

Approved: Feb. 4, 1993
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Chairperson Lana Oleen at 11:00 a.m. on January 19, 1993 in Room 254-E of the Capitol.

All members were present

Committee staff present: Mary Galligan, Legislative Research Department
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:
Ralph Decker, Lottery Commission
Dana Nelson, Racing Commission

Others attending: See attached list

Chairman, Sen. Oleen recognized pages from Sen. Papay's district, and they were introduced to the committee. Sens. Praeger and Gooch introduced their interns to the committee also. Sen. Oleen introduced Ralph Decker, and he presented an overview (Attachment 1) to the committee. He emphasized the fact that current law provides that in FY 1993, 90% of gaming revenues funds must be used in projects funded by the Economic Development Initiatives fund and the remaining 10% is used to finance Corrections projects, and that the decision of allocation of funds rests with the Legislature. Senators asked questions of Mr. Decker. In particular, Sen. Gooch questioned how retailers are selected, and Mr. Decker explained the numerous checks conducted before a retailer is selected. Sen. Vidricksen questioned the bonus program for sales personnel and the Lottery's inability to allow non-monetary prizes. Sen. Ramirez questioned about administrative costs, and Mr. Decker stated the Lottery has 95 employees. Sen. Papay questioned lottery on Indian Reservations, and Mr. Decker explained Class III Gaming and IGRA. The committee also discussed audits and a computer study completed in August, 1992.

Sen. Oleen introduced Dana Nelson, Executive Director of the Racing Commission, and he stated he was waiting on copies of his Overview, but he would proceed. Mr. Nelson read from his statement (Attachment 2); however, the Chairman interrupted him since it was time for adjournment. She stated that the committee will continue to hear the Overview at a later time. (Note: Mr. Nelson returned to the committee on January 26, 1993 to continue the Overview and answer questions.)

Sen. Oleen made several announcements and adjourned at 11:55.

GUEST LIST

COMMITTEE: Senate Federal & State Affairs

DATE: JAN. 19, 1993

[illegible]

Decker
(Attachment 1)

January 19, 1993

FEDERAL AND STATE AFFAIRS COMMITTEE MEMBERS:

A Constitutional Amendment authorizing a state lottery was approved by 64% of Kansas voters in November of 1986. During the 1987 Legislative Session, the Kansas Lottery Act was adopted, implementing a lottery in the State of Kansas. The Lottery is in its sixth year of operation and continues to provide its players with a variety of products which offer prize returns as well as revenues to the State of Kansas.

Thirty per cent of Lottery receipts are transferred to the State Gaming Revenues fund. Moneys from the State Gaming Revenues fund are used to finance projects in Corrections and Economic Development. Current law provides that in FY 1993, 90% of Gaming Revenues funds must be used in projects funded by the Economic Development Initiatives fund with the remaining 10% to be used to finance Corrections projects.

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The first six months of FY 1993 generated total net sales revenues of \$47,949,520. Transfers to the State Gaming Revenue fund for the six-month period totaled \$16,371,846. This, added to previous transfers in FY 1988, FY 1989, FY 1990, FY 1991, and FY 1992, of \$101,704,677, creates a grand total transferred to the State Gaming Revenue Fund of \$118,076,523.

A total of \$3,075,473 was transferred to the State Gaming Fund based on sales in December, 1992. This was one of the largest monthly transfers since the Kansas Lottery started.

At present, 2,082 retailers are selling Lottery products. Commissions paid to these Kansas retailers since the start-up of the Lottery total \$20,744,210.

During the past five years the Lottery has had a total of 19 audits, ranging from financial to security. The most recent audit completed in the fall of 1992 was very gratifying because there were no errors or omissions noted.

The Kansas Lottery maintains a high level of integrity, accountability and security and we intend for that to continue in the future.

TARGETS ATTAINED BY YOUR KANSAS LOTTERY:

Staffing levels reduced by 10%

Administrative costs reduced from 14.8 to 10.6%

Computer capabilities expanded to allow 10 instant games instead of the previous limit of 3.

Organizational chart realigned to increase efficiency.

FY 1991 - exceeded sales projections for first time.

FY 1992 - followed with a record year of sales.

Announced new theme: "Somebody's Always Winning."

Introduced daily lotto game: Pick 3.

Commenced live TV Cash Lotto drawings.

Redesigned Keno to Club Keno.

. . . and we're not ready to rest after all of that.

The Kansas Lottery is not a typical state agency -- your Lottery exists as a profit-making organization, WITH THAT PROFIT GOING TO THE STATE OF KANSAS!

THE FUTURE OF THE LOTTERY

- * ONE BUDGET - ability to shift moneys as necessary, where needed (i.e., K.B.I., Kansas Highway Patrol and Adjutant General's office)
- * ON-LINE VALIDATION - Cross-redemption
- * BONUS PROGRAM FOR SALES FORCE
- * LOTTERY BECOMES A RETAILER
- * ALLOW NON-MONETARY PRIZES
- * LARGER PRIZE RETURN TO KANSAS' LOTTERY PLAYERS
- * INCENTIVE PROGRAM FOR LOTTERY RETAILERS
- * EXECUTIVE DIRECTOR - made a contract position
- * LOTTERY AS A CORPORATION rather than an agency
- * SUPPORT FROM THE LEGISLATIVE BODY in view of competition arriving in the form of casinos

KANSAS LOTTERY

To Date Activity 12/31/92

| | |
|-----------------------------|----------------------|
| Net Sales | \$393,718,481 |
| FY 88 | \$65,804,532 |
| FY 89 | 68,188,022 |
| FY 90 | 64,530,640 |
| FY 91 | 70,206,003 |
| FY 92 | 77,039,764 |
| FY 93 | 47,949,520 |
| Retailer Commissions | \$20,744,210 |
| FY 88 | \$3,618,110 |
| FY 89 | 3,602,985 |
| FY 90 | 3,318,244 |
| FY 91 | 3,657,131 |
| FY 92 | 4,065,060 |
| FY 93 | 2,482,680 |
| Game Prizes | \$187,452,289 |
| FY 88 | \$30,123,006 |
| FY 89 | 33,755,427 |
| FY 90 | 28,941,942 |
| FY 91 | 32,800,224 |
| FY 92 | 37,063,757 |
| FY 93 | 24,767,933 |
| Transfers To State | \$118,076,523 |
| FY 88 * | \$11,343,321 |
| FY 89 | 24,500,950 |
| FY 90 | 19,259,917 |
| FY 91 | 19,453,470 |
| FY 92 | 27,147,019 |
| FY 93 | 16,371,846 |

* Includes \$2,843,321 Loan & Interest Payback

FY 92 & FY 93 UNAUDITED

KANSAS LOTTERY
LISTING OF AUDITS, STUDIES AND REVIEWS
JANUARY 15, 1993

Financial and Compliance Audits (Agency)

FY 1987 - Legislative Division of Post Audit
FY 1988 - Arthur Andersen & Co.
FY 1989 - Arthur Andersen & Co.
FY 1990 - Wendling, Noe, Nelson and Johnson
FY 1991 - Arthur Andersen & Co.
FY 1992 - Berberich Trahan & Co.

Financial and Compliance Audits (Statewide)

FY 1989 - Arthur Andersen & Co.
FY 1990 - Arthur Andersen & Co.
FY 1991 - Arthur Andersen & Co.
FY 1992 - Arthur Andersen & Co.

Special Studies

March 1988 - Ernst & Young
April 1990 - Myers & Stauffer
August 1992 - Grant Thornton

Performance Audits (Various subject matter)

April 1988 - Legislative Division of Post Audit
January 1989 - Legislative Division of Post Audit
February 1990 - Legislative Division of Post Audit

Security Audits

February 1989 - Battelle
February 1990 - Battelle
August 1991 - Battelle

Presentation to Senate Federal and State Affairs Committee

January 19, 1993

Dana Nelson

Good morning, my name is Dana Nelson, I am the Executive Director of the Kansas Racing Commission. I have been invited here today to give this committee some general background and information on the Kansas Racing Commission, and comment briefly on possible legislative initiatives.

By way of history, the voters in Kansas approved a constitutional amendment in 1986 to authorize pari-mutuel horse and greyhound racing. Statutory language was enacted and took effect in May of 1987, and in August of 1987, the Kansas Racing Commission conducted its first meeting. One year later, in August of 1988, Rooks County in Stockton, Kansas conducted the first pari-mutuel race in the state of Kansas. It was a harness race. Later that fall, in September of 1988, Eureka Downs ran a 19 day meet at a facility where they had conducted non-parimutuel racing for nearly 100 years. A year later, in September of 1989, Wichita Greyhound Park and the Woodlands opened for greyhound racing. At this time, only the two large tracks, Wichita Greyhound, and Woodlands, a dual racing facility racing both horses and greyhounds continue to operate. Rooks County and Eureka Downs have both ceased operation due to financial constraints and local support.

Nationally, Kansas was one of several states in the Midwest to rush into pari-mutuel wagering in the 1980's. In addition to Kansas, Texas, Oklahoma, Minnesota, Iowa, North Dakota, and Wisconsin authorized pari-mutuel racing during the 1980's. Today, forty-three of the fifty states have authorized pari-mutuel wagering. Only Utah, North and South Carolina, Georgia, Mississippi, Hawaii, and Alaska do not have enabling legislation. However, the states of Virginia, Indiana, Tennessee, Missouri, Maine, and Nevada conduct very little pari-mutuel wagering at this time.

Horse racing is as old as this country, and the beginning of pari-mutuel racing dates more than one hundred years ago to such traditional states as Kentucky, New York, New Jersey, and Florida. Greyhound racing was initiated many years ago generally in the Midwest, with Florida being the first venue to offer pari-mutuel wagering in 1923. Today there are approximately sixty greyhound tracks operating in the United States, with literally hundreds of horse tracks running, ranging from one weekend a year to nearly year-round racing in some areas.

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The United States is not alone in offering racing. Racing is big in Great Britain, Canada, Japan, Hong Kong, Australia, South Africa, Sweden, and France. Racing is not confined to just the European or Asian market either. A racetrack in Beirut recently reopened, some two years ago, a racetrack in Iraq closed. Incidentally, after some fifty years racing has returned to Beijing, China.

Racing in the State of Kansas is regulated and licensed by the Kansas Racing Commission. It is a state agency made up of five members, initially, one from each congregational district when the state had five districts. No more than three can be from any one political party, and the terms are three years. Currently the commission is made up of Robert Londerholm, the Chairman from Olathe, Peggy Coder, the Vice-Chairman from Independence, Dr. Denise Kobuszewski from Valley Falls, Phil Martin from Larned, and Oscar Peltzer from Wichita. The commission staff, including the Camptown operation which is yet to be filled, includes fifty and one-half full time positions and a budget of nearly three million dollars per year. The staff includes the executive director, stewards and judges, veterinarians, auditors, security staff, licensing staff, legal staff, and of course support staff.

The agency is completely self-supporting generating money from six basic revenue sources. The pari-mutuel wagering tax, set at 3/18ths of the pari-mutuel takeout, or approximately three and one-half percent is the lion's share of the funding accounting for about \$8.5 million. The admissions tax charged on a percent of admissions is a second source of funding for the agency (\$280,000). The agency also charges individual occupation license fees ranging from \$5 to \$20 a person per year (\$50,000), daily license fees for each day of racing (120,000), and money from fines against licensees who violate administrative rules (\$10,000). The final source for revenue is in the form of reimbursement from the tracks for the costs of stewards, judges, and veterinarians (\$500,000). In total, the agency generates approximately nine million dollars in revenue during a given year. Since the on-set of pari-mutuel wagering, the state has collected well over twenty-seven million dollars of revenue.

The Kansas Racing Commission is charged with the responsibility of issuing track licenses and setting race dates. The commission also licenses all people working at the facility, and collects taxes on behalf of the state. The commission provides oversight and observation of races as well as making decisions on the order of finish, and any disqualifications. The commission audits the tracks on a regular basis and monitors the pari-mutuel wagering system. The commission is authorized to test both animals and occupational licensees for illegal drugs or substances. The commission also has security staff providing day-to-day oversight of the operation of the facility. The commission is authorized to

conduct administrative hearings to deal with disciplinary problems and can assess fines up to a maximum of \$5,000 per violation, and can revoke a license. The commission also administers a block of research grants for horses and greyhounds, and finally, although not drawn out specifically in the statute, is charged with promoting and maintaining the health of the industry that it regulates.

One of the primary purposes for the commission's oversight is because there is wagering on the races. Of every dollar wagered, approximately eighty percent is returned to the bettors. The state of Kansas collects a tax of approximately three and one-half percent, approximately four and one-half percent of every dollar is paid in dog purses, and on the horse side six and one-half percent. That allows for a retention of some ten to twelve percent by the track. These amounts are set by statute.

In 1991, the live handle at the Woodlands was \$135 million dollars. That placed that track as the fifth largest track in the country. Wichita Greyhound handled \$77 million dollars which left it as the sixteenth largest track in the country. The Woodlands horse facility handled approximately thirty-four and one-half million dollars. For 1992, the Woodlands again handled approximately \$134 million dollars which will probably keep its rating as the fifth largest track in the country. Wichita handled approximately \$69 million, and the Woodlands handled \$11.7 million on live horses. However, in 1992 we added simulcasting which added another eighteen and one-half million dollars of horse simulcasting and six million dollars of greyhound simulcasting at the Woodlands. Wichita supplemented their cards during the period of the kennel cough in November and December with approximately \$900,000 of greyhound simulcast races.

In addition to the revenues I alluded to earlier, there are additional revenues to the state through breakage and unclaimed tickets. Breakage is the odd cents rounded off on the payouts so you get even numbered payouts such as \$2.40, as opposed to \$2.47. Approximately \$250,000 was deposited from breakage into the horse breed fund. Approximately \$466,000 was deposited in the greyhound breed fund at the Woodlands, and approximately \$190,000 from Wichita. Unclaimed ticket revenues are also rather substantial. Approximately \$125,000 was deposited in the bred fund from unclaimed tickets at the horse track, approximately \$470,000 from the Woodlands greyhound racing, and approximately \$338,000 from Wichita Greyhound. All of the breakage and unclaimed money from horse racing goes into the horse breed fund where it is divided amongst purse supplements, stakes races, and mare and stallion awards. Breakage and unclaimed money on the greyhound side of the ledger is handled a little bit differently. Half of the breakage money goes to open stakes races, which means races for greyhound from anywhere in the country, and the other half goes into Kansas Bred purse

supplements, which are supplements paid to Kansas bred greyhound based on their racing performance. The unclaimed ticket money is dedicated 50% to stakes race for Kansas bred greyhounds only, 35% to research on greyhound injuries and illnesses, and 15% to tourism. Last year, approximately \$280,000 was earmarked for research most of which went to Kansas State University, and approximately \$120,000 was earmarked for greyhound tourism which is administered by the Department of Commerce.

All totaled, between purses and the respective breed fund, and stakes well over \$13.2 million was paid in purses and breed supplements because of racing in the state of Kansas.

Kansas also has a little different twist to its pari-mutuel act which requires a charitable non-profit corporation to hold the racing license. As a result, over \$3.6 million has been distributed to private non-profits in the state of Kansas over the past three years of pari-mutuel racing in the state of Kansas.

Jobs were also a promise of the pari-mutuel industry. Annually, the commission licenses well over 7,000 people. That means that some 6,000 jobs have been created as a result of pari-mutuel racing. Those jobs may vary from one or two days to year-round. The Woodlands payroll itself employs approximately 1,200 people and a \$8.5 million annual payroll. Wichita Greyhound employees approximately 400, and has an annual payroll of \$4.1 million. These numbers do not include contract laborers, backside employees, or the persons who work back at the greyhound farms and horse ranches training the animals and getting them ready for racing.

Revenue collected by the racing commission which is not required for regulation is deposited in the EDIF fund. Both pari-mutuel money and lottery money go into that fund. Over the past couple of years the pari-mutuel industry has deposited approximately \$7 to \$8 million dollars into that fund annually. Over eighteen state agencies receive support from that fund, including the Department of Commerce, KTech, the Arts Commission, the Historical Society, the Board of Agriculture, the State Fair, Wildlife and Parks Department, the State Water Plan, Public Broadcasting, the Department of Revenue, the Board of Regents, the Department of Education, and Cooperative Extension. In addition, a good amount of this money has been earmarked for property tax relief, and distributed back to counties on that basis.

One must also remember that pari-mutuel racing reaches much deeper into our economy than just the racetracks in Kansas City and Wichita. When you look at the horse industry you must understand that there is a basic cost of the horse, and the cost to breed that horse. Anybody who has a horse needs to have land in which to pasture that horse, purchase its feed, veterinary supplies, training for racing, trailers to haul the horses,

leather goods and tack such as saddles and bridles, and of course help to train the horses. The greyhound industry is similarly deeply rooted in this state as there are over 450 registered greyhound breeding operations in the state of Kansas according to the National Greyhound Association.

The role of the commission, as I indicated to you at the outset is to protect the integrity of the sport for all involved, and particularly the patron who comes thru the turnstiles. This game is different from any other gaming ventures, as there is more skill involved. This game is not a house game, but is a game played against the other patrons at the facility. If you are more adept at handicapping racing, you will inevitably come up better than those who are strictly number players. The commission also has a responsibility to protect the racing animal, in this day and age with increased criticism of abuse of animals, this is rapidly becoming a high profile area. Economic development has long been a corner stone of racing, and continues to be. Tax collection, although significant, is an incidental benefit to the state of having these very labor intensive industries operate within your state.

However, there are some tough times coming for the industry. With the advent of pari-mutuel racing in the number of states in the Midwest over the last five to seven years, the expansion of lottery, the advent of Indian gaming, and the potential for riverboat and casino gaming, the slice of the pie which the racing industry gets is likely to become increasingly smaller. This year, in September, the pari-mutuel wagering tax is scheduled to increase from 3/18ths to 4/18ths at Wichita Greyhound. The timetable is somewhat delayed at the Woodlands because it is a dual facility, however, it will also increase in its seventh year of operation. That increase was built into the statute at the time it was passed in 1987, and was negotiated in good faith. However, I must tell that you that the industry has changed rather dramatically since the mid 1980's. When the projections and analysis were made for Kansas, all those statistics were gathered for 1986 and earlier. At that time, the greyhound industry and to a lesser extent the horse industry were on a very high note. However, the industry changed in the mid 1980's, and will never be the same industry it was prior to that time. Times are tougher and legislation will be introduced on behalf of the tracks to freeze the tax rate at the 3/18ths. In other words, the tax rate will remain the same and not accelerate as had been previously programmed. There will be no loss of revenue to the state of Kansas. This committee will be asked to favorably consider that legislation, and I would very respectfully ask that this committee give it favorable consideration because the very survival of a very beneficial industry may ultimately hang in the balance.

The commission itself only has a few items which it will be presenting to the Legislature for consideration. Basically,

those items are of a less, or even a noncontroversial nature, and can be characterized largely as cleanup. The commission will be asking the Legislature for some very narrowly crafted language which will make mutuel tellers responsible for shortages in their cash boxes. This kind of legislation, or interpretation of existing legislation exists in every other racing jurisdiction, and is a deterrent to mutuel tellers betting out of their boxes. Currently, under interpretations of the Department of Human Resources, shortages cannot be repaid by the tellers. Sometimes shortages are legitimate errors, and not anything sinister, and the opportunity and ability for tellers to repay that seems to be a reasonable change to the statute. The commission will also be asking the legislature to consider broadening licensing categories to include such things a photo finish, film patrol, and video and audio signal up-link services. These are significant items in pari-mutuel wagering, and heretofore have not been licensed as businesses. Currently we do more to license the person who provides the straw for bedding in the horses pens than we do with the people who provide us the photo finish picture. We think that is an inconsistency in the statute, and one which ought to be changed. We will also ask the Legislature to consider broadening language that was adopted last year for county fair racing. Currently, under the statute, only a county fair racing association could receive money from that county fair horse racing benefit fund. However, we believe both the state fair and a horseman's association, if that horseman's association ultimately owned and operated Eureka Downs, as authorized by legislation last year, should similarly be able to access that fund. That was largely an oversight in drafting as a result of some of the amendments that went on our legislation late in the session a year ago. The commission will also ask for modest changes to the language that says the judges and stewards must be tested by the commission, to allow the commission to accept other forms of tests conducted and provided by the industry, and the commission will ask the legislature to consider more flexible language for the hiring of judges and stewards so that substitutes can be hired without being in conflict with the statute.

I thank the committee for the opportunity to appear in front of it, and must tell you that in the future, you will probably either see the Chairman, Robert Londerholm or Janet Chubb, the Assistant Attorney General assigned to our office, since I am resigning my position as Executive Director of the Kansas Racing Commission over some policy differences with the commission. I want to tell you that it has been a privilege to serve as Executive Director of the Kansas Racing Commission, and it has been a pleasure to work with the legislature, and the people in the industry. Thank you for your time and attention.