

Approved: April 27, 1994
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Chairman Lana Oleen at 11:05 a.m. on March 16, 1994 in Room 254-E of the Capitol.

All members were present except:
Sen. Hensley was excused

Committee staff present: Mary Galligan, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:
See attached agenda

Others attending: See attached list

Sen. Oleen called attention to testimony and documents, from previous hearings which have been distributed to members as follows:

Rep. Carl Holmes on SB 827, relating to emergency interim successors to the Governor, (Attachment 1);
Jolene Grabill, on SCR 1622, amending the Constitution, regarding rights of parents and guardians, (Attachment 2);
Ray Calore, on HCR 5031, requesting the Attorney General to commence action to obtain information about POW/MIAs, (Attachment 3).

Sen. Oleen announced Minutes of previous meetings have been distributed to the committee for approval later in the meeting. Sen. Oleen introduced pages from her district, who are assisting the committee today.

Sen. Oleen announced the hearing for HB 2836, amending Parimutuel Racing Act, relating to simulcast races, and Mary Galligan briefed the committee on the bill. Janet Chubb appeared before the committee supporting the bill (Attachment 4). Sen. Oleen questioned Ms. Chubb why the bill provides for publication in the Kansas register, and she responded so that it would be effective as soon as possible. Sen. Oleen announced distribution of a letter (Attachment 5) from the thoroughbred associations supporting the bill. Bill Henry appeared before the committee in opposition to the bill (Attachment 6). Mr. Henry stated his clients feel HB 2836 gives too much latitude to the commission. He called attention to Page 9, Subsection K of the bill and requested the committee delete it from the bill. He also suggested reintroduction of SB 380 relating to the distribution of simulcast funds and asked the committee to concur with the District Court decision. Written testimony of Jerry Johnson (Attachment 7) opposing the bill was distributed to the committee. There were no other opponents, and Sen. Oleen closed the hearing for HB 2836.

Sen. Oleen recalled testimony yesterday regarding HB 2577, amending the Kansas Racing Act, and controversy between the thoroughbred and quarter horse people relating to the distribution of simulcast funds. When the committee adjourned the previous day, the chairman had asked the members of both sides to attempt to reconcile their differences. Sen. Oleen recognized Bruce Rimbo, executive vice-president of The Woodlands, who acted as arbitrator of the forementioned meeting. He reported to the committee the two groups did meet for approximately 30 minutes following the committee's adjournment yesterday. Mr. Rimbo explained proposals were discussed, in particular, Sen. Parkinson's recommendation. He reported the thoroughbred group consensus was that they could accept the proposal; however, the quarter horse group responded it was not acceptable. He stated he was sorry to report there had been no agreement between the two groups.

Sen. Oleen announced the hearing for HB 2978, amending the parimutuel racing act, relating to investigations of violations. Mary Galligan briefed the committee on the bill. Sen. Oleen introduced Kyle Smith, who gave

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS Statehouse, at 11:05 a.m. on March 16, 1994.

testimony supporting the bill (Attachment 8). The bill had passed both the House and but did not survive the conference committee report. Sen. Oleen asked Mr. Smith if the effective date from publication in the register to publication in the statutes, and Mr. Smith replied he had no objection. Sen. Ramirez moved HB 2978 be amended by changing the effective date to publication in the statute book and be passed as amended. The motion was seconded by Sen. Papay, and the motion passed.

Sen. Oleen opened the hearing for HB 2984, amending the parimutuel racing act, providing penalties for violations. Mary Galligan briefed the committee on the bill. Sen. Oleen introduced Kyle Smith, who gave testimony supporting the bill (Attachment 9). Sen. Jones asked circumstances surrounding the refusal of the District Attorney in Wyandotte County to prosecute a case referred to in Mr. Smith's testimony. Mr. Smith responded the Wyandotte County District Attorney believed simple possession was not covered under the present law. Sen. Jones asked if the bill covers possession on the race track only, and Mr. Smith replied the bill makes possession on a race track facility illegal. Sen. Vidricksen made a motion the bill be passed favorably, and it was seconded by Sen. Praeger; the motion passed.

Sen. Oleen called attention to SB 827, relating to emergency interim successors for the governor. Mary Torrence explained an amendment (Attachment 10) and stated provisions in this bill would become effective in the case of a natural disaster, which would last only 15 days, at which time the Legislature must act because of the state of emergency. It also removes the President of K-State and Chancellor of KU from the line of successors. Sen. Gooch questioned why the lieutenant governor could act as governor for only 15 days. Ms. Torrence stated the bill being discussed relates to natural disasters, which provides for the 15 days only; under other circumstances, the succession would be governed by other statutes. Sen. Gooch also questioned if the successor stays in office until the end of the term, or if it provides for an election to replace the governor. Ms. Torrence responded she will have to research that and report to the committee. Sen. Oleen asked if the committee was comfortable acting on the bill at this time. Sen. Praeger made a motion the amendment be adopted, and it was seconded by Sen. Walker; the motion passed. Sen. Oleen assured Sen. Gooch the question he asked regarding term of the successor will be answered before the bill is acted upon in the Senate. Sen. Tillotson made a motion the bill be passed as amended, and it was seconded by Sen. Jones; the motion passed.

Sen. Oleen called the committee's attention to the Committee Minutes for February 16 and 17, 1994. Sen. Jones made a motion the Minutes be approved, and it was seconded by Sen. Praeger; the motion passed.

Meeting adjourned at 11:50.

GUEST LIST

COMMITTEE: Senate Federal & State Affairs

DATE: MARCH 16, 1994

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
MARIAN GANSER	TOPEKA	INTERN
Susan PETERSON	Manhattan	Kansas State University
Jim McLoey	Louisburg, KS	HBPA
BILL HENRY	TOPEKA	KS Thoroughbred Assn
Henry P. WICKERSON	OXFORD	KTA
KENNETH G. HARSO	TOPEKA	KRC
Karen J. Tolle	Overland Park	KQHRA
Don BRUNER	TOPEKA	KDHR
Tom Bruno	Topeka	Allen Assoc.
Russ FREY	Topeka	RUMF
Janet Chubb	Topeka	KCC
Val J. J. J.	Topeka	KLSWA
Ronia & Jim Yorent	Hallway Falls	KQHRA
Don Brown	5600 SW 6TH TOPEKA	NIBN-TV
Jim Allen	Topeka	Camp Town
Kyle Smith	Topeka	KBI/A6
Shaine Claassen	Topeka	Sen. Iana Oleen
Gary Smith	Oleeth	KTA
Scott Feeken	Topeka	Governor's Office
Libby Quaid		AP

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LEGISLATIVE HOTLINE
1-800-432-3924

TO: Senate Federal and State Affairs Committee

FROM: Carl Holmes, Chairperson
1993 Flood Task Force

DATE: March 14, 1994

SUBJECT: SB 827 (Activities and Conclusions of Task Force)

The Legislative Coordinating Council approved the 1993 Flood Task Force at the request of Kansas legislators. I served as Chairperson of this Task Force, with other members, Senator Lana Oleen; Senator Don Sallee; Senator Marge Petty; Representative Nancy Brown; and Representative Galen Weiland.

Our charge was to explore the damage done by the flooding in our state and the adequacy of emergency preparedness. In order to address these concerns we held well-publicized open meetings in or close to the impacted flood areas in the state. In addition to the Kansas legislators representing the disaster areas, we notified county commissioners and mayors of the meetings briefing them on the purpose of our Task Force. We had public meetings in Manhattan, Bonner Springs and Troy. During a three-day public hearing in Topeka several community officials offered their assessment of the appropriateness of emergency response to the summer flooding.

Although there were many communities effected by the floods, time did not allow the Task Force to travel around the entire state. Consequently attempts were made to have input from other impacted areas so we could offer recommendations that would be universally beneficial to all of the State of Kansas.

In my opinion, this was a very successful effort and, after learning of experiences in the various areas of our state with this disaster, there are a number of problems associated with emergency planning and response that should be addressed before the next disaster. Paramount among them is succession of power in a state emergency situation. The Task Force reviewed the statutes which outlines the order of succession of the powers and duties of the Governor, should the Governor be incapable of administering those responsibilities and duties in time of emergency. There was serious question of the appropriateness of placing the Chancellor of the University of Kansas and the President of the Kansas State University in line of succession rather than some other elected official. The Task Force recommends that this issue be initiated by the Senate Committee on Federal and State Affairs. Having learned of the various aspects of our state's emergency preparedness activities, I am in total agreement with SB 827 and would urge you to move favorably on this legislation.

I remain available to you to respond to any inquiries you may have regarding the findings of the Task Force regarding emergency preparedness.

Carl
Carl Holmes, Chairperson
1993 Flood Task Force
Chairperson, Energy and Natural Resource Committee

*Senate Fed. State
March 14, 1994
Attachment 1*

Attach. 2

THE CORPORATION FOR CHANGE

A Partnership for Investing in The Future of Kansas Children and Families

Testimony Before the Senate Federal and State Affairs Committee
Senate Concurrent Resolution 1622
March 9, 1994

by Jolene M. Grabill, Executive Director

The Corporation for Change is a non-profit corporation organized by the State of Kansas to coordinate and implement reform of children's services in Kansas. To accomplish this mission, the Corporation builds partnerships between government, business, parents, children's advocacy and service groups to develop a comprehensive and coordinated strategy for investing in the future of Kansas children and families. Our major role is to see connections, test out what works and what doesn't work, experiment with new strategies, and to develop the consensus to reinvest our resources in more comprehensive strategies that do achieve the outcomes we all desire for children and families.

In the last two days since I noticed this hearing on the Senate Calendar, I have talked with a number of the Corporation's partners, seeking opinions and information about this strategy. My conclusion is that SCR 1622 raises more questions than it answers. You can read the intent of the resolution either of two ways. It could either be emphasizing parental responsibilities or protecting parental rights on the assumption that in some constitutional way, parents rights have systematically been infringed upon.

I've consulted two district court judges both of whom could not identify a precipitating occurrence that would lead to this magnitude of a constitutional response. They independently stated that parental rights are already fundamental and that parents/guardians can only lose those these rights if they are found unfit, or if their children are obviously being neglected or abused. Furthermore, they both cautioned that this resolution could negate all of the Child In Need of Care Code, and a substantial amount of the Juvenile Offender Code.

Conversations with SRS Youth Services raised the issue that such a constitutional amendment, if passed by the voters, could put Kansas in serious non-compliance for a number of federal programs that fund child protective services and juvenile offender programs thereby costing the state those federal funds.

Perhaps most specific in their concerns, however, were our education partners. They caution that this resolution could be the basis for challenging or negating all compulsory school attendance laws, and health requirements for school attendance such as vaccinations. They raised questions about the impact of the resolution on curriculum and program decisions in the schools.

Perhaps most important, however, were the concerns raised by one individual. She said the messages of those supporting this resolution strike a chord in every parent who has every had a negative experience with "the system" and felt like their rights as a parent had either been ignored or violated.

EXECUTIVE DIRECTOR
Jolene M. Grabill

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on Children and Families
Hesston
Eva Tucker
USD 500
Kansas City, Kansas
Sec. Donna Whiteman
Dept. of Social &
Rehab. Services
Topeka

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Attachment 2

I would add to that a message we at the Corporation for Change have heard loud and clear. Citizens have a great distrust of government. Even more intense is the lack of trust and sometimes outright fear of "the system" by some parents who have had bad experiences asking for help and getting an inappropriate if not downright intrusive response.

Throughout 1994, the Corporation for Change will be engaged in a process of finding that common ground of opinion on which Kansas can build a stronger future for our children and families. The process is chaired by Dawn Merriman of Salina who chairs our Common Ground Committee work. I invite all those who support this resolution to join in that debate about the future of children and families in Kansas. We can be much more productive working together on strategies we agree on than quarreling over a constitutional amendment of uncertain results.

"No government policy can love a child and no policy can substitute for a family's care. But government can either support or undermine families as they cope with the moral, social and economic stresses of caring for children. The undeniable fact is that our children's future is shaped both by the values of their parents and the policies of our nation."

-National Conference of Catholic Bishops, 1992
Pastoral letter, "Children and Families"



DEPARTMENT OF KANSAS
VETERANS OF FOREIGN WARS
OF THE UNITED STATES
POW/MIA COMMITTEE

Attach. 3
Jenne -
please distribute
this page to
comm. Hel
manley



9109 Nieman Rd., #4
Overland Park, KS 66214
March 9, 1994

Senator Lana Oleen, Chairman
Committee on Federal & State Affairs
Room 136-N, State Capitol
Topeka, KS 66612

Dear Senator Oleen and members of the Committee.

Enclosed is information pertaining to HCR.5031 regarding Kansas POW/MIAs. In discussing the memoranda with Michigan Rep. Alan Cropsey's office, it seems that the "snag" referred to deals with the ability to carry out a lawsuit against foreign heads of state. The Michigan Attorney General's office is apparently still researching this aspect, and further details can be attained from his office, ATTN: Haywood Julian (517) 373-8060.

Aside from Michigan, there are at least thirty-three other states who are pursuing this activity, and are in varying stages of progress. Of that number, there are eight states at the forefront: Kansas, Alabama, Virginia, Florida, Connecticut, Colorado, Alaska, and New York. Another ten states that are progressing rapidly are: Arizona, New Mexico, Oklahoma, Wyoming, North Dakota, California, Texas, Minnesota, Wisconsin, and Indiana.

According to Mich. Rep. Alan Cropsey, and Col. Earl Hopper of Task Force Omega (referred to in the attached memorandum, March 9), both of whom are instrumental in this action, the anticipated cost should not be as high as the Kansas Attorney General speculates. In any event, there will be many states that will share the financial responsibility of achieving the truth about American POWs and MIA.

As was discussed at the Committee Hearing on Feb. 22nd, HCR.5031 could be amended to signify the involvement of Kansas joining with other states (for example, 50%, or a total of 25 states) in whatever action is decided upon. This would assure fairness not only to Kansas, but to other states and organizations who participate.

Thank you again for your positive concern in this issue. HCR.5031 presents a unique opportunity for the legislature to demonstrate a strong and aggressive stand on behalf of the sons of Kansas who have yet to return from their wars. Please be assured that in pursuing this matter, you have the full support of the Families of our missing men, and of the 43,205 members of the Kansas Veterans of Foreign Wars. If you or any member of your committee has a question or requires further information, feel free to contact me any time at (913) 492-6131.

Sincerely,

Ray Calore

RAY CALORE
Chairman

*Senate Fed. State
March 14, 1994
attachment 3*

CHARLEY SHOEMAKER, Commander
Department of Kansas
Veterans of Foreign Wars

Attach. 4

STATEMENT
OF THE
KANSAS RACING COMMISSION
HB 2836
Before the Senate Committee on
Federal and State Affairs
The Honorable Lana Oleen, Chair
March 15, 1994

Chair Oleen and members of the committee:

I am Janet A. Chubb, executive director of the Kansas Racing Commission. Thank you for allowing me to present the commission's proposed amendments to the simulcasting section of the Kansas parimutuel racing act. These amendments affect the definition section of the racing act at K.S.A. 74-8802(bb) and (cc) and the substantive provisions for simulcasting at K.S.A. 74-8836, as follows:

The definition of "recognized greyhound owners' group" is amended to require that the election of the group be conducted in accordance with rules and regulations of the commission and that the members must be elected by a majority of those voting in the election. Furthermore, the commission may designate an organization, such as the National Greyhound Association of Abilene, Kansas, to conduct the election. Similar amendments are proposed for the definition of "recognized horsemen's group" in subparagraph (cc) except that the commission does not propose language for designation of an organization to conduct the election for the horsemen's group.

The primary reason for the proposed amendments is that the licensed greyhound owners are not an organized body. They do not have organizational documents, rules of order and, to the commission's knowledge, have never conducted a meeting. The licensed owners, therefore, have not been in a position to conduct an election or to determine how vacancies on the recognized greyhound owners' group might be filled in the case of resignations.

Immediately after simulcasting was passed in 1992, the commission assisted the racetrack facilities in conducting elections for the licensed greyhound owners and drafted a proposed regulation setting out basic rules of order for the conduct of such an election. However, the commission was advised by counsel it had no authority to impose such requirements for the licensed greyhound owners. At one Kansas racetrack two of three members of the recognized greyhound owners' group resigned leaving the greyhound owners, commission, and the track without a method to fill the vacancies. For almost a year and one-half, one person has acted as the recognized greyhound owners' group at that racetrack facility. When the one member of the recognized greyhound owners' group

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Attachment 4

and racetrack could not reach agreement on simulcasting schedules, simulcasting became almost nonexistent at the track. The purpose of the commission's proposed amendment is to provide for an organized and lawful election of a recognized greyhound owners' group.

After drafting the amendments for the recognized greyhound owners' group, the commission determined it should make the same minimal standards applicable to the recognized horsemen's group. However, the commission did not feel it needed to designate an organization to conduct the election for the recognized horsemen's group. Therefore, they propose adding language that an election should be conducted in accordance with rules and regulations of the commission and that the majority should be of those voting in the election. To date, the commission is not aware that any member of a greyhound or horse owners' group has been elected by a majority of the constituency.

The third proposed amendment to the racing act concerning simulcasting is the addition of subparagraph (k) to K.S.A. 74-8836. The proposed paragraph reads as follows:

"(k) If the simulcasting licensee and the recognized horsemen's group or recognized greyhound owners' group, are unable to agree concerning a simulcasting question, the matter may be submitted to the commission for determination at the written request of any party in accordance with rules and regulations of the commission."

The commission does not want to micro-manage the drafting of simulcast applications or their negotiation among the parties. However, it feels there must be some method for a party to petition the commission for assistance in case of impasse. The proposed amendments provide that the issue must be presented to the commission in a written request and that the procedure must be established by rules and regulations of the commission before it is implemented.

Thank you for your attention to the commission's request. I am happy to address questions.

94JAC7-dpb

Attach... 5

March 12, 1994

Senate Federal and State Affairs Committee
Senator Lana Oleen, Chairman
136-N: State Capitol Building
Topeka, Ks. 66612

Madam Chairman, and committee members;

This letter is to assure your committee of our full support of the Kansas Racing Commission proposal for the distribution of simulcast funds according to percentage of live racing at all Kansas tracks.

In order for the breeders of Appaloosa, Arabian, and Paint horses to participate in the economic incentive provided for the industry, through simulcast racing, we must be assured of distribution according to live racing here in Kansas.

We believe the Kansas Racing Commission has presented a fair and equitable proposal for all Kansas horsemen, and we ask your support of their proposed legislation.

Sincerely,

Jeff Fowler, Kansas Appaloosa Racing Association
Steve Neal, President, Kansas Appaloosa Racing Association
Barbara Linscheid, Kansas Arabian racing group
Dan Parker, Kansas Arabian racing group
Dr. Harry Sanborn, Kansas Paint Horse racing group
Michael Thompson, Kansas Paint Horse racing group

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March 16, 1994
attachment 5

ATTACH 6

TESTIMONY
HB 2836
Senate Federal & State Affairs Committee
March 15, 1994

Madam Chair, members of the committee, I am Bill Henry and I appear toady before you on behalf of the Kansas Thoroughbred Association in opposition to HB 2836.

Specifically, the Kansas Thoroughbred Association has objection to proposed new section (k) on page 9, at lines 6 through 10. This new provision in the law would allow the Kansas Racing Commission to overrule or become the mandatory arbitrator in any situation where a simulcasting licensee and a recognized Horsemen's group or a recognized Greyhound owners group are unable to agree on a particular simulcast question. Any one of those three parties by written request could submit the question to the Racing Commission.

In the history of simulcast licensing issues, the Kansas Thoroughbred Association and its members, in any recognized Horsemen's group, have never failed to agree to a simulcasting proposal. Since the Horsemen's group has always acted in good faith and done their best to reach an agreement on a simulcasting question we do not believe this compulsory arbitration authority should be vested in the Racing Commission.

Indeed, the problems that have occurred in the past have resulted in the failure by a Greyhound owners group in reaching a simulcast agreement with the Wichita Greyhound Park. Since that time, a new Greyhound group has had elections and will be able to act as the Greyhound owners group representative at that park. In fact, as I have learned an agreement has been reached at that park by that particular newly recognized Greyhound owners group on the simulcasting proposal in question.

Based upon these considerations the Kansas Thoroughbred Association asks that subsection (k) be deleted from the bill.

The Kansas Thoroughbred Association has a second recommendation for the committee. Last year this committee passed out SB 380 which simply stated that the benefits of a simulcast race would be awarded to the breed which was involved in the simulcast. Approximately two weeks ago a Kansas District Court agreed with that interpretation and held that the Kansas Racing Commission could not divert or distribute simulcast racing funds based upon live racing percentages. We believe HB 2836 should be amended to add the provisions of SB 380. This would accomplish two principles. One, the Senate action on SB 380 would be reinstated in HB 2836. Secondly, that language would concur with the judge's opinion in the district court case. We would respectfully request that SB 380 be amended into HB 2836.

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Attachment 6*

Senator Oleen, last night I received a call from Gary Guccione, the Executive Director of Kansas Greyhound Owners Association. he is out of the state today and asked me to voice his organization's opposition to subsection (k) as well. He will attempt to fax his testimony to this committee tomorrow.

I would be happy to respond to questions of the committee.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "William M. Henry". The signature is written in dark ink and is positioned above the typed name.

William M. Henry, Attorney at Law
On behalf of the Kansas Thoroughbred Association

TESTIMONY
HB 2836 & HB 2577
SENATE FEDERAL & STATE AFFAIRS COMMITTEE
March 15, 1994

Madam Chair, members of the committee, I am Jerry Johnson and I represent the minority horse breeds in opposition to HB 2836 and HB 2577.

I oppose HB 2836 because of proposed changes on page 9, section (k). This language is not required.

I oppose HB 2577 if Racing Commission language relative to percentage allocation and retroaction are added. The bill, as read prior to the Racing Commission request is fine.

I support the ruling of Judge Thies and I oppose the Racing Commission attempting to place "artificial" language in place of clear and appropriate law. I oppose price supports and tariffs, they do not work and I believe and support the supply and demand theory. This attempt by certain racing commissioners to impose their will instead of administering their duties is of considerable concern. More importantly, it will not work.

It would seem that the minority breeds have been forgotten as the Quarter Horse group grasps for money to solve their existing problems.

We have been breeding registered Appaloosa horses for over forty years, my APHC member number is 509 and my father has number 956. We have bred 15 national and world champion performance horses and numerous regional and state champions and my father, here today, was an original inductee in the Appaloosa Hall of Fame.

We sold horses for a good price when someone desired to won them. "Demand" How is the action of the Racing Commission increasing the "Demand" for the minority breeds? Who will benefit by giving certain breeders cash for participation in the program?

We need more races for our breed and more simulcasting of our breed for exposure or we need to send our horses to California or any place that we can run our horses for a profit. If the venture in Kansas is not economically feasible, we need to determine why we doing what we are, and if watching our horses is thrill enough to offset the cost.

If we don't have live racing in Kansas for our breed and we follow the commission/attorney general ruling, we can not get any money from races simulcast here in Kansas. I guess the commission could come back to the legislature and ask for you change the law again. Enough is enough.

There is only one way it makes sense. Money follows the breed!

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Attachment 7

Period! **Anything else doesn't work.** That is why the simulcast law was written the way it was. I know because I was there when the language was negotiated and drafted.

Respectfully submitted,

Jerry Johnson
122 North Cherry
Olathe, Kansas 66061



ROBERT B. DAVENPORT
DIRECTOR

KANSAS BUREAU OF INVESTIGATION

DIVISION OF THE OFFICE OF ATTORNEY GENERAL

STATE OF KANSAS

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(913) 296-8200

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ROBERT T. STEPHAN
ATTORNEY GENERAL

TESTIMONY

KYLE G. SMITH, ASSISTANT ATTORNEY GENERAL
KANSAS BUREAU OF INVESTIGATION
BEFORE THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
IN SUPPORT OF HOUSE BILL 2978
March 16, 1994

Madam Chairman and Members of the Committee:

It is not often that I get to appear on the same bill that was passed last session. As you may remember, last year this bill was amended by the Senate by adding a separate, unrelated matter that the Racing Commission needed, and a controversial bill dealing with breakage rights between thoroughbred and quarter horse associations. In the mad confusion of the time deadlines, the amendment for the Racing Commission was passed out, but the bill itself, even having passed both houses, was dropped.

As the committee may also remember, this proposed amendment to K.S.A. 74-8807 merely codifies an existing Memorandum of Understanding between the Kansas Bureau of Investigation and Kansas Racing Commission as to sharing the duties for investigating regulatory and criminal activity.

As we testified last year, and as evidenced by the Memorandum of Understanding, we are having excellent relations with the Kansas Racing Commission. Relations which certainly have not been hurt by their appointment of Dave Johnson, former Director of the KBI, as the Director of Security.

The problem this bill and the Memorandum of Understanding were originally intended to address is when a KBI Gaming Agent working the

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March 16, 1994
Attachment B

03/15/94

Page 2

tracks comes across a regulatory violation. The licensees sometimes dispute whether KBI Agents have authority to investigate violations of the rules and regulations of the commission since they are not crimes and their authority over regulations is not set out in the statute. If that were true, it would be a terrible inefficiency to require KBI Agents to cease their investigation, and go obtain the assistance of one of the commission security personnel to deal with that aspect of the investigation, which was a regulatory violation.

As mentioned above, the Memorandum of Understanding currently in place between these agencies has essentially these exact provisions, but by placing it in the statute, we obtain the advantage of being able to cite a black and white reference to licensees who are failing to cooperate and codifying these shared duties for future administrations.

Dave Johnson, Director of Security for the Racing Commission has suggested two amendments, which were added on the House side. These merely clarify procedures and we consider them friendly amendments.

Due to the fact the committee passed this bill last year, I think I've testified overly long already, but would be happy to answer any questions. Thank you for your consideration.

#152

8-2

Attachment 9



ROBERT B. DAVENPORT
DIRECTOR

KANSAS BUREAU OF INVESTIGATION

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ROBERT T. STEPHAN
ATTORNEY GENERAL

TESTIMONY

KYLE G. SMITH, ASSISTANT ATTORNEY GENERAL
KANSAS BUREAU OF INVESTIGATION
BEFORE THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
IN SUPPORT OF HOUSE BILL 2984
March 16, 1994

Madam Chairman and Members of the Committee:

I appreciate this opportunity to appear today in support of HB 2984. This bill was requested because of an incident occurring last fall where an electronic device or buzzer was found in a vehicle at the Woodlands Racetrack. Such devices are used to shock a horse by a jockey and have no legitimate use, certainly not at a track. However, the individual was not caught actually using the device and the Wyandotte County District Attorney's Office declined to prosecute because the statute was not clear. We feel it is important that these devices be prohibited from even being possessed at racetracks.

HB 2984 amends the prohibited acts statute of the racing act to include a possession or conspiracy to possess these illegal devices and we would urge your support. I would be happy to stand for any questions.

#151

*Senate Fed + State
March 16, 1994
Attachment 9*

SENATE BILL No. 827

By Committee on Federal and State Affairs

3-2

8 AN ACT concerning the office of governor; relating to emergency
9 interim successors; amending K.S.A. 48-1204 and repealing the
10 existing section.

and K.S.A. 1993 Supp. 48-924
sections

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 48-1204 is hereby amended to read as follows:
14 48-1204. ~~In the event that If the governor, for any of the reasons~~
15 ~~specified in under the constitution, is not able to exercise the~~
16 ~~powers and discharge the duties of the office, or is unavailable, and~~
17 ~~in the event the lieutenant governor, president of the senate,~~
18 ~~and the speaker of the house of representatives be not able an~~
19 ~~officer specified in K.S.A. 75-125 and amendments thereto, in the~~
20 ~~order of succession provided by that section, shall exercise the powers~~
21 ~~and duties of the office of governor. If all such officers are not able~~
22 ~~or are unavailable to exercise the powers and discharge the duties~~
23 ~~of the office of governor, or be unavailable, the secretary of state,~~
24 ~~attorney general, chancellor of the university of Kansas and the~~
25 ~~president of the Kansas state university of agriculture and ap-~~
26 ~~plied science shall, in the order named, if the preceding named~~
27 ~~officers be unavailable, the secretary of state, or, if the secretary~~
28 ~~of state is not able or is unavailable, the attorney general, shall~~
29 ~~exercise the powers and discharge the duties of the office of governor~~
30 ~~until a new governor is elected and qualified, or until a preceding~~
31 ~~named officer, becomes able and available. No emergency interim~~
32 ~~successor to the aforementioned offices of an officer specified in~~
33 ~~K.S.A. 75-125 and amendments thereto or in this section may serve~~
34 ~~as governor.~~

Insert section 1, attached, and renumber remaining sections

35 Sec. 2. K.S.A. 48-1204 is hereby repealed.

36 Sec. 3. This act shall take effect and be in force from and after
37 its publication in the statute book.

and K.S.A. 1993 Supp. 48-924 are

Attach. 10

Senate Fed + State
March 16, 1994
Attachment 10

Section 1. K.S.A. 1993 Supp. 48-924 is hereby amended to read as follows: 48-924. (a) The governor shall be responsible for meeting the dangers to the state and people presented by disasters.

(b) The governor, upon finding that a disaster has occurred or that occurrence or the threat thereof is imminent, shall issue a proclamation declaring a state of disaster emergency. The state of disaster emergency so declared shall continue until the governor finds that the threat or danger of disaster has passed, or the disaster has been dealt with to the extent that emergency conditions no longer exist. Upon making such findings the governor shall terminate the state of disaster emergency by proclamation, but no state of disaster emergency may continue for longer than 15 days unless ratified by concurrent resolution of the legislature, with the single exception that upon specific application by the governor to the state finance council and an affirmative vote of a majority of the legislative members thereof, a state of disaster emergency may be extended once for a specified period not to exceed 30 days beyond such 15-day period. At any time, the legislature by concurrent resolution may require the governor to terminate a state of disaster emergency. Upon such action by the legislature, the governor shall issue a proclamation terminating the state of disaster emergency. Any proclamation declaring or terminating a state of disaster emergency which is issued under this subsection shall indicate the nature of the disaster, the area or areas threatened or affected by the disaster and the conditions which have brought about, or which make possible the termination of, the state of disaster emergency. Each such proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent the same, each such proclamation shall be filed promptly with the division of emergency preparedness, the office of the secretary of state and each city clerk or county clerk, as the case may be, in the area

to which such proclamation applies.

(c) In the event of the absence of the governor from the state or the existence of any constitutional disability of the governor, ~~the lieutenant-governor~~ an officer specified in K.S.A. 48-1204 and amendments thereto, in the order of succession provided by that section, may issue a proclamation declaring a state of disaster emergency in the manner provided in and subject to the provisions of subsection (a). During a state of disaster emergency declared pursuant to this subsection, ~~the lieutenant governor~~ such officer may exercise the powers conferred upon the governor by K.S.A. 48-925 and amendments thereto. If a preceding officer in the order of succession becomes able and available, the authority of the officer exercising such powers shall terminate and such powers shall be conferred upon the preceding officer. Upon the return of the governor to the state or the removal of any constitutional disability of the governor, the authority of ~~the lieutenant-governor-to-exercise-such--powers~~ an officer to exercise the powers conferred by this section shall terminate immediately and the governor shall resume the full powers of ~~such~~ the office. Any state of disaster emergency and any actions taken by ~~the lieutenant--governor~~ an officer under this subsection shall continue and shall have full force and effect as authorized by law unless modified or terminated by the governor in the manner prescribed by law.

(d) A proclamation declaring a state of disaster emergency shall activate the disaster response and recovery aspects of the state disaster emergency plan and of any local and interjurisdictional disaster plans applicable to the political subdivisions or areas affected by the proclamation. Such proclamation shall be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, materials or facilities assembled, stockpiled or arranged to be made available pursuant to this act during a disaster.

(e) The governor, when advised pursuant to K.S.A. 74-2608

and amendments thereto that conditions indicative of drought exist, shall be authorized to declare by proclamation that a state of drought exists. This declaration of a state of drought can be for specific areas or communities, can be statewide or for specific water sources and shall effect immediate implementation of drought contingency plans contained in state approved conservation plans, including those for state facilities.