

NATIONAL COUNCIL OF LEGISLATORS FROM GAMING STATES
COMMITTEE ON PARI-MUTUELS
DUCK KEY, FLORIDA
JANUARY 14, 2005
DRAFT MINUTES

The Committee on Pari-Mutuels of the National Council of Legislators from Gaming States (NCLGS) met at Hawk's Cay Resort, in Duck Key, Florida, on Friday, January 14, 2005, at 9:30 a.m. Rep. Kevin Ryan of Connecticut, Chair of the Committee, presided.

Other members of the Committee present were:

Rep. Helene Keeley, DE
Rep. Bill Oberle, DE
Rep. Pamela Thornburg, DE
Sen. Steven Geller, FL
Rep. Thomas Corrigan, PA
Rep. Christopher Sainato, PA
Rep. Tim Solobay, PA

Other state legislators present were:

Rep. Nancy Wagner, DE
Sen. Dennis Jones, FL
Sen. Jim King, FL
Rep. Tom Burch, KS
Sen. Pete Brungardt, KS
Rep. Susan Westrom, KS
Sen. William Larkin, Jr., NY
Sen. Elizabeth Little, NY
Sen. Richard Lerblance, OK
Rep. John Evans, PA
Rep. Nick Kotik, PA
Rep. Anthony Melio, PA

Others present were:

Susan Nolan, Nolan Associates, NCLGS Executive Director
Ann Henstrand, MultiState Associates, Inc.

MINUTES

The Committee voted unanimously to approve, as submitted, draft minutes of its June 4, 2004, meeting in Santa Fe, New Mexico.

UPDATE ON RACING MEDICATION AND TESTING

Mr. Greg Avioli, president and COO of National Thoroughbred Racing Association (NTRA), updated the committee on illegal drugs, medication, and drug testing in the thoroughbred industry. All 42 racing states joined the Racing Medication and Testing Consortium in 2002, which addresses the illegal use of medication in the horseracing industry, he said. This issue is the most important issue the industry deals with each day, he said. Yet he says this is difficult because each state has different drug laws. A horse running in Maryland could be using certain medication legally, yet if that horse raced in Delaware on the same medication, he can be violating the rules of the state, said Mr. Avioli.

Mr. Avioli said that the Racing Medication and Testing Consortium developed model rules in hopes of developing a uniform national medical policy. He said he hoped that all 42 racing states would adopt these rules. He said a group of veterinarians and scientists debated which drugs were appropriate to use, which had medicinal purposes and were not performance enhancing, and at what level.

So far, Arkansas, Illinois, Kansas, Nebraska, Oklahoma, Texas, Washington, and West Virginia had adopted the model laws, said Mr. Avioli. He said that racing commissioners and/or legislators were reviewing the model laws in Arizona, California, Colorado, Delaware, Indiana, Maryland, New Jersey, New York, Ohio, Pennsylvania, and Virginia. He said that Florida and Kentucky are two major racing states that did not adopt the laws and are not reviewing them.

Mr. Avioli said that the industry had many disagreements regarding which medications to allow and prohibit. Currently, the 42 racing states test differently for drugs, he said. He said that states test for only 10 or 20 drugs randomly, as it is too expensive to test for all possible substances. He said the industry does not have the resources to test for all substances. The costs would be picked up by state government racing commissions and the racing industries from contributions from racetracks and horsemen, he said. However, he said, it is hard to contribute, as the racing industry economy is not good. Despite that, if the integrity of the pari-mutuels is not maintained, the business will continue to suffer, he said.

Sen. Geller said that NCLGS discussed authorizing model legislation in the last three meetings, having representatives from at least 30 states at the meetings. Sen. Geller said that NCLGS did a study on this issue with NTRA and the University of Arizona. He said that in the past, NCLGS was told that the time was not right to develop model legislation, as the standards were still being developed. Sen. Geller asked Mr. Avioli if now was the appropriate time to develop model legislation to send to the states. Mr. Avioli said it was appropriate to develop model legislation at this time, as standards for racing were completed in the last six months.

Sen. Geller made a motion to appoint a subcommittee on racing and medication to meet with racing industry representatives and hopefully be ready to consider model legislation at the next NCLGS meeting in June. The Committee unanimously agreed to form a subcommittee. [Subcommittee members include: Rep. Wagner, DE, Sen. Jones, FL, Sen. Lerblance, OK, and Sen. Pallone, PA.] Rep. Ryan asked if Mr. Avioli would provide information to the subcommittee.

REPORT ON GREYHOUND HEALTH ISSUES

Mr. Charles Marriott, president of the National Greyhound Association, reported that the North American greyhound industry lost tens of millions of dollars in 2004, in great part due to an outbreak of the kennel cough.

In 2003, hundreds of greyhounds nationally suffered from *Bordetella Bronchiseptica*, commonly known as kennel cough, said Mr. Marriott. As a result, he said, many greyhounds had died, ten tracks stopped racing temporarily, and all tracks had either partial or complete quarantines. Mr. Marriott said this was repeated in 2004. Another factor, he said, was hurricanes that hit the east coast last summer, four of which damaged tracks, kennels, and adoption centers in Florida. Roads closed from destruction and flooding, making it hard to transfer dogs from one track to another, he said.

Mr. Marriott said that the American Greyhound Council, American Greyhound Track Operators, National Greyhound Association, and Dr. Brad Fenwick, the vice president of veterinary research at Virginia Tech, are working to develop a kennel cough vaccine. He said a vaccine was patented in 2004, and testing should begin soon. Mr. Marriott said the vaccine could be available to all owners of the canine breed in 2006. He said the industry is also trying to understand more about kennel cough outbreaks. Mr. Marriott said that Dr. Fenwick and the greyhound industry had created an informational industry-wide hotline. This will help officials determine the types of occurring outbreaks, how to deal with infected greyhounds, and when to use quarantines, he said.

Apache Junction, a racetrack in Arizona, closed last year, with 45 tracks still operating in 15 states, said Mr. Marriott. Multnomah Greyhound Park, near Portland, Oregon, may not reopen in 2005, or ever again, he said.

Mr. Marriott said that reporters for *Casino Enterprise Management* considered 2004 as the year of the racino. He said nine states approved the use of racinos, the two most recent being Maine and Oklahoma. VictoryLand, a track in Alabama that was not doing well, introduced electronic bingo games and experienced a new life and a new purse, he said.

Mr. Marriott said that in November, Florida voters passed Amendment 4, giving preliminary approval to two counties to determine if casino-style games should be added to seven pari-mutuel facilities, including two greyhound tracks.

Mr. Marriott said that major greyhound organizations—AGTOA, NGA, and AGC—along with the largest adoption agency in North America—Greyhound Pets of America—hope to have all place-able retired greyhounds adopted by the year 2007. Currently, 90 percent of place-able retired greyhounds—20,000 dogs—are adopted, credit going to the industry and 300 local greyhound adoption organizations, said Mr. Marriott. The greyhound pet population in North America is approaching 125,000, he said.

Dr. Fenwick said that his work focuses on the health and well-being of racing greyhounds and all animals in general. He said it had been focusing on greyhounds for the last five to ten years. He said that the past year was extraordinary in its numerous uses of quarantines. Dr. Fenwick said that the industry is concerned about public perception, as well as the costs and consequences from disease outbreaks.

Dr. Fenwick spoke about the history of quarantines and how they managed certain infectious disease outbreaks. As medical science has advanced, quarantines are rare and used as the last resort—except in the greyhound industry, he said, where quarantines are used as a first reaction and not always justified.

Dr. Fenwick attributed this to the fact that people with limited background and training implement the quarantines. Veterinarians and local vet practitioners are not trained as infectious disease outbreak experts nor are they qualified in scientific epidemiological principles associated with large-scale infectious diseases, he said. Dr. Fenwick said their decisions are not justified and there are often better ways to manage the diseases, he said.

Dr. Fenwick recommended that experts reexamine the basis for the use of quarantines in order to curtail their overuse. Large-scale quarantines to control respiratory diseases should not be a primary approach, as less extreme action could be more effective and reduce adverse consequences. Historically, individuals have agreed to forego rights and freedoms to prevent significant risks and harm to others, he said. Yet healthy greyhounds are quarantined without evidence that this strategy is effective, he said.

Dr. Fenwick said the decision to quarantine should be supported with factual data and advice from appropriately qualified professionals familiar with the racing greyhound industry. Some local and state authorities have set up policies and procedures to help determine which disease events quarantines should treat, he said.

Because the greyhound industry is closely interrelated; when one track closes from a quarantine, others in the nation are affected, according to Dr. Fenwick. A single strategy to limit the spread of various micro-organisms will not work for all diseases, as each disease responds differently to various approaches, he said. The approach used should depend on the characteristics of the population at risk and the infectious microorganism, he said.

Dr. Fenwick said that there is no valid scientific justification for quarantine for a disease that has little or no individual to individual transmission, a long incubation period, a micro-organism that persists in the environment, or if it is mild and easily preventable. He added that these are the circumstances for most outbreaks.

Dr. Fenwick said the widespread use of fragmentary or unconfirmed information, lack of coordination, poor communication, and absence of evidence-based data undermines the credibility of all those involved and will result in quarantines that are less-effective when they are really needed. There needs to be uniform standards and criteria, he said.

UPDATE ON RACINO INITIATIVES, E.G., PENNSYLVANIA, NEW YORK

Mr. Charles Vickery, racing economist for *Racing Industry Research & Economics Analysis*, gave an update on racinos. Currently, 24 racinos operate in the United States with 12 more approved, he said. The operating casinos have 36,600 VLTs, and 50,400 additional VLTs have been proposed, he said. He said that nine states—Delaware, Iowa, Louisiana, Maine, New Mexico, New York, Pennsylvania, Rhode Island, and West Virginia—allow racinos.

Mr. Vickery said that in the fiscal year of 2004, track operators gained net revenues of \$2.7 billion, including Delaware, \$553 million; Iowa, \$336 million; Louisiana, \$279 million; New Mexico, \$147 million; New York, \$194 million; Rhode Island, \$359 million, and West Virginia, \$855 million. He said that the states with the largest net revenues have small populations. He said Delaware ranks number 45, Rhode Island ranks 43, and West Virginia at 37.

Pennsylvania, which is the seventh most populous state, has just approved racinos, said Mr. Vickery, noting that when it does, it will contribute to the total revenue of the country. He said with seven racetracks, each having no more than 3,000 machines, Pennsylvania will come online with 21,000 VLTs. He added that after six months of operating, the state can increase to 5,000 machines with approval. He said New York currently has 5,000 VLTs in four of its eight tracks; as the remaining four come online, the total number of machines will increase to 19,000, he said. Mr. Vickery said that Maine was approved for up to 1,500 VLTs.

The current US total of 36,600 VLTs has the potential to become 87,030 if the above noted tracks reach their full potential, said Mr. Vickery. Of the \$2.7 billion revenues from VLTs, racetracks receive 48 percent, the government receives 41 percent, and the remaining 11 percent goes towards purses, he said, noting that those distributions are averages, as they vary within each state.

For example, in New York, 71 percent goes to the government, 20 percent to the tracks, and nine percent to purses, said Mr. Vickery. New York has a constitutional law that requires a certain amount of lottery proceeds to go towards education, and there have been recent challenges as to whether they can give purses of nine percent, he said.

Mr. Vickery said that in Delaware, 35 percent of the revenue goes to the government, 54 percent to the tracks, and 11 percent to purses, he said. Mr. Vickery gave the net revenue per machine per day for each racino, as well as the state's average price per machine: Delaware—\$239, for 6,435 machines; Iowa—\$261, for 3,692 machines; Louisiana—\$168, for 4,521 machines; New Mexico—\$200, for 2,437 machines; New York—\$133, for 5,068 machines; Rhode Island—\$297, for 3,563 machines, and West Virginia—\$224, for 10,883 machines.

Mr. Vickery said that Canada has 23 racinos, with 9,914 VLTs and 1,500 more expected. He said the country's net revenue is \$1.6 billion, compared with \$1.3 billion in the US and the average net revenue per machine per day is \$435, compared to \$352 in the US.

Rep. Sainato asked why Canadian machines have higher daily net revenues. Mr. Vickery responded by explaining that Canadians have fewer machines at their tracks than in American

racinos. American tracks may have 2,500 VLTs, yet Canadian racinos only have 600 VLTs, he said. People are at the Canadian machines all day, whereas in American racetracks they use several different machines, he said.

Rep. Sainato asked if the payout is different at Canadian and American tracks. Mr. Vickery was not sure of the exact pay out number for different tracks, yet said that the range for returns per machine is 90 to 92 percent, estimating that it was the same in Canada. However, he said that the payout depends on the number of machines. When Delaware Park added 20 percent more machines, the amount per machine decreased, yet the actual revenues increased, he said.

Rep. Ryan noticed that when tribal casinos increased their slot machines, they reached a point where the intake per machine decreased.

REPORT ON REVENUE AND PAYBACK ISSUES AND EFFECT ON RACETRACKS

Mr. Vickery presented another PowerPoint to discuss take-out rates, which refers to the amount of money deducted for the government, racetracks, and horsemen from each dollar wagered prior to distributing the remainder to winners. The average take-out rate in the US is 20.2 percent, he said, explaining that when someone bets \$1.00, 20.2 cents is distributed to government and racetracks.

Mr. Vickery explained the types of bets as follows. He said regular bets refer to win, place, and show. He said multiples refer to an exacta, where the better picks the order of the first two horses that finish a race; a double, where the better chooses the winners of two consecutive races; and a quinella, where the better picks the first two horses to finish a race, not necessarily in the same order. He added that other types of wagers are exotics, which have three or more combinations.

Mr. Vickery said that in 2003 the New York Racing Association (NYRA), which runs the tracks in Aqueduct, Belmont, and Saratoga, had a take-out rate of 14 percent for regular bets, 17.5 percent for multiples and 25 percent for exotics, giving NYRA an average take-out rate of 18.5 percent. He said these take-out rates for regular and multiple bets are the lowest in the US, and the exotic bets are standard. Of these types of NYRA bets, the regular bets—also the most simple—had the highest handle, the total amount of money bet on that type of wager, being \$858.6 million; and the Quinella—the most complicated type of wager—had the lowest handle being \$15.6 million, he said.

Mr. Vickery described more take-out rates including Magna, Churchill Downs, and some Florida thoroughbred tracks. He said that there is no one formula for take-out rates in the country, as each track has different ideas of what maximizes their profit.

Mr. Vickery showed a chart documenting the handles in the US pari-mutuel industry from 1993 to 2004. In the mid 1990's, handles grew five to ten percent, he said. However, he said, between 2002 and 2004, there was no growth in handles.

Mr. Vickery encouraged those interested in pari-mutuels to read the recent NTRA study, produced by the National Economic Research Associates, Inc. One of its recommendations is that handle has to increase, which is done by lowering the prices of wagers. Mr. Vickery discussed what happened when NYRA and Keeneland decreased the costs of their wagers.

Mr. Vickery said that NYRA reduced their non-carryover take-out rates from 20 percent to 15 percent in April 2004. NYRA's objectives were to increase its non-carryover handle and the size of carryover pools and handles on the first day of the carryover, he said. Carryovers refer to money not won carried over to the next day, increasing the pool, he said. If someone won the pool, the next day it starts as \$0, he said. Similar to the lottery, if there is a carryover, more people bet, said Mr. Vickery.

NYRA's take-out rate was 15 percent on non-carryover days and 25 percent on carryover days, said Mr. Vickery.

Mr. Vickery said that from April to November, NYRA lost five percent of the non-carryover handle, equaling \$508,000. NYRA's Pick 6 handle decreased in 2004, he said. The carryover pools also declined, as did the handle on carryover days, showing that Pick 6 was not responsive to the take-out rates, yet it was to the carryovers, said Mr. Vickery.

Mr. Vickery said that the industry learned from NYRA that Pick 6 handles are unresponsive to take-out rates and carryovers. The industry also learned that if there is a carryover pool, people bet more money than if there was not, betting \$4 for every dollar in the carryover pool, he said. People betting do not respond to lower prices but instead respond to the carryover pool, he said.

Another lesson learned from NYRA is that risks and rewards need better pricing, said Mr. Vickery. Currently, the tracks take all the risks and the simulcasts get all the benefit, he said. Mr. Vickery said that racetracks receive a flat percentage of the handle from off-track sales. If the tracks do something to increase the handles, like guaranteeing pools, the track takes all the risks involved and all the rewards go to the off-track simulcastors. He said, for example, a simulcastor may owe a track three percent of the handle. If the take-out rates increase by 25 percent, the simulcastor gives three percent to the track and keeps the remaining 22 percent for themselves, he said. Mr. Vickery said if the industries price things differently, where simulcastors share in the risk, the simulcastor and the track may be better off.

Mr. Vickery said that the NYRA study also taught the industry that rate reductions yield uneven benefits. If there is a 10 percent rate reduction at a racetrack and the bets are priced at 20 percent then lowered to 18 percent, the handle has to increase to offset that. Bettors are immediately 10 percent better off, he said. The tracks will break even if the handles rise by 8.7 percent to offset the 10 percent rate reduction, he said. Simulcast networks need to see the handle rise 13.3 percent to breakeven, he said.

Mr. Vickery said that the Keeneland track reduced their prices for Pick 3, 4, and 6 from 19 percent to 17 percent for the fall race meet, representing 10.5 percent of the price reduction. This required the handle to increase 11.8 percent to break even, said Mr. Vickery. The handle

for the Pick 3 increased 8.2 percent, the Pick 4 increased 19.5 percent, and the Pick 6 decreased 83.6 percent, he said. This was because people respond to carryovers instead of the price, and there were no carryovers during that meet, he said.

In addition to lowering the price, Keeneland also guaranteed a pool with a minimum of \$300,000 every Sunday, said Mr. Vickery. The Pick 4 handle increased 127 percent on Sundays, he noted. However, since Keeneland subsidized those Sunday pools, they lost \$130,000—this was another example where the track took all the risks and the simulcast reaped the rewards, said Mr. Vickery.

Mr. Vickery said Keeneland also changed the Pick 4 from races 6 through 9 to races 7 through 10. This increased the handle by 76 percent, said Mr. Vickery. He attributed 20 percent of this increase to the price reduction and the other 56 percent to the change.

From Keeneland, the industry learned that different wagers respond differently to price reductions, said Mr. Vickery. He also said that it is more effective to introduce rate reductions with other changes, and that the Pick 6 was unresponsive to reductions, as learned from NYRA.

Sen. Geller asked why New York VLTs have the lowest amount of money per machine. Mr. Vickery responded by saying that the tracks which first started using VLTs were in more rural locations than ones adding them more recently. He added that some facilities did not invest that much money in their buildings, not designing them as destination locations.

Mr. Ron Sultemeier, president of Delaware North Companies Gaming and Entertainment, said that his group operates three racinos in New York and one in West Virginia. Of his New York racinos, he said he invested \$7 million in one, \$10.5 million in the second, and \$15 million in the third. He said that these racinos were not getting a return on the investment, unlike the one in West Virginia, in which he invested \$60 million. Mr. Sultemeier said this could be due to the tax structure in New York.

Sen. Larkin said that the bills from 2001 in the New York constitution state how much money has to go towards education. He blamed the cold snowy weather of New York as reason why the returns were low. Mr. Larkin said that there are five casinos proposed for Sullivan County, which will affect the racino in Monticello. He said that this racino will have to increase its advertising budgets to attract people, as it will be in competition with the newly proposed \$25 million racino in Mount Erie.

Mr. Sultemeier said that the New York casinos compete with Canadian racinos. He agreed with Sen. Larkin that the racino in Monticello will have marketing issues. He said that the types of games developed in New York also have a big impact on the product.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:30 a.m.