

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRSThe meeting was called to order by Representative Kathleen Sebelius at
Chairperson1:30 ~~xxx~~/p.m. on Monday, January 27, 1992 in room 526-S of the Capitol.

All members were present except:

Representatives Edlund, Wagnon, Lane, D. Smith, Hamilton, Sprague and
Douville - Excused
Committee staff present:Mary Torrence, Revisor of Statutes, State of Kansas
Lynne Holt, Kansas Legislative Resarch Department
Mary Galligan, Kansas Legisaltive Research Department
Connie Craig, Secretary to the Committee
Conferees appearing before the committee:Phil Martin, Chairman, Kansas Racing Commission
Dana Nelson, Executive Director, Kansas Racing Commission
Richard Boushka, Woodlands Race Track
Reverand Richard Taylor, Kansans For Life At Its Best!
Kenda Bartlett, Concerned Women of America in Kansas
Frances Wood, Topeka, Kansas
Rob Gaskell, Horton, Kansas
Ruth Picton, Hiawatha, Kansas
Pete McGill, Wichita Greyhound ParkChair Sebelius began the public hearing on SB 383 with the first proponent, Phil Martin, Chairperson, Kansas Racing Commission, who gave a brief history of the simulcasting issue and the Racing Commission. Committee members asked the following questions:

- Has the Commission changed its mind on simulcasting because it is better informed?

Comissioner Martin explained the Commission has different members; two remaining members and three new members, which could explain the difference.

- Does the Commission favor the Senate amendments?
- Did the Racing Commission have an actual vote on this legislation?

Commissioner Martin repled that the vote on the overall bill was 5 to 0; the amendment regarding new Section 2, county fair meets, passed by a vote of 3 to 2.

Dana Nelson, Executive Director of the Kansas Racing Commission, appeared before the Committee as a proponent to SB 383, Attachment #1. He explained the bill and a balloon amendment, Attachment #2.

Committee members asked the following questions of Mr. Nelson:

- If the Legislature approves simulcasting, how is this going to impact Indian Casino gaming, or will there be an impact?
- Would this piece of legislation open a door to sports book betting?
- Explain the ten days of live racing equaling twenty days of simulcasting in which the live race days are included?
- If we were to allow Indians to put a casino near a racetrack, how would this affect the pari-mutuel industry?
- What is the status of the Eureka Track?Richard Boushka appeared before the Committee as a proponent of SB 383, Attachment #3. The Committee asked Mr. Boushka the following questions:- What do you mean by the statement that you don't like to see the cars leave state on big race days?
- What kind of revenue is simulcasting generating for these other states over and above the track receipts?

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

room 526-S, Statehouse, at 1:30 ~~xx~~ p.m. on Monday, January 27, 1992

- What kind of financial difficulties is the Woodland Track experiencing?
- What is the relative expense for the Woodlands Race Track in horse racing vs. dog racing vs. simulcasting?
- What effect would video lottery have on the pari-mutuel revenues, as well as the effect that casinos will have, particularly, those in close proximity?

Mr. Boushka replied that video lottery would decrease pari-mutuel revenues 15 to 35%, and explained that the range is wide because he is not sure what group of customers will be affected. He added that proponents of video lottery understand that it is going to be a detriment and are working with us to soften that detriment, not only for the race track, but for our horsemen and our kennel keepers. Casino gambling would be disastrous.

- Are there plans to put video lottery machines at the race track?
- Chair Sebelius turned the meeting to the opponents.

Reverend Richard Taylor appeared in opposition to SB 383, Attachment #4.

Kenda Bartlett testified against the passage of SB 383, Attachment #5.

Frances Wood appeared before the Committee as an opponent to SB 383, Attachment #6.

Rob Gaskell presented testimony urging the Committee to vote against SB 383.

Ruth Picton urged the Committee to oppose SB 383.

Chair Sebelius turned the Committee's attention back to the proponents, as there was sufficient time to hear from all the conferees.

Jim Yonnally, who was not present, submitted written testimony supporting the passage of SB 383, Attachment #7.

Pete McGill appeared before the Committee as a proponent of SB 383, with some suggested amendments regarding county fair meets and simulcasting, Attachment #8.

Chair Sebelius began Committee discussion by asking Mr. McGill to explain his two proposals, and how they would be incorporated into the new Section 2 of the bill. She asked Mr. McGill to supply something in writing directing the Committee to the specific portion of the bill. Chair Sebelius asked Mr. McGill if Anthony were to get permission to simulcast, then you don't want Wichita Greyhound to sign off on it?

Mr. McGill explained Wichita doesn't want to be precluded by someone else within a hundred mile radius that has an opportunity to simulcast one of the major events that would impact Wichita without having the same opportunity.

Other Committee members asked the following questions:

- We were led to believe that the different racing groups were in agreement on simulcasting, but it appears that you are not?
- If the Committee accepts this legislation, will Wichita Greyhound work to defeat the bill?
- Why doesn't the Racing Commission share the concerns of Wichita Greyhound Park?
- How will video lottery affect Wichita Greyhound Park?

Chair Seblius adjourned the meeting.

House Federal and State Affairs Committee

Public Testimony

Presented By

Dana Nelson, Executive Director

Kansas Racing Commission

Madam Chairman, and members of the House Federal and State Affairs Committee. My name is Dana Nelson, and I am the Executive Director for the Kansas Racing Commission. I come before you today to describe Senate Bill 383, a Bill to authorize simulcasting for the parimutuel racing industry in Kansas. As you are aware, Senate Bill 383 passed the Senate and had its initial hearing before this committee last session. Because the industry was split on how and when simulcasting could be conducted, the industry agreed to hold this bill over for hearing this year. This past fall, members of the industry representing four horsemen's associations, two greyhound associations, the kennels at both the Woodlands and Wichita, and management from both Wichita Greyhound Park and the Woodlands met to hammer out differences in Senate Bill 383. What you have before you this afternoon is the bill as it was last winter with a series of recommended modifications which resulted from this falls work, and a review by the Kansas Racing Commission.

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Attachment #1

I would like to thank the individuals, and the associations which met this fall. A positive dialogue was established among the many facets of the racing industry, and substantial compromise went into working out the changes in this bill.

I will attempt to be brief, and highlight those items which are of substance, or are recommended as changes in the balloon version you have before you. The first section of the Act deals with definitions. Definitions have been fashioned for several key terms which are used in the establishment of simulcast racing. Definitions of "host facility", "host jurisdiction", "interstate combined wagering pool", and "intrastate combined wagering pool" were in the bill as it carried over from last year. On page 2 of your balloon draft, you will note definitions for "inter-track wagering" and "off-track wagering" to draw a distinction between the two types of wagering. As you are aware, the Kansas Constitution does not permit off-track wagering. Inter-track wagering, means "wagering on a simulcast race at a licensed racetrack facility or at a facility which is licensed in its racing jurisdiction to conduct live races" is an industry-wide accepted definition. It simply means that wagering can be taken at a racetrack facility during the time live racing is running, or at times when live races are not running. Off-track wagering as the industry knows it is wagering at a facility which cannot conduct live racing such as a bar or lounge. On page 3 of your balloon, four other definitions are added to the act. We have massaged the

definition of "racing jurisdiction", "recognized greyhound owner's group", and "recognized horsemen's group" to address concerns expressed by the industry. First the changes to "racing jurisdiction" would allow the Kansas Racing Commission to work cooperatively with racing jurisdictions such as the Nevada Gaming and Wagering Control Board which does not regulate parimutuel wagering, or an international regulatory body in the event that international simulcasting one day became a possibility. The language in the original draft would have prevented any opportunity for international simulcasting, or any combined pooling with the Nevada Gaming and Wagering Board.

The change from "recognized kennel owner's group" to "recognized greyhound owner's group" is language advocated by the National Greyhound Association. It is their belief that the kennel owner's group, a group of approximately 18 to 20 kennel owners who are contracted to run at a track could be unduly influenced or even coerced into making agreements that the individual greyhound owners may not agree to. The tracks and the kennel owners represented during our discussions agreed to the term "greyhound owner's group" rather than "kennel owner's group".

The definition of "recognized horsemen's group" was a little more difficult. The definition being proposed is similar to the original language in the drafted bill. Because there is a federal law which also governs inter-state horse race

simulcasting, the term "elected" needs to be in the definition. The other issue, that of representing all of the breeds of horses running at a racetrack was also important in order to mitigate some of the concerns of the Thoroughbred and Quarter Horse industries. I would draw your attention to the second sentence of that definition which indicates that the commission shall designate the horsemen's group at a racetrack facility which does not have an elected group. That language is necessary, as a race track such as Wichita Greyhound which only conducts greyhound racing does not have a horsemen's group. In that instance, the commission would designate an elected horsemen's group to be the representative group at Wichita Greyhound. That language is important if Wichita intends to partake in simulcasting of horse races at sometime in the future.

At the top of page 4, section 2 of the Act begins. Section 2 is entirely new language to the Act, and is the authorizing language of the simulcasting act. It details the provisions under which a licensee could simulcast, provides restrictions, minimum threshold levels, describes the process for submitting an application, gives the commission the authority to promulgate rules, clarifies that the respective greyhound or horse owner's groups must approve the application, stipulates that the simulcasting license is for one year, allows for the program to be modified during the year, establishes the procedure for distribution of revenues generated from simulcasting, describes how unclaimed tickets and breakage will be distributed,

authorizes Kansas licensees to participate in combined wagering pools, allows Kansas licensees to send their signal out and to be a host facility for a combined wagering pool, stipulates that a simulcasting facility is deemed to do business only in the state in which it is located, and establishes taxes on the parimutuel handle.

I would like to walk the committee through the provisions of section 2 in just a bit more detail. The first subsection indicates that an organizational licensee may apply to the commission for a simulcasting license. A simulcasting license granted to a county fair association would restrict a county fair association to a certain number of days, including days on which it conducts live racing to not more than twice the number of days in which it conducts those live races. In other words, a county fair association that ran ten live days would be restricted to twenty simulcast days, ten of which run concurrent with the live racing days. A larger racetrack facility of over 150 days may display simulcast races with little a restriction. However, a large racetrack is bound to an 80% condition to protect live racing, if they conduct fewer races than what we have described as a normal live racing day. A normal live racing day for horses is ten races, and a normal greyhound performance is 13 races. In the event that the licensee conducts fewer than the standard, 80% of the program must be live racing. If a track conducts ten live horse races it could do extensive simulcasting. However, if they conducted only nine

live races only two simulcast races could be conducted. If they conduct eight live races it could only conduct two simulcast races, and if it conducted only seven live races it could conduct only one simulcast race. The intent of this section is to encourage a live racing program and penalize a track if it falls below the routine specified level.

When looking at a simulcasting license granted to a county fair association some additional guidance is provided. A county fair association would be authorized to conduct simulcast racing during any calendar week in which it conducted two or more days of live racing during that same week. In addition, the county fair associations could simulcast the week before and the week after their live meet. This is designed to allow a fair association to simulcast but not necessarily simulcast year round. However, in subdivision 3 of the balloon on page 4 an additional provision is recommended to open the door further. In the event that a county fair association desires to do additional simulcasting, they can apply to the commission for additional days above and beyond the authorized number of days. If that county fair association is located fewer than 100 miles from an organizational licensee which is not a county fair association it must also secure written consent from that organizational licensee. In the alternative, a fair association which is more than 100 miles from an organizational licensee that is not a county fair association only needs to seek permission from the commission. The existing subsections, two

and three, are renumbered four and five, and deal with exceptions to the 80% rule. Two exceptions are carved out, one for an emergency cancellation of the live program, and the second for the displaying of special simulcast racing events. The changes suggested on page 5 of your balloon detail the licensing processing. The changes recommended in the balloon refer to internal references or cleanup changes. The language in lines 26 through 43 describe which horsemen or greyhound group need to approve various types of simulcasting plans, and assure that either the greyhound or horsemen's group affected, or in the case of both groups being affected, that they all have a seat at the bargaining table and the opportunity to have input to the track schedule.

On page 7, I draw your attention to lines 6 through 18 which deal with the revenues generated from simulcasting. Of the revenues generated for simulcasting, the state will continue to receive its 3/18ths just as it does with live racing. Of the balance remaining, the licensee would be entitled to retain sufficient revenue to pay expenses directly related to the simulcast race or performance. The commission will by rules and regulations define what constitutes expenses. Of the balance remaining, half shall be retained by the licensee and the other half shall be used for purses. Lines 19 through 32 deal with the use of those purse monies. In the event that a greyhound race is simulcast to a greyhound track or a horse race simulcast to a horse track the money will be added to the purses.

However, in the event of a greyhound race going to a horse track or a horse race going to a greyhound track, both the horsemen's and the greyhounds group must agree on how the purse share will be distributed between greyhounds and horses. Each group needs a seat at the table to have a say in how the purses will be distributed.

On page 7 lines 34 through the bottom of the page describe that breakage and unclaimed winning tickets will be handled in the same manner that they are for live racing. One change is recommended on page 8 in the draft bill in the event that a greyhound race is simulcast to a track which only conducts horse racing. Currently the law for breakage on greyhounds provide for the track to keep that money and use it for greyhound stake races. Obviously such a provision is impossible at a track that only ran horse races, so breakage would be distributed for the use in greyhound racing as determined by the commission.

On page 8 lines 19 through 24, the commission may approve two or more Kansas licensees to combine wagering pools, or allow a Kansas licensee to combine its wagering pool with another racing jurisdiction. Lines 25 through 30 deal with an increase in the basic takeout in the event that a Kansas licensee participates in a combined wagering pool in a jurisdiction which has a different takeout. Caps are still placed on the win, place, and show bets for 20% and 25% on exotic bets. Lines 31 through 35 deal with the taxing authority of the racing

jurisdiction, and indicate that taxes may only be collected in the state in which the wagers are made. Lines 36 through 41 describe how breakage is handled in the event that the statutes of Kansas and the host jurisdiction differ. In that event, breakage is calculated as it is in the host jurisdiction, and allocated in this jurisdiction in a manner agreed upon among the participating jurisdictions. If breakage does return to Kansas it is handled in the same manner as existing breakage on live racing. On page 8 lines 42 and 43 and the first nine lines on page 9 allow a Kansas track to send their signal to another state, and host a combined wagering pool. Lines 10 through 13 indicate that participation by a simulcast licensee in a combined interstate wagering pool does not cause that licensee to be considered to be doing business in any jurisdiction other than the jurisdiction in which the licensee is physically located. That means that if a Kansas licensee participates in a combined pool in Illinois that Illinois has no jurisdiction over our facility. The language on page 8 beginning with line 19 through page 9 line 13 is language extracted from a model piece of legislation drafted and adopted by the Rocky Mountain Simulcast Network. That is a network of racing jurisdictions and industry representatives representing a number states in the Rocky Mountain and front range of the Rocky Mountain area. This model legislation has been adopted in the states of New Mexico, Colorado, Wyoming, Montana, Idaho, North Dakota, South Dakota, Iowa, and Indiana to date.

Beginning on page 9, line 16 is section three which was added last year by the senate committee. Although language at the end of section 2 indicates that this act is part of and supplemental to the existing parimutuel act, there was considerable discussion in the senate whether or not simulcasting could be adequately regulated. While it was the opinion of the racing commission that it could, specific language was added to K.S.A. 74-8804 to address those concerns. On page 9 line 19, lines 29 and 30, and lines 37 through 39 you will note that language has been added to the existing section including "racetracks simulcasting races to racetrack facilities in Kansas." Also on page 10, lines 26 through 28 the commission is empowered to review and approve all proposed contracts with racetracks or businesses involved in simulcasting races to racetrack facilities in Kansas, and on page 11 lines 40 and 41 the commission is authorized to receive KBI or other criminal justice background reports on applicants for simulcasting licenses. This further integrates the authority of the commission to deal with simulcasting applicants, as well as those entities simulcasting races into Kansas in the exact same manner that the racing commission regulates live racing. These changes were made in order to accommodate some of the concerns of the Kansas Bureau of Investigation, and make sure that the commission had the exact same authority it has for live racing, and could use the Kansas Bureau of Investigation in the same manner it uses it for live racing.

Section 4 of the act deals with prohibited acts, and you will note that scattered throughout this section are references made to include simulcasting to further integrated this law into the act. However, when we come to subsections E and F we found that there could be some rather innocent violations to the criminal statutes as a result of simulcasting. You will note on page 13, line 23 we are recommending that the word live be inserted before race and the word meeting be stricken. Since the Kansas Parimutuel Racing Act was enacted prior to simulcasting, the legislature could not have envisioned some of the potential circumstances which could arise. If this is left unchanged, a facility owner, could become guilty of a misdemeanor if a horse he owned ran in the Kentucky Derby and the Derby was simulcast to Kansas. Certainly the legislature did not envision such activity being a crime, and we believe this change does nothing to compromise the integrity of racing. Subsection F, lines 24 through 31 need to be modified as well. The intent of that subsection is to restrict certain individuals from placing wagers on races in Kansas. That would still be the intent of this section as it is revised. Any person who is restricted from wagering because his position could influence the outcome of a race is still restricted from betting at a racetrack facility located in Kansas, if such race is conducted at or simulcast to the racetrack facility where that person is authorized to engage in those licensed activities. Without this change, an individual who is licensed in one of these capacities could innocently make a wager on a race in another state, such

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as the Kentucky Derby, and if the Derby were being simulcast to his racetrack facility be guilty of a misdemeanor. Once again, we do not think that is what the legislature would have intended had they envisioned simulcasting, and once again we do not believe this compromises the integrity of racing.

Section 5 of the act, beginning on top of page 16, and ending on line 34 on page 24, simply serves to integrate the term simulcasting and the simulcasting activity into the organizational licensee chapter of the act.

Section 6, beginning on line 35 on page 24 deals with the establishment of horse and greyhound racing dates and simulcast races and the parimutuel wagering thereon. Once again this section needs to have language inserted in it to reflect the addition of simulcast racing to the existing parimutuel act. On page 25, lines 23 through 25, distribution of the takeout for simulcast races is cross referenced with the provisions of section 2 of the act.

On page 25, line 7, language is clarified that the 4/18 and 6/18 minimum purse is calculated only on live races, and implies that simulcasting revenues would be in addition to the statutorily required purses. On page 26, section 8 integrates language into the breakage section to reflect the inclusion of simulcasting in the parimutuel act, and at the bottom of page 26

line 35, language is inserted into the unclaimed ticket section to integrate simulcasting.

Section 10, beginning on line 35 of page 27 integrates simulcasting into the state parimutuel tax section, and indicates that the tax on simulcasting would be permanently frozen at 3/18.

Section 11 of the bill repeals those sections which were previously reenacted, and section 12 provides for the act to be in full force and effect after its publication in the Kansas Register, making it possible for the parimutuel racing industry to use simulcasting as early as this spring.

Thank you for your time and attention, and I will be pleased to answer any questions you may have.

92DN5-nw

BILL BRIEF - SB 383

Section 1 is the definition section of the bill and it adds definitions for the following items: host facility, host jurisdiction, interstate combined wagering pool, intrastate combined wagering pool, racing jurisdiction and jurisdiction, recognized greyhound owners group, recognized horsemen's group inter-track wagering, off-track wagering and simulcast. These definitions are important as the text of Section 2 is dependant upon those definitions.

Section 2 is the meat of the bill. It sets up the permissive language and procedure for the commission to consider and issue a simulcast license. The key provisions are as follows:

1. An applicant must be an existing licensee.
2. A potential licensee must conduct at least 150 days of live racing (only two potential applicants--Woodlands and Wichita), or it may be a county fair association which conducts fewer than 22 days of racing a year.
3. A clear distinction is drawn between a large track (at least 150 days of live racing) and a county fair association. A large track can run extensive simulcasting provided it has approval from its horse or greyhound owner's group and the commission. A county fair track is authorized to run one day of simulcast for every day of live racing during the fair meet and one week before and one week after, provided they run live two days per week during the meet. They can also simulcast on live race days (i.e., ten days of live meet = twenty days of simulcast which includes the live race days). Additional simulcasting can be conducted with the permission of the commission and also the nearest organizational licensee if they are within 100 miles of another licensee.
4. The application must be approved by respective horse or greyhound groups or both if the opposite type of race is simulcast to the track during a live meet.
5. The license is for one year and must be renewed.
6. The simulcast schedule can be changed but must be approved by the commission and the horse or greyhound groups.

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Attachment #2

7. The takeout and state tax is the same as live racing, unless the pools are combined with another state, which may be allowed, then the takeout may go to 20% on win, place and show and 25% on exotics.
8. The commission may allow the licensee to combine pool with other licensees or other states.
9. The commission may allow a Kansas track to host a combined pool.
10. All monies from breakage or unclaimed tickets are to be used just as it is for live racing.
11. The commission must approve all contracts or agreements the licensee enters into.
12. The language provides significant protection for live racing by establishing an 80% threshold if a licensee fails to present a full live racing card..
13. The licensee may retain monies from the takeout to pay expenses directly related to the simulcast; the commission would define expenses and audit to make sure the correct amount is retained.
14. The balance of the takeout would be split with half kept by the track and half for purses.
15. The new section is part of and supplemental of the existing parimutuel act.

Section 3 (new added by senate committee). Although the language in Section 2 indicates that that section is part of the existing parimutuel act, discussion occurred questioning whether simulcasting could be adequately regulated. It was the opinion of the racing commission that it could, but specific language was added to the section which details the commission authority to clarify that the commission had the same authority with regard to simulcasting that it has for live racing.

Section 4 (as renumbered) specifies that violations currently considered criminal would also apply to the simulcasting procedure with minor modification. Since the original act did not envision simulcasting, certain conditions are qualified to avoid unintentional or innocent acts.

Section 5 (as renumbered) adds language to the section on organization licensees to include references to simulcasting.

Section 6 (as renumbered) adds simulcast license language to the section of the parimutuel act which deals with parimutuel taxes.

Section 7 (as renumbered) clarifies that the 4/18 and 6/18 minimum purse language is calculated on live races.

Section 8 (as renumbered) deals with the section on breakage and clarifies that breakage will be used the same for simulcasting as it is for live racing.

Section 9 (as renumbered) deals with the section on unclaimed tickets to clarify that those monies will be used the same for simulcasting as it is for live racing.

Section 10 (as renumbered) deals with the section on the state share of the takeout and specifies that the state will receive 3/18 of the takeout as its tax share.

Section 11 (as renumbered) repeals the sections which are being reenacted in this bill.

Section 12 (as renumbered) is the effective date of the act, and would make the act law after printing in the register.

91DN50-cd

1 racing.

2 (h) "Financial interest" means an interest that could result di-
3 rectly or indirectly in receiving a pecuniary gain or sustaining a
4 pecuniary loss as a result of ownership or interest in a business
5 entity or activity or as a result of a salary, gratuity or other com-
6 pensation or remuneration from any person.

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

10 (j) "Host facility" means the racetrack at which the race is run
11 or, if the race is run in a jurisdiction which is not participating in
12 the interstate combined wagering pool, the racetrack or other facility
13 which is designated as the host facility.

14 (k) "Host jurisdiction" means the jurisdiction where the host fa-
15 cility is located.

16 (l) "Interstate combined wagering pool" means a parimutuel pool
17 established in one jurisdiction which is combined with comparable
18 parimutuel pools from one or more racing jurisdictions for the pur-
19 pose of establishing the amount of money returned on a successful
20 wager in the participating jurisdictions.

21 ~~(m)~~ "Intrastate combined wagering pool" means a parimutuel
22 pool which is combined with comparable parimutuel pools from one
23 or more racetrack facilities for the purpose of establishing the amount
24 of money returned on a successful wager at the participating race-
25 track facilities.

26 (n) "Kansas-whelped greyhound" means a greyhound whelped
27 and raised in Kansas for the first six months of its life.

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

33 ~~(l)~~ (p) "Nonprofit organization" means:

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

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

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

43 ~~(n)~~ (r) "Organization licensee" means a nonprofit organization

() "Intertrack wagering" means wagering on a simulcast race at a licensed racetrack facility or at a facility which is licensed in its racing jurisdiction to conduct live races.

() "Off-track wagering" means wagering on a simulcast race at a facility which is not licensed in its jurisdiction to conduct live races.

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ensed by the commission to conduct races pursuant to this act and, if the license so provides, to construct or own a racetrack facility.

(e) (s) "Parimutuel pool" means the total money wagered by individuals on one or more horses or greyhounds in a particular horse or greyhound race to win, place or show, or combinations thereof, as established by the commission, and, *except in the case of an interstate or intrastate combined wagering pool*, held by the organization licensee pursuant to the parimutuel system of wagering. There is a separate parimutuel pool for win, for place, for show and for each of the other forms of betting provided for by the rules and regulations of the commission.

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

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

(v) "Racing jurisdiction" or "jurisdiction" means a governmental jurisdiction which is responsible for the regulation of parimutuel racing in that jurisdiction and which is a member of the association of racing commissioners international.

authority
live or simulcast

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

(x) "Recognized ~~kernel~~ owners group" means the duly recognized group elected by a majority of the Kansas licensed ~~kernel~~ owners at the racetrack facility.

greyhound
greyhound

(y) "Recognized horsemen's group" means the duly recognized group, representing the breeds of horses running at the racetrack facility, elected by a majority of the licensed owners or owner trainers at the racetrack facility a duly recognized group representing Kansas licensed owners and owner/trainers of all breeds of horses running at any racetrack facility and approved by the commission as a duly authorized horsemen's group.

the duly recognized group, representing the breeds of horses running at a racetrack facility, elected by a majority of the licensed owners and trainers at the racetrack facility. The commission shall designate the recognized horseman's group at any racetrack facility which does not have an elected horseman's group.

(z) "Simulcast" means a live audio-visual broadcast of an actual

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1 horse or greyhound race at the time it is run.
2 (s) (aa) "Takeout" means the total amount of money withheld
3 from each parimutuel pool for the payment of purses, taxes and the
4 share to be kept by the organization licensee. Takeout does not
5 include the breakage. The balance of each pool less the breakage is
6 distributed to the holders of winning parimutuel tickets.

7 New Sec. 2. (a) Any organization licensee that conducts at least
8 one live race meeting 150 days of live racing during a calendar
9 year may apply to the commission for a simulcasting license to display
10 simulcast horse or greyhound races and to conduct parimutuel wag-
11 gering thereon. If the organization licensee conducts races at a race-
12 track facility that is owned by a facility owner licensee, both licensees
13 shall join in the application.

14 A simulcasting license granted to a county fair association
15 shall authorize display of the simulcast of live performances
16 conducted within this state without regard to the number of
17 live performances conducted by such fair association, but such
18 license shall restrict the county fair association's display of the
19 simulcast of live performances conducted outside this state to
20 a number not more than twice the number of live performances
21 conducted by such fair association.

22 (b) (1) A simulcasting license shall authorize the display of si-
23 mulcast races only on days when live races are conducted at the
24 racetrack facility where the simulcast races are displayed. If a si-
25 mulcasting licensee conducts live horse races on a day when simulcast
26 races are displayed by the licensee and the licensee conducts fewer
27 than 10 live horse races on such day, not less than 80% of the races
28 on which wagers are taken by the licensee during such day shall be
29 live races conducted by the licensee. If a simulcast licensee conducts
30 live greyhound races on a day when simulcast races are displayed
31 by the licensee and the licensee conducts fewer than 13 live grey-
32 hound races during a performance on such day, not less than 80%
33 of the races on which wagers are taken by the licensee during such
34 performance shall be live races conducted by the licensee.

35 (2) Notwithstanding the provisions of subsection (b)(1), if an
36 emergency causes the cancellation of all or any live races scheduled
37 for a day or performance by a simulcasting licensee, the commission
38 or the commission's designee may authorize the licensee to display
39 any simulcast races previously scheduled for such day or
40 performance.

41 (3) Notwithstanding the provisions of subsection (b)(1), the com-
42 mission, on application by a simulcasting licensee, may authorize the
43 licensee to display simulcast special racing events approved by the

or a county fair association which conducts fewer than 22 days of live racing during a calendar year

intertrack

A simulcasting license granted to a county fair association that conducts fewer than 22 days of live racing shall restrict the county fair association's display of simulcast races to a number of days, including days on which it conducts live horse races, not more than twice the number of days on which it conducts live races.

granted to an organization licensee other than a county fair association

live conducted

(2) A simulcasting license granted to a county fair association shall authorize the display of simulcast races at the racetrack facility where the races are conducted only if live races are scheduled for two or more days of the same calendar week subject to the following exception. The licensee may conduct simulcast races in the week immediately before and immediately after the live meeting only if the total number of days on which simulcast races are displayed does not exceed the total authorized in subsection (a). For purposes of this subsection, a calendar week shall be measured from Monday through the following Sunday.

(3) Notwithstanding the provisions of subsections (a) or (b) (1) and (2) a county fair association may be granted additional simulcast races by the commission. If such county fair association is fewer than one hundred miles from an organization licensee that is not a county fair association, it must also secure written consent from that organization licensee.

for such day or performance.

as designated by the commission.

(4)

(5)

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mission.

(b) (c) The application for a simulcasting license shall be filed with the commission at a time and place prescribed by rules and regulations of the commission. The application shall be in a form and include such information as the commission prescribes.

(e) (d) To qualify for a simulcasting license the applicant shall:

(1) Comply with the interstate horse racing act of 1978 (15 U.S.C. 3001 *et seq.*) as in effect December 31, 1990;

1991

(2) submit with the application a written approval of the proposed simulcasting schedule signed by the recognized kennel owners' group, if the applicant conducts greyhound races, or signed by the recognized horsemen's group, if the applicant conducts horse races. If the applicant conducts both greyhound races and horse races, the applicant shall submit with the application a written approval of the proposed simulcasting schedule signed by the recognized kennel owners' group, if greyhound races are to be simulcast, or by the recognized horsemen's group, if horse races are to be simulcast. If the applicant conducts both greyhound races and horse races and the proposed simulcasting schedule includes a related series of races of greyhounds, to be displayed while the licensee is conducting live racing of horses, or of horses, to be displayed while the licensee is conducting live racing of greyhounds, the commission shall require the submission of a written approval of the proposed simulcasting schedule signed by the recognized group then participating in live racing: (A) *The recognized horsemen's group for the track, if the applicant is licensed to conduct only horse races;* (B) *the recognized kennel owners' group, if the applicant is licensed to conduct only greyhound races and only greyhound races are to be simulcast;* (C) *both the recognized kennel owners' group and a recognized horsemen's group, if the applicant is licensed to conduct only greyhound races and horse races are to be simulcast;* (D) *the recognized kennel owners' group, if the applicant is licensed to conduct both greyhound and horse races, only greyhound races are to be simulcast and races are to be simulcast only while the applicant is conducting live greyhound races;* (E) *the recognized horsemen's group for the track, if the applicant is licensed to conduct both greyhound and horse races, only horse races are to be simulcast and races are to be simulcast only while the applicant is conducting live horse races;* or (F) *both the recognized kennel owners' group and the recognized horsemen's group for the track, if the applicant is licensed to conduct both greyhound races and horse races and horse races are to be simulcast while the applicant is conducting*

greyhound

greyhound

greyhound

greyhound

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1 which changes are approved by the respective recognized kennel
2 owners' group or recognized horsemen's group needed throughout
3 the term of the license. Application shall be made upon forms fur-
4 nished by the commission and shall contain such information as the
5 commission prescribes.

← greyhound

6 (g) Except as provided by subsection (j), the takeout for simulcast
7 horse and greyhound races shall be the same as it is for the live
8 races conducted during the current or next live race meeting at the
9 racetrack facility where the simulcast races are displayed. For si-
0 mulcast races the tax imposed on amounts wagered shall be as pro-
1 vided by K.S.A. 1990 Supp. 74-8823 and amendments thereto. The
2 simulcasting licensee shall be entitled to retain sufficient revenue to
3 pay expenses directly related to the ~~display and promotion of the~~
4 ~~simulcast races~~ simulcast race or performance. The commission,
5 by rules and regulations, shall define what constitutes such expenses.
6 Of the balance of the takeout remaining after deduction of taxes and
7 expenses, 50% shall be paid to the ~~racetrack facility~~ simulcasting
8 licensee. The remainder shall be used for purses, as follows:

← horse and greyhound

9 (1) ~~Unless otherwise agreed to by the recognized kennel~~
0 ~~owners' group,~~ for purses for greyhound races conducted by the
1 licensee, ~~if the simulcast race is a greyhound race and the licensee~~
2 ~~conducts live greyhound races;~~

only

3 (2) ~~unless otherwise agreed to by the recognized horsemen's~~
4 ~~group,~~ for purses for horse races conducted by the licensee, ~~if the~~
5 ~~simulcast race is a horse race and the licensee conducts live horse~~
6 ~~races;~~

only

both the recognized horseman's group and the recognized greyhound owner's group

7 (3) for purses ~~for greyhound races,~~ as determined by ~~the com-~~
8 ~~mission,~~ if the simulcast race is a greyhound race and the licensee
9 does not conduct ~~live greyhound races; or~~

or is not currently conducting

10 (4) for purses ~~for horse races,~~ as determined by ~~the commission,~~
11 if the simulcast is a horse race and the licensee does not conduct
12 live horse races.

both the recognized horseman's group and the recognized greyhound owner's group

or is not currently conducting

13 (h) Except as provided by subsection (j):

14 (1) If a simulcasting licensee has a license to conduct live horse
15 races and the licensee displays a simulcast horse race, breakage and
16 unclaimed winning ticket proceeds shall be distributed in the manner
17 provided by K.S.A. 1990 Supp. 74-8821 and 74-8822, and amend-
18 ments thereto, for breakage and unclaimed winning ticket proceeds
19 from live horse races.

20 (2) If a simulcasting licensee has a license to conduct live grey-
21 hound races and the licensee displays a simulcast greyhound race,
22 akage and unclaimed winning ticket proceeds shall be distributed
23 he manner provided by K.S.A. 1990 Supp. 74-8821 and 74-8822,

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1 and amendments thereto, for breakage and unclaimed winning ticket
2 proceeds from live greyhound races.

3 (3) If a simulcasting licensee has a license to conduct live racing
4 of only horses and the licensee displays a simulcast greyhound race,
5 ~~breakage and unclaimed winning ticket proceeds shall be distributed~~
6 ~~for use to benefit greyhound racing as determined by the com-~~
7 ~~mission at the time the simulcasting license is granted in the~~
8 ~~manner provided by K.S.A. 1990 Supp. 74-8821 and 74-8822, and~~
9 ~~amendments thereto, for breakage and unclaimed winning ticket pro-~~
10 ~~ceeds from live greyhound races.~~

Breakage for such races shall be distributed for use to benefit greyhound racing as determined by the commission.

11 (4) If a simulcasting licensee has a license to conduct live racing
12 of only greyhounds and the licensee displays a simulcast horse race,
13 breakage and unclaimed winning ticket proceeds shall be distributed
14 ~~for use to benefit horse racing as determined by the commission~~
15 ~~at the time the simulcasting license is granted in the manner~~
16 ~~provided by K.S.A. 1990 Supp. 74-8821 and 74-8822, and amend-~~
17 ~~ments thereto, for breakage and unclaimed winning ticket proceeds~~
18 ~~from live horse races.~~

19 (i) The commission may approve a request by two or more si-
20 mulcasting licensees to combine wagering pools within the state of
21 Kansas pursuant to rules and regulations adopted by the commission.

22 (j) (1) The commission may authorize any simulcasting licensee
23 to participate in an interstate combined wagering pool with one or
24 more other racing jurisdictions.

25 (2) If a licensee participates in an interstate pool, the licensee
26 may adopt the takeout of the host jurisdiction or facility, except that
27 the takeout shall not be more than 20% on win, place and show
28 bets and not more than 25% on all other bets. The amount and
29 manner of paying purses from the takeout in an interstate pool shall
30 be as provided by subsection (g).

31 (3) The tax imposed on amounts wagered in an interstate pool
32 shall be as provided by K.S.A. 1990 Supp. 74-8823 and amendments
33 thereto. Parimutuel taxes may not be imposed on any amounts wag-
34 ered in an interstate combined wagering pool other than amounts
35 wagered within this jurisdiction.

36 (4) Breakage for interstate combined wagering pools shall be cal-
37 culated in accordance with the statutes and rules and regulations of
38 the host jurisdiction and shall be allocated among the participating
39 jurisdictions in a manner agreed to among the jurisdictions. Breakage
40 allocated to this jurisdiction shall be distributed as provided by sub-
41 section (h).

42 (5) Upon approval of the respective recognized ~~kennel~~ greyhound
43 group or recognized horsemen's group, the commission may permit

1 an organization licensee to simulcast to other racetrack facilities or
 2 facilities in other jurisdictions one or more races conducted by such
 3 licensee, use one or more races conducted by such licensee for an
 4 intrastate combined wagering pool or use one or more races con-
 5 ducted by such licensee for an interstate combined wagering pool
 6 at locations outside the commission's jurisdiction and may allow pari-
 7 mutuel pools in other jurisdictions to be combined with parimutuel
 8 pools in the commission's jurisdiction for the purpose of establishing
 9 an interstate combined wagering pool.

off-track wagering or intertrack wagering

10 (6) The participation by a simulcasting licensee in a combined
 11 interstate wagering pool does not cause that licensee to be considered
 12 to be doing business in any jurisdiction other than the jurisdiction
 13 which the licensee is physically located.

off-track wagering or intertrack wagering

14 (k) This section shall be part of and supplemental to the Kansas
 15 parimutuel racing act.

16 *Sec. 3. K.S.A. 1990 Supp. 74-8804 is hereby amended to read*
 17 *as follows: 74-8804. (a) The commission and its designated employees*
 18 *may observe and inspect all racetrack facilities operated by licensees*
 19 *and all racetracks simulcasting races to racetrack facilities in Kansas,*
 20 *including but not limited to all machines, equipment and facilities*
 21 *used for parimutuel wagering, whether or not race meetings are*
 22 *being conducted at the time.*

23 (b) *Commission members and hearing officers designated by the*
 24 *commission may administer oaths and take depositions to the same*
 25 *extent and subject to the same limitations as would apply if the*
 26 *deposition was in aid of a civil action in the district court.*

27 (c) *The commission may examine, or cause to be examined by*
 28 *any agent or representative designated by the commission, any books,*
 29 *papers, records or memoranda of any licensee, or of any racetrack*
 30 *or business involved in simulcasting races to racetrack facilities in*
 31 *Kansas, for the purpose of ascertaining compliance with any pro-*
 32 *vision of this act or any rule and regulation adopted hereunder.*

33 (d) *The commission may issue subpoenas to compel access to or*
 34 *for the production of any books, papers, records or memoranda in*
 35 *the custody or control of any licensee or officer, member, employee*
 36 *or agent of any licensee, or to compel the appearance of any licensee*
 37 *or officer, member, employee or agent of any licensee, or of any*
 38 *racetrack or business involved in simulcasting races to racetrack*
 39 *facilities in this state, for the purpose of ascertaining compliance*
 40 *with any of the provisions of this act or any rule and regulation*
 41 *adopted hereunder. Subpoenas issued pursuant to this subsection*
 42 *may be served upon individuals and corporations in the same manner*
 43 *provided in K.S.A. 60-304 and amendments thereto for the service*

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Appointee of the commission, or any spouse, parent, grandparent,
brother, sister, child, grandchild, uncle, aunt, parent-in-law, brother-
in-law or sister-in-law thereof, to:

(1) Hold any license issued by the commission; or

(2) enter into any business dealing, venture or contract with an
owner or lessee of a racetrack facility in Kansas.

(d) It is a class A misdemeanor for any officer, director or member
of an organization licensee, other than a county fair association, to:

(1) Receive, for duties performed as an officer or director of such
licensee, any compensation or reimbursement or payment of ex-
penses in excess of the amounts provided by K.S.A. 75-3223 and
amendments thereto for board members' compensation, mileage and
expenses; or

(2) enter into any business dealing, venture or contract with the
organization licensee or, other than in the capacity of an officer or
director of the organization licensee, with a facility owner licensee,
facility manager licensee or concessionaire licensee *or with any host
facility for a simulcast race displayed in this state.*

(e) It is a class A misdemeanor for any facility owner licensee or
facility manager licensee, or any officer, director or employee thereof,
to participate directly or indirectly as an owner, owner-trainer or
trainer of a horse or greyhound, or as a jockey of a horse, entered
in a ~~race meeting~~ conducted in this state.

(f) It is a class A misdemeanor for any licensee of the commission,
or any person who is an officer, director, member or employee of
a licensee, to place a wager ~~on an entry in a horse or greyhound
race conducted at, or a simulcast race displayed at, a racetrack facility
where the licensee is authorized to engage in licensed activities~~ if
the commission has by rules and regulations designated such person's
position as a position which could influence the outcome of such
race,

(g) It is a class B misdemeanor for any person to use any animal
or fowl in the training or racing of racing greyhounds.

(h) It is a class A misdemeanor for any person to:

(1) Sell a parimutuel ticket or an interest in such a ticket to a
person knowing such person to be under 18 years of age, upon
conviction of the first offense;

(2) accept, transmit or deliver, from a person outside a racetrack
facility, anything of value to be wagered in any parimutuel system
of wagering within a racetrack facility, upon conviction of the first
offense;

(3) administer or conspire to administer any drug or medication

a horse or greyhound within the confines of a racetrack facility

live

at a racetrack facility located in Kansas

if such race is conducted at or simulcast to the racetrack facility where
the licensee is authorized to engage in licensed activities.

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1 approval a copy of each contract and agreement which the organi-
2 zation licensee proposes to enter into and any proposed modification
3 of any such contract or agreement, including but not limited to those
4 involving:

- 5 (1) Any person to be employed by the organization licensee;
- 6 (2) any person supplying goods and services to the organization
7 licensee, including management, consulting or other professional
8 services;
- 9 (3) any lease of facilities, including real estate or equipment or
10 other personal property; or
- 11 (4) the operation of any concession within or adjacent to the
12 racetrack facility.

13 The commission shall reject any such contract or agreement which
14 violates any provision of this act or rules and regulations of the
15 commission, which provides for payment of money or other valuable
16 consideration which is clearly in excess of the fair market value of
17 the goods, services or facilities being purchased or leased or which,
18 in the case of a contract or agreement with a facility owner licensee
19 or a facility manager licensee, would not protect the organization
20 licensee from incurring losses due to contractual liability.

21 (o) Organization licensees shall not by lease, contract, agreement,
22 understanding or arrangement of any kind grant, assign or turn over
23 to any person the parimutuel system of wagering described in K.S.A.
24 1987 1990 Supp. 74-8819 and amendments thereto or the operation
25 and conduct of any horse or greyhound race to which such wagering
26 applies, but this subsection shall not prohibit the organization li-
27 censee from contracting with and compensating others for providing
28 services in connection with the financing, acquisition, construction,
29 equipping, maintenance and management of the racetrack facility;
30 the hiring and training of personnel; ~~and the promotion of the facility;~~
31 ~~operation and conduct of a simulcast race displayed by a simulcasting~~
32 ~~licensee; and parimutuel wagering at racetrack facilities and at fa-~~
33 ~~cilities in other jurisdictions to which live races conducted by the~~
34 ~~organization licensee are simulcast.~~

; and wagering
off-track wagering and intertrack wagering

35 (p) An organization licensee shall not in any manner permit a
36 person other than such licensee to have a share, percentage or
37 proportion of money received from parimutuel wagering at the race-
38 track facility except as specifically set forth in this act, except that:

- 39 (1) A facility owner licensee may receive gross percentage rental
40 fees under a lease if all terms of the lease are disclosed to the
41 commission and such lease is approved by the commission; and
- 42 (2) a person who has contracted with an organization licensee to
43 provide one or more of the services permitted by subsection (o) may

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1 with parimutuel wagering is conducted at such facility; (B) ⁴/₁₈ during
2 the fifth year when racing with parimutuel wagering is conducted
3 at such facility; and (C) ⁵/₁₈ during the sixth and any subsequent
4 year when racing with parimutuel wagering is conducted at such
5 facility; and

6 (3) of the total daily takeout from parimutuel pools for greyhound
7 races held conducted in this state at a dual racetrack facility or at
8 a racetrack facility owned by a licensee whose license authorizes the
9 construction of a dual racetrack facility, a tax at the rate of: (A) ³/₁₈
10 during the first seven years when racing with parimutuel wagering
11 is conducted at such facility; (B) ⁴/₁₈ during the eighth and ninth
12 years when racing with parimutuel wagering is conducted at such
13 facility; and (C) ⁵/₁₈ during the tenth and any subsequent year when
14 racing with parimutuel wagering is conducted at such facility; and

15 (4) of the total daily takeout from amounts wagered in this ju-
16 risdiction on simulcast races displayed in this state, a tax at the rate
17 of ³/₁₈.

18 (b) The tax imposed by this section shall be no less than 3% nor
19 more than 6% of the total money wagered each day at a racetrack
20 facility.

21 (c) The tax imposed by this section shall be remitted to the
22 commission by each organization licensee by the next business day
23 following the day on which the wagers took place. The commission
24 shall promptly remit any such tax moneys received to the state
25 treasurer, who shall deposit the entire amount in the state treasury
26 and credit it to the state racing fund created by K.S.A. 1987 1990
27 Supp. 74-8826 and amendments thereto.

28 (d) The commission shall audit and verify that the amount of tax
29 received from each organization licensee hereunder is correct.

30 Sec. 10 11. K.S.A. 1990 Supp. 74-8802, 74-8804, 74-8810, 74-
31 8813, 74-8819, 74-8820, 74-8821, 74-8822 and 74-8823 are hereby
32 repealed.

33 Sec. 11 12. This act shall take effect and be in force from and
34 after its publication in the statute book.

SPEECH

FEDERAL AND STATE COMMITTEE - HOUSE OF REPRESENTATIVES

Monday, January 27, 1992

Madam Chair, Ladies and Gentlemen of the Committee:

I am Richard Boushka, President of Sunflower Racing Inc., owner of the dual track complex in Kansas City called the Woodlands.

As most of you are aware, this is the third year we have appeared attempting to pass simulcasting in Kansas. The Kansas Senate passed SB-383 last year and now with the addition of a few fine tuning-type amendments, we are here before you requesting you approve SB-383 as amended so that the full House can vote the bill forward toward enactment and signature by the Governor.

Simulcasting is not an evil but a strong marketing tool and purse enhancer in the State of Kansas. SB-383 not only protects but also furthers live racing. Horse racing presently only exists at the Woodlands in Kansas City. We are currently experiencing difficult financial times concerning our horse operations. Sadly, as we came to final day on Labor Day weekend last year we all came to the realization that no one--and I emphasize. . .no one--from the grooms on the back stretch to the track owners had held their money together, and trainers, horsemen, and the track had a significant stack of unpaid bills. Today, simulcasting is desperately needed to inject new funds into the system, help abate or even stop the current downward spiral of horse results, and give hope to all that better days are ahead. Our greyhound people will also receive benefit and help offset some of the declines they have experienced because of the general economic climate.

In the horse racing business, we must compete with the tracks on a regional and even national basis for racing stock. We are the only state that has parimutuel racing west of the Mississippi that does not have simulcasting. These competitors have simulcasting to enhance their purses. We need SB-383 to get to an even playing field with the states around us. The initial projected new revenue of \$750,000 on a full-year basis will be a good start toward that goal. We are also tired of watching the cars go out of state on Derby and other big race days.

While all of the states have simulcasting, none have the revolutionary safeguard that Kansas has included in its legislation. Please remember when considering all the "what ifs" SB-383 as amended includes a provision that gives the local greyhound owners and the elected horse groups at the tracks the ability to veto the track's simulcasting package. If one group has a problem or a detriment, it won't be for long as it will bring all parties to the negotiating table and do it quickly.

We have always been and continue to be a supporter and proponent of simulcasting in general and for SB-383 specifically and ask this committees approval of same.

House Federal & State Office
January 27, 1992
Attachment #3

January 27, 1992

Hearing on Simulcast gambling.
House Federal & State Affairs Committee

Rev. Richard Taylor, President
KANSANS FOR LIFE AT ITS BEST!

SB 383 is before you for one reason. Gambling track operators want more dollars in their pockets.

The Wall Street Journal explains how gambling is technically a swindle. A swindle is theft by deception. Stealing is taking from others. Gambling is PAYMENT for a CHANCE to TAKE from others.

Gambling promoters get rich by taking wealth produced by others. Slave owners practiced this gambling mentality. "You sweat and toil, and I'll live off the fruit of your labor."

Gambling track operators get rich living off what others have produced with brain and brawn.

If you vote to enrich dog and horse track operators by permitting them to encourage more people to lose more money on more days by gambling on more races broadcast from other tracks, yet vote to not permit Indians to enrich themselves from large losses of large numbers who will lose at casinos, that seems a bit hypocritical. If you vote for simulcasting and vote against casinos, how will you justify such a double standard?

Dollars lost gambling are taken out of the productive part of our economy. Concerned citizens want more consumer dollars spent for worthwhile items on main street. They want you to defeat simulcast and casino gambling.

This Wednesday we will remember that on January 29, 1861, Kansas was admitted to the Union with a Constitution that said, "Lotteries and the sale of lottery tickets are forever prohibited." Our founding mothers and fathers came from other states. They knew first hand the personal, social, and economic damage done by commercial gambling. They wanted citizens in this new state to enjoy freedom from those who get rich by taking from others what was produced by hard work.

Chattel slavery was fought and defeated in Kansas before the great armies of north and south met on fields of battle. But slavery to gambling is even more horrible and deadly than the physical bondage of men and women who bore shackles on their arms and legs. Compulsive gambling binds its victims by placing shackles on their spirits and then casting them down into the darkest dungeons of remorse and despair.

For freedom from this slavery, please vote NO on any extension or expansion of gambling in Kansas.

Respectfully yours,

Richard Taylor

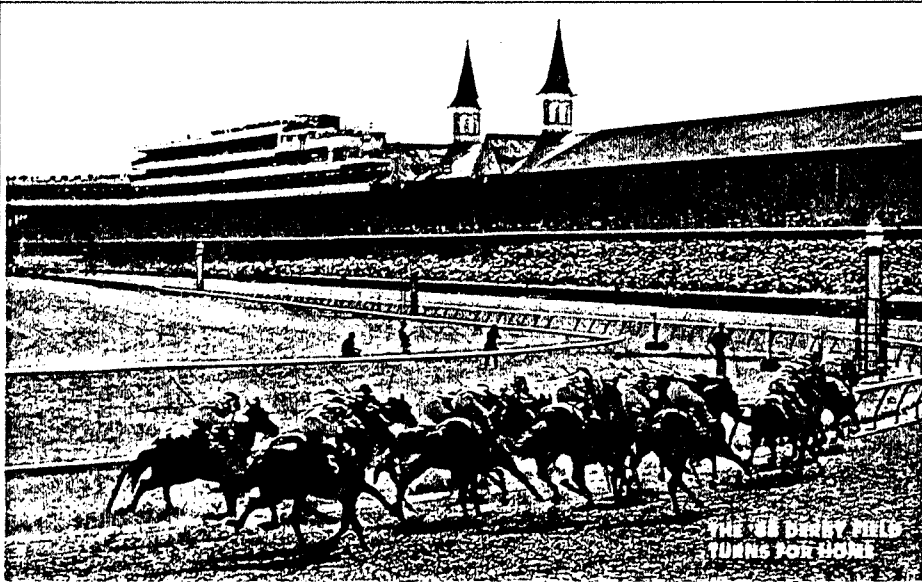
(Pages 5 and 6 of FOOL'S GOLD presents research on gambling addiction.)

*House Federal, State Affairs
January 27, 1992
Attachment # 4*

The legislature and voters in 1986 understood off-track betting to be parimutuel gambling when the race was not being run. This article confirms that understanding. "The [benefit] from off-track telecasting and betting. . ." Simulcasting is OFF-TRACK BETTING. Simulcast gambling in Kansas will help Kentucky skim even more than 2 million consumer dollars from out of state bettors.

HAS RACING STAKED ITS FUTURE ON A BAD PONY?

Simulcasting hasn't helped stop the slide in attendance



You would be hard-pressed these days to find a happier guy than Gerald Lawrence, general manager of Churchill Downs, home of the Kentucky Derby. Not only does he expect 135,000 racegoers to bask in the pageantry of the Derby on May 6, but he also plans to telecast the race nationwide to about 119 racetracks and off-track betting facilities chock full of horseplayers. "Christmas in May" is how Lawrence and others associated with the track describe the annual race.

Indeed, just the \$2 million Lawrence expects to net on Derby Day from betters outside Kentucky makes it seem as if Santa Claus decided to take up residence in Louisville. The boost from off-track telecasting and betting has been an important element in rejuvenating the once-stagnant track, although spruced-up facilities and sharper marketing have helped, too. Of the \$1.86 million Churchill Downs Inc. netted from off-track betting on the 1988 Derby—considerably more than the \$1.1 million cleared at its own windows—half went into richer purses, which attract better horses and bigger crowds during the season.

There's a hitch, though. After Derby Day, Lawrence is not so euphoric. He shares with other racing officials a gnawing concern about the long-term effects of sending and receiving televised

races for betting purposes, otherwise known as simulcasting. Although total wagering on thoroughbred racing nationwide has increased 62%, to \$9.5 billion, since 1968, the rise in betting has not meant a boost in attendance at the tracks. Paid admissions have fallen 19% over the same period. In fact, Lawrence contends that simulcasting is exacerbating the decline: "This is a disaster waiting to happen, if we are not careful."

AGING RAILBIRDS. Why? Simulcasting has not fulfilled hopes of broadening racing's appeal. It has only made it easier for experienced railbirds to bet more often. This is a problem because that crowd is growing older and dwindling in number. That has placed Churchill Downs and other tracks like it in a horse race to fill their grandstands with new fans. Says Ogden M. Phipps, president of the Jockey Club in New York: "The industry must do two things—lure people to the track and educate them."

That's no easy task. "Pitiful is how you can describe the racing industry's attempt to bring in new fans," says Ken Alhadeff, executive vice-president of Longacres Race Course in the Seattle suburb of Renton. "Kids grow up with football," he says, "but horse racing remains a mystery to most of us. Simulcasting won't be the savior of racing. The savior of racing will be our ability to

attract new fans by ripping down the intimidation factor."

Longacres is trying to develop a strategy to bring in the uninitiated. It passes out a "First Timer's Kit" explaining how to read the *Daily Racing Form*. And there's also a "New Comer's Corner," where an ex-jockey explains the arcane science of handicapping and betting.

VENERABLE OVAL. Churchill Downs has some things going for it that other major tracks lack, however—foremost being that horse racing is an integral part of Kentucky social life. As a result, the 115-year-old track doesn't have as hard a problem attracting new racing fans, and it doesn't need to run handicapping seminars. But its facilities were showing their age. In the past four years, clubhouses in the white clapboard, twin-spired grandstand have been redone, replete with plush carpets and white linen tablecloths. And now fans can get a bet-

THE SIMULCASTING PAYOFF

Results of closed-circuit broadcast of 1988 Kentucky Derby to betting outlets

Total wagers at simulcast outlets	\$25,500,000
Less: State taxes	880,000
Bettors' winnings	20,900,000
Simulcast outlets' share	1,860,000

Churchill Downs' simulcast share \$1,860,000

DATA: CHURCHILL DOWNS INC.

ter view of the horses before a race.

In addition to the \$25 million refurbishing program, Churchill Downs' management has had to learn to market the venerable oval. It now offers fans the opportunity to attend receptions for jockeys and is pushing hard to increase group sales, which currently represent about 15% of the track's total annual attendance of 1.2 million. One prime target is Kentucky-based companies. They're being urged to reward employees with a day at the races.

Here again there's a problem, however. Although Churchill Downs doesn't simulcast the Derby locally, for fear of cannibalizing attendance, the track does simulcast regular-season races. So it has stopped advertising to northern and western Kentucky and Cincinnati because those areas receive the broadcasts. Instead, management has had to concentrate much of the track's annual \$1 million promotion budget in such far-away places as Indianapolis and Nashville. And if Churchill Downs can't attract the folks in those areas to the twin spires after Derby Day, there may not be much hope for growth at the nation's less storied racetracks.

By Stephen Phillips in Louisville

House Federal State Affairs
SPORTS BUSINESS

With all the well paid statehouse lobbyists promoting more gambling, I feel very much alone. But today I speak for three hundred twenty-four thousand, one hundred forty three Kansans who voted NO on the parimutuel amendment in 1986. You can not see them, but they are standing with me. They voted for freedom from the personal, social, and economic suffering that comes with race track gambling. Many have sent you petitions this session asking for your NO vote on gambling measures. But I also speak for all who voted YES, who voted for NO OFF-TRACK BETTING.

Gambling is a criminal activity. Gambling hurts young people, hurts families, hurts economic strength, and hurts good government with millions of dollars available for whatever corrupting influence is desired.

Today, Kansans are losing millions and millions of consumer dollars on bingo, lottery, and live races. If you vote YES on SB 383, you are voting for more people to lose more money gambling on more races. The issue is MORE. Much of the additional money lost will go to out-of-state tracks.

I understand Senator Vidrickson gained a YES vote on SB 383 from Senator Gaines by promising that next year they will relax the requirements so TV gambling can help the track at Eureka Downs.

In addition to Eureka, the legislature can expand simulcast gambling to include high school TRACKS where "live" races are held. Proceeds could be used to help schools and teenage addiction to gambling would receive a big boost! The more the kids gamble away, the more money for the school!

The Woodlands want simulcasting so rich gambling operators can get richer. One sat in the Senate gallery during the debate and vote on SB 383, smiling big and waving to Senators he had in his pocket. Those Senators smiled back and gave a thumbs up sign.

Does the Kansas legislature exist to help gambling operators get richer at the expense of people losing more money at the track? NO SIMULCASTING is a consumer protection law.

Woodlands want simulcasting so they can carry events like the Kentucky Derby that will attract more bettors to their own races. They will make more money with the addition of out-of-state races and make more money with additional gamblers losing on their own races.

The Kansas Racing Commission reports parimutuel revenue from calendar year 1990 totaled \$9.37 million. If take-out is 20%, the state receives \$3 or 3% for every \$20 lost by people at the track, with \$17 or 17% going into pockets of track operators and owners of winning dogs and horses. For Kansas to receive \$9.37 million, people lost \$62.47 million while track operators kept \$53.10 million. The Racing Commission has a budget of \$2 million so the net revenue for Kansas was \$7.37 million. In 1983, parimutuel gambling lobbyists promised \$30 million a year.

A one-tenth cent sales tax will produce \$21 million net revenue a year. That is nearly three times the revenue produced by race track gambling. A one-thirtieth cent sales tax could almost replace parimutuel revenue.

I and thousands of others will gladly pay an additional penny on a \$30 purchase, get rid of all the personal, social, and economic suffering caused by race track gambling, and leave 62.47 million additional consumer dollars in the public pocket, not lost at the track!

At a White House briefing on highway safety, President Bush said we must teach our youth that choices have consequences. The consequences of your choice to vote YES on SB 383 will be more people losing more money gambling. In addition to people losing more money, SB 383 has a constitutional problem.

The Kansas Supreme Court declares NO OFF-TRACK BETTING in our constitution is what lawmakers and voters understood it to be in 1986 - no gambling away from where the race is run - is every Representative and Senator who votes YES on SB 383 guilty of perjury because they took an oath to uphold the constitution?

On the back side of this page is a brief outline of parimutuel gambling efforts through the years. In 1986 they were at last successful by including a NO OFF-TRACK BETTING provision in the proposed amendment. This persuaded some to change from NO to YES.

Lawmakers concerned for the personal, social, and economic damage that comes with race track gambling wanted to keep the opportunity for problems to a minimum. Everyone understood this to mean exactly what it says - no parimutuel gambling off-the-track from where the live race is run. The news media never mentioned a single exception, such as simulcasting.

In 1989, the simulcast gambling promoters acknowledged our Constitution permitted gambling only where the live race was run, so SB 347 said the track with the race on a TV set "shall be deemed to be conducting a licensed live horse or greyhound race." I asked the Senate Committee, "At the end of the race, who will clean out all the manure in the TV set?"

Because such a statement written into law in SB 347 sounded a bit ludicrous, they had to think up a better way to circumvent our constitutional restriction of NO OFF-TRACK BETTING.

Why not permit gambling at another TRACK? That would not be OFF-TRACK BETTING, it would be ON-TRACK BETTING and permitted by words in our Constitution.

If that is what the legislature and voters approved in 1986, there is a go-cart TRACK at 45th and Adams, and Heartland Park race TRACK south of Topeka is in great need of funds. 150 days of live racing has nothing to do with transforming the race on a TV screen into a "live" race. The Indians can cash in immediately with TV sets on the reservation!

A Federal statute of 1978 tells us "a wager was considered an off-track wager if made anywhere other than at the race track where the horse race to be wagered on took place." In 1986, intelligent Kansas lawmakers and voters understood this to be the meaning of NO OFF-TRACK BETTING.

If simulcast off-track betting comes to Kansas, it needs a constitutional amendment. That should not be a problem. If the people are demanding more opportunities to lose money gambling, they will vote for it.

According to the Kansas Supreme Court, "Courts do not strike down legislative enactments on the mere ground they fail to conform with a strictly legalistic definition on technically correct interpretation of constitutional provisions. The test is rather whether the legislation conforms with the common understanding of the masses at the time they adopted such provisions and the presumption is in favor of the natural and popular meaning in which the words were understood by the adopters."

SB 383 permits gambling only at a "track" so it is not OFF-TRACK BETTING. That is a strictly legalistic definition and technically correct interpretation of the constitution. But that is not the common understanding of the masses and lawmakers in 1986.

Commercial gambling is the enemy of economic development, the enemy of youth, the enemy of worker productivity, the enemy of the home, the enemy of the capitalistic system, the enemy of the future of our nation. Those reasons should encourage you to vote NO.

But if those reasons are not sufficient, your oath to uphold our constitution is reason enough for your NO vote on SB 383.

When your voting record is sent out, 324,143 Kansans will appreciate your NO vote. Many live in your District. And you will be proud of your NO vote. You did not vote for people to lose more money. You did not vote for more teenagers to become addicted to gambling. You did not vote to help rich gambling track operators get richer.

Respectfully yours, *Richard Joyler* HF 35A
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Concerned Women for America

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Beverly LaHaye

President

Kenda Bartlett

Kansas

Area Representative

27 January 92

TESTIMONY BEFORE THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
Representative Kathleen Sebelius, Chairperson
SB 383

It has become increasingly more unpopular in this society for anyone to say that there are some actions that are just "wrong". We believe that there are some things that are wrong based on the moral code on which this country was founded and on which this country functioned for nearly two hundred years. But an attitude has swept across this country that says there are no absolutes of right or wrong. That every man can determine for himself what is right or wrong. This attitude has lead this country to where it is today- to the brink of social disaster with kids killing kids in our schools and with child abuse happening in such great numbers that our agencies cannot keep up with their case loads.

The message that I bring you today from the nearly 3,000 men and women that CWA represents in the state of Kansas is that there are some things that are just inherently wrong, and gambling in whatever form is one of those. The response to what I am saying is generally, "You cannot legislate morally". Members of this committee, my response to that is that you legislate morally every time you vote to pass a piece of legislation that has anything to do with a man's actions. Our whole Kansas criminal code is a piece of legislation that legislates morally. It is just that some people have decided that some activities that this nation and the majority of its people have considered wrong for decades are not longer wrong because of our current financial woes. If CWA had been active in this state when the lottery was passed, we would have opposed it strenuously. We will stand now in opposition to any attempt to expand the range of gambling in this state. In talking to people across this state what we are hearing is that they had no idea that a vote for the lottery would in reality be a vote that opened the door to all of these other forms of gambling. The lottery seemed such an innocent form of gambling- a dollar here, a dollar there, but now we are looking at simulcasting, video lottery, riverboat gambling, and even the prospect of casino gambling. We do not believe that this is what the people of Kansas had in mind.

"Protecting the rights of the family through prayer and action"

House Federal, State Affairs
January 27, 1992
Attachment #5

I could go into all of the arguments as to the damage that simulcasting will do to our people and to their families, but you have heard them all many times. There is an old adage that says, "The end does not justify the means." We realize the financial crunch that the state of Kansas is in, but we do not believe that this state can prosper by trying to fill its coffers with money that would be much better spent in our grocery stores, retail stores, dentist offices and medical care facilities.

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Members of the House Federal and State Affairs Committee:

Frances Wood
4724 S. E. 37th.
Topeka, Ks. 66605
phone 379-5529

In opposition to SB 383 - Simulcast gambling

I had hoped by this time that you would have voted to discontinue the lottery so taking up time on bills such as this would have been unnecessary. Because I don't believe that has taken place, both you and I find ourselves talking about yet another form of gambling. I wonder, does the state qualify for "Gambling Fever" yet? We're surely showing the symptoms - with some elements of government already beyond the treatable stage.

Speaking of treatment, one in 20 of those who gamble, are going to become addicted to gambling. That may not impress you very much - you're probably not the ones that will become addicted. But suppose I had 20 Tylenol pills and I knew that one of those would cause me to lose most of my reasoning. Do you think I would take any of the 20 pills? NO, I'd dispose of them so neither I nor any one else could take them. What's more, the pills would have been removed from all the shelves in Topeka.

The TV show, "48 Hours- Gambling Fever" should have been required viewing for each person that will be voting on gambling issues. Indeed, this show portrayed some monetary benefits to some communities, but it also portrayed the cost in human lives. I will make this video available to you, if you will contact me. The above statistic, 1 in 20 becoming addicted, came from this show. It would not take very long for the expense of treatment to eat up what the state takes in from gambling enterprises.

I carry with me 43 signatures of individuals, who along with me, have no money to be made by our stand. We are concerned citizens who are urging you to vote "No" on this, another way to expand "Gambling Fever."

House Federal, State Affairs
January 27, 1995
Attachment # 6

TRAK EAST

The Racing Association
of Kansas East

TESTIMONY

on Senate Bill 383

House Committee on Federal and State Affairs

Madam Chairman, and members of the committee, my name is Jim Yonally, representing TRAK-East, the non-profit organization licensee at the Woodlands Race Track in Kansas City. I am pleased to appear today in support of Senate Bill 383.

In simple terms, there are two facets to this proposal. One would allow us to receive, via satellite, races from other tracks and permit our patrons to wager on that race just like they do on a race appearing on the track in front of them. Second, it would permit us to send our races to other tracks and participate, through contractual arrangement, in the revenue from their wagering.

The bottom line, for us, is greater income for us to donate to the charities of Kansas. We see the approval of simulcasting, under the direction and control of the Racing Commission as the next logical step for the racing industry in Kansas. We urge your favorable consideration for Senate Bill 383.

Since this bill was approved by the Senate last year, the Racing Commission has taken a position on this matter and, as you know, have some amendments to offer. We are in agreement with those changes.

Thank you for your time and attention.

TESTIMONY
OF
PETE MCGILL
ON BEHALF OF
WICHITA GREYHOUND PARK

PRESENTED BEFORE

THE
HOUSE FEDERAL AND STATE AFFAIRS
COMMITTEE

JANUARY 27, 1992

RE: SENATE BILL 383

*House Federal & State Affairs
January 27, 1992
Attachment #8*

Madam Chair, members of the Committee:

My name is Pete McGill of Pete McGill & Associates and I appear here today on behalf of our client of more than four years, Wichita Greyhound Park, Inc.

Since the adoption and implementation of parimutuel racing in Kansas, we have appeared before the legislature on no less than three simulcasting bills with basically the same testimony and posture: We are proponents of simulcasting under certain, very carefully regulated conditions.

If the legislature were to adopt simulcasting legislation, WGP does not anticipate they will have an extensive simulcast program. WGP may consider carrying certain special events such as the Triple Crown and Breeder's Cup races but our management and kennel owners prefer to continue to develop live racing in our market area. The horse industry has testified on numerous occasions that they desperately need simulcasting to bolster their industry and for that reason we have agreed to support such legislation, within certain parameters.

We can support SB 383 in its present form. However we were an active participant in the industry task force which attempted to achieve a consensus on simulcasting legislation and have a few comments on the amendments proposed by

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the Kansas Racing Commission. WGP attended all industry simulcasting meetings held in the latter part of 1991 at the offices of the Kansas Racing Commission and agreed to a number of substantive amendments to SB 383 in order to create an opportunity for simulcasting by The Woodlands and county fair associations.

We can support the simulcasting recommendations of the industry task force and the Kansas Racing Commission with the following exceptions:

1. We believe a county fair association should be required to run live racing three days per week rather than two in order to receive simulcasting approval. An alternative to this requirement would be to require two days of live racing per week but restrict the total racing season of a county fair association to no longer than seven (7) consecutive weeks.

We believe these requirements are necessary in order to support live racing in Kansas and prohibit extended periods of simulcasting absent live racing.

2. Mandate that if any licensee receives approval to carry a simulcast signal that all licensees in the state shall be permitted to carry the same signal if otherwise entitled to carry simulcasting races on that date.

This requirement would prohibit horse and greyhound representative groups from "shutting out" other tracks from receiving major attractions and features in

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order to protect certain market areas and tracks.

It should be noted that amendments proposed by the Kansas Racing Commission would allow for additional days of simulcasting by a fair association located within a 100 mile radius of an existing organizational licensee if they receive approval from the Commission and the licensee. WGP may very well have no objection to additional days of simulcasting by fair associations located within our market area but would request the legislature allow for an opportunity to see what impact simulcasting will have upon our track before approving a "wide-open" simulcasting bill which would be nothing more than off-track betting under the guise of simulcasting.

If the legislature would deem it appropriate to include these proposals in SB 383 as it was requested to be amended by the Commission, we can support the bill.

Thank you for your time and consideration.

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