

Approved 3/28/89
Date

MINUTES OF THE Senate COMMITTEE ON Federal & State Affairs

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

11:08 a.m./~~p.m.~~ on March 27, 1989 in room 254-E of the Capitol.

All members were present ~~except~~.

Committee staff present:

Emalene Correll, Legislative Research Department
Marty Robison, Secretary

Conferees appearing before the committee:

Jim Boese, General Mgr., Lincoln Greyhound Park, Lincoln, Rhode
Island
Peter Loriaux, Overland Park, Chr. of Advisory Board for Kansas
Racing Commission
Jim Grenz, Director, Kansas Racing Commission

Chairman Reilly called the meeting to order.

Senator Daniels moved the minutes of March 21 be approved. Senator Ehrlich
seconded and the motion passed.

Staff gave a briefing on SB 347 which deals with permitting parimutuel
wagering on simulcast horse and dog races (Attachment 1).

Jim Boese told members that South Dakota was devastated when Iowa allowed
parimutuel racing and had to come up with ways to keep their tracks viable.
The first year of microwave simulcasting at Sioux Falls reduced the track
handle by 10% but increased the overall handle by 25%, causing a net increase
of 15%. Simulcast racing serves as a means for keeping tracks profitable
during the off-season. After 4 years with simulcast racing, the losses of
the tracks were turned around. Mr. Boese said the bill speaks to the issues
needed and gives the opportunity to maximize the program. He also said that
licensing is separate for each state in the sending and receiving tracks.
The arrangements between the two tracks would be a function of a contractual
agreement regarding the receipts.

Peter Loriaux told members that Kansas needs simulcast racing to compete
since all the surrounding states currently have this type of racing. In
Nebraska, the first year of simulcast racing caused the handle and attendance
at Fonner Park to go up 65%, 50% at Lincoln, and 30% at Ak-sar-ben. He also
said the percentage of profit would be greater because of the fixed costs
being less.

Senator Vidricksen passed out a copy of the Nebraska agreement to committee
members (Attachment 2).

Jim Grenz said the Commission feels this is a major issue and wants to study
it further. While it is not offensive to the Commission, they have not made
up their mind yet about this program.

Staff briefed the committee on the comparisons between Sub 2172 and SB 69
which both deal with bingo (Attachment 3). The committee was told that the
44 hours was arrived at to limit playing to every other day.

After a discussion, it was decided to hold a hearing on SB 347 on Monday,
April 3, 1989.

The meeting was adjourned at 11:56.

MEMORANDUM

March 27, 1989

TO: Senate Committee on Federal and State Affairs

FROM: Kansas Legislative Research Department

RE: S.B. 347

The bill begins with three preliminary statements.

1. The racing, breeding, and parimutuel wagering industry is an important sector of the agricultural economy of Kansas and will soon provide substantial revenue for government and employment for many residents.
2. Simulcasting of horse and greyhound races has potential to strengthen the economic contributions and promote growth of the industry resulting in additional revenue for the racing industry and is in the best interests of the state.
3. The Legislature intends to authorize simulcasting at licensed racetracks as permitted by law.

Section 1 of the bill includes definitions of terms used in the bill. Simulcast is defined to be the telecast of live audio and visual signals of horse or greyhound races for the purpose of parimutuel wagering.

The bill would provide that any organization licensee or facility owner licensee authorized to conduct at least one live race during each calendar year could apply to the Kansas Racing Commission for a simulcast facility license. If the track is not owned by the organization licensee, the facility owner and the organization licensees must apply for a simulcast license jointly.

The Kansas Racing Commission would be granted authority to establish limitations governing the receiving track's ability to display simulcast races and accept parimutuel wagers on the simulcast races. The sending track would not be required to have a license to originate the broadcast, and would not have to be located in Kansas.

Any simulcast agreement between sending and receiving tracks would have to be approved by the Kansas Racing Commission. No application for a simulcast license could be approved by the Commission without such a written agreement. The written agreement would have to take into consideration the best interests of the racing, breeding, and parimutuel industries in Kansas.

Every simulcast licensee would be considered to be conducting a licensed live race and, except to the extent inconsistent with the intent of the bill, would be subject to all appropriate provisions of the Kansas Parimutuel Racing Act relating to the conduct of race meetings.

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Attachment 1

A parimutuel tax would be levied on the gross amount wagered or the total daily takeout from simulcast pools, and an admissions tax collected on admissions. Those taxes would be computed, remitted, and distributed in the manner required by the Parimutuel Racing Act. The receiving track would be required to send an amount dictated by the written agreement to the sending track. The restrictions in subsections (o) and (p) of K.S.A. 1988 Supp. 74-8813 would not apply to simulcast arrangements.

If both the sending and receiving tracks are located in Kansas, all wagers placed at the receiving track would be combined with all wagers placed at the sending track to produce a common parimutuel betting pool for calculation of odds and determination of payouts. The payout would have to be the same for all winning tickets regardless of where the wager is placed. Likewise, when both tracks are in Kansas purses would be computed as required under current law and would include the combined parimutuel handle for all wagers placed at both tracks.

If the simulcast agreement includes a track that is not located in Kansas, the Kansas licensee would be required to compute and conduct a separate parimutuel pool for that track subject to approval of the Kansas Racing Commission.

The fiscal note submitted by the Division of the Budget states that there may be some difference of opinion in the racing industry as to the benefits of allowing wagering on simulcast races. The fiscal note includes the following statement:

In summary, this permissive legislation could have significant fiscal implications. However, there is currently no way to accurately determine with any accuracy [sic] what effect, negative or positive, parimutuel wagering on simulcast races would have with regard to revenue projections from racing activities authorized by the Kansas Racing Commission.

SIMULCASTING AGREEMENT

THIS AGREEMENT entered into by and between the HORSEMENS' BENEVOLENT AND PROTECTIVE ASSOCIATION, hereinafter "HBPA", the HALL COUNTY LIVESTOCK IMPROVEMENT ASSOCIATION, INC., hereinafter "Fonner", the GOVERNORS OF THE KNIGHTS OF AK-SAR-BEN, hereinafter "Ak-Sar-Ben", ATOKAD AGRICULTURAL AND RACING ASSOCIATION, hereinafter "Atokad", the PLATTE COUNTY AGRICULTURAL SOCIETY, hereinafter "Columbus", and the NEBRASKA STATE BOARD OF AGRICULTURE, hereinafter "State Fair".

WHEREAS, Fonner, Ak-Sar-Ben, Atokad, Columbus and the State Fair are the five race tracks in the State of Nebraska presently licensed to conduct thoroughbred horse race meetings; and

WHEREAS, the HBPA is the association representing a majority of the thoroughbred horse owners and trainers engaged in racing at the above thoroughbred race tracks and has a contract with each governing the relationship as between the individual race track and the members of the HBPA; and

WHEREAS, Fonner will hold a licensed thoroughbred race meet on its premises at or near Grand Island, Nebraska from February 16 through and including April 30, 1989; and

WHEREAS, Ak-Sar-Ben will hold a licensed thoroughbred race meet on its premises at Omaha, Nebraska from May 3 through August 27, inclusive; and

WHEREAS, Atokad will hold a licensed thoroughbred race meet on its premises at or near South Sioux City, Nebraska from May 26 through July 16, inclusive; and

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Attachment 2

WHEREAS, Columbus will hold a licensed thoroughbred race meet on its premises at or near Columbus, Nebraska from July 21 through September 11, inclusive; and

WHEREAS, the State Fair will hold a licensed thoroughbred race meet on its premises at or near Lincoln, Nebraska from September 15 through November 12, 1989; and

WHEREAS, Fonner, Ak-Sar-Ben, Columbus and the State Fair are desirous of simulcasting their respective live races to each of the other four race tracks licensed to conduct thoroughbred horse race meetings; and

WHEREAS, each of the five licensed thoroughbred race tracks are desirous of receiving the simulcast of live races run during the respective licensed race meet of each of the other licensed thoroughbred race tracks; and

WHEREAS, the HBPA is desirous of giving its consent to the sending and receiving of simulcasting as among the several race tracks conducting thoroughbred horse race meetings as above enumerated.

NOW, THEREFORE, Fonner, Ak-Sar-Ben, Columbus, and the State Fair agree that each, as sending tracks, during their 1989 licensed live thoroughbred race meets, will simulcast their respective races to each of the other four licensed thoroughbred race tracks at their respective licensed premises for their use for pari-mutuel wagering subject to the terms and conditions of this agreement, and Fonner, Ak-Sar-Ben, Columbus, Atokad and the State Fair all agree, as receiving tracks, to take the simulcast of the live races for the 1989 season from each of the other

licensed thoroughbred tracks for use for pari-mutuel wagering on their respective licensed premises subject to the following terms and conditions:

1. Definitions. For the purposes of this Agreement, the following terms shall mean:

A. Gross Revenue. "Gross revenue" shall mean the pari-mutuel take plus breakage, except as otherwise provided for in paragraph 9 herein.

B. Net Revenue. "Net revenue" shall mean the gross revenue less the cost of uplink and satellite time, data transmission, tote expenses, admissions tax, and T.V. rental costs. If there is more than one receiving track, then the receiving tracks shall each bear the uplink and satellite time costs based on their prorata share of the handle.

C. Simulcast. "Simulcast" shall mean the telecast of live audio and visual signals of horse races conducted in the state for the purpose of pari-mutuel wagering.

D. Sending Track. The sending track shall be the track at which the live races are run and from which electronically televised signals of its races are simultaneously transmitted to the receiving track or tracks.

E. Receiving Track. The receiving track shall be the track which receives the electronically televised signals of the races from the sending track for use for pari-mutuel wagering.

F. Track Settlement. Track settlement is that amount by which the winning payoffs made at either the sending or receiving track exceeds the net pari-mutuel pool generated at each race at the such track. Net pari-mutuel pool shall mean the gross pari-mutuel pool less statutory withholdings.

2. The transmission of the thoroughbred horse races shall include, but not be limited to, the post-parade, the live running of the race, the reply of the race, and wagering information as agreed upon by the parties.

3. Division of Revenue. The net revenue from the pari-mutuel wagering at the receiving tracks shall be calculated and apportioned with the sending track as follows:

- a. One-half of the net revenue derived by the receiving tracks shall be paid to the sending track on a weekly basis calculated from the last day of the racing week. The other half of the net revenue shall be retained by the receiving track.
- b. Forty percent (40%) of the net revenue received by the sending track shall be for the benefit of purses at the sending track and shall be disbursed pursuant to the existing contract with the HBPA.
- c. Forty percent (40%) of the net revenue retained by the receiving tracks shall accrue to the benefit of purses at the respective tracks and shall be disbursed pursuant to the existing contract between the respective receiving tracks and the HBPA.
- d. The track settlement between the sending and receiving track or tracks shall be ascertained on a daily basis and a bank transfer or other form of payment as may be agreed upon shall be made on a weekly basis, calculated from the last racing day of the week.
- e. The receiving track or tracks shall keep an accounting of allowable expenses and revenues on a daily basis and shall provide the sending track and the HBPA and the Racing Commission a certified accounting of the revenues and expenses as provided herein.

4. The Track Distribution Fund, the Nebraska Breeder's Fund, shall be paid as follows:

a. Track Distribution Fund. The sending track shall remit the statutory percentage of the handle attributable to the sending track and shall also be responsible for the remittance of the statutory percentage of the receiving track or tracks attributable to the respective receiving track or tracks' handle. The receiving track or tracks shall reimburse the sending track within seven days from notification by the sending track, of its payment of the respective receiving tracks' Track Distribution Fund payment.

b. Nebraska Breeder's Awards and Purse Supplements. The sending track shall be responsible for the payment of the money for purses won by Nebraska-bred horses, pursuant to Sections 2-1207, 2-1207.01 and 2-1213, R.R.S.

5. The sums retained by the receiving track and the rate of pari-mutuel tax to be paid shall be in accordance with Section 2-1227(3), R.R.S.

6. Handle. Only the handle generated at the sending track shall be attributable to the sending track and the handle generated at the receiving track shall be attributable to the receiving track.

7. Outages. The sending track shall retain the uncashed tickets which were sold at the sending track, and the receiving track shall retain the uncashed pari-mutuel tickets sold at the receiving track.

8. The receiving track shall keep an accurate account of their respective actual expenditures for payroll and payroll taxes for security personnel, mutuel employees, and clean-up

personnel during the time races are simulcast by and between the tracks. The above expenditures shall be born equally as between the sending and each receiving track.

9. In the computation of Gross Revenue of the receiving track, for use in calculations as between the receiving and sending track, the \$10 million dollar statutory exemption shall not be considered, nor shall the two percent credit on the first taxable \$90 million dollars, to which Ak-Sar-Ben and Fonner are entitled to retain for capital improvements and maintenance of the premises, or the two percent which the State Fair must apply to the maintenance of its premises, be included in the computation of the pari-mutuel take.

The above shall not apply as to the calculation of the pari-mutuel tax to be remitted to the State by the receiving tracks.

10. It is intended by this agreement that Fonner, Ak-Sar-Ben, Columbus and the State Fair, as sending tracks, will simulcast all of their live races to each of the other four licensed thoroughbred race tracks and that the five licensed thoroughbred tracks will receive and use the simulcast of all of the live races from the respective sending track, unless otherwise agreed in writing.

11. The terms and conditions of this Agreement may not be amended unless by written agreement of the parties whose contractual relationship under this agreement would be altered by such amendment.

SIGNED AND AGREED to this 9 day of February, 1989.

HORSEMENS' BENEVOLENT AND PROTECTIVE
ASSOCIATION ("HBPA")

By: R. E. Lee
~~Joseph M. Muer, Jr.~~

HALL COUNTY LIVESTOCK IMPROVEMENT
ASSOCIATION, INC. ("Fonner")

By: Joseph Muer, Jr.

GOVERNORS OF THE KNIGHTS OF AK-SAR-BEN
("Ak-Sar-Ben")

By: Don Dyer

ATOKAD AGRICULTURAL AND RACING
ASSOCIATION ("Atokad")

By: Michael R. Malone

PLATTE COUNTY AGRICULTURAL SOCIETY
("Columbus")

By: Arfman Sweet

NEBRASKA STATE BOARD OF AGRICULTURE
("State Fair")

By: Les Schere

MEMORANDUM

March 24, 1989

TO: Senate Committee on Federal and State Affairs

FROM: Kansas Legislative Research Department

RE: S.B. 69 and Sub. H.B. 2172

These bills would both amend current statute that regulates when and where bingo can be played in Kansas.

S.B. 69 would allow bingo to be played any number of days per week in premises owned by the bingo operator. The 44 hour minimum time between bingo games in leased premises would remain in effect.

Sub. H.B. 2172 would amend the current limitation on the conduct of bingo games in leased premises to provide that bingo games could not be conducted on leased premises within 1,000 feet of another leased facility in which a bingo game had been conducted during the immediately preceding 44 hours. Under current law an owner-operated bingo facility within 1,000 feet of a leased facility could essentially preempt the use of the leased facility. The bill as amended would allow an owner-operated facility and a leased facility to exist in close proximity, but would continue the current restriction on the frequency of games at neighboring leased facilities.

Sub. H.B. 2172 would also provide that for purposes of the act and rules and regulations of the Secretary of Revenue, announcements of the cancellation of bingo games would not be considered advertisements.

H.B. 2172 as introduced would have changed the maximum number of games that can be held in a single day and the maximum amount of prizes that can be awarded in games of bingo. The total allowable number of games per day would have been increased from 25 to 35 and the maximum number of those games that could be jackpot or special games would have been increased from five to 15. The aggregate amount of all prizes offered on a single day would have been increased from \$1,200 to \$3,800. The maximum prize that could be awarded in a regular game would have been increased from \$50 to \$150 and the maximum prize for a special game would have been increased from \$500 to \$1,500.

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Attachment 3