

Approved: 2-1-94
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Clyde Graeber at 1:30 p.m. on January 19, 1994 in Room 526-S of the Capitol.

All members were present except: Representative Phill Kline, Excused
Representative Eloise Lynch, Excused
Representative Kathleen Sebelius, Excused
Representative Carolyn Weinhold, Excused

Committee staff present: Mary Galligan, Legislative Research Department
Lynne Holt, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
June Evans, Committee Secretary

Conferees appearing before the committee: William M. Henry, Kansas Thoroughbred Association
Jerold F. Johnson

Others attending: See attached list

The Chairperson stated this issue had been discussed with every member of the committee and sure you are all aware we are quite familiar with the content of SB 380. Therefore, I have set a few rules in regard the hearing of this particular matter. Today we are going to hear the proponents of this legislation, the main speaker will be given five minutes to state their cause and anyone else that wishes to speak will have about two minutes. Tomorrow, January 20th we are going to hear the opponents of the bill and the same rules will apply. If by any chance we get into a donnybrook like last week I will recess this committee and this bill will not be heard any more this year.

Bill Henry, representing the Kansas Thoroughbred Association, testified in support of SB 380 stating the bill would clarify the intent of the simulcast racing act and provide for the distribution of breeding funds from simulcast racing in the same manner as breeding funds are distributed for live races. No one in the Kansas Thoroughbred Association or the Kansas Quarter Horse Association controls what races are simulcast. Thoroughbred owners do not determine what races will be run at the Woodlands, Eureka Downs or any other racing facility in Kansas. The market for the particular gambling dollar in Kansas makes that determination. The Thoroughbred Association believes breeding funds receipts should follow the breed. In a live race, under current law, if a Quarter Horse race is scheduled these benefits go to the Quarter Horse Association. If a Thoroughbred race is being run, the funds are distributed to the Thoroughbred Association. (See Attachment #1).

It was asked if the money is still being held by the Racing Commission.

The Chairperson asked Janet Chubb, Executive Director, Kansas Racing Commission, to reply to that question and the amount of money that is in the fund.

Janet Chubb stated the funds are held by the Kansas Racing Commission and the fund is \$514,300.

The Chairperson asked Ms. Chubb if the Court ruled that the money should be divided based on live racing, you still think this legislation would be needed?

Ms. Chubb replied, I think whether the legislation is needed depends on which party is approached. The Commission is a party to that litigation, whether they would wish to repeal that would be up to them. We believe that decision will be forthcoming.

The Chairperson stated he thought the decision would be handed down by the end of the month.

It was asked how the monies would be split to the different associations.

Ms. Chubb stated the general percentage would be about 70%/30%. The breeds seen on the television screen are more like 99%/1%.

Jerold F. Johnson, horse owner and breeder, Olathe, Kansas, representing Quarter horse and Thoroughbred breeds, testified stating he had worked with the Kansas Racing Commission to develop SB 380. The intent of the bill was that simulcast monies would follow the breed as in live races. Existing laws of Oklahoma, Iowa and other surrounding states as well as the Federal Simulcast Legislation were considered and were the basis of much of the language.

Mr. Johnson further stated the Attorney General's opinion was not consistent with the intent of the drafters of the language presented to the Legislature. (See Attachment #2)

The following testimony was distributed to the committee: Ralph Lilja, Chairman, Kansas Affiliate of the Horsemen's Benevolent & Protective Association, Inc. (See Attachment #3) Gary J. Smith, Kansas Thoroughbred Association (See Attachment #4) and Richard Turpin, Vice President, Kansas Thoroughbred Association (See Attachment #5)

The Chairperson stated the bill brief to Supplemental Note on SB 380 was very good information.

Representative Rock moved and Representative Gilbert seconded to approve the minutes of January 12 and 13, 1994. The motion carried.

The meeting adjourned at 2:15 PM.

The next meeting will be January 20, 1994.

Date: 1/19/94

FEDERAL and STATE AFFAIRS COMMITTEE

NAME	ORGANIZATION	ADDRESS
Jim & Sonia Yount	K.Q.H.R.A	Valley Falls
Karen Tolle	KQHRA	Overland Park
Kenneth G. Harjo	KRC	Topeka, KS
Dave Johnson	KRC	"
Janet A. Chubb	KRC	Topeka
Steve Dufkerson	K.S.B. Assn	Overland Kansas
J.R. Torpin	K.T.A.	Leavenworth KS.
Dr Bob Hendon	KHBPA	Wichita KS
John Mc Coy	K.T.A.	504 Lake Forest Brunner Spr. KS 66012
TEROLD F JOHNSON	K.T.A.	122 W. CHERRY OLATHE KS 66061
Bob Oakeson	K.T.A.	Leominster, KS
Gary Smith	K.T.A.	Olathe KS

TESTIMONY
House Federal and State Affairs Committee
January 19, 1994

Mr. Chairman, members of the committee, I am Bill Henry appearing before you today on behalf of the Kansas Thoroughbred Association as a proponent of S.B. 380.

Accompanying me today are Richaleen Turpin, Leavenworth, who is the Chairperson of the Legislative Committee for the Kansas Thoroughbred Association, and Ralph Lilja, a member of the Board of Directors of the Kansas Thoroughbred Association. As the Chair determines the appropriate time for questions Ralph and Richaleen will be most happy to respond to any inquiry of the committee.

I have submitted the written testimony of Ralph and Richaleen to the committee and also the testimony of Gary Smith and Jerold Johnson who are also members of the Kansas Thoroughbred Association. The members of the Kansas Thoroughbred Association believe S.B. 380 would clarify the intent of the simulcast racing act and provide for the distribution of breeding funds from simulcast racing in the same manner as breeding funds are distributed for live races.

Let me emphasize that no one in the Kansas Thoroughbred Association or, for that matter, anyone in the Kansas Quarter Horse Association, controls what races are simulcast. That decision is made by the particular track facility with permission of the Kansas Racing Commission. Thoroughbred owners do not determine what races will be run at The Woodlands, Eureka Downs or any other racing facility in Kansas. The market for the particular gambling dollar in Kansas makes that determination.

The Thoroughbred Association believes breeding funds receipts should follow the breed. In a live race, under current law, if a Quarter Horse race is scheduled these benefits go to the Quarter Horse Association. If a Thoroughbred race is being run, the funds are distributed to the Thoroughbred Association.

Unfortunately, because of a Attorney General's opinion, Kansas does not follow that policy. In Kansas simulcast racing, the Kansas Racing Commission has determined that the money does not follow the breed that is performing in simulcast races.

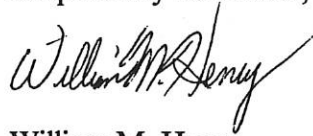
Kansas and only one other state in the entire country have this philosophy on simulcast racing breeding funds. The Kansas Thoroughbred Association shares the frustration of committee members on this subject and realize decisiveness between horse groups is not in the best interest of any horse group.

Richaleen Turpin, whom I introduced previously, will be transmitting a letter to Chairman Graeber in the very near future to suggest a forum for communication between the Kansas Racing Commission and a variety of interest racing groups. It is the hope of the Thoroughbred Association that in the future, differences in racing philosophy could be hammered out between the Racing Commission and the variety of interests in various groups so that the Legislature (and the Federal and the State Affairs Committee) will not have to referee some of these policy decisions. Richaleen is the Vice-President of the Kansas Thoroughbred Association in addition to chairing the Legislative Committee of the KTA, and will work hard to bring members of the racing industry together to study these policy decisions.

It is the wish of the Kansas Thoroughbred Association, due to the emotional nature of S.B. 380, that the committee hold S.B. 380 until this forum can be established and a good faith effort be made to resolve some of these differences.

I will be happy to answer any questions the committee may have and I am sure there are other Thoroughbred Association members who will be happy to respond to any questions the committee may have.

Respectfully submitted,



William M. Henry

On behalf of the Kansas Thoroughbred Association

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1/19/94
Atch #1

TESTIMONY
House Federal and State Affairs Committee
January 19, 1994

My name is Jerold F. Johnson, I live in Olathe, Kansas and I have been involved in the horse breeding business in Kansas for over 40 years. I own mares of many different breeds but I am breeding thoroughbreds and occasionally an Appaloosa with the hope the resulting foals will be profitable.

In the Fall of 1991 I served on the committee that drafted the language that was presented to the Legislature. Representatives of the Quarter horse breed, Thoroughbred breed, Greyhound breeders and owners, The Woodlands and Wichita Greyhound worked in concert with the Kansas Racing Commission Representative, Dana Nelson, for approximately four months to develop the final product. I attended every meeting. The intent of the bill was that simulcast monies would follow the breed as in live races. Existing laws of Oklahoma, Iowa and other surrounding states as well as the Federal Simulcast Legislation were considered and were the basis of much of our language.

The Attorney General's opinion is not consistent with the intent of the drafters of the language presented to the Legislature.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Jerold F. Johnson', with a stylized flourish at the end.

Jerold F. Johnson

KANSAS AFFILIATE OF THE HORSEMEN'S BENEVOLENT & PROTECTIVE ASSOCIATION, INC.®

c/o THE WOODLANDS
P. O. BOX 12036
KANSAS CITY, KS 66112

(913) 788-8444
FAX (913) 299-9038



TESTIMONY House Federal and State Affairs Committee Wednesday, January 19, 1994

My name is Ralph Lilja and I am here today on behalf of the Kansas Affiliate Of The Horsemen's Benevolent and Protective Association, Inc. (KHBPA). The KHBPA is the duly elected and recognized horsemen's representative representing all horsemen running at the Woodlands in Kansas City. We represent over 1,700 horsemen locally and the National HBPA represent over 50,000 horsemen nationally.

The KHBPA is here today in support of Senate Bill 380.

As the horsemen's representative it is our duty and responsibility to assure that the horsemen, regardless of breed affiliation, are treated fairly.

Senate Bill 380 clarifies the original intent of simulcast legislation. The intent was that any revenue generated from the display of simulcast horse racing would go toward the appropriate breeds purse fund and breeders awards program. For example, a simulcast Quarter horse race would be treated exactly as a live Quarter horse race and a simulcast Thoroughbred horse race would be treated exactly as a live Thoroughbred horse race.

Any revenue generated from simulcast or live racing should benefit the breed that produces the revenue.

There was never any intent for one breed to subsidize another breed's purses or breeding program.

Thank You.

Ralph W. Lilja
Chairman, KHBPA

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TESTIMONY OF GARY J. SMITH
KANSAS THOROUGHBRED ASSOCIATION
BOARD MEMBER
TO:
COMMITTEE ON FEDERAL & STATE AFFAIRS

Mr. Chairman, members of the Federal & State Affairs Committee, I am Gary Smith, a board member of the KTA and I am appearing here today in support of Senate Bill 380.

This bill is designed to clarify the language in the simulcast bill that is needed to reaffirm the intent of the drafters of this bill.

In 1991 and 1992 the legislature considered expanding the Kansas Pari-mutuel Racing Act to incorporate Simulcasting. Extensive discussions occurred both before the legislature and it's committees from within the horse industry and before the Kansas Racing Commission. The commission executive director, Dana Nelson, during that period, participated in or contributed to all of those discussions. The executive director of the KRC, Dana Nelson, was the drafter of the simulcasting legislation. It was clear thorough the overall discussions that the simulcast language would merge into the existing act, making it part of, and supplemented to the original act.

To accomplish that, all parties (KTA, KQHRA, Racetracks, and KRC) had to agree on the language to support the bill. That was not an easy task, but it was accomplished. The area which this bill addresses was not a major area of debate or concern during the simulcast negotiations. The participants decided earlier on in the negotiations that breakage and unclaimed moneys, which is the source of revenue for the Kansas Bred Development Fund would be handled the same for a simulcast race as it was for a live race. It was clear to all that participated in the group discussions that the formula for distributing moneys would not be a different one from one that is used for live races.

With discussions I had with Senators and Representatives on this issue I always referred to simulcasting as being an extension of live races and no different. Testimony presented by Dana Nelson, as executive director of the racing commission, reflected that philosophy. Senator Ben Vidrickson's remarks on the floor reflected that same philosophy.

In spite of the fact that all facets of the industry agreed, when the actual results of simulcasting became known, one facet objected and suggested a different interpretation for the distribution of breed funds. An Attorney's General opinion

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followed, which I believe is flawed. It suggested that rather than treating a simulcast race just like a live race, that breakage and unclaimed money on a simulcast race should be allocated back to the breeds of horse which were running in the live races, and the opinion ignores the language which states that expenditures from the fund shall be made consistent with the breed of horse which contributes to the fund. In other words, if the race is a thoroughbred race from which breakage or unclaimed money is generated, than that breed of horse should receive the benefit of the funds. The Attorney's General opinion chooses to use live races as the basis for the distribution.

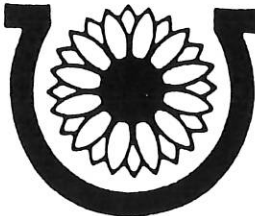
Another way of looking at this from the Attorney's General opinion would be that since TB ran the greatest number of races they would receive the greatest amount of all money generated- even from the races ran by other breeds. This is one of the reasons the other breeds have no incentive to simulcast races of their breed. There is no incentive to simulcast QH or other breed races.

You will no doubt hear from the quarterhorse industry that "it isn't fair", and "that there is not as much quarterhorse simulcasting conducted". That industry needs only to look at the facts. Quarterhorse racing is not as popular to the betting public as thoroughbred racing. Quarterhorse races handle anywhere from 25 to 50 percent less on a race than thoroughbreds. That is not only true in Kansas, but these numbers are true across the country. There is virtually no quarterhorse racing east of the Mississippi River, and even the tracks that can speak of some success as quarterhorse tracks, like Ruidoso Downs, Remington Park, Delta Downs, and Los Alamitos, have experienced much greater success as thoroughbred tracks. Our association has no say over what races are simulcast. That is the decision of the racing commission.

You may also hear that the pari-mutuel law does not specify thoroughbred or quarterhorse or any other breed of horse, but simply talks about horse racing. As a result, one facet of the horse industry is suggesting that the more profitable side of the industry support it. That was never the intent of the simulcast act, and if the shoe were on the other foot the intent would be the same.

I urge support of this bill. Last year when it passed the senate, it came out of committee with no negative votes, it passed the senate overwhelmingly. This bill will set right what the drafters of the simulcast bill intended,

KANSAS THOROUGHBRED ASSOCIATION



STATEMENT
OF
RICHALEEN TURPIN

Before the House Committee on
Federal and State Affairs
The Honorable Clyde Graeber, Chair
January 19, 1994

Chairman Graeber and members of the committee:

I am Richaleen Turpin, vice president of the Kansas Thoroughbred Association and chair of the legislative committee. Thank you for allowing me to present my opinion on Senate Bill No. 380.

I am the owner of a small Thoroughbred breeding farm in Leavenworth County and serve as a member of the Kansas Thoroughbred Association Board of Directors. I stand a stallion that participates in and supports the Kansas Breed program. My horses are Kansas Bred and the offspring of the mares bred by my stallion are also eligible for Kansas Bred registry. I choose to breed Thoroughbreds because of the popularity and attraction of the breed for racing. Thoroughbred owners, like myself, also must conform with strict breeding restrictions. The distribution from the Development Fund is an important incentive for more Kansans to become involved and help the Kansas Thoroughbred industry grow and prosper. The resulting growth contributes higher quality horses participating in Kansas racing. At the present time I have been actively seeking to purchase a new stallion to bring into Kansas. Without Senate Bill 380, bringing a new stallion into Kansas would be a deterrent to my business and would not allow me to expand.

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Simulcast racing at Kansas facilities contributes to the growth of the industry by improving the profitability of the facilities and featuring quality Thoroughbred races from other parts of the country. The popularity of simulcasting contributes significant revenue to the State of Kansas. Almost all the races chosen for simulcast are those featuring Thoroughbred horses. Kansas Thoroughbred owners support national organizations and registries that contribute to the popularity and success of these simulcast races. It is only reasonable that Kansas Thoroughbred owners share in the proceeds of the simulcast in direct proportion to the breed that generates the income.

Senate Bill 380 does not change legislation but clarifies it. In most racing jurisdictions money generated from simulcasting follows the breed. Why would calculation of money be different for live racing than for simulcast? It is my understanding the Kansas Racing Commission is the final authority on what is simulcast in the State of Kansas.

In closing I would urge members of the committee to vote for Senate Bill 380 and adopt the same procedure for simulcast distribution that is used for live racing.

Thank you for your attention. I am happy to address questions.

FINANCIAL ANALYSIS
OF
RUNNING FIVE HORSES

EXPENSE EXPLANATION			BALANCE
<hr/>			
FEED	\$ 5.00 x 365 x 5 horses=	\$ 9125.00	\$ 9125.00
BEDDING	.50 x 365 x 5 horses=	912.50	10037.50
VETERINARY	1.75 x 365 x 5 horses=	3193.75	13231.25
TRAINING	20.00 x 365 x 5 horses=	36500.00	49731.25
FARRIER	1.50 x 365 x 5 horses=	2737.50	52468.75
SUPPLIES	1.00 x 365 X 5 HORSES=	1825.00	54293.75
MAINTENANCE	27.00 x 365	= 9855.00	64148.75
ADMINISTRATION	13.70 x 365	= 5000.50	69149.25
STALLION	Purchase	10,000.00	79149.25
HORSES	Purchase (3)	13,000.00	\$ 92149.25

These figures are on the low end of the scale. There are many owners who run more than five horses. Therefore their expenses would increase significantly.

These expenses do not include the cost of care for a stallion, mares and foals.

It is important to note that the income made off of breeding and racing would be greater if the quality of horses was upgraded. This would be accomplished by allowing the breed that generates the money to keep the money.