

Approved 3-21-91
Date

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs

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

11:00 a.m./p.m. on March 19, 1991 in room 254-E of the Capitol.

All members were present ~~except~~:

Committee staff present:

Mary Galligan, Legislative Research Department
Mary Torrence, Office of Revisor of Statutes
Deanna Willard, Committee Secretary

Conferees appearing before the committee:

Mr. Dana Nelson, Executive Director, Kansas Racing Commission
Mr. David Enos, Wichita Greyhound Park
Ms. Debbie Schauf, Executive Director, Kansas Horsemen's Association

Senator Moran requested a bill introduction which would allow the Secretary of Corrections to enter into land leases to allow for oil and gas exploration.

A conceptual motion was made by Senator Bond and seconded by Senator Strick to introduce the bill. The motion carried.

A bill request was made by Senator Martin concerning the delivery date of tax rolls to the country treasurer, Draft 1 RS 1298.

A motion was made by Senator Anderson and seconded by Senator Bond to introduce the bill. The motion carried.

A request was made for a bill introduction that was a compromise between law enforcement, corrections, and the Attorney General's office on SB 253. (Attachment 1)

A motion was made by Senator Anderson and seconded by Senator Strick to introduce the bill. The motion carried.

A request was made for a bill introduction by the Kansas Chapter of the International Association of Arson Investigators concerning time limitations on prosecutions for certain crimes, Draft 1 RS 1383.

A motion was made by Senator Strick and seconded by Senator McClure to introduce the bill. The motion carried.

Hearing on: SB 375 - Amends the Kansas Racing Act.

Mr. Dana Nelson, Executive Director, Kansas Racing Commission, appeared in support of the bill saying it was requested on behalf of the Commission to amend several sections of the Kansas Parimutuel Racing Act as a result of having had significant practical experience in the regulation and administration of racing in the state. (Attachment 2)

He stressed that timeliness of enforcement was very important and that KAPA has tied their hands in some cases. He said in many states minor infractions are routinely handled by stewards. Serious violations would come to the commission, such as dangerous riding by a jockey. He said the Jockey's Guild supports the change; that waiting 10 days is very cumbersome.

Employees would have the opportunity to participate in KPERS; costs would be billed back to the track. If a track should close, those

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs,
room 254-E, Statehouse, at 11:00 a.m./~~p.m.~~ on March 19, 19 91

persons would not be maintained on the payroll and, thus, would no longer be state employees. He said that some are receiving allowance now for social security, etc., so the actual increased cost to the track would be slight. He wants to find out current take home and see that they receive the same take home if they are state employees.

If the outcome of a race is questioned, the decision is made by a judge at the track. Many Kansas racing people have come from other states and have considerable racing experience. There is a conception that Kansas doesn't enforce its regulations very closely because they are so cumbersome.

Mr. David Enos, Chief Racing Judge, Wichita Greyhound Park, said he has been in Kansas since Wichita opened. He likes many things about KAPA; it insures due process, though the time delays that are experienced by judges at the track make timely enforcement difficult. A hearing cannot be scheduled until 10 days after a violation (or 13 days if notice must be given by mail); another 30 days are allowed before any order can be effected. Transient greyhound people can be gone long before action can be taken. He said he considers himself a full-fledged employee; he works six and seven days a week; he is not an individual contractor.

Ms. Debbie Schauf, Executive Director, Kansas Horsemen's Association, said they had agreed to support allowing added money for stakes to be a part of minimum purse calculation, but only if the amount of minimum purse applied to stakes races would not exceed a percentage (to be determined by racing commission) of the total 6/18's. Also, there was an oversight when the bill was drafted that should be changed to make possible awards in win, place, or show position. (Attachment 3)

The minutes of the March 14 and March 18 meetings were approved.

The meeting was adjourned at 12:00 noon.

GUEST LIST

COMMITTEE: Sen. Fed + State

DATE: 3-19-91

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Tosha Garrison	Oberlin, KS	Close Up Kansas
Therese Erickson	" "	" "
Melissa Chaffin	Oberlin, KS	"
BRUCE OTTER	Oberlin, KS	Close Up Kansas
Roland A. LeKay	Burton, KS	Close-up KS
DICK TAYLOR	TOPEKA	LIFE AT ITS BEST
Jim Smith	Meade KS	Close-up KS
John Martin	Meade KS	Closeup KS
David Emig	Meade KS	Close-up KS
Andy Lamb	Meade Kansas	Close-up Kansas
Alan Fyke	Meade KS	Close-up KS
Angela Woodruff	Meade, KS	Close-up KS
Ara Schnelle	Meade, KS	Close-Up Kansas
Denny Burgess	Topeka	Sunflower Racing
Shelly Moore	COLBY KS	CLOSE-UP KANSAS
Richard Crouse	Colby, KS	Close-up Kansas
Tim Barclay	Haven, KS	Close-up Kansas
Patricia R. O'Neil	Haven, KS	Close-Up Kansas
Stacy Kootz	Haven, KS	Close-up Kansas
Christine LaPinto	Haven, Kansas	Close-up-Kansas
JEFF D. SLOAN	COLBY, KS	CLOSEUP KANSAS
Janet French	Colby KS	Close Up Kansas
Joni Stuart	Colby KS	Close up Haven
Stephanie D. Allen	Gorham KS	Close-Up Kansas
Nicole A. Chauat	Wilson, KS	" " "
Angela Hiley	Jenkinson KS	ARC/KS

Karen S. Tolle Topeka, Ks.

SENATE BILL No. 253

By Committee on Public Health and Welfare

2-19

Senate F & SA
3-19-91
Att. 1

8 AN ACT concerning certain infectious diseases; authorizing a court
9 to order tests for such diseases in certain circumstances and au-
10 thorizing disclosure of certain information; amending K.S.A. 1990
11 Supp. 65-6001 and 65-6004 and repealing the existing sections;
12 also repealing K.S.A. 22-2913.
13

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

15 Section 1. K.S.A. 1990 Supp. 65-6001 is hereby amended to read
16 as follows: 65-6001. As used in K.S.A. ~~1989~~ 1990 Supp. 65-6001 to
17 65-6007, inclusive, and amendments thereto *and sections 3, 4 and*
18 *5 and amendments thereto*, unless the context clearly requires
19 otherwise:

20 (a) "AIDS" means the disease acquired immune deficiency
21 syndrome.

22 (b) "HIV" means the human immunodeficiency virus.

23 (c) "Positive reaction to an AIDS test" means a positive screening
24 test, approved by the secretary, indicating infection by HIV, with
25 a positive specific test as specified by the secretary comprising con-
26 firmed analytical results which are evidence of HIV infection.

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

28 (e) "Physician" means any person licensed to practice medicine
29 and surgery.

30 (f) "Laboratory director" means the person responsible for the
31 professional, administrative, organizational and educational duties of
32 a laboratory.

33 (g) "HIV infection" means the presence of HIV in the body.

34 (h) "Racial/ethnic group" shall be designated as either white,
35 black, Hispanic, Asian/Pacific islander or American Indian/Alaskan
36 Native.

37 (i) "~~Law enforcement officer~~" means ~~police officer or law~~
38 ~~enforcement officer as such terms are defined under K.S.A. 74-~~
39 ~~5602 and amendments thereto.~~

40 (i) "Corrections officer" means an employee of the department
41 of corrections as defined in subsections (f) and (g) of K.S.A. 75-
5202 and amendments thereto.

(j) "Emergency services employee" means an attendant or first

, and unit teams.

responder as defined under K.S.A. 1990 Supp. 65-6112 and amendments thereto, or a firefighter.

(k) "Law enforcement employee" means:

(1) Any peace officer or law enforcement officer as defined under K.S.A. 74-5602 and amendments thereto;

(2) any person in the service of a city police department or county sheriff's office who performs law enforcement duties without pay and is considered a reserve officer; or

(3) any person employed by a city or county who is in charge of a jail or section of jail, including jail guards and those who conduct searches of persons taken into custody.

(l) "Employing agency or entity" means the agency or entity employing a corrections officer, emergency services employee, law enforcement employee or jailer.

(m) "Infectious disease" means AIDS, hepatitis B, ~~or meningococcal meningitis.~~

(n) "Infectious disease tests" means tests approved by the secretary for detection of infectious diseases.

Sec. 2. K.S.A. 1990 Supp. 65-6004 is hereby amended to read as follows: 65-6004. (a) Notwithstanding any other law to the contrary, "o" a physician performing medical or surgical procedures on a patient who the physician knows has AIDS ~~an infectious disease~~ or has had a positive reaction to an AIDS ~~infectious disease~~ test may disclose such information to other health care providers, emergency personnel, ~~correctional officers employed by the department of~~ "p" ~~corrections services employees, corrections officers~~ or law enforcement officers employees who have been or will be placed in contact with bodily fluids of such patient. The information shall be confidential and shall not be disclosed by such health care providers, emergency personnel, ~~correctional officers employed by the department of~~ ~~corrections services employees, corrections officers~~ or law enforcement officers employees except as may be necessary in providing treatment for such patient.

(b) Notwithstanding any other law to the contrary, a physician who has reason to believe that the spouse or partner of a person who has had a positive reaction to an AIDS test or who has AIDS may have been exposed to HIV and is unaware of such exposure may inform the spouse or partner of the risk of exposure. The information shall be confidential and shall not be disclosed by such spouse or partner to other persons except to the spouse or partner who has had a positive reaction to an AIDS test or who has AIDS.

(c) Nothing in this section shall be construed to create a duty to warn any person of possible exposure to HIV.

Delete "or meningococcal meningitis"

"Bodily Fluids" means blood, amniotic fluid, pericardial fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, and vaginal secretions or any bodily fluid visibly contaminated with blood.

"Exposure" means contact with blood or other bodily fluids as defined by this Act through direct sticks or punctures through the skin or contact with an open wound, non-intact skin or mucous membrane.

1 (d) Any physician who discloses information in accordance with
2 the provisions of this section in good faith and without malice shall
3 have immunity from any liability, civil or criminal, that might oth-
4 erwise be incurred or imposed in an action resulting from such
5 disclosure. Any such physician shall have the same immunity with
6 respect to participation in any judicial proceeding resulting from such
7 disclosure.

8 New Sec. 3. (a) If a corrections officer, emergency services em-
9 ployee or law enforcement employee comes in contact with or is
10 otherwise exposed to transmission of body fluids from one or more
11 other persons while performing duties within the scope of such
12 employee's duties as an employee, the head of the employing agency
13 or entity may make application to a court of competent jurisdiction
14 for an order requiring such other person or persons to submit to
15 infectious disease tests.

16 (b) Such application shall include an allegation that the person
17 or persons sought to be tested have been requested to voluntarily
18 submit to infectious disease tests and have refused the tests. When
19 any such application is received, the court shall hold a hearing
20 forthwith and shall issue its order thereon immediately if the court
21 finds that: (1) There is probable cause to believe that the employee
22 involved has come in contact with or otherwise been exposed to
23 transmission of the body fluids of the person or persons sought to
24 be tested; and (2) the person or persons sought to be tested have
25 been requested to submit to the tests and have refused, unless the
26 court makes a further finding that exigent circumstances exist which
27 would, in the court's judgment, excuse the applicant from making
28 such a request.

29 (c) If an infectious disease test ordered pursuant to this section
30 results in a negative reaction, the court, upon proper application,
31 shall order the person tested to submit to another infectious disease
32 test six months from the date the first test was administered.

33 (d) The results of any infectious disease test ordered pursuant to
34 this section shall be disclosed to the court which ordered the test,
35 the employee and the person tested. ~~If an infectious disease test
36 ordered pursuant to this section results in a positive reaction, the
37 results shall be reported to the employee.~~

38 New Sec. 4. (a) At the time of an appearance before a magistrate
39 under K.S.A. 22-2901 and amendments thereto, the magistrate shall
40 inform any person arrested and charged with a crime in which it
41 appears from the nature of the charge that the transmission of body
42 fluids from one person to another may have been involved of the
43 availability of infectious disease tests and shall cause the alleged

Delete these lines

1-4
2 victim of such a crime, if any, to be notified that infectious disease
3 tests are available. If the victim of the crime requests the court to
4 order infectious disease tests of the alleged offender or if the person
5 arrested and charged with a crime stated to the law enforcement
6 officer making such arrest that the person arrested and charged with
7 the crime has an infectious disease or is infected with an infectious
8 disease, or used words of like effect, the court shall order the arrested
9 person to submit to infectious disease tests.

10 (b) Upon conviction of a person for any crime which the court
11 determines from the facts of the case involved or was likely to have
12 involved the transmission of body fluids from one person to another,
13 the court: (1) May order the convicted person to submit to infectious
14 disease tests; or (2) shall order the convicted person to submit to
15 infectious disease tests if the victim of the crime or the parent or
16 legal guardian of the victim, if the victim is a minor, requests the
17 court to issue such order. If infectious disease tests are ordered
18 under this subsection, the victim of the crime, if any, who is not a
19 minor shall designate a health care provider or counselor to receive
20 such information on behalf of the victim. If the victim is a minor,
21 the parent or legal guardian of the victim shall designate the health
22 care provider or counselor to receive such information.

23 (c) The results of any infectious disease test ordered under sub-
24 section (a) shall be disclosed to the law enforcement officer making
25 such arrest, the person arrested and such other persons as the court
26 determines have a legitimate need to know the test result in order
27 to provide for their protection. The results of any infectious disease
28 test ordered under subsection (b) shall be disclosed to the court
29 which ordered the test, the convicted person and to the person
30 designated under subsection (b) by the victim or victims of the crime
31 or by the parent or legal guardian of a victim if the victim is a
32 minor. If an infectious disease test ordered under this section results
33 in a positive reaction, the results shall be reported to the secretary
34 of health and environment and to the secretary of corrections.

35 New Sec. 5. (a) When a court orders a person to submit to
36 infectious disease tests under this act, the withdrawal of the blood
37 may be performed only by: (1) A person licensed to practice medicine
38 and surgery or a person acting under the supervision of any such
39 licensed person; (2) a licensed professional nurse or a licensed prac-
40 tical nurse; or (3) a qualified medical technician. No person author-
41 ized by this subsection to withdraw blood, no person assisting in
42 the performance of the infectious disease tests nor any medical care
43 facility where blood is withdrawn or tested that has been ordered
44 by the court to withdraw or test blood shall be liable in any civil

or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices.

3 (b) The results of tests or reports, or information therein, ob-
4 tained under this act shall be confidential and shall not be divulged
5 to any person not authorized by this act to receive the same. Any
6 violation of this subsection is a class C misdemeanor.

7 Sec. 6. K.S.A. 22-2913 and K.S.A. 1990 Supp. 65-6001 and 65-
8 6004 are hereby repealed.

9 Sec. 7. This act shall take effect and be in force from and after
10 its publication in the statute book.

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TESTIMONY OF
DANA NELSON, EXECUTIVE DIRECTOR
KANSAS RACING COMMISSION
TO THE COMMITTEE OF FEDERAL AND STATE AFFAIRS
MARCH 19, 1991
SENATE BILL 375

Good morning Mr. Chairman and members of the Federal and State Affairs Committee:

My name is Dana Nelson and I am appearing today on behalf of the Kansas Racing Commission in support of Senate Bill 375.

Senate Bill 375 was introduced at the request of and on behalf of the Kansas Racing Commission to amend several sections of the Kansas Parimutuel Racing Act as a result of having had significant practical experience in the regulation and administration of racing in the State of Kansas. As I know members of this committee are aware, legislation frequently needs fine tuning, and in a state which has had limited experience with Parimutuel racing such fine tuning is required.

This bill is essentially a clean up item, which has little if any fiscal impact but does have some policy and procedural changes.

I call your attention to pages 7 and 8 where we have rewritten subdivisions (i) and (j). If you can wade your way through the original language, you will note that the commission was authorized to suspend or revoke a facility owner's license if it failed to follow the provisions of the plans of financing construction or operation of the race track or if it violated any terms or conditions of the licensure. The commission is required to give the licensee thirty days to cure such error, however, if such error is not cured or could not be cured the commission could suspend or revoke the licensee's license. This provision of law does not allow the commission any discretion to fine such licensee for those same violations. Conceivably, even a minor violation of a term or condition of the license or any rule or regulation could bring about a license suspension or revocation of the facility owner's license. In other words the commission could shut the track down, but could do nothing less. Consequently, and even specifically as a result of the Wichita Greyhound Park review, the commission seeks the authority to be able to fine the facility owner up to a maximum of \$10,000.00 per failure or violation. It is not likely to expect that the commission would routinely exercise the authority to fine the licensee in that amount, but at least it would create the possibility to do so.

If you believe that that fine authority is excessive, I would call your attention to page 10, lines 27 through 37, where the commission is already in a position to suspend or revoke an occupational license for an individual and to fine that

individual up to \$5,000.00 for his violation. It seems ironic that an individual occupation licensee could be held to such a standard yet the owners and operators of the track could not be held to a similar kind of standard. The \$10,000 amount is not inconsistent with what other states do, and is considered to be the standard in the industry. As I pointed out it would be a rare situation if the commission were to exercise the \$10,000 fine limit on the facility license just as it would be a rare situation that the commission would exercise the \$5,000 limit on an occupational license by an individual.

Another area of interest and concern is on page 11 where the racing commission is proposing that the stewards at a horse meeting and racing judges greyhound at a meeting may impose on an occupational licensee a fine of not more than \$500 or may suspend that licensee for a period not exceeding 15 days upon a finding that the licensee has violated the provisions of the act or a rule or regulation of the commission. This is very typical in the racing industry for the racing judges and stewards to exercise the authority of the commission in an administrative hearing at the track to deal with minor rule violations and infractions.

During the first year and one-half of operation of parimutuel in Kansas, the judges and stewards as well as the Kansas Racing Commission found the provisions of KAPA to be cumbersome, and not in the best interest of racing. Racing, as you are aware, is a highly regulated industry with extensive rules and regulations on how a race meet is conducted. Violations such as overweight or underweight of a greyhound require the scratching of a greyhound, and in the racing industry result in a fine being assessed against the trainer for failing to keep his greyhound on weight. Similarly in horse racing riding infractions by jockeys may result in fines and suspensions. Every state in the country guarantees those individuals due process, and they have all the rights to a hearing, notice of hearing and a right to appeal. The Kansas Racing Commission is requesting that it be allowed to promulgate rules and regulations to set up such a hearing process whereby the judges and stewards can act as in an expeditious and timely manner to properly regulate the racing industry.

For instance, a jockey who is found guilty of careless riding, needs to be fined and/or suspended immediately. That is not to say that he would not have a right to a hearing and an opportunity to defend himself from the charges, but the timeliness of the whole process is critical. If that jockey is allowed to continue to ride without facing the administrative hearing, he continues to place the life and health of other jockeys and horses in jeopardy. Racing typically does not allow that, in fact only in Kansas is the process as lengthy and cumbersome as KAPA and it does not work well in the racing industry. The commission and I feel strongly on this particular issue. Kansas has been talked about in national meetings. I

believe that the opportunity to promulgate rules to establish a fair process will be welcomed by the entire industry especially those being regulated. While you may find that ironic, one of the most highly regulated groups in the industry, the jockeys, are supportive of this process. Like the commission, they agree that administrative action must be taken in a timely manner to prevent further problems. This process would simply make Kansas like the rest of the racing world.

Continuing on page 11, I would draw your attention to lines 26 through 30, which specify that the stewards and racing judges shall become employees of the Kansas Racing Commission and serve at the pleasure of the commission, in the unclassified service of Kansas Civil Service Act. Currently our stewards and judges are working for the State of Kansas under a contractual arrangement. Under that arrangement they are paid on a per performance basis, yet draw none of the benefits of typical employees. However, the typical employer/employee relationship exists as their hours are dictated by the State and the dates that the track runs, there is direction given to the judges and stewards from the racing commission and the executive director, and these judges and stewards to a large degree supervise or monitor other racing commission staff at the track such as the veterinarians, the licensing clerks and the security staff. An employer/employee relationship does exist already, but none of the benefits accrue to those people.

I think the committee should be aware that this will have no fiscal impact on the State, as the commission is allowed to require organizational licensee to reimburse the commission for compensation paid to stewards and racing judges, and that practice will continue.

On page 13, I would draw your attention to lines 8 through 17, where the purse requirements for greyhound and horse racing are established. Unfortunately when this section was drafted, nobody considered that purses are computed differently for greyhounds than they are for horses. Greyhounds calculate purses at the end of a week and therefore allocating 4/18ths to greyhound purses is easy, as the parimutuel handle is known for that week. Horses on the other hand have purses established prior to the race. As a result, it is very difficult for the horses to comply with the law if they are required to compute their purses weekly. For instance, if the track handled considerably more money than they had projected they would obviously underpay their purses for that particular weekend and conversely.

We have recommended that we compute the purses at the end of the season for horses, and at that time determine whether or not they complied with the 6/18th total for the season. Last year the Woodlands did overpay their purses but there were several weeks that they underpaid them. We have also defined which monies would be considered for complying with 4/18ths or 6/18ths

minimum purse. We determined that money paid for purses or stakes from breakage or from the unclaimed tickets would not be used in determining whether or not the tracks had complied with the minimum purses required under the law.

On the bottom of page 13, line 41 and on page 14, line 4 and 5, I would like to offer a pair of amendments which are being supported by the Kansas Horsemen's Association. In order to spread the Kansas bred money around to horses other than winning horses, the Horsemen's Association is recommending language which would after the word "wins" on line 41 add "or wins, places or shows" and on page 14 line 4, after the word "wins" would insert "or wins". In that way the Horsemen's Association would be able to allocate money to the first three places in a race or still be able to award only to the winner in the event that money in the Kansas Bred Fund is limited. We support that amendment and believe that it will assist the horse industry in the State of Kansas.

One other amendment I would like to offer is on page 2, line 2, after the word "commission" insert "other than a license as a racing judge or steward". This would eliminate a potential conflict in statute and would allow the commission to take administrative action against judges and stewards just as it could against any other licensee.

There are some other clean up measures in the law, some done by legislative staff where they have changed the date reference from 1989 or earlier to 1990, and there is a change in page 3 where the word "hare" is replaced by the word "lure". That is a technical change.

As I said at the outset of this testimony, this bill is introduced on behalf of and is supported by the Kansas Racing Commission. It also has support from the industry, and in my opinion does not contain anything so controversial that this committee should have any serious reservations about moving this out to the floor. We appreciate your support for this legislation, and I would be pleased to answer any questions.

lkv

Kansas Horsemen's Association

TESTIMONY TO SENATE FEDERAL AND STATE AFFAIRS
SENATE BILL 375

BY
KANSAS HORSEMEN'S ASSOCIATION

MR CHAIRMAN & MEMBERS OF THE COMMITTEE:

I AM DEBBIE SCHAUF, THE EXECUTIVE DIRECTOR OF THE KANSAS HORSEMEN'S ASSOCIATION. OUR ASSOCIATION CONTRACTS WITH THE KANSAS RACING COMMISSION UNDER THE AUTHORITY GRANTED IN THE PARIMUTUEL ACT TO ADMINISTER THE BREEDING DEVELOPMENT PROGRAM FOR THE HORSE INDUSTRY IN KANSAS. FUNDS COLLECTED FROM BREAKAGE AND UNCLAIMED TICKETS DURING THE 1990 RACING SEASON WERE PAID OUT UPON RECOMMENDATION OF OUR ASSOCIATION BY THE RACING COMMISSION TO OWNERS OF KANSAS BRED HORSES. A TOTAL OF JUST OVER ONE-HALF MILLION DOLLARS WAS COLLECTED AND PAID OUT \$77,500 TO SUPPLEMENT PURSES IN OVERNIGHT RACES, \$218,699 TO OWNERS OF KANSAS MARES WHO PRODUCED WINNING FOALS, \$ 54,675 TO OWNERS OF KANSAS STALLIONS WHICH SIRED WINNING FOALS, \$47,500 TO SUPPLEMENT PURSES IN STAKES RACES, \$10,707 AVAILABLE FOR EQUINE INDUSTRY RESEARCH IN KANSAS, AND A CARRYOVER OF \$152,000 TO BE APPLIED TO PURSES AND STAKES AWARDS DURING THE 1991 RACING SEASON.

THIS PROGRAM WAS DESIGNED IN THE ORIGINAL PARIMUTUEL STATUTE YOU PASSED IN 1987 TO ENCOURAGE AND DEVELOP THE HORSE INDUSTRY IN KANSAS FOR KANSAS OWNERS AND WE THINK YOU SHOULD BE PROUD OF ITS SUCCESS.

IN SENATE BILL 375 INTRODUCED BY THE COMMISSION THERE ARE TWO AREAS OF INTEREST TO OUR ORGANIZATION. IF YOU WILL REFER TO SECTION 5 ON PAGE 13 YOU WILL FIND THE LANGUAGE IN WHICH BY CURRENT LAW THE TRACK IS REQUIRED TO USE A MINIMUM OF 6/18'S OF THE TOTAL HANDLE ON THE HORSE RACES TO PAY PURSES TO THE WINNERS OF THOSE RACES. THE CURRENT LAW REQUIRES THAT 6/18'S IS THE MINIMUM AMOUNT THOSE PEOPLE RUNNING HORSES CAN EXPECT TO RECEIVE, AND THAT NO PART OF THOSE FUNDS WOULD BE APPLIED TO STAKES RACES. IN THE INDUSTRY WE HAVE 2 BASIC TYPES OF RACES, OVERNIGHT AND STAKES RACES. A SIMPLE WAY TO UNDERSTAND THE DIFFERENCE IN THE TYPE OF RACES IS THAT OVERNIGHT RACES ARE THE EVERYDAY RACES WHICH FORM THE BASIC PART OF THE PROGRAM. THE STAKES RACES ARE WRITTEN AS FEATURE RACES TO ATTRACT THE "EXCEPTIONAL ATHLETE" WITH THE LURE OF A HIGHER PURSE AWARD, AND THE TRACK USES THESE TYPE OF RACES IN THEIR MARKETING ACTIVITY TO ATTRACT MORE SPECTATORS AND CREATE SOME EXCITEMENT IN THEIR PERFORMANCES. SOMETIMES THE ADDITIONAL MONEY TO CREATE HIGHER PURSES FOR STAKES RACES COMES FROM "ADDED MONEY" CONTRIBUTED FROM OWNERS OF HORSES ELIGIBLE TO PARTICIPATE IN THE RACE BY PAYING ENTRY FEES OR NOMINATIONS. SOMETIMES THE MONEY IS ADDED UPON THE RECOMMENDATION OF OUR ASSOCIATION FROM THE BREEDING DEVELOPMENT FUNDS. ANOTHER METHOD OF OBTAINING FUNDS FOR STAKES RACES IS FROM SPONSORSHIPS, SUCH AS A "COORS RACE OF CHAMPIONS" OR SOME OTHER MAJOR ORGANIZATION OF THESE

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Senate F&SA
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Att. 3

FUNDS ARE USUALLY SOLICITED BY THE TRACK, AND USED AS A MAJOR PART OF THEIR PROMOTIONAL PROGRAM TO ATTRACT SPECTATORS WHO WILL SPEND THEIR MONEY ON FOOD, DRINK, PARKING, ETC. WE ALL RECOGNIZE THAT THIS IS HOW THE TRACK MAKES THEIR PROFIT, AND IF THEY DON'T HAVE AN OPPORTUNITY TO MAKE A REASONABLE RETURN ON THEIR INVESTMENT, WE WON'T HAVE HORSE RACING.

OUR ASSOCIATION HAS AGREED THAT WE WOULD SUPPORT THE CONCEPT OF ALLOWING THE ADDED MONEY FOR STAKES CONTRIBUTED BY THE RACE TRACK OR SOLICITED BY THEM FROM OUTSIDE SPONSORS TO BE A PART OF THE MINIMUM PURSE CALCULATION REQUIRED TO MEET THE 6/18'S REQUIRED BY LAW, HOWEVER WE AGREED WITH THE UNDERSTANDING THAT THE AMOUNT OF MINIMUM PURSE WHICH WOULD BE APPLIED TO STAKES RACES WOULD NOT EXCEED A PERCENTAGE OF THE TOTAL 6/18'S AND THAT PERCENTAGE WOULD BE DETERMINED BY THE RACING COMMISSION.

THE LANGUAGE IN SECTION 5 DOES NOT REFLECT THAT AGREEMENT, ALTHOUGH THE WOODLANDS, (CURRENTLY THE ONLY KANSAS TRACK ENGAGED IN RACING HORSES) HAS AGREED THAT THEY WOULD SUPPORT AN AMENDMENT WHICH WOULD REFLECT THAT LANGUAGE IN THIS BILL.

IF THAT LANGUAGE IS NOT ADDED OUR ASSOCIATION WILL HAVE TO BE OPPOSED TO THE CHANGE FROM CURRENT LAW BECAUSE THERE IS A RISK THAT THE OVERNIGHT PURSES COULD DROP TO A LEVEL THAT WOULD MAKE IT NOT ECONOMICALLY FEASIBLE TO RACE OUR HORSES IN KANSAS, OR EVEN SERVE TO MAKE IT MORE DIFFICULT TO ATTRACT HORSES FROM OTHER STATES TO COME AND PARTICIPATE IN OUR MEETS AND THEREFORE SPEND SOME OF THEIR MONEY IN KANSAS.

THE SECOND AREA OF CONCERN IN THIS BILL IS SECTION 6. OUR ASSOCIATION REQUESTED THAT THE COMMISSION REQUEST A CHANGE IN THE CURRENT LANGUAGE GOVERNING OUR PROGRAM TO MAKE IT POSSIBLE TO PAY MARE AND STALLION BREEDERS AWARDS ON THE OFFSPRING OF THOSE MARES AND STALLIONS WHO FINISH IN RACES IN EITHER THE WIN, OR THE WIN, PLACE, OR SHOW POSITION. IT IS OUR UNDERSTANDING THAT THE FAILURE IN THIS SECTION TO MAKE ALL OF THE CHANGES NECESSARY TO FACILITATE THAT AMENDMENT WAS JUST AN OVERSIGHT WHEN THE BILL WAS DRAFTED, AND WE URGE YOU TO MAKE THE NECESSARY AMENDMENTS TO ALLOW THE CHANGE.

WE INITIALLY REQUESTED THIS BECAUSE WE FELT THERE IS MUCH MORE POTENTIAL TO PROVIDE THE ECONOMIC BENEFIT TO A LARGER GROUP OF KANSAS OWNERS IF WE ARE ALLOWED THE DISCRETION TO SPREAD THE MONEY AROUND TO A LARGER GROUP OF PARTICIPANTS. THE WORDING WHICH ALLOWS THE MONEY TO BE PAID FOR EITHER WINS, OR WIN, PLACE, OR SHOW WOULD ALLOW FLEXIBILITY FOR PAYING THE MONEY FROM THE SMALLER TRACKS ON JUST WINS IF THE AMOUNT OF MONEY AVAILABLE IS NOT SUFFICIENT TO JUSTIFY THE GREATER NUMBER OF SPLITS FOR WIN, PLACE, OR SHOW.

THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY AND EXPRESS OUR CONCERNS, AND I WILL BE HAPPY TO STAND FOR QUESTIONS SHOULD YOU DESIRE ANY MORE INFORMATION.