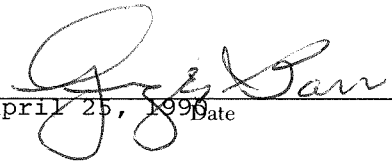


Approved

April 25, 1996 Date



MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

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

12:45 ~~am~~ p.m. on April 7, 1996 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee:

Representative Bill Brady
Allen Bell, President, Kansas Development Finance Authority (KDFA)
Representative Jack Lacey
John Campbell, Deputy Attorney General

SB 596

Representative Brady explained the bill provides local financial support for construction of a conservation camp.

Committee discussion:

1. There are no conservation camps currently in operation. The bill would provide for the camp to be locally owned and operated by Labette County.
2. Representative Brady stated his understanding to be that KDFA has loaned money for other jurisdictions but was unsure if it had loaned money specifically to individual counties. The bonded service indebtedness would be Labette county's and not the state's.
3. The bill is the result of the Conservation Camp Advisory Committee which had worked with Allen Bell since the end of the previous legislative session.

Allen Bell explained this would be the first time that KDFA had directly provided financing for a unit of local government. KDFA has provided funding for the Kansas Water Pollution Control Revolving Fund, an arm of KDHE, which provides funding for sewer projects. This has always been done on a pool basis, never on a one-to-one basis between KDFA and a unit of local government. KDFA statutes allow that KDFA may issue bonds and use the proceeds of the bonds to finance projects and activities of local government but they also prescribe that the authorization to do so must be given by the legislature on a case by case basis. The intent is to avoid financing authority that is inherent in local governments. KDFA has the authority, granted by the legislature, to provide financing for local governments under the Kansas Partnership Fund program.

Committee discussion:

1. The county could finance this project by issuing general obligation bonds. The county had originally asked that the Department of Corrections provide the funding. It is a compromise between what was desired by the county and what was desired by the state. The county would be the obligor so in many ways it is not a bond issue of the county as it is not using its statutory authority or administrative procedures to carry out the issue. The county may not want to issue general obligation bonds or have it count against its debt ceiling.
2. There would be no legal recourse or action to the state in the event that the county would not fulfill its obligation. Financing would be set up as lease-purchase financing. The KDFA would serve as the lessor. It would issue bonds and use the proceeds to construct the project and then the county would enter into a lease agreement with KDFA. The county plans to make its lease payments to KDFA from the grant payments it

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receives through the conservation camp program. The county understands that if the legislature would "de-fund" that program in the future, it is its obligation to continue payments or pay off the lease.

3. The conservation camp is an alternative to incarceration involving some academic training and community works activity conducted in a military style.
4. The amount projected for the cost of the facility would be \$1.6 million.

Representative Lacey explained the county is not against its debt ceiling but it had some other projects it wanted to initiate. This is a compromise agreement with the Department of Corrections (DOC).

Committee discussion:

1. Though the camp will be locally owned and operated, Department of Corrections will contract for 90% of the inmates served at the camp.
2. The legislature has already passed a bill to provide for protection of prisoners in case of injury and provide a means of accomplishing public works as well as the DOC being able to mainstream inmates.
3. Approximately 30 jobs will be created by establishing this facility.

Representative Douville moved to recommend the bill favorably, seconded by Representative Peterson. The motion was adopted.

Representative Jones moved to recommend HB 3078 favorably, seconded by Representative Peterson. On a point of order, a member stated the chairman has the right to determine the order of the agenda. There was brief discussion regarding committee rules at which time Chairman Barr stated the committee would recess to review the rules. Attention was drawn to the agenda which, in addition to specific bills to be heard, reads, "Discussion and action on any bill previously heard may occur at any time when called for by the Chairman." Chairman Barr announced her intention to proceed with the hearings on the two bills on the agenda in addition to having discussion on SB 609 and HB 3078. The chairman had notified the executive director of the Kansas Racing Commission (KRC) in anticipation of such discussion. Representatives Jones and Peterson withdrew the motion and second.

SB 756

John Campbell explained the bill would permit Kansas to receive the unclaimed property of any individual or political entity, whose last known address was Kansas, and is currently held by out of state brokerage or security firms, Attachment No. 1.

Committee discussion:

1. The State Treasurer administers the Unclaimed Property Act. Mr. Campbell stated the treasurer is in support of the bill and her office was represented at the hearing in the senate.

Chairman Barr explained the meeting was called under House Rule 1301, Attachment No. 2. Conferees were contacted late last night and the chairman stated some, who might have otherwise testified, were not in attendance due to the short notice and the day being Saturday.

2. The bill could result in approximately \$10 million being returned to the State of Kansas. If the owners of the unclaimed property can be found, the principal will be returned with the state keeping the interest.
3. The primary attorney in the litigation is Dean Jackson, University of Virginia, who advised the more restrictive the law regarding the return of unclaimed property, the more scrutiny it will be given and the greater probability of invoking federal common law for distribution of monies.
4. "Business association" in line 17 is intended to cover the brokerage firms currently holding the money.
5. Mr. Campbell was unaware if SB 756 had been reviewed outside the context of the current lawsuit against the State of New York.
6. Mr. Campbell contended the bill was mostly cleanup as the state already receives many kinds of intangibles and there are specific laws that apply to bank receipts and dividends.

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7. Last year, the law applying to unclaimed property was reduced from seven years to five. The intent of the three year restriction in this bill is to apply only to the unclaimed property held by out of state brokerage or security firms.
8. The legislation is the same as current intrastate legislation other than the three year limit.

Representative Sebelius moved to report SB 756 favorably, seconded by Representative Douville. The motion was adopted.

SB 609

A member recognized the dissent of the American Legion and its inability to compete with larger bingo facilities but called the bill a reasonable compromise between current law which excludes a number of groups and what has been suggested as necessary to compete with prize limits in other states as well as the Indian reservations. Representative Sebelius moved to recommend the bill favorably, seconded by Representative Peterson. Concern was expressed that the bill seems to benefit only the owners of large bingo halls. Representative Ensminger offered a substitute motion to table the bill, seconded by Representative Long. Division was called and the majority vote was to table the bill.

HB 3078

Chairman Barr recognized Dan Hamer, acting Executive Director, of the Kansas Racing Commission (KRC) and Harry Anthony, D.V.M., Chairman of the KRC. A copy of selected material from the interim report of the Special Committee on Federal and State Affairs/Governmental Organization was drawn to the attention of the committee, Attachment No. 3.

1. In an attempt to establish a chronology, Chairman Barr read aloud the second paragraph on page 382 of the report noting the committee's lack of recommendation on simulcasting and the further recommendation that the legislature refrain from the implementation of such legislation until the KRC had completed its examination of the issue.
2. Next she referred to the letter from Jimmy Grenz, dated November 8, 1989, (Attachment No. 9A, April 4, 1990 minutes) in which he stated the KRC was studying the issue and would be interested in viewing any proposed legislation or participation in the drafting of such legislation.
3. In view of the aforementioned, Chairman Barr explained that in her meeting with the horsemen, she stated due to the events of the interim, she wanted to be sure the bill had the approval of the KRC and the committee would probably be comfortable in introducing the bill as a courtesy to the KRC.
4. Dr. Anthony came before the committee on February 27, 1990, requesting introduction of permissive legislation for simulcasting (Attachment No. 1, minutes of February 27, 1990) and submitted a copy of a motion from the February 9, 1990, meeting of the KRC (Attachment No. 1A, minutes of the February 27, 1990 meeting) in which it supported introduction of the legislation. Chairman Barr stated she was then under the impression that the KRC had studied the issue, was supporting the bill and could come to the legislature with the explanation of what was going to be done.
5. Attachment No. 4 is a brief transcription from the tape of the April 4, 1990, meeting of the committee in which Warran Wiebe, Assistant Attorney General assigned to the KRC, stated the KRC had no position on the measure.

The chairman asked Dr. Anthony to clarify if the KRC was backing the bill. She restated her perception to be that the KRC was supporting the bill and reacknowledged her awareness of the horsemen's support of the bill.

Dr. Anthony responded, "The Kansas Racing Commission did vote to send the simulcasting question on to the legislative arm of government. As far as the Commission voting on simulcasting, as such, we did not vote on that particular amendment."

Chairman: "You did not vote on this particular bill?"

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Dr. Anthony: "We have not voted on the bill for simulcasting for Kansas nor have we voted to suggest to the legislature committee that they vote for the simulcasting or in favor of simulcasting. What I am saying, we have considered it, we understand it and I do know that there were --- the vote was five to nothing to send it on to the legislature."

Committee discussion:

- Q. I just wanted to be clear. Evidently what the position of the KRC is and what your vote was, was that it was a legislative decision rather than a decision that you were going to make.
- A. It was simply like this, that the Commission itself cannot vote on the problem er, the issue of simulcasting.
- Q. So as a Commission, you neither endorse nor oppose simulcasting.
- A. We sign off as legislative _____.
- Q. So you voted to pass the buck to the legislature.
- A. Yes.
- Q. My understanding that the horse industry requested the piece of legislation first. Is that true?
- A. They came before the Commission and talked to us about simulcasting. They are in favor of it and the Commission is quite aware.
- Q. They came to the legislature and requested that bill, is that correct? It wasn't introduced and they came back because they were told it was too late in the session for individual bills and that accommodation was only given to state agencies. So they came back and that's how the KRC came over and requested that the bill be introduced. Is that correct?
- A. I believe that is correct.

Chairman Barr explained Dr. Anthony was not present at her meeting with Jack Foster of Kansas Thoroughbred Association. She explained that Mr. Foster had requested the committee introduce a bill on simulcasting. The date of the meeting was February 27th, past the deadline for introduction of bills by individuals. She again referred to the interim report Attachment No. 3 (page 382) and the recommendation of the majority report that no legislation regarding simulcasting be introduced until requested by the KRC. Chairman Barr explained to Mr. Foster that if the KRC was in favor of the proposal, and he could obtain its support, that was the only way the House Committee on Federal and State Affairs would introduce the legislation. She referred to Pete McGill's testimony of April 4, 1990 Attachment No. 9B, p. 6) and read beginning from Mr. Foster's remarks at the bottom of the page through Commissioner Martin's response at the top of the following page.

A member commented the discussion should be read through Commissioner Schroeder's comments as Mr. Foster continued to press the issue.

- Q. Can I ask some questions about the specifics of the bill? Page two, line 20 - Do you have to file rules and regulations with the Rules and Regulations Committee for some oversight or is it the sole discretion of the Commission?
- A. The Rule and Regs Committee should make a report to the Commission and the Commission act on that. Now are you speaking of the Legislative Rules and Regs? (Response: Yes) Well, I'm sorry.
- Q. In other words, with enactment of this bill, are we placing the total discretion with the Commission or do they fall under the rules and regs and then would that go to the Rules and Regs Committee for some oversight of responsibility?
- A. Staff responded that if they (KRC) do adopt rules and regs, it would have the same oversight by the Rules and Regs Committee as any other state agency.
- Q. Does the Commission simply establish what they wish to establish and then they would have to submit to the Rules and Regs Committee for oversight or do they simply issue their determination of how they are going to operate it and that's it?

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- A. (Staff) I'm not sure whether it would have to be done by rules and regulations. I'm not sure what kinds of limitations these involve.
- Q. As I read this, we are putting total discretion with the Commission and is that the pattern we have followed in other similar - well, obviously we haven't done simulcasting previously but I'm wondering if we have a provision in here for some type of oversight so that we are sending it --- that we are having whatever they issue subject to the rules and regs. Subject to rules and regs as some type of legislative oversight over that by the Rules and Regs Committee. I'm kind of curious why that is absent.
- Q. Doctor, the other day when we had hearings, the gentleman, Mr. Foster from the Thoroughbred Association
- A. Jack Foster
- Q. was here to testify briefly. He said his association had put together the wording of this, was my recollection. What I want to know is, has the Commission or Commission staff reviewed the language of HB 3078?
- A. Yes, I'm sure we have. I think we all have copies and it has been reviewed.
- Q. In that review, has it been conformed to Kansas law and provisions of our parimutuel statutes?
- A. To the best of my knowledge, it has been.
- Q. May I ask then, sir, why there are words in here which don't appear in any other parimutuel statutes that are undefined either in the bill or in others. For example, staff member, Mary Torrence, has a memo in front of you (Attachment No. 5) shows, for example the term, "first racing licensee" is not a term defined in current law. We don't have such a creature.
- A. I can't _____
- Q. Why is, and I agree with the previous member, I have never seen an agency given "absolute discretion" before. Has that been reviewed? Do you know?
- A. I do not.
- Q. Do you know if Mr. Wiebe or any of your attorneys have gone over this bill?
- A. Yes, they have.
- Q. Have they made any recommendations to the Commission?
- A. I don't know if they have.
Mr. Hamer - I'm not aware that staff, legal staff, has submitted any comments as to the wording in HB 3078.
- Q. O.K. so you are not aware of anything and Dr. Anthony, I assume you are not aware of anything either.
- A. I am not at this time.
- Q. In essence then, it appears that if you are not aware of anything, I think exactly what another member said happened, happened and that was that the Thoroughbred Association, being a problem of getting the bills in under our deadlines here, requested your facility in requesting this bill. It was brought up here without recommendation of the Commission one way or the other.
- A. The only recommendation was that it be referred to the legislature.
- Q. In other words, you just facilitated its entry into this forum.
- A. That is correct.
- Q. But as far as you know, as far as staff knows, no further work has been done on it. What reports have you put together or studies have you put together on simulcast as a Commission? Or as a staff?
- A. As a Commission, I don't know that they have put a report or a study together. We have, each one of the commissioners, received information on simulcasting. Simulcasting where it is present in other states and relative to its success or what it has done for the racing industry in those states.

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- Q. Has staff put together any types of reports on simulcast at all?
- A. Chairman Barr directed the attention of the committee to a staff memo from the Research Department, Attachment No. 6. It was read aloud by the questioner. To Dr. Anthony - Have you seen a copy of this from Mary? She has given you a copy, I assume.
- A. I uh (pause to read). I would say this is correct.
- Q. O.K. so Mary Galligan's statement is correct there are three thick notebooks of information but no study or summary has been done. How much time, if any, has the Commission in official meetings taken on the study and/or discussion of simulcast?
- A. We have heard the industry, horse racing industry, present their findings and their observations on simulcasting. We have also received information from other states where simulcasting is being used.
- Q. Have you requested of the attorney general's office any work either on the staff level or on the attorney general's level to put together any legislation at all, since I assume the Commission realized it couldn't initiate it on its own?
- A. I don't know of any. Dan (Hamer), am I correct?
- Hamer - Madam Chairman, I am not aware of any request to the attorney general's office for assistance.
- Q. (To Mr. Hamer) -Did you understand the question I had as to the request of the attorney general's office for legal staff, in essence, to work on preparing some type of legislation since the Commission can't do it on its own under existing statutes?
- A. To my knowledge there has been no formal request made.
- Q. (To Mr. Hamer) Has any work been done in that regard, to your knowledge?
- A. Uh, not - nothing of any substance I am aware of.
- Q. One last question. Dr. Anthony, I would take it that it would be your opinion that legislation should be looked at by the legislature, otherwise you wouldn't be here today. Were it to be recommended for interim study so that solid work could be done on it in cooperation with the Commission, would you be supportive of that type of step?
- A. I would be supportive.
- Q. You would support that?
- A. Yes.

Representative Aylward moved to remove the preamble from the bill, seconded by Representative Douville. It was noted it was based on legislation from another state but unusual in Kansas law. Representative Sprague made a substitute motion to recommend the bill for interim study, seconded by Representative Wagnon. A member recognized the desire of various members of the committee to work on the legislation but sug
late in the session to begin working the bill. In light of the recommendation, from the interim committee, the cooperation of the KRC, as experts, could accomplish a "good piece of legislation". Another member opposed the motion stating the simulcasting concept is narrowly drawn in the bill allowing only for a contract on specific races. He stated it had no intrastate, only interstate, ramifications. Greyhounds are not included. He suggested the bill only allows for simulcasting as a marketing tool. Another member stated support of the motion explaining nothing heard from the KRC during this hearing would indicate it is ready to begin regulation of simulcasting upon publication in the statutes. Division was called, the majority vote defeated the motion. Representative Bryant requested to be recorded as abstaining. Representative Peterson made a substitute motion to report the bill favorably, seconded by Representative Roper. There was brief discussion on whether the bill should be worked in committee or on the House floor. One member noted the portion of the bill granting the KRC "absolute discretion" and suggested the motion be withdrawn to permit the bill to be worked in committee. The suggestion was declined. Division was called, the majority voting against the motion. Representative Sprague moved to table the bill and the chairman be directed to request an interim study on the issue, seconded by Representative Aylward. The motion was adopted.

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Representative Jenkins moved to approve the minutes of the March 27 and March 28, 1990 meetings of the committee, seconded by Representative Sprague. The motion was adopted.

The meeting adjourned at 1:55 p.m.

There are no further meetings scheduled though the committee may be called at any time by the chairman.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

TESTIMONY OF
DEPUTY ATTORNEY GENERAL JOHN W. CAMPBELL
ON BEHALF OF ATTORNEY GENERAL ROBERT T. STEPHAN
TO THE HOUSE FEDERAL AND STATE AFFAIRS

RE: SENATE BILL 756

April 8, 1990

Madam Chairman and Members of the Committee:

My name is John Campbell. I am a Deputy Attorney General for the State of Kansas. Attorney General Robert T. Stephan has asked me to testify in support of Senate Bill 756.

In May of 1988, the State of Delaware sued the State of New York in an original action before the United States Supreme Court. In that suit, Delaware alleged that unclaimed moneys and other intangible properties, held by New York City brokerage and security firms should go to the state in which the firms are incorporated (Delaware). New York alleged that such unclaimed property should go to the state in which the firms have their principle place of business (New York).

In April of 1989, Kansas and twenty-three other states intervened in the suit. Our position is that the property held by New York, and all future unclaimed properties held by New York brokerage and security firms should be returned to the state which the person having a claim on the money was

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last known to reside. In cases where a political entity issued the intangible property that property would be returned to the state in which the entity is located. This would provide a much greater probability of finding the rightful owner of the property.

It is estimated that between 200 million and one billion dollars worth of this type of unclaimed property is currently held by New York. If distributed on a pro rata basis, Kansas would be entitled to between two and ten million dollars. In addition, future unclaimed properties could be returned to Kansas.

This case is still in the discovery phase of litigation. However, it has become clear that New York will maintain that Kansas and other states have no law which allows them to receive this money. Senate Bill 756 would correct that situation and deny New York one of its legal arguments. The states of Hawaii, West Virginia, Utah, and Iowa have already adopted this legislation.

Attorney General Stephan urges this committee to adopt Senate Bill 756.

DEBARA K. SCHAUF
REPRESENTATIVE, EIGHTY-FIRST DISTRICT
MORGAN, LEWIS AND SUMNER COUNTIES
P.O. BOX 68
MULVANE, KANSAS 67110
(316) 777-4608



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENT
MEMBER LABOR AND INDUSTRY
FEDERAL AND STATE AFFAIRS
COMMERCIAL AND FINANCIAL
INSTITUTIONS
JOINT COMMITTEE ON ADMINISTRATIVE
RULES AND REGULATIONS

Mr. Speaker: & Madam Chairman:

Persuant to House Rule 1301 we, the undersigned members of the House Federal and State Affairs Committee request that a meeting of said committee be held on April 7, 1990 for the purpose of considering action on bills previously heard by the committee.

Signed:

Debara K Schauf
Kenneth King
John
Al Raming
Michael Peterson
Sherman Owen
Aldie Erminger
T.J. (Sam) Hopper
Kathryn Sughrue

AH. 2
4/7/90

RE: PROPOSAL NO. 28 -- PARIMUTUEL WAGERING*

The Special Committee on Federal and State Affairs/Governmental Organization was directed to review policies that govern parimutuel wagering including simulcasting of races, function and operation of the Kansas Racing Commission, disclosure of Kansas Bureau of Investigation reports about license applicants, and statutory limitations on wagering. The Committee's charge encompassed four distinct areas each of which is discussed separately.

Background

Simulcasting Races

In 1988 the Attorney General issued an opinion (Attorney General Opinion No. 88-116) that stated the Kansas Parimutuel Racing Act does not permit simulcasting between licensed racetrack facilities. In that opinion, the Attorney General stated that simulcasting to licensed racetrack facilities is not off-track betting so would be permissible under the Kansas Constitution.

1989 S.B. 347 would allow simulcasting of races, defined as telecasting of live audio and visual signals of horse or greyhound races for the purpose of parimutuel wagering. The bill would allow licensees to apply to the Racing Commission for simulcast facility licenses. The sending track would not be required to have a license to originate the broadcast, and would not have to be located in Kansas. The bill was in the Senate Committee on Federal and State Affairs at the end of the 1989 Legislative Session.

S.B. 347 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

* S.B. 428, S.B. 429, and S.B. 430 accompany this report.

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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.

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 would be required to apply for a simulcast license jointly.

The Kansas Racing Commission would be authorized 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. 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.

Arrangements between sending and receiving tracks would be exempt from two provisions of the Parimutuel Racing Act, K.S.A. 1988 Supp. 74-8813(o) and (p). K.S.A. 1988 Supp. 74-8813(o) prohibits organization licensees from turning over to anyone else the parimutuel wagering system or the conduct of races. Subsection (p) of the statute allows the organization licensee to enter into contracts for services based on a percentage of the amount wagered only for facility rental and for

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management provided by a licensed facility manager. Any such contracts would have to be approved by the Racing Commission.

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.

Function and Operation of the Kansas Racing Commission

The Commission operates within the framework provided by the Kansas Parimutuel Racing Act and the rules and regulations adopted by the Commission under authority of that Act. The Commission has latitude to conduct its activities in a manner it deems appropriate within that framework.

One of the controversial issues regarding operation of the Commission is a provision in the Kansas Parimutuel Racing Act that exempts the original grant or denial of organization, facility owner, and facility manager licenses from the Kansas Administrative Procedure Act (KAPA). The exemption was provided as an amendment to the Act in 1988. The same bill provided for limited and expedited judicial review of decisions to issue or deny such licenses.

The House Committee on Federal and State Affairs introduced 1988 H.B. 2776. As introduced, the bill would have amended KAPA by exempting the parimutuel licensure procedure from KAPA. Committee minutes do not indicate who requested introduction of the bill. Testimony of Jim Grenz, Executive Director of the Commission, stated that the bill was not requested by the Commission.

The bill was referred to the House Committee on Federal and State Affairs and received a hearing at which Mr. Grenz and Denny Burgess, who represented Sunflower Racing, Inc., were the only conferees. The Commission's position on the bill was ambivalent and Sunflower Racing, Inc. supported the bill. After the hearing, the bill was referred to a subcommittee of Representatives Ramirez and Sprague chaired by

and representatives of the Attorney General's Office testified on August 16 and 17 on those same matters. The hearings in August were lengthy and the testimony detailed, so the Committee had verbatim transcripts made of the proceedings. The hearing on October 23 was in regard to simulcasting and limitations on wagering.

Simulcasting Races

On October 23 the Committee conducted a hearing on simulcasting and limitations on wagering. Conferees who appeared at that hearing included: Jim Grenz, Executive Director of the Kansas Racing Commission; Richard Boushka, Sunflower Racing, Inc.; Jonathan Small, Rooks and Greenwood County Fair Associations; Helen Stout; and Pete McGill, Wichita Greyhound Park. All of the conferees except Mr. McGill supported institution of simulcasting in Kansas relatively soon. When he appeared before the Committee on August 3, Mr. John Gaffney, Anthony Fair Association, encouraged the Committee to study the benefits of simulcasting and stated that the Anthony Fair Association supports simulcasting at licensed tracks in Kansas. Mr. Peter Loriaux, former member of the Racing Commission Advisory Committee, spoke in favor of implementation of simulcasting when he appeared before the Committee on August 17.

Mr. Grenz informed the Committee that the Racing Commission would support permissive legislation with regard to simulcasting if the technical aspects of implementation were developed by the Commission through rules and regulations. Further, the Commission would be interested in reviewing or participating in drafting proposed simulcasting legislation. He pointed out that the cost of conducting live race meetings is very high and that simulcasting could be a way for the county fair tracks to offset their live racing costs. Mr. Grenz identified a number of potential problems with simulcasting which the Commission has not yet had an opportunity to discuss. Among those potential problems are distribution of the take out, contractual arrangements between the sending and receiving facilities, and treatment of interstate and intrastate parimutuel pools.

Mr. Boushka proposed amendments to 1989 S.B. 347 that would make the National Greyhound Association of Abilene, Kansas, a party to agreements between the receiving and sending tracks submitted to the Racing Commission. Other amendments proposed by Mr. Boushka would require that purses for intrastate simulcast races be computed using the combined parimutuel handle from wagers placed at both tracks. In addition, interstate simulcast wagering would have to be conducted in compliance with the Interstate Horse Racing Act of 1978 (U.S.C. title 15, Sec. 3001, et seq.) and agreements regarding division of purses for

greyhounds at either the sending or receiving track or both would have to be clearly defined in a written agreement among the sending and receiving tracks and the National Greyhound Association.

Ms. Stout pointed out the need for protections for greyhound owners similar to those currently in federal law for horse owners. The Committee was informed that on October 6 Congressman Jim Slattery introduced H.R. 3429, the Interstate Greyhound Racing Act of 1989 and that an identical bill, S. 1734, was introduced in the Senate by Senator John Breaux of Louisiana. In a letter from the Congressman provided to the Committee the bill was summarized as follows:

H.R. 3429 would extend to greyhound owners the same legal protections provided horse owners by the Interstate Horse-racing Act of 1978. H.R. 3429 would prohibit interstate off-track wagering unless all the parties involved in racing -- the track, the greyhound owners, the off-track betting interests, and the racing commission of the involved states -- agree, either directly or indirectly regarding the terms and conditions of such wagering.

Mr. McGill encouraged the Committee to be cautious about authorizing simulcasting at this time. He identified a need to analyze the current status of the racing industry in Kansas and to resolve any problems prior to introducing a new element. Identification of the person responsible for paying for simulcasting is one of the issues that must be explored. He said the state should not be in a hurry to get into simulcasting because it can always be done later.

Function and Operation of the Kansas Racing Commission and Disclosure of KBI Reports

The bulk of testimony on these portions of the Committee's charge was provided on August 3, 16, and 17. Conferees who appeared on August 3 included: John Daveline, member, Board of Directors, Fairground Parimutuel Racing; Bob Gottschalk, Kansas State Fair; Joel Rhodes, Pittsburg; John Spurling, Girard; John Gaffney, Anthony Fair Association; Joseph Steineger, Mayor of Kansas City; Brent Scott, TRAK-SE; David McLane, TRAK-SE; Davis Merritt, Executive Editor, Wichita Eagle-Beacon; David Schoenstadt, M.D.; Gene DeGruson, President, The Little Balkans Foundation, Inc.; William Ouseley, Security Consultant, The Little Balkans and Camptown Racing; Cale Hudson, Consultant, Camptown Development, Inc.; Dr. Dwight Blackwood, President, Camptown Development, Inc.; Teri Tharp, Secretary-Treasurer, Camptown

Development
Stockholder,
and David F

Among
following:

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In the letter clarifying the Commission's position, the Executive Director of the Commission noted that he misinterpreted the Commission's position and for that reason his testimony to the Committee may have been misleading.

In light of the Commission's position on this issue, the Commission does not make any recommendation regarding simulcasting at this time. Further, the Committee recommends that the Legislature refrain from considering legislation that would implement simulcasting until the Racing Commission completes its examination of the issue.

Function and Operation of the Kansas Racing Commission

The Committee requested that the Judicial Council review the KAPA issue. Specific questions that the Committee asked to have addressed prior to the start of the 1990 Legislative Session include:

- If KAPA and full judicial review procedures were available, how much time would be added to the original licensure process including all avenues of appeal?
- If the appropriate sections of the Act were amended to restore coverage by KAPA at this time what impact would that action have on licenses already granted?
- If a current owner or manager licensee relinquishes the license and another owner or manager license is granted by the Commission to operate the same track for the same organization licensee, would the second license be an "original" license?
- Is there any conflict in giving the Commission broad discretion in granting licenses and application of KAPA to the process?
- Would application of KAPA to the original grant or denial of a license require, prior to granting the license, a formal hearing before the Racing Commission during which there would be opportunity for examination and cross examination?
- Would application of KAPA to the grant or denial of an original license have any impact on release to the

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included: Jim Grenz, Executive Director of the Kansas Racing Commission; Richard Boushka, Sunflower Racing, Inc.; and Pete McGill, Wichita Greyhound Park.

Mr. Grenz raised a question about the appropriateness of the policy that prohibits wagering by certain persons statewide. The Commission would favor prohibiting wagering only by those persons who can have a direct impact on the outcome of a race. The Commission has no position on 1989 H.B. 2563, but Mr. Grenz expressed his willingness to work with the Committee to develop acceptable statutory language.

Mr. Boushka characterized the existing prohibition as unenforceable and supported the Racing Commission's position. He suggested that tracks should be responsible for instituting rules required for proper employee supervision.

Mr. McGill indicated support for legislation that would allow track employees who cannot directly influence a race to place wagers.

During Committee discussion of the issues involved in parimutuel wagering in Kansas, the matter of direct involvement of legislators in the racing industry was raised. The Committee requested and was provided with information regarding legislative codes of ethics from several other states. After preliminary discussion of legislative ethics in the context of this proposal, the Committee chose to report on that issue in connection with Proposal No. 24 -- Legislature -- Structural Improvements.

Conclusions and Recommendations

Simulcasting of Races

The Commission acknowledges the Commission's position as clarified in a letter to the Committee Chairperson November 8, 1989. That position is as follows:

The commission has an interest in the subject of simulcasting and the commission is studying it presently. The commission would be interested in having the opportunity to view any proposed legislation or participate in the drafting of any possible legislation in this regard.

EXCERPT FROM THE APRIL 4, 1990 MEETING OF THE COMMITTEE

Warran Wiebe, Assistant Attorney General assigned to the Kansas Racing Commission in response to a question from Representative Douville during committee discussion in which he asked Mr. Wiebe what he thought the position of the Kansas Racing Commission (KRC) was (on simulcasting).

"Warran Wiebe, Assistant Attorney General. My client is the Racing Commission. I have been given a one sentence summary by their (the KRC) administrative side to repeat if I was asked this question and that's all I can provide. The sentence is, 'Dr. Anthony, representing the Kansas Racing Commission, supported simulcasting in general. The KRC, or the Kansas Racing Commission, has no position on this particular measure.' That is the representation that I have been asked to make to this commission today from the Racing Commission, who obviously are not here."

Representative Douville - Then they are not in a position at this time to tell us whether this is good or bad or what we should be concerned about at this time, is that true?

Wiebe - They haven't authorized me to make a comment to that _____.

Representative Charlton - You mean the KRC is not yet ready to oversee and administrate the operation (simulcasting)?

Wiebe - That may be one interpretation. All I am authorized to state on their behalf is to make that statement not offer opinions other than that statement.

Att 4
4/7/90

TO: Representative Ginger Barr
FROM: Mary Torrence, Assistant Revisor of Statutes
DATE: April 6, 1990
RE: House Bill No. 3078, Simulcasting



The following are a few problems I have noted with House Bill No. 3078:

(1) The terms used in the bill need to be changed to be consistent with those defined in the Kansas Parimutuel Racing Act. For example, the terms "track," "racing facility" and "horse racing licensee" are not terms used or defined in the current law.

(2) It is unclear as to who holds the simulcast license. Section 2 says that either the organization licensee or the facility owner licensee may apply for the license and, if the facility owner licensee applies, the organization licensee must "join" in the application. There is no comparable provision for approval by the facility owner licensee if the organization licensee unilaterally decides to apply.

(3) The relationship of this act to the Kansas Parimutuel Racing Act is not clear. Section 3(a) provides that the licensee is subject to all "appropriate provisions" of the current law. Does this mean that, under section 7 of the bill, the amount provided for purses under K.S.A. 1989 Supp. 74-8820 will be deducted from the licensee's 50% and that the other 50% also goes for purses? Also, where are overhead expenses provided for? Will they be taken from the organization licensee's 50%? If so, will anything be left for charitable purposes?

Att. 5
4/7/90

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

Room 545-N - Statehouse

Phone 296-3181

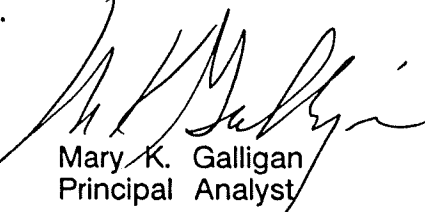
April 6, 1990

TO: Representative Ginger Barr

Office No. 115-S

RE: Racing Commission Study of Simulcasting

As you requested, I contacted Dan Hamer, the Executive Director of the Racing Commission regarding its study of simulcasting. Mr. Hamer informed me that there are three thick notebooks of information at the Commission's office. However, the Commission has not presented a formal study, a summary has not been developed, and no conclusions have been reached.



Mary K. Galligan
Principal Analyst

MKG/jl

Att. 6
4/9/90