connection with the application for the license; or

(4) has been found by the commission to have violated any provision of this act or any rule and regulation of the commission.

(e) The commission may suspend or revoke the concessionaire license of any business for any reason which would justify refusal to issue such a license. Proceedings to suspend or revoke such license shall be conducted by the commission or its appointed hearing officer in accordance with the provisions of the Kansas administrative procedure act.

(f) The commission may provide by rules and regulations for the temporary suspension of a concessionaire license by summary adjudicative proceedings in accordance with the Kansas administrative procedure act upon finding that there is probable cause to believe that grounds exist for a permanent suspension or

revocation of such license. Such suspension shall be for a period not exceeding 30 days. Upon expiration of such suspension, the license shall be restored unless the license has been suspended or revoked as a result of proceedings conducted pursuant to subsection (e).

Sec. 4. K.S.A. 1988 Supp. 74-8830 is hereby amended to read as follows: 74-8830. (a) The commission shall, by rules and regulations:

(1) Qualify stallions for participation in Kansas-registered stallion awards;

(2) provide for the registration of Kansas-domiciled mares, Kansas-domiciled stallions and Kansas-bred horses;

(3) determine qualifications of Kansas-bred horses and establish classes of Kansas-bred horses for registration purposes and for the purpose of awarding purse supplements, stakes and awards pursuant to K.S.A. 1988 Supp. 74-8829 and amendments thereto; and

~~(3)~~ (4) establish a schedule of fees for the registration of Kansas-domiciled mares, Kansas-domiciled stallions and Kansas-bred horses sufficient to provide for all expenses incurred in the administration of the Kansas horse breeding development fund created pursuant to K.S.A. 1987 1988 Supp. 74-8829 and amendments thereto.

(b) The commission may contract with and designate an official registering agency to implement the registration of horses. Such agency shall operate under the supervision of the commission and be subject to rules and regulations of the commission. The official registering agency shall receive no compensation except fees received for registration of horses necessary to pay its expenses for such registration.

(c) The commission may contract with and designate an agency to provide for the distribution of purse supplements, stakes and awards from the Kansas horse breeding development fund. Such agency shall operate under the supervision of the commission and be subject to rules and regulations of the commission.

Sec. 5. K.S.A. 1988 Supp. 74-8831 is hereby amended to read as follows: 74-8831. (a) There is hereby created in the state treasury the Kansas greyhound breeding development fund to which money shall be credited as provided by this act. Expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the commission or a person designated by the chairperson.

(b) Moneys credited to the fund shall be expended as follows:

(1) An amount equal to 15% of all moneys credited to the fund during a fiscal year shall be transferred by the director of accounts and reports on June 30 of each year to the greyhound tourism fund created by subsection (c);

(2) an amount equal to 35% of all moneys credited to the fund during a fiscal year shall be used for research conducted within the state of Kansas relating to the prevention of injury to and disease of greyhounds; and

(3) an amount equal to 50% of all moneys credited to the fund during a fiscal year, less the amount determined by the commission pursuant to subsection (b)(4), shall be used by the racetrack facilities where derived to supplement stake races for Kansas-whelped greyhounds as approved by the commission; and

(4) an amount determined by the commission, but not to exceed \$30,000 of the moneys credited to the fund during a fiscal year, shall be used to pay a portion of the administrative costs of the official registering agency designated by the commission pursuant to K.S.A. 1988 Supp. 74-8832 and amendments thereto.

(c) There is hereby created in the state treasury the greyhound tourism fund. Moneys in such fund shall be used only for the promotion of greyhound-related tourism. Expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of commerce or a person designated by the secretary.

Sec. 6. K.S.A. 1988 Supp. 74-8832 is hereby amended to read

as follows: 74-8832. (a) The commission shall, by rules and regulations, establish a schedule of fees for the registration of Kansas-whelped greyhounds which, together with the amount provided pursuant to K.S.A. 1988 Supp. 74-8830 and amendments thereto, shall be sufficient to provide for all expenses incurred in the administration of the Kansas greyhound breeding development fund created pursuant to K.S.A. ~~1987~~ 1988 Supp. 74-8831 and amendments thereto.

(b) The commission may contract with and designate an official registering agency to implement the registration of greyhounds. Such agency shall operate under the supervision of the commission and be subject to rules and regulations of the commission. The official registering agency shall receive no compensation except the amount provided pursuant to K.S.A. 1988 Supp. 74-8830 and amendments thereto and fees received for registration of greyhounds necessary to pay its expenses for such registration.

(c) The commission may contract with and designate an agency to provide for the distribution of purse supplements from the Kansas greyhound breeding development fund. Such agency shall operate under the supervision of the commission and be subject to rules and regulations of the commission.

Sec. 7. K.S.A. 1988 Supp. 74-8802, 74-8814, 74-8817, 74-8830, 74-8831 and 74-8832 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the Kansas register.

DEPARTMENT OF JUSTICE
CRIMINAL JUSTICE
SPECIAL INVESTIGATION DIVISION



THE USE OF STATE REGULATORY ACTION AGAINST
CRIMINAL INFILTRATION OF LEGITIMATE BUSINESS

Presented at the
National College of District Attorneys
Organized Crime Seminar
Los Angeles, California
October 3-7, 1976

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HOUSE FEDERAL AND STATE AFFAIRS

Attachment No. 2

4/25/89

THE USE OF STATE REGULATORY ACTION AGAINST ORGANIZED CRIME

I. INTRODUCTION

The purpose of this paper is to briefly outline the potential resources available to law enforcement authorities in dealing with organized criminal activity through the use of state regulatory power. The suggestions contained here are certainly not entirely original nor are they offered as a panacea to the problems presented by organized criminal activity. It is suggested, however, that these steps could contribute significantly to the prevention and control of organized crime when used in conjunction with the other more conventional methods of combatting organized criminal activity.

It has become increasingly evident that organized criminal interests have accelerated their infiltration of legitimate business enterprises in the United States. A variety of factors are responsible for this development. Probably foremost among these is the desire to hide or wash income from gambling, narcotics, prostitution and other illegal criminal activities and to provide those revenues with a guise of legitimacy for tax and other purposes.

The veneer of legitimacy thus achieved permits organized crime to expand its influence on the social and economic life of our nation. An informative review of this increasing problem is contained in the criminal justice monograph entitled "An Analysis of Organized Crime's Infiltration of Legitimate Business" authored by Gene C. Jester and published by the Institute of Contemporary Corrections and the Behavioral Sciences at Sam Houston State University, Huntsville, Texas. Organized crime has become big business. Estimates of its income and profits vary, but run as high as thirty billion dollars annually from illegal sources. It is further estimated that this figure may represent only 40% of organized crime's income with the balance coming from so-called legitimate enterprises.

The list of business enterprises found to be tainted by organized criminal interests is an impressive one. Included are the liquor industry, bottling companies, wholesale drug supply firms, finance companies, banks, travel agencies, employment agencies, discount houses, communications companies,

trucking firms, garbage companies, labor organizations, real estate sales firms, securities firms, vending and amusement device companies, restaurants, hotels, motels, and many others.

The problem thus presented for law enforcement is one of particular difficulty. The traditional approaches of investigation and criminal prosecution are often ineffective in countering the expansion of organized criminal interests into legitimate business. In the first instance, there is often no criminal violation involved and secondly, even if a criminal violation is present, it is often a misdemeanor subject to a nominal fine or penalty. In such cases the business entity involved will simply absorb the fine as a necessary cost of doing business and continue its activity in the face of growing discouragement on the part of law enforcement officers. It is submitted, however, that an alternate and supplemental approach is available in the form of State regulatory action that can provide law enforcement with a flexible response to the problem of criminal infiltration of legitimate business.

It was also concluded that it would be appropriate for the Oregon Governor's Commission on Organized Crime to initiate a program directed toward monitoring business investment interstate in an effort to prevent the infiltration of organized crime into the Oregon business community. In order to deal with this problem a cooperative structure between critical state regulatory agencies and the Governor's Commission on Organized Crime was created. Under this approach each regulatory agency has designated a representative to act as a liaison with the commission staff in order to facilitate an exchange of information concerning suspect business activities and individuals. These meetings are also designed to provide agency representatives with techniques and information that will aid them in identifying suspect activities. The Oregon agencies which are involved in this program are:

Department of Commerce
Insurance Commission
Department of Education
Liquor Control Commission
Racing Commission
Department of State Police

Corporation Commission
Real Estate Commission
Bureau of Labor
Department of Revenue
Banking Commission

Following the initiation of this program several additional cases have been instituted within Oregon directed toward the denial of the right to do business to suspect activities and firms. In one such case, a license to operate a distillery was denied to a business enterprise in Oregon on the grounds that the applicant corporation's president had falsified information in the application for the distillery license in order to conceal his criminal history and to create a false picture of his background, personal financial situation and the corporate financial status. This action was initiated and successfully completed using the administrative route despite attempts to block the proceeding in federal district court.

It is recommended however that any state or local governmental unit desiring to initiate a similar course of action should carefully review the following items:

1. The status of your Administrative Procedures Act. An appropriate act should provide for judicial review on the record of an administrative agency's actions at the Appellate Court level. In no event should judicial review on a de novo basis be permitted by statute. In addition, an adequate Administrative Procedures Act should provide your regulatory agencies with the powers necessary to conduct an adequate hearing including those of subpoena and contempt.

2. The process used by your administrative agencies in adopting rules and regulations. Basic due process requirements of notice and opportunity for affected persons to be heard must be met. In addition, technical requirements of your Administrative Procedures Act, as regards the adoption of rules and regulations, must be meticulously observed.

3. Licensing procedures. All too often governmental agencies (particularly at a county and municipal level) follow licensing procedures that are merely empty formalities. It should be remembered that licenses are frequently easier to deny than they are to revoke and that a critical point in regulatory control of sensitive industries is at the point of license issuance. Important in this procedure is the use of adequate personal and financial history questionnaires in obtaining background information from applicant individuals or corporations. Such questionnaires should thoroughly cover matters such as past criminal histories of applicant individuals, shareholders, principal officers or managers and should also cover in detail the actual financial interests behind the business enterprise. In those situations where an applicant corporation is in turn owned by another corporation or group of corporations it is essential that the actual financial interest behind these owner corporations be determined. In short, an identification must be made of the person or persons holding the actual controlling interest in the applicant corporation or business. The use of adequate questionnaire forms is mandatory to effective control of the licensing process. It is by the use of such questionnaires that key information is developed and in many instances attempts to falsify or withhold information required by these forms will serve as the sole legal basis for refusal of a license or later cancellation. Attached are appropriate examples of personal and financial history forms used by the Oregon Liquor Control Commission.

4. Agency Statutes. Because the basic jurisdiction of your regulatory agencies is determined by statute, it is important that these statutes be carefully reviewed in order to determine whether or not the agencies have been given the authority needed to regulate the industries for which they are responsible. Agencies should have reasonable powers of inspection, both of records and premises, and as already noted should have the necessary legal tools required to conduct effective administrative hearings. In addition, it is submitted that each agency should have statutory authority which permits it to deny, cancel, suspend or refuse to renew a license on the grounds that a person holding a financial interest in the applicant business suffers from a disability which under

appropriate statute or agency regulation would prohibit licensing of the applicant business itself. In other words, if a principal officer, shareholder or manager of a corporation is possessed of a criminal history or has some other disability that would prohibit his being licensed, then the agency should have the discretion to use this as a basis for regulatory action against the applicant or licensee. The importance of such a statutory provision (given the Oregon Liquor Control Commission by ORS 471.757(2)) is emphasized when dealing with a corporate applicant.

These are only a few of the observations and experiences that have been gathered during the course of several cases directed against business entities that were found to be objectionable because of undesirable criminal taint. On a final cautionary note, it should be observed that the power of regulatory control is not without its limitations; that an abuse of the state's police power and its misuse for purposes not reasonably related to the regulatory statute of the agency concerned will ultimately lead to the curtailment of that power by the courts. It is submitted; however, that when the regulatory power is responsibly used in accordance with the constitutional limitations it can be an effective force against criminal encroachment.

The Houston Post

Houston owned, Texas proud

TUESDAY, March 28, 1989

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Bloodlines of investors become licensing factor

Five groups are vying for the coveted license for a dog racing track in Galveston County, which may prove to be the most profitable of all Texas pari-mutuel operations. This week, The Houston Post examines each of the five applicants.

By Pete Brewton

OF THE HOUSTON POST STAFF

"Mafia, Emprise."

Those were the last words spoken by Don Bolles, the Arizona Republic's investigative reporter who died when his car was bombed in 1976 in the midst of his investigation into dog racing in that state.

Emprise has changed its name twice since then, both to distance itself from the nationally publicized Bolles incident and from a 1972 felony conviction for conspiracy to hide the ownership of Detroit and St. Louis gangsters in a Nevada casino.

Since 1980, the company has called itself Delaware North — for the two streets which intersect near its headquarters in Buffalo, N.Y.

Whether Emprise — or Delaware North — also has changed its stripes is a question now before the Texas Racing Commission.

Delaware North is part of a group now vying for the lucrative license to own, build and run Galveston County's only dog racing track. The Delaware North investors would own 49 percent of the group, while the majority interest would be held by a number of prominent Texas Republicans with ties to Gov. Bill Clements.

That group — Bay Greyhound Racing Associates — won the Galveston City Council's



Please see RACING, A-6

RACING: Firm seeking Galveston license has checkered past

From A-1

endorsement because it plans a Galveston Island track if it gets the license. The other four applicants plan to locate on the mainland, closer to Houston.

The group wants to build a \$30 million track on Galveston Bay at Port Industrial Boulevard that would have 12,000 covered seats.

The group says its plan is the best because Delaware North is the largest operator of pari-mutuel dog racing in the country.

What began as a family business of hawking hot dogs and peanuts at ball parks and theaters in the Buffalo area at the turn of the century is now a \$1.5 billion-a-year sports and food concession empire operating in nearly every state and in 13 foreign countries.

In the United States, Delaware North owns seven dog racing tracks, two horse tracks, two jai alai frontons and the Boston Garden.

It provides food and liquor concessions to five major league baseball teams, three professional basketball teams, two pro football teams, four pro hockey teams and 21 race tracks.

Another plus, the group claims, is that its track will be less affected by and will compete less with a planned horse racing track in Houston.

But competitors say that by being further from Houston, the track will draw fewer visitors.

And they point to Emprise's resurrection as Delaware North.

Emprise was never directly connected to Bolles' murder, and federal authorities say there are no current investigations of Delaware North.

But one investigator with the U.S. Justice Department's Organized Crime Strike Force said state officials would be wise to look closely at Delaware North, if for no other reason than its past history as Emprise.

"I think they need some close scrutiny. A tiger doesn't change its stripes just like that. There's just too much cash money involved in what they are doing," he said.

Under Texas law, the racing commission can refuse a license to any person or corporation with a felony conviction related to its fitness to be licensed.

Delaware North, however, says it is a different corporation from Emprise and is not covered by state laws prohibiting felons from holding racing licenses.

Company officials say Delaware North has stayed out of trouble since its name change, and that it has passed investigations by numerous licensing authorities across the country.

Delaware North, in company publications defending the firm's reputation, also say the only person alleged to have had organized crime ties was company patriarch Louie Jacobs, who died in 1968.

Jacobs' son, Jeremy, now runs and controls the company through his personal stock and that of his six children.

Spokesman Sam Gifford said the company goes out of its way to bring up past allegations to "clear the air."

Racing and liquor licenses held by Emprise and its subsidiaries in several states were revoked after its 1972 conviction.

But Delaware North's company publications also point out that Emprise's successor companies have since won approval to operate again as Delaware North or other subsidiaries in dozens of states, among them Louisiana, California, Illinois, Florida, New Mexico and Oregon.

Delaware North, however, suffered a setback in Alabama when its application to run the Birmingham Turf Club was rejected March 17 by the Birmingham Racing Commission.

That commission cited a number of reasons in rejecting Delaware North. Among those was the 1972 conviction of Emprise.

The commission also said Delaware North didn't guarantee that it was financially able to perform as it promised, that it refused to commit to improvements to the facility and that it made unreasonable estimates of the amount of betting that would be done at the track.

Gifford said Delaware North was in "total and absolute disagreement" with the Alabama decision and would respond "through legal channels."

Delaware North also ran into trouble in Iowa several years ago when it was selected by a non-profit racing corporation, Iowa West Racing Associates, to operate a dog track there.

Iowa West's application was stalled pending an investigation of Delaware North and was only approved after Iowa West replaced Delaware North with another operator.

Officials of Delaware North like to tout how it has passed a number of other state investigations.

But critics such as Aaron Kohn, former director of the New Orleans Metropolitan Crime Commission, say that fact may not mean anything.

Kohn, a lawyer and former FBI agent, said state licensing agencies are generally not very good at the kind of detailed investigation that would be required to determine whether Delaware North still was doing anything bad or still had mob connections.

A Jan. 25, 1988, letter to Delaware North from the Florida Division of Pari-Mutuel Wagering states that the division "conducted an exhaustive investigation of Delaware North, its officers, directors, subsidiaries and the affiliates, encompassing some 1,294.5 man-hours. The division found nothing which would serve as a disqualifying factor of Delaware North, or any of its officers, directors, subsidiaries or affiliates."

"That's a joke," said one experienced private investigator.

"There's no way in the world you can investigate a multibillion-dollar company with hundreds of subsidiaries throughout the world in 1,200 man-hours."

Houston private investigator Clyde Wilson recently finished investigation of Delaware North and told the Galveston City Council the company was clean.

According to Galveston City Manager Doug Matthews, Wilson was asked by the Galveston Park Board of Trustees to check out Delaware North.

Wilson originally told The Houston Post he had been asked by Roy Vuy, a member of the park board to check out the company for Galveston oilman George Mitchell who Wilson said was interested in joining with Delaware North in building a dog racing track.

However, Wilson acknowledged later he had been paid \$15,000 by Delaware North to conduct the inquiry and had forwarded the original copy of his report to Delaware North.

Wilson said he had contacted mob associates in New Orleans, Florida and Las Vegas who told him Jeremy Jacobs — the current owner of Delaware North — was not connected to the Mafia.

Wilson refused to identify the alleged associates.



JACOBS:
Runs company

RACING: Firm seeking Galveston license has checkered past

John, however, argued differently, saying it "isn't true that the man (Louie Jacobs) was the one doing business with the boys, the boys were doing everything the old man wanted."

Jeremy Jacobs did not respond to requests for interviews with The Post, but he has previously denied knowledge of the transactions that led to Emprise's conviction.

But Louie Jacobs' son Max was named an unindicted co-conspirator in the 1972 case that led to Emprise's conviction. Jeremy Jacobs was vice president at the time the loan was made and was present at the time of Emprise's conviction.

Louie Jacobs was already dead when the New York State Bureau of Criminal Investigations said in a Dec. 19, 1969, report that Emprise had "many admitted contacts and dealings with individuals who are hoodlums or alleged Mafia leaders. This is particularly true relative to their many concessions at stadiums, racetracks, and ballparks."

And in 1972 — four years after Louie Jacobs' death — Kohn told the U.S. House Select Committee on Crime that "the owners-managers of Emprise have a record of repeatedly forming alliances with notorious underworld bosses for mutual profit."

Again in 1972, Arizona reporter Colles told the House Select Committee on Crime that Emprise was in "continual association with organized crime figures over a 35-year period."

Company literature describes Emprise's 1972 conviction as a "historical footnote."

But the company's past connections with organized crime involve more than just that felony conviction, according to previously published reports, organized crime investigators, court records and other

For example:

□ Emprise lent more than \$500,000 in 1956 to Detroit mobsters Anthony Zerilli and Jack Tocco to buy stock in the Hazel Park racing track in Detroit, according to congressional reports and organized crime investigators.

Emprise also acquired 13 percent of the stock in Hazel Park. At the time, Zerilli's father was boss of the Detroit Mafia and Tocco's father was the top captain. Tocco has been identified by federal authorities as the current boss of the Detroit Mafia.

Along with Emprise, Zerilli was among those convicted for conspiracy in 1972 in the acquisition of the Nevada casino.

□ In the mid-1960s, Emprise was a partner in Bally Manufacturing, the country's largest maker of slot machines.

Other partners included Gerardo Catena, widely identified as the boss of the northern New Jersey Mafia, and Raymond Patriarca, who federal officials say was the former boss of the New England Mafia.

□ Emprise has had a long affiliation with the Jefferson Downs racetrack outside New Orleans.

Kohn testified before a U.S. House committee investigating organized crime in sports that the company and its partner, John Masoni, bought the land for the track in Kenner from several people, including associates of New Orleans Mafia boss Carlos Marcello.

Kohn said the Emprise subsidiary that provided food concessions to the New Orleans track bought meat from a company operated from Marcello's headquarters by Marcello's son-in-law. Other suppliers also had ties to Marcello, he

One president of Jefferson Downs tried to get some help from Marcello in cutting down on the number of illegal bookmakers at

the track. He was later severely beaten outside Marcello's headquarters after talking to criminal investigators, Kohn told the congressional committee.

Delaware North sold its 40 percent interest in Jefferson Downs in 1986 but continues to provide the concessions there.

□ Emprise had several business connections with Anthony Giordano, who was head of the St. Louis Mafia, according to federal investigators. Giordano was convicted along with Emprise in the 1972 Nevada casino case.

□ And in May 1982, Sports Illustrated published a lengthy article on Louie Jacobs and Emprise that alleged a number of Mafia connections, including the alleged financing in 1959 by Louie Jacobs of the purchase of amusement parks by Russell Bufalino, recognized by federal officials as head of the eastern Pennsylvania Mafia.

The magazine, which called Jacobs "The Godfather of Sports," also reported that Jacobs allegedly lent money to Moe Dalitz to help him buy the Stardust casino in Las Vegas.

Dalitz has been identified in federal investigations and congressional reports as having fronted for mob interests in Las Vegas casinos.

The magazine also claimed Louie Jacobs lent money during

TRACK FACTS

Track: Galveston Greyhound Park

Owner: Bay Greyhound Racing Associates

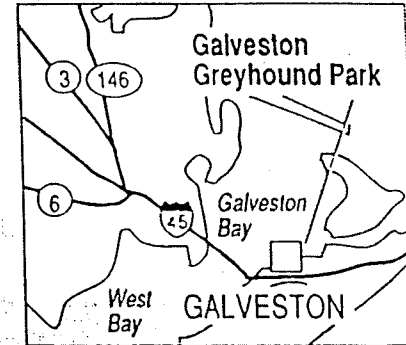
Proposed site: Galveston Island, on Port Industrial Boulevard at 57th St.

Opening: August 1990

Performances: Every day except Thursday; every evening with matinees on Monday, Friday and Saturday

Facilities: 2-level all-weather stadium; 19 separate kennel buildings

Seating: 17,500 total, with 12,000 covered



Estimated Cost: \$30 million
 Projected Attendance: (1991): 1,457,000
 Projected Pari-mutuel Handle: \$185 million
 Permanent Jobs: 360
 Payroll: \$5.2 million

Post char

the 1950s to notorious gangster John "Frankie" Carbo, who controlled professional boxing then with his associate James D. Norris, according to organized crime investigators.

Norris owned the Chicago Black Hawks hockey team, where an Emprise subsidiary supplied the concessions. Emprise and Norris had similar business arrangements at Chicago Stadium and the St. Louis Arena.

Several published reports also have claimed Louie Jacobs bootlegged Canadian liquor into the United States for the mob during Prohibition.

Delaware North itself raised eyebrows a number of years ago by hiring several former officials of the U.S. Justice Department, some of whom investigated Emprise while working for the government.

The company's security chief is Ted Foley, a former FBI agent.

And one of Delaware North's attorneys is Henry Peterson, who headed the Justice Department's Organized Crime Strike Force in the mid-1960s when it investigated Emprise.

Wednesday: Paul Bryant Jr and Gulf Greyhound Partner Inc.

Track License Mired in Bureaucracy

Racing Commission Can't Afford Thorough Background Probe of New Owner

By Dick Lyneis

JOURNAL INVESTIGATIVE REPORTER

Fort Worth multi millionaire Randall D. Hubbard paid \$2.6 million in cash and assumed \$9 million in debts last summer to acquire the financially ailing Ruidoso Downs race track.

Nearly nine months later — with the May 13 start of Ruidoso's 1989 racing season just around the corner — Hubbard still hasn't been granted a permanent license to operate the track.

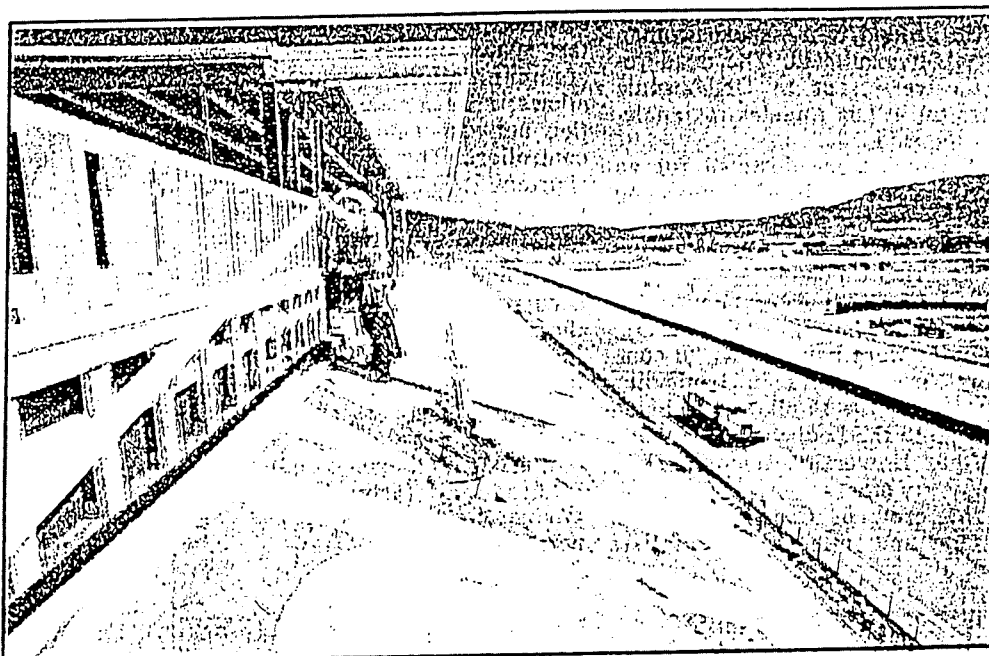
The state Racing Commission says it doesn't have the money to conduct a thorough investigation into Hubbard's background, and it isn't satisfied with information on Hubbard provided by other state agencies.

The investigation has been caught in a bureaucratic gridlock that even Gov. Garry Carruthers hasn't been able to unsnarl.

An extensive background check for this kind of license is standard procedure. In addition, the commission has special concerns in Hubbard's case because of his relationship with Delaware North — the successor company to Emprise Corp. of Buffalo, N.Y.

Hubbard has said he would like prior approval from the commission to negotiate a contract with Delaware North to operate concessions at the track.

Emprise was the concessionaire at Ruidoso Downs in the early 1970s, before being convicted along with organized crime figures on a federal conspiracy charge that stemmed from a secret attempt to take



DICK KETTELWELL / JOURNAL

Ruidoso Downs underwent a \$2 million facelift after Randall D. Hubbard, bought the track.

over a Las Vegas, Nev., casino.

Even before the conviction, the Racing Commission had refused to grant racing dates to the company then operating Ruidoso Downs because of its ties to Emprise. The commission later amended the decision, allowing Emprise to operate concessions at Ruidoso Downs for no more than five years. It also limited to 5 percent the amount of stock Emprise could hold in any

New Mexico race track.

After Emprise lost the appeal of its criminal case in 1975, it agreed not to reapply for its New Mexico liquor license and stopped doing business with New Mexico race tracks.

Delaware North, which emerged as the

MORE: See LICENSE on PAGE A3

License for Track Mired in Bureaucracy

CONTINUED FROM PAGE A1

successor company to Emprise, says it has rectified any of the problems it had in the past. Both Hubbard and Sam Gifford, vice president of Delaware North, said they welcomed thorough investigations.

Hubbard said in an interview that he was willing to answer any questions the commission might have.

Gifford said Delaware North has concessions contracts in 30 states and is accustomed to being investigated by regulatory agencies because of its Emprise history.

"If we are being investigated (in New Mexico), we welcome it," Gifford said. "It clears the air."

Gifford said Hubbard has been "a friend and adviser to Jeremy Jacobs for many years."

Jacobs is the chief executive officer of Delaware North and the son of Louis Jacobs — who was CEO of Emprise and the man accused of loaning the money used to buy control of the casino. Louis Jacobs died in 1968.

A spokesman for Hubbard said Friday that "Mr. Hubbard agrees he's been a long-time friend of Jerry Jacobs but he's never been an advisor to Mr. Jacobs or to the company."

Further complicating the regulatory process is the fact that Hubbard has since sold part interest in Ruidoso Racing Inc. to Dr. Edward Allred, a physician from Long Beach, Calif.

Allred owns 34 family-planning clinics in Southern California and is the operator of horse racing meets at Los Alamitos in Orange County and Bay Meadows in San Francisco.

In separate financial statements filed with the commission, Hubbard gave his net worth as \$107.8 million. Allred said he's worth \$48.4 million.

Commission officials say Allred also should be the subject of an extensive investigation prior to licensing.

Hubbard said in a telephone interview from Paris on March 9 that he was surprised at the delay in getting his permanent operator's license and plans to attend the commission meeting on March 27.

He said he hasn't signed a contract with Delaware North, but wants the company to be his concessionaire at Ruidoso Downs.

"We don't have a contract with (Delaware North) at this time," Hubbard said, "but we would like to. . . . We have no experience at all with concessions. I have informed the Racing Commission that I would like to negotiate a contract. If I get prior approval, I will negotiate a contract with them."

■ ■ ■

A 1977 report by the Governor's Organized Crime Prevention Commission outlined the scrutiny to which applicants for track licenses should be subjected.

"An applicant's history of financial dealings . . . can suggest future financial instability or misconduct. The racing industry is highly attractive to misconduct and is difficult to supervise; therefore, every applicant for a racing license should be carefully examined as to character and prior conduct before a license is bestowed."

The Racing Commission made it clear last fall that a permanent license for Hubbard to operate Ruidoso Downs was contingent on an investigation into his business dealings and associations.

However, executive secretary Tom Golder said the commission doesn't have the budget to do an adequate investigation.

After determining that travel and other expenses would total about \$43,000, Golder told commission Chairman Dan Myers the money wasn't available. Myers went to the governor for help.

"I told the governor the commission has only \$6,000 in its budget for out-of-state travel, and that includes the commissioners, investigators and everyone," Myers said.

"Also, I told him, we don't have law enforcement powers."

The governor, according to Myers, said he would turn the matter over to the state's Department of Public Safety for investigation.

Don Caviness, Carruthers' spokesman, said "the governor at a Dec. 5 cabinet meeting asked (DPS) Secretary (Robert) Kemble to meet with the Racing Commission, to deliver what they wanted and to conduct the investigation for them."

However, Caviness said Kemble "indicated he also did not have the \$40,000 to conduct the investigation. The governor . . . told them to do it anyway and to put in for

supplemental funds later."

Kemble assigned the investigation to the department's Criminal Investigations Division.

Myers and the Racing Commission staff questioned whether the Criminal Division, or State Police, should do the regulatory investigation.

Myers also said he informally approached Joe Mercer, chairman of the Governor's Organized Crime Prevention Commission, this year about having his investigative staff do the background investigation.

He said Mercer couldn't help, citing a lack of funds.

"The organized crime staff is down to six, compared to 20 a few years ago," Mercer said recently, recalling the earlier conversation with Myers. "To undertake a major investigation of this type would be almost prohibitive in terms of manpower."

Throughout January and February, Golder and his staff waited for a report from the Department of Public Safety. Myers said he fretted about the inaction on Hubbard's application.

Golder said he received a report from Public Safety on March 8.

He wouldn't reveal the contents, but indicated he wasn't satisfied with the effort that went into it. DPS spokesman Don Bullis said the report recommended the license be granted, but said it expressed "reservations" about Delaware North.

■ ■ ■
Golder said the Department of Public Safety conducted a limited investigation but was able to obtain a report of an investigation done by the Kansas Bureau of Investigation when Hubbard applied to operate a race track there.

Golder and his staff have questioned the validity of the Kansas investigation because of connections between Hubbard and Kansas Attorney General Bob Stephan, who oversees the KBI and appointed its director.

The Kansas City Times has reported that Stephan and Hubbard are long-time friends and have been business partners. The newspaper reported they were partners in a chain of Texas pizza parlors until 1986, and that Hubbard gave Stephan \$10,000 in March of 1985 to settle a sexual harassment lawsuit against Stephan.

Additionally, since it is allowed by Kansas law, Hubbard paid the \$80,000 cost of his own race track investigation.

The process of awarding the racing license in Kansas was upheld last week by that state's Supreme Court.

Hubbard told the Journal last week that he bought Ruidoso Racing's stock with personal funds and said he would make New Mexico the same offer he did in Kansas — that he would give the state the money it needs to investigate him.

DPS Secretary Kemble defended his agency's efforts to help the Racing Com-

mission.

"The Racing Commission is charged with deciding on the applications it receives," he said. "The commission makes their decisions based upon information they consider adequate in seeking information for them to make a call.

"They asked for our support because in doing any kind of an investigation, often times other police agencies won't provide information unless it goes to another police agency," Kemble said. "And since we are, in part, at least in the general investigative business ... we told (the racing commission) we would be happy to do the background that we could appropriately do."

Kemble said he doesn't care if the commission releases the Public Safety report on Hubbard.

"We did an investigation not 'the' investigation," he said. "It's up to them to decide whether they have adequate information in the report. We have suggested they do certain follow-ups to our investigation. It's their business.

"We've tried to provide a service to the Racing Commission. We don't have any apology."

■ ■ ■
A memo released to the Journal by the governor's office indicated another agency is concerned about Delaware North.

The memo, dated Feb. 23, was from Ray Shollenbarger, director of the state's Alcohol and Gaming Division. The subject is Delaware North.

Shollenbarger cited problems Delaware North's predecessor companies had in New Mexico "back in 1973 as a result of providing false information to the Alcoholic Beverage Department."

His memo added, "The material I am supplying you is a result of an ongoing investigation that this division is conducting with the help of (the Governor's Organized Crime Prevention Commission) on whether or not Delaware North is qualified to hold a liquor license in New Mexico.

"They presently have a lease agreement with the City of Albuquerque for the International Airport. I have turned the matter over the attorney general's office for review."

Shollenbarger said he decided to send the memo because he learned "Delaware North is either directly involved with the applicant for the license to operate Ruidoso Downs, or wished to be the concessionaire on the track.

"It seems to me," he said, "that as a result of their past history, this could have a very significant impact on New Mexico."

In Albuquerque, a Delaware North subsidiary called Concession Aire holds a concession contract at the airport.

The Attorney General's Office was asked late last spring to review the legality of the Delaware North subsidiary holding a concession to serve liquor because state law prohibits a convicted felon from holding a liquor license.

The AG's office said Thursday that it "hadn't arrived at a definitive conclusion" on the question — which deals with whether the Emprise felony conviction affects the successor company's subsidiary.

■ ■ ■
Kemble declined to discuss any information the Crime Commission has compiled on Delaware North, or say whether its results were shared with the Racing Commission.

"(The organized crime commission) by law has certain parameters about what they can go into and it's up to the Racing Commission to decide what they can go into."

The Crime Commission's Mercer said he was unaware of Delaware North's potential involvement with Ruidoso Downs, or with some of the details of how the Kansas investigation was conducted when he was approached by Myers last fall.

"The information which we have (subsequently) learned about Kansas and the Delaware North connection are matters of interest to us," Mercer said. "The name Emprise rings a lot of bells for New Mexico, and when we see this connection, we owe it to the public to ask a lot of questions."

Mercer said he considers it likely that the Racing Commission might approach him for more help, and that it would be likely to get more assistance.

Caviness said Carruthers' position "is the Racing Commission is charged with running the racing business, and he does not want to get involved other than to encourage them to keep racing clean."

Commission delays ruling on Sunflower

By Clark Spencer
Staff Writer

The Kansas Racing Commission on Friday put off for one week a decision on whether to grant Sunflower Racing an additional six months to produce its financing plan for a Pittsburg greyhound track.

That decision came after a rival Pittsburg track developer publicly leveled charges against Sunflower officials, and a racing commissioner voiced displeasure with Sunflower's request for the extension.

"I'm really not in favor of delaying it any further," said Commissioner Phil Martin of Larned, the only one of five commissioners to vote against the motion to delay a decision until next week's meeting.

Sunflower officials, who were granted a 60-day extension in February to produce final financing documents for the \$12.5 million track, are requesting another extension, saying lawsuits in which the firm has been named have set them back. Sunflower can't

● RACING, 4B, Col. 3

Sunflower opponent levels charges

● RACING, from 1B

begin building the Pittsburg track until its financing has been approved by the commission, and officials of the firm said racing could be delayed until spring of 1991, depending on when the suits are settled.

"I think it is insane, to say the least, the very people who have caused the damage ... are here today trying to take advantage of that delay," said Sunflower attorney Robert Vancrum.

Vancrum was referring to Camptown Racing officials, whose appeal of the commission's decision to license Sunflower for the Pittsburg track is now pending in the state Supreme Court.

At Friday's meeting, Camptown officials said that Sunflower had not adhered to conditions set forth by the commission when it was awarded a license to build the track, and that delays by the firm were costing millions of dollars in lost state and local taxes.

Further, Camptown investor Teri Tharp said reports of Sunflower co-partner R.D. Hubbard's 1980 arrest for marijuana possession in El Paso, Texas, and his ties to a firm once linked to organized crime call for further investigation by Kansas law enforcement agencies.

Tharp said Camptown and the firm's non-profit organization, The Little Balkans Foundation, "are calling for a further, more complete, investigation of all the principals of Sunflower" to ensure that "pari-mutuel wagering in Kansas may be free from the blemish of rumor and innuendo and any con-

nection with undesirable elements."

She said such investigations should be disclosed publicly. All Kansas Bureau of Investigation reports conducted on the backgrounds of track applicants have been kept confidential.

In documents filed by Hubbard in New Mexico — where the Fort Worth, Texas, millionaire is undergoing a standard background investigation into his purchase of Ruidoso Downs race track — Hubbard lists two prior arrests: a misdemeanor marijuana possession arrest and a 1983 arrest in Atlanta for driving under the influence. Hubbard indicates in the document that both cases were "dismissed."

However, a New Mexico law enforcement official, who asked not to be identified, said that officials have been unable to turn up any record in El Paso of Hubbard's marijuana possession arrest, either through police or court records, and that law officials are "now looking in other jurisdictions" for that arrest record.

Kansas law prohibits the racing commission from licensing any person only if they have been convicted of a felony.

Tharp also gave racing commissioners copies of news articles and a press release issued by Camptown that mention Hubbard's asso-

ciation with Delaware North, a Buffalo, N.Y.-based concessions firm. In 1972, Delaware North's corporate predecessor, Emprise, was convicted of conspiring with mobsters to gain illegal control of a Las Vegas casino.

Tharp told the commission that in 1970 Hubbard was a stockholder in a New Mexico corporation, Newco Industries Inc., which sought ownership of Ruidoso Downs.

"Newco was denied a license by the New Mexico Racing Commission after it was discovered that Newco had an undisclosed \$600,000 loan from Emprise, and had an undisclosed five-year agreement with New Mexico Sport Service Inc., a subsidiary of Emprise, for concessions at Ruidoso," Tharp said in the press release she filed Friday with the racing commission and is sending to Gov.

Mike Hayden and other state officials.

Joe Alessandrelli, an investigator with the New Mexico Racing Commission, confirmed Tharp's information.

Hubbard did not attend Friday's commission meeting and could not be reached for comment. However, Sunflower partner Dick Boushka said "In federal court recently, a judge ruled that Delaware North was not responsible for what happened 20 years ago and gave them a total clean bill of health."

Vancrum, the Sunflower attorney, responded that Tharp's comments "may well be addressed in future litigation" brought by Sunflower. He said Tharp's charges "could result in substantial damages."

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 5
4/25/89

PROPOSALS CONCERNING WAGERING

Employees of Facility Owners and Facility Managers (Under current law prohibited from wagering altogether)

Alternatives:

- (1) Allow wagering at any track
- (2) Allow wagering at any track other than the track where employed
- (3) Allow wagering at any track not owned or managed by the facility owner or facility manager of the track where employed

Employees of Nonprofit Organization (Under current law no limit on wagering)

Prohibit wagering by the following:

- (1) Director of racing
- (2) Racing secretary
- (3) Clerk of scales
- (4) Starter
- (5) Paddock judge
- (6) Placing judge
- (7) Patrol judge
- (8) Identifier
- (9) Kennel master
- (10) Lure operator
- (11) Mutuels manager
- (12) Any other employees designated by the Commission

Alternatives:

- (1) Prohibit wagering at any track
- (2) Prohibit wagering at the track where employed or at any track owned or managed by the organization licensee or by the facility owner or facility manager which owns or manages the racetrack where employed
- (3) Prohibit wagering at the track where employed

Concessionaires (Under current law no limit on wagering by officers, directors or employees)

No specific proposal

Requirements imposed on nonprofit organizations and facility owners and managers that could be extended to concessionaires:

- (1) Submission to and approval by the commission of all contracts and agreements and proposed modifications of contracts and agreements.
- (2) Mandatory annual review of the license by the commission and discretionary review more often on initiative of the commission or on request of an interested party.
- (3) Filing annual certified financial audit by an independent certified public accountant.
- (4) Prohibitions on granting license if a director, officer, employee, agent or person having a financial interest:
 - (a) Has been convicted of illegal gambling, manipulating a parimutuel race, drug violations, operation of an illegal business, repeated acts of violence or any felony (or certain listed felonies);
 - (b) is addicted to, and a user of, alcohol or drugs;
 - (c) has had a license related to parimutuel racing suspended;
 - (d) has been ordered to cease operations related to parimutuel activities;
 - (e) is not in fact the person or entity that is or will be engaged in the licensed activity;
 - (f) has knowingly made a false statement in the application; or
 - (g) has failed to meet tax or financial obligations to a governmental entity

TESTIMONY BEFORE THE HOUSE COMMITTEE
ON FEDERAL AND STATE AFFAIRS
April 25, 1989

Madam Chairman and members of the Committee, my name is Jim Yonally, representing TRAK East, the non-profit corporation which holds the organization license for the greyhound and horse racing facility now under construction in Wyandotte County. We want to thank the Committee for this meeting today so that we have the opportunity to express our support for House Bill 2562.

This bill strikes, on page 2, lines 19 and 20, the prohibition on wagering by members of our board. It also prohibits on page 2, lines 29 to 37, wagering by employees in the racing or mutuels department. The restriction on the mutuels department should be removed as they are covered under rules and regulations of the Racing Commission. This prohibition applies not only to our facility, but also to the greyhound racing facility planned for Pittsburg, since the same "facility manager licensee" is involved. We feel the latter to be an unnecessarily restrictive prohibition. However, we will live with it, if that is the will of the Legislature.

I would be happy to try to answer any questions.

Thank you for your time.

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 7
4/25/89

TO: THE COMMITTEE ON FEDERAL AND STATE AFFAIRS

FROM: REV. BRENT A. SCOTT, SECRETARY OF THE RACING ASSOCIATION OF KANSAS SOUTHEAST (T.R.A.K. S.E.)

REGARDING: HOUSE BILL NO. 2562

I WISH TO SPEAK TO YOU TODAY ON HOUSE BILL 2562 IN FAVOR OF REMOVING FROM THE BILL THE WORDS "OR THE MUTUELS DEPARTMENT" ON LINE 30 AND 31.

I REPRESENT THE BOARD OF DIRECTORS OF THE RACING ASSOCIATION OF KANSAS SOUTHEAST, THE NOT-FOR-PROFIT BOARD THAT WAS AWARDED THE PARIMUTUEL RACING LICENSE FOR "RAINBOW RUN" IN SOUTHEAST KANSAS.

WE WOULD BE IN FAVOR OF ALLOWING THOSE PEOPLE CONNECTED WITH THE RACING FACILITIES ACROSS THE STATE OF KANSAS TO BE ALLOWED TO PLACE A WAGER AT THEIR OWN FACILITY OR OTHER TRACKS WITHIN THE STATE OF KANSAS. I AM NOT INCLUDING IN THIS STATEMENT EMPLOYEES OR PEOPLE CONNECTED WITH THE RACING FACILITY THAT COULD AFFECT THE OUTCOME OF A RACE.

WE, ON THE NOT-FOR-PROFIT BOARD, ARE A PRIME EXAMPLE OF OUR REQUEST. WE GIVE OF OUR TIME AND ENERGIES TO WORK FOR CHARITY AND THE PEOPLE OF SOUTHEAST KANSAS. WE VOLUNTEER OUR TIME TO TRAVEL, TESTIFY, AND INSURE THE ACCOUNTABILITY OF OUR RACE TRACK, BUT WE HAVE NOTHING TO DO WITH THE OPERATIONS OF THE RACE TRACK THAT COULD AFFECT THE OUTCOME OF A RACE.

OUR BOARD OF DIRECTORS ALONG WITH OTHER BOARD OF DIRECTORS OF OTHER RACE TRACKS AS WELL AS THE RACING COMMISSION WERE INVITED TO EUREKA DOWNS FOR THEIR OPENING DAY THIS YEAR. I ATTENDED ALONG WITH SEVERAL OTHERS INCLUDING THE RACING COMMISSION. SOME OF THE BOARD MEMBERS AND THEIR FAMILIES WANTED TO PLACE A BET ON A RACE, BUT DUE TO THE CURRENT UNDERSTANDING OF THE LAW THEY FELT THEY COULD NOT BET ON A RACE. THIS NOT ONLY INCLUDED THE BOARD MEMBERS, THE RACING COMMISSION BUT ALSO THEIR WIVES HUSBANDS AND CHILDREN OVER 18. THIS DOES NOT SEEM FAIR.

WE WORK FOR CHARITY, AND GIVE OF OUR TIME BUT CANNOT BET. IT APPEARS TO REDUCE OUR POSITION AS SECOND CLASS CITIZENS EVEN THOUGH WE HAVE NOTHING TO DO WITH THE OUTCOME OF A RACE. IT IS AS IF WE ARE ASKED TO BE RESPONSIBLE IN THE ACCOUNTABILITY OF OPERATING A RACE TRACK, BUT CANNOT BET. WE DO NOT HAVE ANY "HANDS ON" RESPONSIBILITY OF THE RACING ITSELF.

SO I WOULD ENCOURAGE THE COMMITTEE ON FEDERAL AND STATE AFFAIRS TO ALLOW THOSE EMPLOYEES AND VOLUNTEER DIRECTORS AND OTHERS IN THE STATE OF KANSAS WHO DO NOT HAVE AN AFFECT ON THE OUTCOME OF A RACE TO BE ALLOWED TO BET, AS WELL AS THEIR FAMILIES.

THANK YOU FOR YOUR TIME AND ATTENTION IN THIS MATTER.



REV. BRENT A. SCOTT, SECRETARY
THE RACING ASSOCIATION OF KANSAS SOUTHEAST

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 8
4/25/89

April 25, 1989

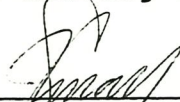
MEMORANDUM

TO: HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
RE: HB 2562


The undersigned individuals representing the respective entities listed below jointly submit their statement of support regarding the amendment of the Kansas parimutuel racing act in behalf of the several not-for-profit and for-profit entities conducting or presently licensed to conduct or participate in parimutuel racing in Kansas.

HB 2562 proposes amendments to the general proscription regarding wagering by officers, directors, members and employees of an organization licensee (the non-profit entity) and those of the facility owner and manager licensees. The proposal would allow directors, officers, members and certain employees of the non-profit organizational licensee and the for-profit facility owner and manager licensees to wager on horse or dog races. It further would specifically prohibit "racing and mutuels department" employees from wagering at their own track. It is our recommendation that "or the mutuels department" on lines 30 and 31 of page 2 of HB 2562 be stricken.


It is our opinion HB 2562 and this amendment will not degrade or compromise the security of or the strict lawful manner in which the races are or will be conducted. The net effect of this amendment will be to enlarge potentially the parimutuel handle for the races and will not serve to restrict the individuals affected from enjoying the sport of parimutuel wagering on horse and dog racing.



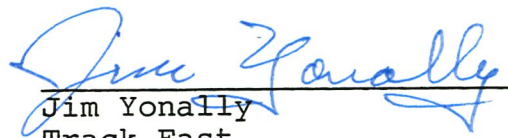
Jonathan P. Small
Eureka Downs
Greenwood County Fair Assoc.



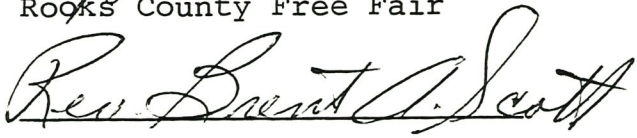
Denny Burgess
Sunflower Racing, Inc.



Jonathan P. Small
Rooks County Free Fair



Jim Yonally
Track East



Track Southeast
Rev. Brent Scott

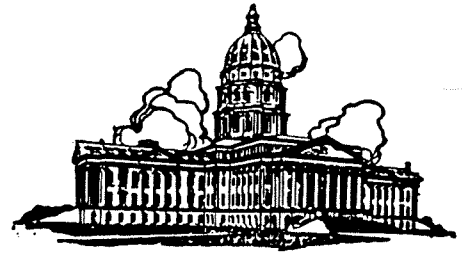
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HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 9
4/25/89

KANSANS FOR LIFE AT ITS BEST!

Richard Taylor, Box 888, Topeka, Kansas 66601

Phone (913) 235-1866 Office 1273 Harrison
(3 Blocks South of Statehouse)



Hearing on HB 2562
April 25, 1989
Jon Brax, Kansans for Life at its Best!

A Proud Land

Why the big hurry to let everyone "having no day-to-day responsibility for supervision of the conduct of the races" to bet? Will they have insider information on "fixed" races? From the experience of race track gambling in other states, the Kansas legislature should wisely support conservative rather than liberal gambling laws.

Are the big time gambling promoters in a rush to get relaxed laws from the Kansas legislature before you learn of all the corruption they are responsible for in other states?

The corruption was so bad in 1972 that even the Topeka Daily Capital ran an article on EMPRISE before Kansas had legal parimutuel gambling and therefore should have been of no concern here. Delaware North has ties with Emprise and they want concessions in Kansas. (Second page)

A person need not be a prophet to say that in the future Kansas will experience some serious problems with corruption of public officials. Attorney General Stephan warned in 1983 it is "the cash flow that attracts so many problems" with "organized crime." (Third page)

The power of gambling track money is so great that it could corrupt "the first U. S. Court of Appeals judge to be indicted, tried, and convicted in the 189-year history of the nation's second highest court." (Third page)

If needed, the legislature in future years can easily relax our gambling control laws. It will be next to impossible to make future laws more restrictive because of the tremendous power of financial rewards these multi-million dollar gambling track promoters will be able to give lawmakers who help them in the future.

HOUSE FEDERAL & STATE AFFAIRS

Attachment No. 10

4/25/89

"Of our political revolution of 1776 we are all justly proud," said Abraham Lincoln on Washington's birthday in 1842. He went on to say "how proud the title of that land" where persons declare their freedom from alcoholic beverages because they "shall find a stronger bondage broken, a vile slavery manumitted, a greater tyrant deposed. . . perfect liberty!" With per-person consumption at nearly half the national average, thousands of Kansans enjoy that perfect liberty. Concerned users and non-users are united in this R-E-A-L effort to prevent alcoholism, highway tragedy, and other suffering caused by our most abused recreational drug.

Rehabilitation — Help alcohol-dependent persons adjust to life without the drug.

Education — Inform children, youth & adults of effect of alcohol on mind & body.

Amount — Encourage persons to be non-users and encourage users to use less.

Law — Pass and enforce laws that reduce consumption and suffering.

WASHINGTON (AP) — The Jr. of the New Orleans Crime Commission told a congressional committee Wednesday that New Orleans Saints football team owner John Mecom Jr. was associated in a business deal with a convicted gambler and with a developer with ties to alleged Mafia kingpin Carlos Marcello.

Aaron M. Kohn told the House Select Committee on Crime that he would ask for perjury charges against a former Louisiana state official who denied under oath that he had accepted campaign contributions for two governors from the owners of a New Orleans race track and a Buffalo, N.Y. holding firm.

Kohn's testimony highlighted a day in which only three witnesses were called. Appearing with him was Kenneth Norris of the Louisiana State Police.

Pleas Fifth

Also appearing before the committee was Richard Castucci of Massachusetts, who took the Fifth Amendment to questions asked of him. The committee had asked Castucci if he had attempted to bribe jockeys and if he had invested in racetracks with money he made through bookie operations.

Kohn told the committee that Mecom was one of six directors and shareholders in the Hidden Lake Corp. and one of four directors in New Orleans Properties Inc.

Also a director in both corporations is Sam Lee Presley Jr. who was convicted Sept. 9, 1971, in Biloxi, Mass., of conspiracy and of using an inter-

state facility to promote a gambling enterprise, Kohn said.

Kohn said another partner is Berald E. Sonnor, who "has a considerable record of forming business partnerships with individuals who are also partners of Carlos Marcello or other major members of the Marcello structure."

Kohn said also Mecom is a close friend of James and Anthony Moran, owners of La Louisiane Restuarant in the French Quarter of New Orleans.

Close Ties

Kohn said the Moran brothers, sons of the late professional boxer and Huey P. Long bodyguard (Diamond) Jim Moran, had "close social and sometimes financial association" with the Marcello family.

The Crime Commission director said also James Moran was a business partner of Johnny Robinson, all-pro safety for the Kansas City Chiefs. He said Moran and Robinson purchased the Mirror Lake Town Club in Kansas City and named it Johnny Robinson's Swim and Tennis Club.

The property was purchased from Edward P. Osadchey, alias Eddy Spitz, Kohn said. Spitz has been described by the Kansas City Crime Commission as part of the Kansas City organized-crime structure, Kohn testified.

Kohn said he would ask the district attorney in Jefferson Parish, La., to file perjury charges against former Louisiana Racing Commission chairman J. M. Pete Menefee.

Two witnesses before the House committee testified earlier that they gave Menefee campaign funds for the late Gov. Earl Long and the former Gov. John McKeithen.

One witness—John Masoni, president of Jefferson Downs race track near New Orleans, testified Tuesday he gave Menefee \$25,000 for McKeithen's campaign in 1964. He said the funds came from himself and from his associates, including the Jacobs brothers who run Emprise Corp. of Buffalo, N.Y.

Empise Convicted

Emprise recently was convicted in Los Angeles of conspiring to use interstate facilities to acquire a hidden interest in a Las Vegas casino-hotel.

Two weeks ago, a former Emprise lawyer, Bradford P. Leacy, testified Emprise gave \$10,000 to Long's campaign.

Kohn said Menefee, who served as racing commissioner under Long in 1956 and as commissioner of conservation the past eight years under McKeithen, had denied under oath that he accepted any funds from Emprise or Jefferson Downs interests.

TOPEKA (AP) — Both sides of the question of pari-mutuel wagering on horse races had their day of rebuttal Thursday before a Kansas Senate committee.

Thomas Kelly, director of the Kansas Bureau of Investigation, warned that introducing trackside betting would cause significant law enforcement problems.

HE SAID A KBI survey of the 32 states with pari-mutuel wagering indicated that such an operation in Kansas would mean increases in crime, including illegal gambling, bribery, race-fixing, fraud and corruption in the race organizations.

"There is a definite impact of pari-mutuels on law enforcement when it comes into a state," he said, adding that some states such as Oregon and Rhode Island had problems with organized crime trying to control the gambling operations.

"As Attorney General, my concern has been with commercial gambling. The losses become more extreme. The likelihood of infiltration by organized crime will increase. I prefer keeping the law as it is. We've got a healthy state and I'm very pleased with it.

"I've a lot of friends who are in favor of parimutuel gambling, and I have a lot of friends who are not. Some of my good friends have horses. They raise them for racing purposes and are somewhat bewildered at my position on the parimutuel question. It is just that I see no positives in opening up the state to commercial gambling. I see a lot of negatives.

"We have very little problem with public corruption in Kansas. One of the reasons for that, for example, are the difficulties involved in opening liquor stores, in regulated private clubs, in the lack of commercial gambling. The cash flow that attracts so many problems just isn't here. And I'm glad.

"The thing other than organized crime, is the fact that there is always illegal off track betting and there are many stories of the drugging of horses, and about cheating in regard to the races. And then the regulation, and the problem of people who can't afford to gamble, and gamble too much. They hurt themselves and hurt their families. We have enough problems with bingo gambling.

"My main concern about commercialized gambling, particularly parimutuel betting, is the fact that I don't see any positives. All I see are negatives. I think we can continue to have a wonderful state and enjoy our wonderful people without those negatives.

"Every law is a moral issue and that is the business of government, to determine what is best."

-Attorney General Bob Stephan
WIBW-TV interview, March 5, 1983

By Thomas Powers

FORMER GOV. OTTO KERNER and Theodore J. Isaacs, former state revenue director, were convicted yesterday on all 19 counts of an indictment charging them with bribery, conspiracy, income tax evasion, and mail fraud.

Kerner, 64, now a United States Court of Appeals judge on leave of absence, also was convicted of making false statements to special agents of the Internal Revenue Service and committing perjury before a federal grand jury.

Out of court, United States Atty. James R. Thompson said he will recommend prison sentences for both men.

"I don't think the evidence here warrants probation, not with the crimes committed here," he said.

Kerner, the first U. S. Court of Appeals judge to be indicted, tried, and convicted in the 189-year history of the nation's second highest court, avoided interviews after court was adjourned. He walked with his two children and three attorneys out thru the judge's door of the courtroom, where he took a special elevator to his own chambers on the 27th floor of the building.

KERNER AND ISAACS were convicted of secretly purchasing racetrack stock in 1966 which had been offered to them in 1962 by Mrs. Marje Everett, former head of the Arlington Park and Washington Park racetracks, to gain favors Kerner could offer thru official actions such as signing racing bills.

They bought the stock at bargain 1962 prices, in one instance paying \$50,000 for stock valued at \$300,000 at the time of purchase. A phony promissory note and phony interest payments were used to make it appear they actually paid something on the stock before they acquired it in 1966.

They were convicted of conspiring with William S. Miller, former Illinois' Racing Board chairman, Miss Faith McInturf, Miller's private secretary, and Joseph E. Knight, former state director of financial institutions, to purchase the stock thru a complicated scheme in which the identities of Kerner and Isaacs were shielded by the use of other names in transferring the stock.

Kerner and Isaacs were convicted of filing false tax returns in hiding racetrack stock under other names in their returns. Both men had Chicago Harness Racing, Inc., stock under the name "Chgo. Co." Their Chicago Thoroughbred Enterprises, Inc., stock was listed as "C. T. Co." and Isaacs hid his as "Bajo."

KERNER WAS CONVICTED of perjury when he said he never discussed the allocation of racing dates with anyone while he was governor from 1961 thru mid-1968, when he resigned to become a federal judge.

Clyde Lee, general manager of the Egyptian Trotting Association, testified he discussed allocation of the association's racing dates. Thomas Bradley, former Illinois Harness Racing Commission chairman, testified Kerner once gave him a direct order to change the Maywood Park Trotting Association dates and he refused.

Kerner was convicted of making false statements when he told Oliver T. Stufflebeam and Robert Campbell of the IRS when they first interviewed him July 15, 1970 the "Chgo. Co." listed on his return was a financial company in which a good friend of his, Isadore Brown, was a director. Kerner denied several times he had Chicago Harness Racing stock, the agents testified.

Powell Helped Mob Henchmen Get Jobs in State Racetracks

Chicago Tribune, Tuesday, December 28, 1971

BY GEORGE BLISS

Illinois' late Secretary of State Paul Powell joined hands with a Capone era hoodlum to obtain jobs at Illinois racetracks for crime syndicate gamblers or their representatives. THE TRIBUNE learned yesterday.

Powell's role in the infiltrating of the tracks by the crime syndicate came during disclosures of a multimillion-dollar gambling racket at the tracks.

Unaware of Presence

At the same time officials of the Illinois Bureau of Race-track Police admitted they were unaware of the many gangsters on track payrolls. They said they didn't have access to payroll records. The records, the track police said, were in the offices of the Illinois Racing Board. However, Alexander MacArthur, board chairman, said the track police and the board work together on track matters.

Powell's friend at the tracks was the aging Robert [Big Bob] McCullough, a notorious Capone gangster, who controls many concessions at Chicago area tracks. Federal sources said that last year McCullough was in charge of some concessions, including the parking lots, at Sportsman's Park in Cicero.

Investigators said that at some of the track concessions McCullough used "front men" to direct the business but they said they have evidence to connect him directly with the parking concessions at several tracks.

Tells of Influence

It was learned that on several occasions when track officials balked at hiring gangsters as mutuel clerks McCullough called Powell. Powell would then call the track officials and the gangsters would get their jobs.

On April 7, 1971, Daniel P. Sullivan, executive vice president of the Crime Commission of Greater Miami, wrote to crime fighters here and cited McCullough's influence at Illinois race tracks and the Miami Beach Kennel Club. McCullough, according to Sullivan, was connected with dog tracks in Florida for many years.

Workers at Sportsman's said that last year, McCullough held roll calls of his men at the track and gave orders to track employes. Despite his background as a crime syndicate terrorist, McCullough has been able to move freely at tracks here unmolested by track police who have the responsibility of keeping hoodlums off track premises.

McCullough is known to keep a residence in Hammond, where he also is influential in the vast and highly profitable crime syndicate gambling concessions thruout the Lake County [Ind.] area.

THE TRIBUNE disclosed Sunday that hoodlums and their relatives have worked behind mutuel windows at Chicago area tracks. It also was disclosed that some of the mutuel sellers took part in the racket by handling bets for on-track bookies at the tracks when betting became too heavy on certain races.

On July 8, 1970, officials of the racetrack police reported to MacArthur that relatives of "at least two crime syndicate figures" were working as mutuel window cashiers at Arlington Park.

Giancanas, Buccieri

However, federal officials told THE TRIBUNE that more than

of a licensee who are making wagers on their own behalf."

If the legislature approves this change, Kansas has opened the door to what this news story is all about. This is but one of many clippings we have kept through the years concerning organized crime and legal gambling tracks.

a dozen relatives of the hoodlums and a number of men active in gangster affairs were working at the tracks at that time.

Among them were William McGuire, a long-time hoodlum front man, and Michael J. Bakes, a known gambler from Cicero. Also on the track rolls were Joseph [Pepe] Giancana, brother of Sam [Momo] Giancana, crime syndicate boss, and Anthony J. Giancana, son of Joseph and nephew of Sam. Another was Carmen Buccieri, nephew of Fiore [Fifi] Buccieri, a loan shark and gambling boss of the syndicate.

McGuire, who was on the track payrolls for three years, was seen by federal agents at the tracks last year. He now is on the payroll of a prominent liquor distribution company, but continues his contacts with the syndicate.

Thomas Brown, executive director of the track police bureau, said he had no records showing that McGuire, Bakes, Buccieri, and the Giancanas were on the track rolls.

"Don't Get to See Them"

"Those records [the track payrolls] are at the offices of the track board in the State

Building and we don't get to see them," Brown explained.

A TRIBUNE reporter was allowed to study the payroll records, tho, and Racing Board officials said the records were available to the track police. It was learned that Internal Revenue Service agents had made a close study of the records in an investigation of the on-track bookie operation at the tracks.

Brown, a former Chicago and Cook County sheriff's policeman, was hired in 1970 to replace Dave L. Pearson, who was fired during an investigation of hoodlum wagering at Illinois tracks. It was estimated that Illinois has lost more than \$4 million in track revenues because of the prevalence of illegal bookmaking at the tracks.

Leads to 2d Probe

The IRS investigation of mob infiltration at the tracks led to an investigation of the many influential Chicago politicians buying track stock at bargain prices.

MacArthur told THE TRIBUNE that he will ask the Illinois Bureau of Investigation to check the backgrounds and activities of any track employes who possibly have hoodlum connections.

Big time multi-million dollar gambling track promoters in Kansas want to change our pari-mutuel law so the prohibition against gambling by race track employees "shall not be construed as applying to other employees, officers or directors of an organization licensee, facility manager licensee or facility owner licensee having no day-to-day responsibility for supervision of the conduct of the races or to the spouses, children or relatives of any employee of a licensee who are making wagers on their own behalf."

Sunflower opponent levels charges

● RACING, from 1B

begin building the Pittsburg track until its financing has been approved by the commission, and officials of the firm said racing could be delayed until spring of 1991, depending on when the suits are settled.

"I think it is insane, to say the least, the very people who have caused the damage ... are here today trying to take advantage of that delay," said Sunflower attorney Robert Vancrum.

Vancrum was referring to Camptown Racing officials, whose appeal of the commission's decision to license Sunflower for the Pittsburg track is now pending in the state Supreme Court.

At Friday's meeting, Camptown officials said that Sunflower had not adhered to conditions set forth by the commission when it was awarded a license to build the track, and that delays by the firm were costing millions of dollars in lost state and local taxes.

Further, Camptown investor Teri Tharp said reports of Sunflower co-partner R.D. Hubbard's 1980 arrest for marijuana possession in El Paso, Texas, and his ties to a firm once linked to organized crime call for further investigation by Kansas law enforcement agencies.

Tharp said Camptown and the firm's non-profit organization, The Little Balkans Foundation, "are calling for a further, more complete, investigation of all the principals of Sunflower" to ensure that "pari-mutuel wagering in Kansas may be free from the blemish of rumor and innuendo and any con-

nection with undesirable elements."

She said such investigations should be disclosed publicly. All Kansas Bureau of Investigation reports conducted on the backgrounds of track applicants have been kept confidential.

In documents filed by Hubbard in New Mexico — where the Fort Worth, Texas, millionaire is undergoing a standard background investigation into his purchase of Ruidoso Downs race track — Hubbard lists two prior arrests: a misdemeanor marijuana possession arrest and a 1983 arrest in Atlanta for driving under the influence. Hubbard indicates in the document that both cases were "dismissed."

However, a New Mexico law enforcement official, who asked not to be identified, said that officials have been unable to turn up any record in El Paso of Hubbard's marijuana possession arrest, either through police or court records, and that law officials are "now looking in other jurisdictions" for that arrest record.

Kansas law prohibits the racing commission from licensing any person only if they have been convicted of a felony.

Tharp also gave racing commissioners copies of news articles and a press release issued by Camptown that mention Hubbard's asso-

ciation with Delaware North, a Buffalo, N.Y.-based concessions firm. In 1972, Delaware North's corporate predecessor, Emprise, was convicted of conspiring with mobsters to gain illegal control of a Las Vegas casino.

Tharp told the commission that in 1970 Hubbard was a stockholder in a New Mexico corporation, Newco Industries Inc., which sought ownership of Ruidoso Downs.

"Newco was denied a license by the New Mexico Racing Commission after it was discovered that Newco had an undisclosed \$600,000 loan from Emprise, and had an undisclosed five-year agreement with New Mexico Sport Service Inc., a subsidiary of Emprise, for concessions at Ruidoso," Tharp said in the press release she filed Friday with the racing commission and is sending to Gov.

Mike Hayden and other state officials.

Joe Alessandrelli, an investigator with the New Mexico Racing Commission, confirmed Tharp's information.

Hubbard did not attend Friday's commission meeting and could not be reached for comment. However, Sunflower partner Dick Boushka said "In federal court recently, a judge ruled that Delaware North was not responsible for what happened 20 years ago and gave them a total clean bill of health."

Vancrum, the Sunflower attorney, responded that Tharp's comments "may well be addressed in future litigation" brought by Sunflower. He said Tharp's charges "could result in substantial damages."

Quotation from the 1973 Illinois Legislative Investigating Commission Report contained in THE IMPACT OF PARI-MUTUEL WAGERING ON LAW ENFORCEMENT study by the KANSAS BUREAU OF INVESTIGATION, Feb. 1981

"... the State participates in an activity which is otherwise criminal in nature, it should not be held responsible for the activity. It is the duty of the State to maintain the highest standards among the other persons and organizations that participate in that activity."

Commission delays ruling on Sunflower

By Clark Spencer
Staff Writer

The Kansas Racing Commission on Friday put off for one week a decision on whether to grant Sunflower Racing an additional six months to produce its financing plan for a Pittsburg greyhound track.

That decision came after a rival Pittsburg track developer publicly leveled charges against Sunflower officials, and a racing commissioner voiced displeasure with Sunflower's request for the extension.

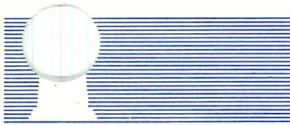
"I'm really not in favor of delaying it any further," said Commissioner Phil Martin of Larned, the only one of five commissioners to vote against the motion to delay a decision until next week's meeting.

Sunflower officials, who were granted a 60-day extension in February to produce final financing documents for the \$12.5 million track, are requesting another extension, saying lawsuits in which the firm has been named have set them back. Sunflower can't

● RACING, 4B, Col. 3

THE WICHITA EAGLE-BEACON

Saturday, April 22, 1989



TOPEKA
COMMUNITY
FOUNDATION

Officers

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Chairman

Charles Joss, M.D.
Vice-Chairman

Robert Mehlinger
Treasurer

James Rhodes
Secretary

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Charles Marling
Shelle McCoy
Sherman Parks, Jr.
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Balfour Jeffrey
Ed Love
Alicia Salisbury

Community Advisors

Velma Paris
Nancy Perry
Douglas Wright

Executive Director
Karen Welch

Though the first community foundation was established more than 75 years ago, Topeka Community Foundation is five years old and Wichita's is 3 years old. Hutchinson is in the process of forming a community foundation. I believe the reason we were not included in the original bill is simply the lack of awareness about community foundations.

The missions of community foundations is to enrich the quality of life by encouraging philanthropy, providing a vehicle for donors with varied interests, developing a permanent endowment and serving as a resource and catalyst for charitable activities.

Community foundations are thought of as a community's savings account and depository. Our purpose is the building of a long-term, permanent source of funds for improvement of the city's cultural, civic and humanitarian life. We ourselves do not conduct broad fund-raising campaigns.

Our growth in assets will primarily be through wills, bequests, or trust arrangements, rather than through direct solicitation, which often involves hired fund-raisers who solicit funds by telephone or large direct mailings. We are here to carry out donor's wishes in making charitable contributions either now or after their death.

A community foundation does not raise money for itself; contributors do not give to the foundation; they give through it for the enhancement of their community.

HOUSE FEDERAL AND STATE AFFAIRS
Attachment No. 11
4/25/89

Testimony to House Federal and State Affairs Committee
Re: Charitable Fund Raising Exemption
SB 125

Nicki Soice
Chairman State Public Affairs Committee
Junior Leagues of Kansas
April 25, 1989

Good morning. My name is Nicki Soice. I am the current Chairman for the State Public Affairs Committee for the Junior Leagues of Kansas City, Topeka, and Wichita.

All three Leagues are members of the Association of Junior Leagues now working in more than 273 communities across America. Our purpose is exclusively educational and charitable and we are committed to promoting voluntarism in our communities.

We believe that training volunteers to be effective leaders can better the communities where we live. We have more than 2,000 provisional, active and sustaining members here in Kansas who have contributed more than \$2,700,000 and more than 3,000,000 hours of volunteer service to our communities. We are proud of the efforts we make to work for the women, children and families of Kansas. Many times we have served as the voice of those who could not otherwise be heard. We have been instrumental in bettering our educational systems. We have worked to improve life for our Senior Citizens. Ronald McDonald houses, Hospice programs, Art Associations, museums, and libraries have benefitted from our projects.

The money that we raise in our various fundraisers goes back into our so that our projects may continue. Without our fundraisers, we would have no projects. None of our members is compensated for the time that they spend as a League volunteer.

We would appreciate your recommendation for passage of the amended Senate Bill 125. Thank you.

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 12
4/25/89

TOPEKA ZOOLOGICAL FOUNDATION

635 Gage Boulevard
Topeka, Kansas 66606-2066 USA
Area Code 913/272-5821

April 21, 1989

House Federal and State Affairs Committee
The Honorable Ginger Barr, Chairman
The State House

*Supporting the
World Famous
Topeka Zoo*

Dear Representative Barr and Members of the House Federal and State Affairs Committee,

THE TOPEKA ZOOLOGICAL FOUNDATION was established in 1986 as a 501 (c)(3) non-profit organization of Board of Trustees to implement and facilitate the charitable and educational purposes which support the development and improvement of programs and projects for the World Famous topeka zoo.

Its purposes are:

1. To provide a decision and policymaking body which will function in support of the Topeka Zoological Park by providing financial support, leadership ability, and professional expertise.
2. To work toward improvement of education, conservation and scientific programs as determined by the World Famous Topeka zoo.
3. To develop philanthropic goals, receive gifts, bequests, and donations from private and corporate donors to be utilized for the sole purpose and support of the World Famous Topeka Zoo.
4. To develop and administer the living endowment to be made available for future planning, programs and projects to be determined by the World Famous Topeka Zoo.
5. To invest and administer gifts, bequests and devises made for the foregoing purposes, together with funds of the City of Topeka, Shawnee County, Kansas appropriated or paid for such purposes.

We therefore request that we be included in Senate Bill #125, as amended by Senate Committee by:

Amend SB 125, in line 127, by striking the word "and", and in line 130, by striking the period and inserting in lieu thereof a semi-colon; following line 130, by adding the following:

(t) any charitable organization the funds of which are used to support an activity of a municipality of this state.

Thank you for your consideration.

Sincerely,

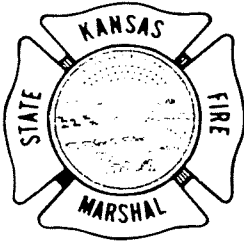
Betty Cleland
nc

Betty S. Cleland, President
The Topeka Zoological Foundation

xc: Senators Alicia Salisbury
Nancy Parrish
Marge Petty

BC/nc

HOUSE FEDERAL & STATE AFFAIRS
Attachment No.13
4/25/89



Kansas State Fire Marshal Department
700 Jackson, Suite 600
Topeka, Kansas 66603-3714
Phone (913) 296-3401

"Where Fire Safety Is A Way Of Life"

April 6, 1989

Honorable James D. Braden
Speaker of the House
State House, Room 380-W
Topeka, Kansas

Dear Representative Braden:

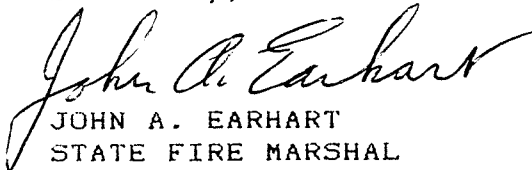
Representative Ginger Barr, the Chairperson for the House Federal and State Affairs Committee will be introducing a proposed Substitute for House Bill 2223 for action.

The bill as offered by Representative Barr has my approval.

The original statute, specifically paragraph (c) had allowed the manufacturers of the extinguishing equipment to exert unnecessary pressure on the dealers in the state by the strict training requirements required for the dealers to become certified. The pressure had taken the form of requiring minimum dollar purchases of equipment that in most cases exceeded the need for the area they served. Non-compliance with the minimum purchases meant the loss of their dealership and state decertification, thus the wording in paragraph (c) allowed the dealers to become involved in the regulatory arena instead of the State Fire Marshal.

The Administrative Regulations will be re-written by January 1, 1990 to require reasonable proof of competency for the dealers and their employees to be certified to perform the installation and servicing of the equipment.

Sincerely,


JOHN A. EARHART
STATE FIRE MARSHAL

JAE:mr

cc: Representative Ginger Barr

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 14

An Equal Opportunity Employer

4/25/89

PROPOSED Substitute for HOUSE BILL NO. 2223

By Committee on Federal and State Affairs

AN ACT concerning fire safety and prevention; relating to businesses inspecting, installing, servicing or testing certain fire extinguishers; amending K.S.A. 31-133a and repealing the existing section.

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

Section 1. K.S.A. 31-133a is hereby amended to read as follows: 31-133a. (a) No business shall inspect, install or service portable fire extinguishers or automatic fire extinguishers for commercial cooking equipment without first being certified by the state fire marshal.

(b) The state fire marshal shall adopt rules and regulations as provided in K.S.A. 31-134 and amendments thereto establishing standards for inspection, installation, servicing and testing procedures and minimum insurance requirements of businesses inspecting, installing or servicing portable fire extinguishers or automatic fire extinguishers for commercial cooking equipment. The rules and regulations shall also provide for qualifications and training of any person or persons designated by such business as the person or persons upon whose qualifications and training the certification of the business is based and, on and after January 1, 1990, shall require submission of proof, satisfactory to the state fire marshal, that such qualifications and training have been met. The rules and regulations shall further provide for annual certification of such businesses for a fee of not less than \$25 or more than \$50 for each certification, but no fee shall be charged for any person who is an officer or employee of the state or political or taxing subdivision thereof when that person is acting on behalf of the state or political or taxing subdivision. If the person or

persons upon whose qualifications and training the certification of the business is based leave such business, the certification of that business is void.

~~{e}--No---business--which--inspects,--installs--or--services automatic-fire-extinguishers--for--commercial--cooking--equipment shall--be-certified-until-that-business-submits-to-the-state-fire marshal-satisfactory-evidence,--as-determined-by--the--state--fire marshal,--that--the--person-or-persons-designated-by-the-business upon-whose-qualifications-and-training-the-certification--of--the business--is--based--have--completed--the--most--current-training programs-conducted-by-the--manufacturer--of--the--automatic--fire extinguisher-for-commercial-cooking-equipment.~~

{d} (c) Inspection or service of any portable fire extinguisher or automatic fire extinguisher for commercial cooking equipment by any business who is not certified by the state fire marshal as required by this section shall constitute a deceptive act or practice under the Kansas consumer protection act and shall be subject to the remedies and penalties provided by such act.

{e} (d) As used in this section:

(1) "Automatic fire extinguisher for commercial cooking equipment" means any automatic fire extinguisher mounted directly above or in the ventilation canopy of commercial cooking equipment.

(2) "Business" means any person who inspects, services or installs portable fire extinguishers or automatic fire extinguishers for commercial cooking equipment but does not include (A) any person or authorized agent of the person who installs a portable fire extinguisher for protection of the person's own property or business or (B) any individual acting as a representative or employee of a certified business.

Sec. 2. K.S.A. 31-133a is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.