

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Kathleen Sebelius at \_\_\_\_\_  
Chairperson

1:30 ~~xxx~~/p.m. on Tuesday, March 24, 1992 in room 526-S of the Capitol.

All members were present except:

Representative Sherman Jones - Excused                      Representative Barbara Lawrence - Excused  
Representative Joan Wagon - Excused                      Representative Elizabeth Baker - Excused  
Representative Joan Hamilton - Excused

Committee staff present:

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

Conferees appearing before the committee:

**HB 3144**

Ben Coates, Director, Kansas Sentencing Commission  
Paul Shelby, Assistant Judicial Administrator, Office of Judicial Administration, State of Kansas

**SB 513**

John N. Roberts, Director of Administration, Kansas Lottery

**SB 639**

Representative Rex Crowell, 76th District, State of Kansas  
Albert Hogoboom, President, Kansas Quarter Horse Racing Association  
Richard K. Teichgraeber, Board Member, Kansas Quarter Horse Racing Association  
Dana Nelson, Executive Director, Kansas Racing Commission

Chair Sebelius called the meeting to order, and opened the public hearing for HB 3144.

Ben Coates appeared before the Committee to explain HB 3144, Attachment #1. He recommended this bill and HB 3120, HB 3121, HB 3142, and HB 3143 be placed in an Interim Committee for study.

Paul Shelby brought to the Committee concerns about HB 3144, and also recommended an Interim Study, Attachment #2.

Seeing no other conferees, Chair Sebelius closed the public hearing for HB 3144, and turned the Committee's attention to SB 513.

John Roberts appeared before the Committee with information on other states' statutes on the assignment of prizes, Attachment #3.

One Committee member asked if it is correct that on line 33 and line 34, page 1, SB 513, the Lottery Commission, basically, could promulgate rules and regulations which would allow prizes to assignable, but this is not a mandate, they wouldn't have to do it, but right now they are prohibited from doing that?

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 HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS room 526-S, Statehouse, at 1:30 p.m. on Tuesday, March 24, 1992.

Chair Sebelius suggested to the Committee that they pass over the hearing on SB 513, and opened the public hearing for SB 639.

Representative Rex Crowell appeared before the Committee in support of SB 639. He explained that he represents the Eureka Downs area and explained that this legislation is very important to the area.

Albert Hogoboom testified in support of SB 639, Attachment #4.

Richard Teichgraeber urged the Committee to report favorable for passage SB 639, Attachment #5.

Dana Nelson appeared before the Committee as a resource for the Committee's deliberations, Attachment #6.

Questions from the Committee:

- Does language on page 2, SB 639, only apply to Eureka Downs, and is that a problem to limit it only to that?
- On page 3, Section 2 of the bill in the misdemeanor provision, what would keep a horseman's non-profit organization from having financial interests in another track somewhere else?
- Would the horseman's non-profit organization would be able to own and operate, or at least operate, a facility at Eureka Downs?
- Would that facility be licensed as is any other racetrack?
- Has Eureka Downs incurred debts to the bondholders, and this bill will not make them whole?
- Where does the money come from to fuel this facility if we give them this ability?

There was Committee discussion about the difference between the language in paragraph 3 which exists on lines 10 through 12, page 2, SB 639, and is a definition of Horseman's Association and doesn't reappear on line 20 as Horseman Non-Profit, the exclusionary language. It was felt this and language, language on page 3, line 34, and language on page 2, line 18 leaves it wide open.

One Committee member asked on page 4, the insertion of language about advisory committee members; that is the advisory committee to whom? This member also asked if there is still an advisory committee, and is this language coming to us at your request because you want to start an advisory committee?

Mr. Nelson was asked by a Committee member if this bill is passed as brought to us by the Senate, a group of individuals could put together something called a horseman's association and buy or open Eureka Downs as well as race their own animals at Eureka Downs and win the prizes? And the Commission has no problem with that?

Chair Sebelius adjourned the meeting.

**HB - 3144**

**An act concerning criminal procedure; relating to field service agencies.**

This bill would require staffing conferences between field service agencies in order to achieve single supervision and eliminate duplication. Staffing conferences shall be held at various stages of the decision making process to provide the courts and parole board with a comprehensive individual supervision plan based upon objective classification criteria and logistical considerations. Staffing conferences will obtain maximum use of programs and resources available to support the client's rehabilitation and meet the orders of the court and parole board.

The issue of single supervision is the paramount dilemma facing the current system of field services. Data gathered on the current system indicated a significant amount of duplication of efforts in supervising offenders. In addition, offenders typically are provided services depending upon how and where they enter the system. By holding joint staffing conferences at the decision making stages, duplication in supervision, services, and case reporting will be eliminated. Joint staffing conferences will ensure that agencies receive appropriate clients for their programs.

For more information contact:

Kansas Sentencing Commission  
(913) 296-0923

Ben Coates, Director  
Blaine Carter, Management Analyst

*House Federal & State Affairs  
March 24, 1992  
Attachment #1*

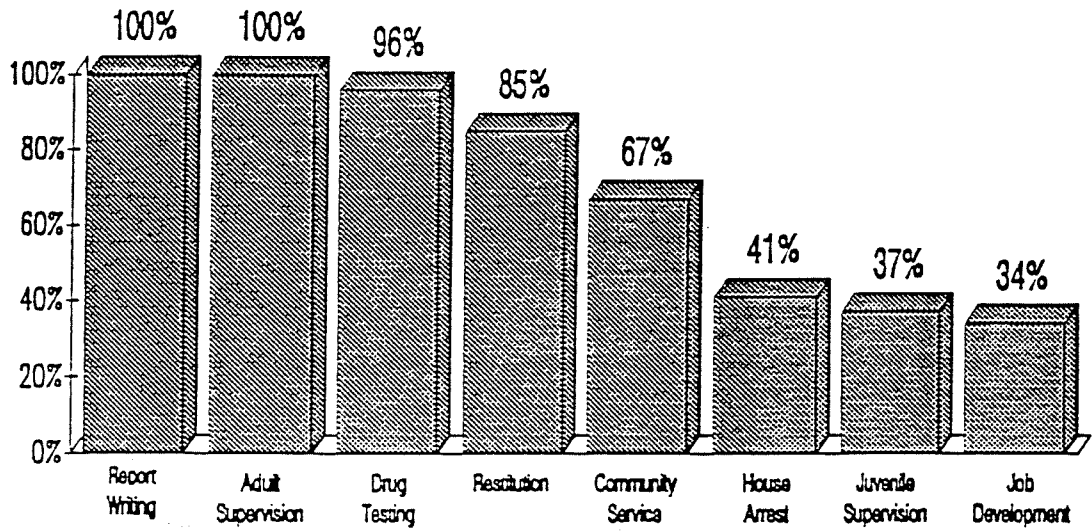
**Number of Individuals\* Supervised by More Than One Office or Agency  
May 1991**

More than one Judicial District .....	518
More than one Community Corrections Agency .....	43
Court Services and Community Corrections .....	559
Court Services and Department of Corrections .....	900
Community Corrections and Department of Corrections .....	181
All three Agencies .....	<u>46</u>
Total .....	2,247

\*Includes juvenile and adult felons and misdemeanants, does not include diversions, CINCS, or domestics

HFSA  
5/24/92  
1-2

Services Provided by More Than One Agency Within a Judicial District  
by Percent of Judicial Districts  
May 1991



HF 35A  
3/24/92  
1-3

House Bill No. 3144  
House Federal and State Affairs Committee  
March 24, 1992

Testimony of Paul Shelby  
Assistant Judicial Administrator  
Office of Judicial Administration

Madam Chairperson and members of the committee:

I thank you for the opportunity to discuss with you House Bill No. 3144, which directs individual supervision plans for criminals sentenced to probation or placement in community correction programs. The bill specifies that there be a single field service agency to supervise and manage each criminal. There are provisions for determining placement of a particular criminal and formulating a plan which will best ensure that the conditions of probation or parole are met.

This appears to be an effort to eliminate duplication of supervisory requirements. The elimination of this duplication should make the supervision more efficient, but the requirements imposed by this bill will substantially increase the staffing requirements. There are procedures enumerated to resolve differences of opinion on placement of a given criminal. According to chart 17 of the Kansas Sentencing Commission's task force on consolidation report to the Legislature there will be 25,186 adults requiring supervision in 1993, all of whom are candidates for the staffing conference set out at section 1, page 2 of this bill.

Our data submitted to the Division of Budget is based on an assumption that staffing conferences will only be required before sentencing, yet a considerable amount of money and effort would be necessary to meet the conditions set out in this bill. Among the most critical needs imposed on our office by this bill is the requirement to develop objective classification criteria with the secretary of corrections, presumably to winnow out the criminals suitable for supervision, and the level of it, before sentencing and conditions of supervision both for probation and parole. We really should not be forced into such negotiations without a staff expert to represent our office.

On page 2, section (f), which mandates a staffing conference and interagency transfers brings up several issues regarding cross training of officers on procedures and reporting requirements of the different agencies. Inherent in this question is who will be liable for training, or failing to train, Court Services Officers in Department of Corrections or Community Corrections procedures and vice versa.

Also on page 3, section (j) requires a court hearing in the event a transfer request is denied. Whether this is the responsibility of the sending or receiving Court is unclear. Coupled with sections (k) and (l), it is unclear whether a sending Court can require, through modification of probation or parole conditions, etc., that another jurisdiction accept a client.

House Federal & State Affairs  
March 24, 1992  
Attachment #2

While the concept of single supervision and its improved efficiency, and probably effectiveness, is good, we believe substantial staff will need to be added before this bill could be implemented.

Thank you for your attention. I am pleased to have been able to testify and request the committee to consider our concerns.

M E M O R A N D U M

TO: House Committee on Federal and State Affairs  
FROM: John N. Roberts, Director of Administration *JNR*  
DATE: March 24, 1992  
RE: Assignment of Prizes-Other States Statutes/S.B.513

I have researched the relevant statutes of other state lotteries regarding assignment of prize winnings. No other state lottery allows a blanket assignment of winnings. The majority of states have statutory language restricting assignments to **"The right of any person to a prize is not assignable; except that payment of any prize may be paid to the estate of a deceased prize winner or to a person pursuant to an appropriate judicial order."**

A few states expand the language above to include "...Any prize, or portion thereof remaining unpaid at the death of a prize winner, may be paid to the estate of such deceased prize winner, or to the trustee under a revocable living trust established by the deceased prize winner as settlor, provided that a copy of such trust has been filed with the department along with a notarized letter of direction from the settlor and no written notice of revocation has been received by the department prior to the settlor's death. Following such a settlor's death and prior to any payment to such a successor trustee, the Director shall obtain from the trustee and each trust beneficiary a written agreement to indemnify and hold the Department harmless with respect to any claims that may be asserted against the Department arising from payment to or through the trust...."

Kansas law currently allows payment of a prize "to one natural person who is adjudged by the executive director, the director's designee or the retailer paying the prize, to be the holder of such winning ticket or share, or the person designated in writing by the holder of the winning ticket or share on a form satisfactory to the executive director, except that the prize of a deceased winner shall be paid to the duly appointed representative of the estate of such winner or to such other person or persons appearing to be legally entitled thereto." K.S.A. 1991 Supp. 74-8720 (b). The underlined language was added to the statute by the 1988 Legislature and is unique to state lottery statutes.

It appears that the proposed language contained in Senate Bill No. 513 would give power to the Lottery Commission that has been reserved to state legislatures elsewhere. The assignment of prizes "pursuant to appropriate judicial order" has been the subject of litigation in New Jersey where the courts refused to allow the winner to assign his winnings to a finance company for business purposes.

*House Federal & State Affairs  
March 24, 1992  
attachment #3*



March 1992

Representative Kathleen Sebelius, Chairman  
Federal and State Affairs Committee Members  
State Capitol Building  
Topeka, Kansas

My name is Albert Hogoboom, I am President of the Kansas Quarter Horse Racing Association. I am here in support of Senate Bill 639.

This legislation was introduced to provide the horse racing industry in Kansas a workable solution to help stop the spiraling economic decline which has resulted from the introduction of parimutuel racing in the State.

The approval of parimutuel racing and the subsequently necessary level of stringent regulation which accompanies any venture associated with the gaming industry combined to render small tracks with a tremendous financial burden. Before this problem became apparent, and subsequent legislation was passed to provide for some relief from the costs of compliance for county fair associations the primary facility which supported the horse racing industry in Kansas was rendered financially bankrupt. This facility is, of course, Eureka Downs. For over 100 years the horse racing industry in Kansas had centered around the non-parimutuel racing at Eureka. The track offered an opportunity to try the young horses bred in Kansas and identify those which had the ability to go on to other states where the financial incentives were greater.

Lack of experience in the highly regulated parimutuel management of a race track, and the increased financial burden of updating the facility at Eureka all contributed to the resultant financial problems of the Greenwood County Fair Association, but the end result has been a financial devastation to the owners, breeders, and trainers who had relied on this track.

Additionally, it is now apparent that a track in a location so far removed from a major population center will not in the foreseeable future attract financial backing from an investor who does not have a vested interest in the racing industry. The bill you are considering today is proposed as a way to allow financial participation by those with the largest financial investment, therefore a real incentive to make a race track succeed without the profit levels which would be required by an outside investor.

The amendments in Section 1 define a horsemen's association as an organization formed and financed by licensed owners and trainers. It limits this type of organization in that it would only be allowed for the operation of Eureka Downs, and no participant in this association may be a participant in another facility. (The

*House Federal & State Affairs  
March 24, 1992  
Attachment # 4*

Only other facility at this time is the Woodlands, and this provision was included to avoid any possibility of a conflict of interest or creation of a monopoly in the ownership and operation of a racetrack.) In order to comply with the constitutional provision that parimutuel racing must be conducted by a nonprofit organization, the organization which is responsible for the conduct of the races must be a duly recognized not for profit organization formed with compliance to Kansas laws. This "non-profit" would have the same responsibilities as any other organizational license for parimutuel racing in Kansas and while they could not delegate either the responsibility or authority it would allow the licensed horsemen to participate so long as all of the currently existing compliance requirements were met.

In Section 2 the amendments would make the necessary revisions to the criminal penalty sections of the law to allow this horsemen's organization to operate under the conditions specified in the definitions without criminal penalty. The only other amendment in this section is the language in (c) which would allow the Racing Commission under the authority granted in current law to utilize the services of an advisory committee without the conflict with existed currently in this section which made those who participated on an advisory committee subject to criminal penalty if they were licensed to participate in racing.

Section 3 contains the language to require the horsemen's nonprofit organization to distribute its net earnings according to current law for nonprofit organizations and to require the new organization to comply with current law applicable to county fair or small track facilities in submission of financial information.

Section 4 provides the changes necessary to implement the licensing procedures for the new organization consistent with current law for fair associations.

The approval of this legislation will allow the formation of a "cooperative venture" with the financial participation of people who own and train racehorses. It will permit the same high level of regulation and enforcement required in Kansas law currently. The benefit to the State will be created by a renewed economic incentive to keep the breeding and racing industry functional. This benefit will be good for all breeds of horses which are currently being raised in Kansas because, unlike the Woodlands with its exclusive participation by thoroughbred and quarter horses, Eureka has been a home to all breeds which wished to race in the State. Given the financial difficulties of the Woodlands, and subsequent approval for even fewer racing days in 1992 an organization which allows the financial participation of those with the most to lose if horse racing is eliminated is the best possible way to keep the industry viable.

March 24, 1992

Representative Kathleen Sebelius, Chairman  
House Federal and State Affairs Committee Members  
State Capitol Building  
Topeka, Kansas

My name is Richard K. Teichgraeber, I am presently serving on the Board of Directors as Past President of the Kansas Quarter Horse Racing Association. I am an owner and breeder of Quarter Horses and Thoroughbreds and I am here in support of Senate Bill 639.

The Kansas Quarter Horse Racing Association is very concerned about the future of horse racing and breeding opportunities in Kansas. We have had horse racing days at The Woodlands dropped to 63 race days, we also have a short fair meet at Anthony Downs and at this time have no racing at Eureka Downs.

The first Kansas Bred Futurity for Kansas Bred horses was run at Eureka Downs in 1963 and Eureka has been the backbone of the horse racing and breeding industry since that time. Anthony Downs in Anthony, Kansas has also contributed to the economic impact of the horse industry in Kansas. The horse industry needs a place to start horses prior to sending them on to the larger tracks.

The quarter horse industry in Kansas has a significant impact on the state's economy. According to the latest AQHA statistics, as of December 31, 1991 the total number of registered quarter horses in the state of Kansas is 92,678. Out of the five major race horse industry states, Kansas ranks 5th in the category of number of quarter horse starters per breeder. It is estimated that the quarter horse industry in Kansas provides between \$25 and \$35 million annual economic impact since 3.5% of the starters in the nation are foaled in Kansas.

Since the beginning of the Kansas Bred program in Kansas, the Kansas Horsemen's Association figures, show that approximately 4,047 horses have been registered in the Kansas bred program alone. These figures will drop significantly if we cannot provide more opportunities for the racing of horses in Kansas.

It is obvious the quarter horse industry in Kansas is a significant asset to the Kansas economy. I ask for your favorable consideration of Senate Bill 639 to help the horse industry in Kansas on the road to recovery.

*House Federal & State Affairs  
March 24, 1992  
Attachment #5*

Testimony of Dana Nelson  
Executive Director  
Kansas Racing Commission  
before the  
House Federal and State Affairs Committee  
Senate Bill ~~659~~ 639  
March 24, 1992

Madame Chairman and the distinguished members of the House Federal and State Affairs Committee my name is Dana Nelson. I am the Executive Director of the Kansas Racing Commission. I rise before this committee today, speaking neither as a proponent nor as an opponent of Senate Bill ~~659~~<sup>639</sup>, but rather as a resource for the committee's deliberations.

I would like to make a few observations of Senate Bill 659. First, this bill would be a departure from the existing statute as it would allow the owners or managers of a racing facility to race their animals at that facility. I would hasten to point out, however, that the regulatory dilemmas that this may present are not insurmountable. Many states, including New Mexico and Louisiana to name a couple, deal with owners of racing facilities racing their own animals on those facilities daily. In Kentucky, owners of racing animals can even serve on the Kentucky Thoroughbred Racing Commission. The proposed operation and management activity pose no great threat to the integrity of parimutuel racing, as I remind the committee that the commission still hires and appoints the racing stewards, who are the key regulators at a racing facility. In addition, the commission must approve all other racing officials, as well as

House Federal & State Affairs  
March 24, 1992  
Attachment #6

the stakes program, betting format, and a number of other items as part of the licensing procedures. As a result, there are adequate controls and oversight that protect and preserve the integrity of the parimutuel wagering racing industry.

The second observation that I would offer is that no original racing group or business to my knowledge has expressed any serious interest of opening and running Eureka Downs. Although there have been a number of inquiries, including Delaware North United Tote and other potential racing groups, none have made a serious bid to own, manage, or open Eureka Downs. Consequently, this proposal which would very simply put an organization like the Kansas Horsemen's Association on an even footing with a county fair association, may be, and probably is the most viable opportunity to open Eureka Downs. Putting the horsemen's association on even footing with a county fair association, gives that group no special right or advantage to a license, as they still must go through all of the licensing hoops and requirements in place for any other organization. The horsemen's association will be required to withstand the same background as any other organization and all subsequent fees and taxes will be paid.

Finally, Kansas, if it intends to retain the level of horse breeding and racing that currently exists needs a horse track other than the Woodlands. Sixty-three days of racing is not

HFSSA  
3/24/92  
6-2

enough, but it is equally unfair to expect the Woodlands to run additional days at an economic loss to that business.

This bill in and of itself does nothing to reopen Eureka Downs. However, it may set in motion the mechanics and the procedure for a group like the Kansas Horsemen's Association to actually take steps toward reopening the facility, and restoring racing to that community.

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HF 35A  
3/24/92  
6-3