

NATIONAL COUNCIL OF LEGISLATORS FROM GAMING STATES  
COMMITTEE ON PARI-MUTUELS  
SANTA FE, NEW MEXICO  
JUNE 4, 2004  
DRAFT MINUTES

The Committee on Pari-Mutuels of the National Council of Legislators from Gaming States (NCLGS) met at the Santa Fe Hilton, in Santa Fe, New Mexico, on June 4, 2004, at 9:45 a.m.

Representative Kevin Ryan of Connecticut, Chair of the Committee, presided over the meeting.

Other members of the Committee present were:

Rep. James Buskey, AL  
Rep. Vincent Lofink, DE  
Rep. Bill Oberle, DE  
Sen. Steven Geller, FL  
Rep. Tom Corrigan, PA  
Rep. Tim Solobay, PA

Other legislators present were:

Assem. Tom Harman, CA  
Sen. Lana Oleen, KS  
Rep. David Hess, NH  
Sen. Rod Adair, NM  
Sen. Carlos Cisneros, NM  
Rep. Anna Crook, NM  
Sen. Dianna Duran, NM  
Rep. Mary Helen Garcia, NM  
Sen. Mary Jane Garcia, NM  
Rep. Pauline Ponce, NM  
Rep. Henry Saavedra, NM  
Sen. H. Diane Snyder, NM  
Rep. Jim Trujillo, NM  
Sen. Sue Wilson Beffort, NM  
Rep. Donald Whitaker, NM  
Rep. Wayne Pettigrew, OK  
Sen. J.P. Duniphan, SD  
Rep. Thomas Van Norman, SD

Others present were:

Bob Mackin, Mackin & Company, NCLGS Executive Director  
Susan Nolan, Mackin & Company, NCLGS Deputy Executive Director  
Ann Henstrand, MultiState Associates, Inc.  
Charlie Vickery, Charles Vickery Consulting

## MINUTES

The Committee voted unanimously to accept, as submitted, the minutes of its January 9, 2004 meeting in Las Vegas, Nevada.

## REBATING OF MONEY BETS AT RACETRACKS

Mr. Frank Lamb, Director of the North American Pari-Mutuel Regulators Association, presented a general overview on the rebate issue. Mr. Lamb first briefly sketched the history of money bets. He said that the handle was on-track in late 1980s, when states began to sell signals to one another and the shift on handle went off-track. He said that in about 1997, secondary pari-mutuel operators began to increase. He described that due to a lack of high overhead, these secondary operators were able to offer rebates, attracting high dollar bettors called "whales." Mr. Lamb said the proliferation of these establishments has stirred intense debate in the industry, raising thorny questions such as (1) whether or not the proliferation of the operation is unfairly siphoning money away from the horses, jockeys, horse-owners and others on track, and (2) whether or not the large bettors have an unfair advantage over smaller bettors on track.

Mr. Lamb said that track takeout is normally around 18 to 20 percent and that it pays for purses, taxes, and track maintenance. He said that the model worked well 25 years ago, but the changes in money flows have dramatically changed in the past few years. He said that all elements of the industry are looking at the issue.

Mr. Lamb said that the National Thoroughbred Racing Association (NTRA) had formed a task force to look at the issue, and had made some preliminary findings as to contributing factors to this "handle up, purses down" phenomena. He said the factors include the dramatic rise in the number of simulcast outlets and off-shore account wagering sites. Mr. Lamb went on to describe the economics of the phenomena in some detail.

Representative Garcia of New Mexico asked for a precise definition of "whales" and "rebating." Mr. Lamb said that secondary pari-mutuel outlets (SPMOs) have a greater cushion because of dramatically lower overhead costs, which allow them to pay a 10 to 12 percent rebate to large players. He said that one player described it as a type of points system to offer discounts to large bettors, or "whales." He said that "whales" can bet many millions of dollars per year.

Senator Geller asked whether what is basically an OTB parlor—where numbers do go into the pools, taxes, breeders awards and purses—is not actually benefiting the pari-mutuel industry, by growing the pools. Mr. Lamb said that legal racetrack-connected SPMOs that are more closely connected to the racetracks may indeed be helping to grow the industry’s pool overall.

The Committee then discussed various financial arrangements between different types of SPMOs and the racetracks and the interaction between state statute and the phone wagering or internet wagering shops.

Representative Oberle noted that in Delaware, a bill recently passed to allow for telephone wagering, because of business competition with contiguous states.

Mr. Peter Burnett, Vice Chairman of the Virginia Racing Commission, described the economic fundamentals of racing, starting with the “take-out” from every bet that supports the winning, and the 20 percent left over that “pays for the show”—to horsemen, breeders’ funds, racetrack operations overhead and profits. Mr. Burnett said that he thought that rebating was a misleading term to use when describing the off-shore shops. He prefers to call the off-shore shops “free-loaders” because they don’t contribute to the industry. He also gave a brief description of the history of the development of the satellite signal arrangements. He described the computer modeling and batch betting that the significant “whale” bettors who use these overseas shops practice, and the arguments that are used against their participation. He concluded by stating that in his opinion the overseas receivers of these signals should be charged a fee to go toward track expenses, overhead and toward the horsemen and the purses.

Senator Wilson of New Mexico asked whether or not states get a fair share of the revenue transfer/tax from the rebate shops. Mr. Lamb responded that states usually do not, and that that the NTRA task force was looking at this issue, among others.

It was noted that the racetracks—the originators of the signals—are not necessarily in agreement about this issue.

## RACING MEDICATION AND TESTING

Mr. Steven Baum, Professor, Racetrack Industry Program at University of Arizona, reported that the National Medication and Testing Consortium—was working on making racehorse medication regulations and practices uniform. He said that the industry has had this goal for more than 20 years, and that the end may be in sight. He said that the Consortium had drafted policies which were reviewed earlier this year by a group of U.S. and a group of international regulators (RCI and NAPRA). He said that the regulators used the policies to draft some model rules, and approved them later during the year.

Mr. Baum said that the next step is for the regulators and other interested parties to go to their legislatures where necessary, or to proceed to rulemaking, so as to adopt the uniform rules nationally. He said the rules can be seen at [www.ua-rtip.org](http://www.ua-rtip.org).

He said that the most controversial part of the proposed uniform rules is the sections on prohibited practices, where effective drug testing does not exist. He noted one example of this is “blood doping”. He added that others are shock wave therapy, and lasik treatments. Mr. Baum went on to describe several other details in the model rules.

Representative Ryan asked if, in light of the publication of model rules, the Committee should be developing a model law that would help get the rules incorporated into statute where necessary. Mr. Baum thought that would be timely, and suggested that the Committee get in touch with Scott Waterman, Executive Director of the Consortium, to discuss such a project.

Representative Oberle noted that anti-body tests in existence can detect some of these undetectable drugs, and that Delaware tests periodically. Mr. Baum said that Representative Oberle was correct, but that at issue is that detection of the anti-body is not confirmatory of the presence of the drug causing the antibody reaction. The Committee then discussed the limitations of the anti-body test and related issues.

#### IMPLEMENTATION OF SLOTS AND VIDEO LOTTERY TERMINALS (VLTs) AT RACETRACKS

Dr. Richard Thalheimer of the University of Louisville, briefly updated the Committee on VLTs. He said the Casino Committee was also planning to discuss this issue from a slightly different perspective. Dr. Thalheimer noted that there are ten racino states as of this date. He said that although there had been a flurry of activity in various states at the beginning of the year to pass racino legislation, to date only been one additional state—Maine—had implemented racinos in 2004 thus far.

Dr. Thalheimer reviewed the states where such legislation had been proposed. He said that in Alabama, legislation had failed. He said that in California, there were two racino-related ballot initiatives. In addition, he said, the Governor of California was negotiating with some of the larger Indian casinos, so the situation might change. He said in Florida, there would likely be a ballot initiative. Dr. Thalheimer said that additionally, card game limits and pots have been liberalized significantly in Florida. He said that in Illinois, up until the last day of session, there were still some movement to approve racino and other casino expansions, but they failed in the final days of the session. He said Indiana had a pull-tab initiative which had failed. He said in Iowa, racetracks were looking at adding table games, in addition to the racinos they’d already been allowed, along with tax changes. He said Kansas and Kentucky both had failed racino initiatives.

Dr. Thalheimer went on to say that Louisiana passed a bill last October that allowed for racinos at fairgrounds tracks. He said that Michigan was still “in play” as of this briefing. He added that Minnesota had a failed initiative although the racetracks did get expanded positions bill passed. He said that Nebraska’s governor has signed a bill to put casino gambling on a November ballot, along with other related issues. Dr. Thalheimer said

that in New Jersey, Atlantic City casinos agreed to put up \$86 million toward purse money and breeder awards at the racetracks in exchange for racetracks not pursuing a racino bill. He said in Ohio, a bill had failed. He said that Oklahoma had a ballot issue and that in Pennsylvania, a possible bill was still alive. He said that initiatives in Texas were still alive, and there was talk of a second special session to address racinos and budget issues.

Mr. Baum noted that Racetrack Industry Program at University of Arizona had recently done a study of five market areas to look at effect on racetracks of establishing racinos. He said a paper was being prepared on the study and it will be available soon.

Mr. Jack Corey, representing the National Greyhound Association, noted that the referendum in Florida would only cover two Florida counties, not the entire state. Also, he noted that Alabama's legislature did add bingo operations at one of their racetracks, and that that had noticeably added attendance to that greyhound track.

#### ADJOURNMENT

There being no further business, the meeting adjourned at 10:45 a.m.