

Bill as Introduced

SB 490-FN - AS INTRODUCED

2010 SESSION

10-2709
08/10

SENATE BILL **490-FN**

AN ACT allowing historical racing.

SPONSORS: Sen. Sgambati, Dist 4; Sen. Hassan, Dist 23; Sen. Lasky, Dist 13; Rep. DeJoié,
Merr 11; Rep. D. Sullivan, Hills 8; Rep. Keans, Straf 1

COMMITTEE: Ways and Means

ANALYSIS

This bill allows historical races approved by the racing and charitable gaming commission on which the licensee sells pari-mutuel pools.

.....

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT allowing historical racing.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Pari-Mutuel Pools on Simulcast Racing; Historical Races Added. Amend RSA 284:22-a to read
2 as follows:

3 284:22-a Pari-Mutuel Pools on Simulcast Racing ***and Historical Races***.

4 I. In this section:

5 (a) "State" means each state of the United States, the District of Columbia, the
6 Commonwealth of Puerto Rico and any territory or possession of the United States.

7 (b) "Simulcast" means a licensee's receipt of the transmission of races conducted at a
8 racetrack other than the licensee's racetrack and which races are exhibited simultaneously at the
9 licensee's racetrack by television or other means of electronic reproduction with the conduct of such
10 races at the point of origin and on which races the licensee sells pari-mutuel pools.

11 (c) "Licensee" means any individual, association, partnership, joint venture, corporation,
12 or other organization or other entity which holds a license under RSA 284 to conduct a race meet, or
13 if the election is made pursuant to RSA 284:22-a,II(c), "licensee" means any individual, association,
14 partnership, joint venture, corporation, or other organization or entity which holds a license under
15 RSA 284 to conduct simulcasting at a facility at which live running or harness horse racing or live
16 dog racing was conducted in 2008.

17 (d) ***"Historical races" means those races displayed by electronic means on which***
18 ***the licensee sells pari-mutuel pools and which are approved by the commission.***

19 II.(a) During the calendar years 1941-2029, a licensee may sell pari-mutuel pools on races
20 held at racetracks other than the racetrack at which the licensee conducts its race meet, provided:

21 (1) Such sales are within the enclosure of the racetrack at which the licensee holds a
22 license for the current year to conduct live racing in this state;

23 (2) Wagers are made on races which are exhibited by television or other means of
24 electronic reproduction at the licensee's racetrack ***either (i) as historical races, or (ii)***
25 ***simultaneously with the conduct of each such race at its point of origin with the agreement or***
26 ***approval of the racetrack which provides the transmission of the races to be simulcast and the***
27 ***racetrack which conducts the races to be simulcast;***

28 (3) The licensee has scheduled at least 50 calendar days of live racing in the calendar
29 year in which the licensee simulcasts ***or displays historical races***, or if the licensee does not have
30 scheduled at least 50 calendar days of live racing in such calendar year, the licensee conducts live
31 racing on the day on which the licensee simulcasts ***or displays historical races***; and

1 (4) The licensee obtains the consents and approvals set forth in RSA 284:22-a, III.

2 (b) [Repealed.]

3 (c) Notwithstanding subparagraph II(a), an individual, association, partnership, joint
4 venture, corporation, or other organization or entity may be issued a license to conduct simulcasting
5 without conducting live racing provided such person or entity makes such election with the approval
6 of the commission and such person or entity either held a license on January 1, 2009 under this
7 chapter to conduct a race meet or seeks to conduct simulcasting without conducting live racing at a
8 facility at which live racing was authorized to be conducted in 2009

9 III. A licensee may sell pari-mutuel pools on *historical races or on* races held at other
10 appropriately licensed racetracks, whether such racetracks are in the state of New Hampshire or
11 outside the state of New Hampshire with the agreement or approval of the racetrack which provides
12 the transmission of the races to be simulcast and the racetrack which conducts the races to be
13 simulcast. A licensee may sell pari-mutuel pools under RSA 284:22-a on the same types of races that
14 it conducts live at its racetrack with the approval of the commission. A licensee may sell pari-mutuel
15 pools under RSA 284:22-a on types of races different from the type of races conducted live at the
16 licensee's racetrack provided:

17 (a) The licensee obtains the approval of the commission; and

18 (b) The licensee shall have received city or town approval under RSA 284:17 to conduct
19 the type of racing which is to be simulcast *or displayed* prior to or subsequent to the effective date
20 of RSA 284:22-a; the type of racing which is to be simulcast *or displayed* shall have been approved
21 by the city or town in which the licensee's racetrack is located in accordance with RSA 284:17 prior
22 to or subsequent to the effective date of RSA 284:22-a; or the acceptance of wagers or simulcast races
23 *or historical races* of a type other than the type of racing which the licensee conducts live at its
24 racetrack shall have been approved by a majority vote at an annual town meeting or special town
25 meeting called for such purpose in the town in which the licensee's racetrack is located.

26 IV. A licensee which has scheduled less than 50 calendar days of live racing in a calendar
27 year may simulcast *or display historical races* on a day on which live racing is scheduled at the
28 licensee's race track, without conducting live racing, provided that the live racing program is
29 cancelled due to weather or other conditions which produce unsafe conditions at the racetrack of the
30 licensee. The determination to cancel a live program based upon weather or the condition of the
31 racetrack shall be made by the licensee, and notice shall be provided to the commission.
32 Notwithstanding the foregoing, a licensee which has scheduled less than 50 calendar days of live
33 racing shall be limited to no more than 10 such cancellations in a calendar year.

34 V.(a) A licensee may sell pari-mutuel pools for *historical races or* simulcast races for races
35 held at racetracks within or outside the state of New Hampshire in accordance with RSA 284:22-a,
36 II, within the enclosure of said licensee's racetrack or a licensee, with the written agreement with
37 the licensee which conducts or transmits the race which is to be simulcast *or displayed*, may sell a

1 common pari-mutuel pool in conjunction with the licensee which conducts or transmits the race
2 which is to be simulcast *or displayed*. In the event of common pools, the licensee which conducts or
3 transmits the race shall pay the tax required under RSA 284:23 for the portion of the common pool
4 actually contributed at said licensee's racetrack and the licensee which simulcasts *or displays*
5 *historical races* shall pay the tax due under RSA 284:23 for the portion of the common pool
6 actually contributed at said licensee's racetrack.

7 (b) A licensee may sell pari-mutuel pools for *historical races or* simulcast races for
8 races held at racetracks outside the state of New Hampshire in accordance with RSA 284:22-a, II,
9 within the enclosure of said licensee's racetrack or said licensee, with the written agreement with
10 the entity which conducts the race which is to be simulcast *or displayed*, may sell a common pari-
11 mutuel pool in conjunction with the entity which conducts the race which is to be simulcast *or*
12 *displayed*. In the event of such common pools, the commission shall be in the amount established
13 by the law of the state in which the race to be simulcast *or displayed* is actually conducted,
14 provided, however, the licensee shall pay the tax as provided under RSA 284:23.

15 VI. Racing officials, as defined in the rules adopted by the commission, any employee or
16 owner of the entity which provides the totalizator system to the licensee, and any person responsible
17 for the operation of the electronic reproduction equipment which receives the simulcast *or display*
18 *of a historical race* shall be prohibited from participating in wagering, directly or indirectly, on
19 simulcast races *or historical races* shown at the licensee's racetrack.

20 VII. The provisions of RSA 284:15-c, RSA 284:16-a, RSA 284:16-c, RSA 284:17, RSA 284:17-
21 a, and RSA 284:17-c shall not apply to simulcast, *historical races*, and pari-mutuel pools under
22 RSA 284:22-a, except as specifically provided in RSA 284:22-a.

23 VIII. RSA 284:22, I, II, III, and IV shall apply according to the type of race on which the
24 simulcast *and historical race* wagers are made, excepting, however, interstate common pools as
25 provided in RSA 284:22-a, V(b) and that the provisions made for purses made in RSA 284:22, I shall
26 not apply to simulcast races *and historical races*. The commission on simulcast race pools shall be
27 available to the simulcasting licensee to satisfy obligations to the racing association originating or
28 transmitting such simulcast races or to the horsemen's group of such association.

29 2 Pari-Mutuel Pools; Distribution of Tax. Amend RSA 284:23 to read as follows:

30 284:23 Tax.

31 I.(a) Each person, association or corporation licensed to conduct a running horse race or
32 running horse meet under this chapter shall pay to the state treasurer a sum of money equal to one
33 percent of the total contributions to all pari-mutuel pools conducted, made, or sold at any such race
34 or meet licensed under this chapter. The amounts so paid to the state treasurer shall be for the use
35 of the state.

36 (b) Each person, association, or corporation licensed to *display historical races or to*
37 simulcast a running horse race or running horse meet under this chapter shall pay to the state

1 treasurer a sum of money equal to 1- 1/4 percent of the total contributions to all such pari-mutuel
2 pools conducted, made, or sold at such *historical race*, simulcast race, or simulcast race, meet by
3 such person, association, or corporation licensed to simulcast such races *or display historical*
4 *races*. The amount so paid to the state treasurer shall be for the use of the state.

5 II.(a) Each person, association, or corporation licensed to conduct a harness horse race or
6 harness horse race meet under this chapter shall pay to the state treasurer a sum of money equal to
7 one percent of all total contributions to all pari-mutuel pools in a calendar day. The amount so paid
8 to the state treasurer shall be for the use of the state.

9 (b) Each person, association, or corporation licensed to *display historical races or to*
10 simulcast a harness horse race or simulcast a harness horse race meet under this chapter shall pay
11 to the state treasurer a sum of money equal to 1-1/4 percent of the total contributions to all such
12 pari-mutuel pools conducted, made, or sold at such *historical race*, simulcast race, or race meet by
13 such person, association, or corporation licensed to simulcast such races. The amount so paid to the
14 state treasurer shall be for the use of the state.

15 III.(a) Each person, association, or corporation licensed to conduct a dog race or a dog race
16 meet under this chapter shall pay to the state treasurer a sum of money equal to 1-1/4 percent of so
17 much of the total contributions to all pari-mutuel pools conducted, made, or sold at any dog race or
18 dog race meet licensed under this chapter. The amount so paid to the state treasurer shall be for the
19 use of the state.

20 (b) Each person, association or corporation licensed to *display historical races or to*
21 simulcast a dog race or simulcast a dog race meet under this chapter shall pay to the state treasurer
22 a sum of money equal to 1-1/2 percent of all pari-mutuel pools conducted, made, or sold at such
23 *historical race*, simulcast race, or simulcast race meet by such person, association, or corporation
24 licensed under this chapter. The amount so paid to the state treasurer shall be for the use of the
25 state.

26 IV. Each person, association, or corporation licensed to conduct a race or race meet under
27 this chapter shall also pay to the city or town treasurer in which the racing plant is located for each
28 day of racing, whether such day includes live racing only, *historical races and* simulcast racing
29 only, or a combination thereof, the fees assessed in subparagraphs (a) and (b) below, based upon the
30 aggregate pari-mutuel pools conducted, made, or sold by such person, association, or corporation on
31 each such day. This rate is provided if said person, association, or corporation has a license to
32 conduct races or race meets for more than 10 days during the year for which the license is issued. If
33 said person, association, or corporation has a license to conduct races or race meets for 10 days or
34 less, the per diem fee shall be determined by the commission.

35 (a) Each Weekday including Saturday

36	Pari-mutuel pool	Fee
37	Under \$300,000	\$300 per day

1	\$300,000 or more	\$350 per day
2	(b) Each Sunday	
3	Pari-mutuel pool	Fee
4	Under \$350,000	\$400 per day
5	\$350,000 but under \$500,000	\$800 per day
6	\$500,000 or more	\$1,200 per day

7 V. [Repealed.]

8 VI. During each calendar year, by March 31, each licensee shall make a report to the
 9 commission with regard to such licensee's efforts to enhance live racing at such licensee's race track.
 10 Such report shall include, but not be limited to, licensee's enhancement of purses, capital
 11 improvements, promotion, advertising, and other activities determined by the licensee to enhance
 12 live racing. The report shall be in writing and shall be in sufficient detail as determined by the
 13 commission. The report shall be distributed to the commission and each member of the fiscal
 14 committee.

15 VII. For the purposes of this chapter, "racing program" means live racing with any number
 16 of individual races as determined by the racing and charitable gaming commission. A live race or
 17 racing program may include a combined live and simulcast race *or historical race* where the
 18 combination contains at least one more live race to simulcast *or display* in the same combination.
 19 Any such live racing program or combined racing program upon which a separate tax is paid may
 20 constitute a live racing performance day.

21 3 Unclaimed Ticket Money. Amend RSA 284:31 to read as follows:

22 284:31 Unclaimed Ticket Money. On or before January 31 of each year every person, association
 23 or corporation conducting a race or race meet, whether live racing [~~or~~], simulcast racing, *or display*
 24 *of historical races* hereunder shall pay to the state treasurer all moneys collected during the
 25 previous year of pari-mutuel pool tickets which have not been redeemed. The books or records of
 26 said person, association or corporation, which clearly show the tickets entitled to reimbursement in
 27 any given race, live [~~or~~], simulcast, *or historical*, shall be forwarded to the commission. Such
 28 moneys shall become a part of the general funds of the state. The state treasurer shall pay the
 29 amount due on any ticket to the holder thereof from funds not otherwise appropriated upon an order
 30 from the commission. Pari-mutuel tickets which remain unclaimed after 11 months shall not be
 31 paid.

32 4 Effective Date. This act shall take effect 60 days after its passage.

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SB 490-FN - FISCAL NOTE

AN ACT allowing historical racing.

FISCAL IMPACT:

The Racing and Charitable Gaming Commission states this bill will increase state general fund revenue by \$1,022,500 in FY 2011, by \$2,039,300 in FY 2012 and each year thereafter, increase state general fund expenditures by \$1,600 in FY 2011, by \$3,000 in FY 2012 and each year thereafter, and increase local revenue by \$114,700 in FY 2011, by \$139,450 in FY 2012 and each year thereafter. The Judicial Branch, Judicial Council, and New Hampshire Association of Counties state this bill may increase state and county expenditures by an indeterminable amount in FY 2011 and each year thereafter. There will be no fiscal impact on local expenditures or county revenue.

METHODOLOGY:

The Racing and Charitable Gaming Commission states this bill will allow historical racing at a facility where a license is held to conduct a race meet or have simulcast racing. The Commission assumes this bill will not take effect until FY 2011. The Commission states only one of the three racetracks is committed to install historical racing machines for horse races if this bill passes. The one racetrack would install 100 machines in the first six months after passage of this bill and an additional 200 machines the second six months, for a total of 300 machines by the end of the first year. The expected pool is \$1,164 per machine per day. The Commission estimates state revenue to be \$1,022,500 in FY 2011 and \$2,039,300 each year thereafter based on the 1.25 percent tax of the total pool, breakage revenue based on half of 0.2 percent of the total pool and unclaimed tickets based on 0.25 percent of the total pool. There will be state expenditures for the payout of unclaimed tickets estimated at 1 percent of unclaimed ticket amount or \$1,600 in FY 2011 and \$3,000 in FY 2012 and each year thereafter. Lastly, the Commission estimates the local revenue would increase by \$114,700 in FY 2011 and \$139,450 in FY 2012 and each year thereafter.

The Judicial Branch states the penalties for violations resulting from this bill would be an unspecified misdemeanor if committed by a natural person and a felony if committed by any other person. Misdemeanor charges can be either a class A or class B with the presumption they will be class B in accordance with RSA 625:9,IV. However, the Branch has no information

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to estimate how many new misdemeanors or felonies would be brought as a result of this bill nor if the misdemeanors would be class A or class B misdemeanors. The Branch states the cost of a class A misdemeanor case is \$51.14 and the cost of a class B misdemeanor case is \$36.89 in FY 2010 and each year thereafter. The cost of a routine felony case is \$335.98 in FY 2010 and each year thereafter. The possibility of appeals increases the likelihood the fiscal impact on the Branch will exceed \$10,000.

The Judicial Council states to the extent an unspecified misdemeanor results in a misdemeanor offense where the right to counsel exists this bill may result in an indeterminable increase in general fund expenditures. The Council states if an individual is found to be indigent, the flat fee of \$275 per misdemeanor is charged by a public defender or contract attorney. If an assigned counsel attorney is used the fee is \$60 per hour with a cap of \$1,400 for a misdemeanor charge. The Council also states additional costs could be incurred if an appeal is filed. The public defender, contract attorney and assigned counsel rates for Supreme Court appeals is \$2,000 per case, with many assigned counsel attorneys seeking permission to exceed the fee cap. Requests to exceed the fee cap are seldom granted. Finally, expenditures would increase if services other than counsel are requested and approved by the court during the defense of a case or during an appeal.

The New Hampshire Association of Counties states to the extent an individual is prosecuted, convicted, and sentenced to incarceration, the counties may have increased expenditures. The Association is unable to determine the number of individuals who might be detained, prosecuted or incarcerated as a result of this bill. The average cost to incarcerate an individual in a county facility is \$35,342 a year.

The Department of Justice states any fiscal impact to the Department would be absorbed with existing resources.

Committee Minutes

**AMENDED
SENATE CALENDAR NOTICE
WAYS AND MEANS**

Printed: 02/12/2010 at 3:24 pm

- ✓ Senator Bob Odell Chairman
- ✓ Senator Lou D'Allesandro V Chairman
- ✓ Senator Harold Janeway
- ✓ Senator Deborah Reynolds
- ✓ Senator Peggy Gilmour
- ✓ Senator Michael Downing
- ✓ Senator Jeb Bradley

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/> Bill Status	
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<input type="checkbox"/> Calendar	
Proof: <input type="checkbox"/> Calendar	<input type="checkbox"/> Bill Status

Date: February 12, 2010

HEARINGS

Tuesday

3/2/2010

WAYS AND MEANS

SH 100

10:15 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

Comments: THE PURPOSE OF THIS AMENDMENT IS TO RECONVENE SB 389-FN-A, WHICH WAS RECESSED FROM 1/26/10 AND TO CHANGE THE ORDER IN WHICH WE WILL HEAR THE BILLS

- | | | |
|---------------------|------------|---|
| 10:15 AM | SB389-FN-A | relative to the interest and dividends tax on certain distributions to investors in investment organizations. |
| 10:30 AM | SB490-FN | allowing historical racing. |
| 10:45 AM | SB496-FN-A | changing the carry forward periods for the business enterprise tax credit against the business profits tax and increasing the threshold amounts for taxation under the business enterprise tax. |
| 11:00 AM | SB498-FN-A | relative to taxation of certain tobacco products and requiring a discount to wholesalers on cash purchases of tobacco tax stamps. |

Sponsors:

SB389-FN-A

Sen. Matthew Houde

Sen. Harold Janeway

SB490-FN

✓ Sen. Kathleen Sgambati

Sen. Margaret Hassan

Rep. John DeJoie

Sen. Bette Lasky

Rep. Daniel Sullivan

Rep. Sandra Keans

SB496-FN-A

Sen. Peter Bragdon

Sen. Michael Downing

Rep. Andrew Renzullo

Sen. John Barnes, Jr.

Sen. John Gallus

Rep. Gene Charron

Sen. Jeb Bradley

Sen. Robert Letourneau

Rep. David Welch

Sen. Sharon Carson

Sen. Sheila Roberge

SB498-FN-A

Sen. Betsi DeVries

Rep. Daniel Eaton

Gail Brown 271-3076

Sen. Bob Odell

Chairman

Ways & Means Committee

Hearing Report

TO: Members of the Senate

FROM: Sonja Caldwell, *Legislative Aide*

RE: Hearing report on **SB 490-FN** – *allowing historical racing.*

HEARING DATE: March 2, 2010

MEMBERS OF THE COMMITTEE PRESENT: Senator Odell, Senator D'Allesandro, Senator Gilmour, Senator Janeway, Senator Reynolds, Senator Downing, Senator Bradley

MEMBERS OF THE COMMITTEE ABSENT:

Sponsor(s): Sen. Sgambati, Dist 4; Sen. Hassan, Dist 23; Sen. Lasky, Dist 13; Rep. DeJoie, Merr 11; Rep. D. Sullivan, Hills 8; Rep. Keans, Straf 1

What the bill does: This bill allows historical races approved by the racing and charitable gaming commission on which the licensee sells parimutuel pools.

Who supports the bill: Senator Sgambati, Senator Lasky, Senator DeVries, Representative Keans, Representative Sullivan, Director Kelley representing the Racing and Charitable Gaming Commission, Clark Corsen, Jay Ward representing the State Employees Association, Louis Cella representing Race Tech and the Oaklawn Jockey Club, Rick Newman representing the Lodge at Belmont, and Ralph Anderson representing the Horseman's Association.

Who opposes the bill: Ann Rice representing the Attorney Generals Office, Sally Davis representing the League of Women Voters, Dan Callaghan representing Rockingham Venture Inc. and Yankee Greyhound Racing Inc, Jim Rubens representing the Granite State Coalition Against Expanded Gambling,

Summary of testimony received:

Senator Sgambati

In the 90's, the legislature updated pari-mutuel laws to add simulcast to live racing. This added to jobs available to the people of the state. The next step we're proposing is historical racing - it is pari-mutuel wagering. These terminals would be under the authority of the Racing Commission. People could wager on historical races. This has been successful in Arkansas. It creates jobs and enhances the racing industry. This bill would mean 100 new jobs for NH. The Lakes Region has the 2nd highest unemployment rate in the state. Jobs are greatly needed. This doesn't interfere with any other current proposals. This would provide \$2 million in state revenues.

Senator Reynolds asked if there is live greyhound racing at Belmont now. **Senator Sgambati** said no, they rely on simulcast racing.

Senator Janeway noted the bill doesn't mention Belmont specifically. He asked if the same operation could be run elsewhere in the state.

Senator Sgambati said she understands it could be at Belmont, Seabrook and possibly Rockingham.

Sally Davis - League of Woman Voters

The League is opposed to expansion of gambling.

Slot machines are addictive

Thinks passage of the bill would preempt the governor's commission on gambling

Ann Rice - AG's Office

Opposed to the bill

She said this is just another form of slot machine gambling - it's an electronic way to bet on races at a fast pace. The AG's office is opposed to the expansion of gambling. The social costs outweigh monetary benefits. The machine picks an old race that has already been run. Video slot machines are one of the most problematic types of gambling because of the pace and instant payback. She submitted discs to the committee. She said the Governor's Commission is looking at all aspects of gambling and they are coming out with a report in November. She thinks we shouldn't enact legislation at this point without the info from that commission - we need to give them time. She said there is nothing in the bill to look to the regulation of technology providers. They should be licensed and have background investigations. She said the technology itself should be subject to testing.

Senator Odell said the gaming commission is required to issue its report in June.

Senator Reynolds asked if there is any data about historical racing in terms of comparing it to video slots.

Ms. Rice said she was not aware of it.

Senator Gilmour asked when simulcast became allowable in addition to the live racing at the track and were they opposed to simulcast racing at that time.

Ms. Rice said she didn't know that but would get an answer. She said simulcast is more like live racing so they might not have objected.

Senator D'Allesandro asked what the position of the AG's office was in 1963 when Governor King did lottery bill.

Ms. Rice said she thought they might have supported it but she wasn't sure.

Dan Callahan - Rockingham Venture, Inc

Opposed as drafted

Its part of simulcast statute. In 2009 you amended simulcast statute to allow tracks to not do live racing. He thinks this should be a separate section for clarity. On page 2 of the bill, lines 3-8 deal with the elimination of the option on live racing, it doesn't mention historic racing there. He said the question is if you want to do historic racing, do you have to do live racing at the track? Simulcast became law in 1983 as part of legislation to rebuild Rockingham park.

Paul Kelly

Racing and Charitable Gaming Commission

Supports the bill. It's just an enhancement of a type of wagering we already have. They would support giving them the authority to do licensing and background checks. Provides money to purses and to the state. It's pari-mutuel wagering.

Jim Rubens - Granite State Coalition Against Expanded Gambling

This bill would allow slot machines in the state. The distinction between historical racing and a slot machine is so minor. He said it's a choice in the kind of display on the slot machine. Slot machines are the source of most of the profit at casinos. The behavioral impact of slot machines is distinct - people get into trouble. Causes law enforcement and social service costs to go up. He thinks it's a net revenue loser.

Louis Cella - RaceTech LLC/Oaklawn Jockey Club

History of parimutuel wagering - totalizator - computer took all wages and calculated odds - would fluctuate. Evolution of wagers occurred in the 80's. 90's started interstate simulcasting, which allowed a year round season. His

family owns Oaklawn in Arkansas. After a decline in the 90's and failed attempt to get slots, Oaklawn came up with a product called instant racing, which saved racing in Arkansas. Attendance and purses started to go back up. Submitted a handout. He said a slot does not have a central tote. Historic races have been collected into a video library. A race has to have 10 horses.

He said with traditional racing - players wager on same race at same time. With instant racing - players wager on different races at different times. There used to be lots of different wagering pools on one race. With instant racing, there is one pool on lots of races. Instant racing has a central totalizator, and this lets the patron choose what they want to see. Instant racing purses are generating \$250,000 per month - it brought back the industry. In Arkansas the tax rate is 1% of the handle. One job for every two terminals was created at Oaklawn.

Senator Odell – asked who owns the totalizator?

Mr. Cella said AmTote. They are a service provider.

Senator Reynolds asked him to speak to the difference between odds in historical racing vs. slot machine model.

Mr. Cella said the difference between odds and parimutuel pools, when all money is wagered vs. all tickets calculated with totalizator, horse ought to be 2 to 1. With a slot machine, when you get 3 cherries you get \$500 - its fixed odds. With parimutuel it depends on who is playing. Parimutuel pools fluctuate up and down. Historical racing was issued a patent. It is unique from anything slot related.

Senator Gilmour asked if he had data on crime statistics in 10 year blocks.

Mr. Cella said no but he can provide it.

Senator Janeway asked if the terminals are sold or leased and does the operator pay a monthly fee.

Mr. Cella said at Oaklawn, RaceTech sells the terminal to Oaklawn, they also lease half the terminals. They offer both.

Senator Reynolds asked if there is a difference in speed between live racing vs. instant racing machine.

Mr. Cella said live racing is very slow, it's about every 30 minutes. Simulcast is as frequently as there is a race going on. Instant racing can be 7-10 seconds if you pick the short version or 2 minutes if you pick long.

Senator Odell said it takes a while to do simulating. You have to pick your race, the track, the bet, etc.

Senator Downing asked if there was only one vendor or manufacturer for the machines.

Mr. Cella said right now they have a service contract with AmTote. Anyone can manufacture them.

Senator Downing asked who is authorized to work on them.

Mr. Cella said its typically a tote vendor. At Oaklawn they found it more efficient to train their own employees.

Rick Newman – The Lodge at Belmont

He said they will hire at least 100 new employees if this bill passes. The bill would help them maintain the current employees they have today. They have a display terminal out and have gotten positive feedback on it. With regard to servicing of machines, they have United Tote as their tote company and they had their technicians on site up until 8 months ago. They can now do things remotely and they also have people in house who can fix minor problems. If its serious, United Tote would send someone up. With regard to the licensing of vendors, he said the racing commission licenses tote companies. He said this is a way for us to enhance the business we are in. In the market today, Belmont could sustain 300 machines and this number would grow over time.

Ralph Anderson - Western New England Harness Horsemen Association

Has approximately 300 members - 75 in NH.

This is another form of parimutuel wagering and as long as it goes to support purses for live racing, they support this. They want to see a small portion of income from historical racing go toward increasing live racing purses.

Senator Odell asked how the money would get to the purses

Mr. Anderson said he thought a percentage would be earmarked.

Mr. Cella said a state has to approve simulcast agreements before they can be simulcast. In Arkansas they negotiated 15% of take out earmarked for purses – this is specifically for historic racing. Simulcast and live racing is a higher percentage.

RB3

Date: March 2, 2010
Time: 10:40 am
Room: State House Room 100

The Senate Committee on Ways and Means held a hearing on the following:

SB 490-FN allowing historical racing.

Members of Committee present: Senator Odell
Senator D'Allesandro
Senator Janeway
Senator Reynolds
Senator Gilmour
Senator Downing
Senator Bradley

The Chair, Senator Bob Odell, opened the hearing on SB 490-FN and invited the prime sponsor, Senator Sgambati, to introduce the legislation.

Senator Kathleen G. Sgambati, D. 4: Good morning, Senator Odell. For the record, I'm Kathleen Sgambati, representing District 4, which is comprised of seven towns in the Lakes Region including Belmont, New Hampshire. I am here to introduce this bill on historical racing.

If we step back for a moment, in the 1990s, this Legislature updated our pari-mutuel wagering laws to add simulcast wagering to live racing. That increase in activity protected jobs that were already there, added to jobs available to the people of this state.

This next step that we are proposing within the bill is historical racing and it is and continues to be pari-mutuel wagering. Their terminals, if installed, would be under the authority of the Racing Commission just as simulcast wagering is. In addition, the live racing individuals would be able to wager on historical races. This activity and change has been successful in the State of Arkansas in both creating jobs and enhancing the racing industry.

To be adopted here in New Hampshire, at the very outset would mean at least a hundred new jobs. If I can take you back to some facts of unemployment. The Lakes Region has the second highest rate of unemployment in the state and these jobs would be thoroughly welcomed and

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are greatly needed. This is an extension of simulcast. It does not supplant or interfere with current proposals or conversations regarding gaming better being had within the state house. Both of these activities can exist in the same forum if this Legislature chooses to accept both.

So, again, I ask you to add this next step of historical racing to the pari-mutuel wagering system which would allow us to create jobs in the Lakes Region and provide at least \$2 million in state revenues and further ask for your support. There are more technical experts here, but I would be happy to try and answer any questions that you may have.

Senator Bob Odell, D. 8: Thank you, Senator Sgambati. Questions from the Committee? Senator Reynolds?

Senator Deborah R. Reynolds, D. 2: Thank you very much, Mr. Chairman. Thank you very much, Senator Sgambati. Isn't it fair to say that as The Lodge at Belmont there is no longer any live greyhound got racing?

Senator Kathleen G. Sgambati, D. 4: That's correct. So, they rely on the simulcast racing and this would add another tool to the business.

Senator Deborah R. Reynolds, D. 2: And, is it also fair to say that currently, as you noted in your testimony, simulcasting is occurring at The Lodge right now.

Senator Kathleen G. Sgambati, D. 4: That's correct.

Senator Deborah R. Reynolds, D. 2: Thank you.

Senator Bob Odell, D. 8: Any other questions? Senator Gilmour?

Senator Peggy Gilmour, D. 12: Thank you, Mr. Chairman. Again, just for some clarification in terms of some of the other games, this is going to be another piece in the range of gambling that can occur? We have simulcast. We would add historical possibly gains and profits?

Senator Kathleen G. Sgambati, D. 4: That's right. It provides choices to have people, how they want to spend their entertainment dollars. There is no reason why simulcast and historical race and a slot machine can't exist in the same venue.

Senator Bob Odell, D. 8: Further questions? Senator Janeway?

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Senator Harold Janeway, D. 7: Thank you, Mr. Chairman. Good morning, Senator.

Senator Kathleen G. Sgambati, D. 4: Good morning.

Senator Harold Janeway, D. 7: This bill doesn't mention The Lodge at Belmont, but you described it, I think. So, could the same operation be at other locations in the state?

Senator Kathleen G. Sgambati, D. 4: I would leave that to the people who have been working and drafting the bill. But my understanding is that it would be Belmont, Seabrook and potentially Rockingham.

Senator Bob Odell, D. 8: Any further questions? Seeing none, thank you Senator Sgambati.

Senator Kathleen G. Sgambati, D. 4: Thank you.

Senator Bob Odell, D. 8: I will note that Senator Lasky is signed in in support of the legislation, but does not wish to speak, as has Representative Dan Sullivan, Hillsborough District 8, who has signed in in support of the legislation, but does not wish to speak. I will call in order of your signing in. I will call on Sally Davis from the League of Women Voters. Good morning, Ms. Davis and welcome to the Senate Ways & Means Committee.

Sally Davis: Good morning. I have a copy for each of you, but I would like to read this out loud.

Thank you for this opportunity to speak on SB 490. The League of Women Voters of New Hampshire opposes funding government with revenue from expanded gambling.

The optimum tax, we feel, is one that provides a reliable source of revenue, raises adequate revenue to justify its imposition, is based on an ability to pay and is levied on a broad segment of the population. The League supports, where appropriate, a tax that is a direct payment for a service or benefit, otherwise known as a users' tax.

The League opposes expansion of gambling as a source of revenue in part because it meets none of the criteria above. SB 490 adds historical racing on machines to the mix of gambling already present at a race track in New Hampshire. Such machines have been ruled in the Wyoming Supreme Court in a 2006 decision as slot machines under the guise of historical or instant

racine. Slot machines are especially addictive and would be a first step towards this type of gambling in the state.

The Governor's commission is studying the expansion of gambling in New Hampshire and citizens have given input at meetings around the state. They are now also commenting via e-mail on line. The Commission will be apprised of the results of the February 13th day-long meetings around the state and conversations going on now via the internet. Approving SB 490 preempts the Commission made up of men and women who have been investing a lot of time meeting monthly, receiving and studying reports and making visits to casinos to study them.

The League of Women Voters of New Hampshire supports an inexpedient to legislate decision by the Senate Ways & Means Committee on SB 490.

I expected to see Liz this morning, but she is still dealing with no electricity and so she could not sign this letter.

Attachment #1 – prepared testimony from Liz Tentarelli and Sally Davis, League of Women Voters of New Hampshire.

Senator Bob Odell, D. 8: Tell her we send our best. Thank you very much for your testimony. Questions from the Senators? Seeing none, thank you very much for being here.

I will note that Mr. McGrath from the American Legion Post 21 signed in in support of the legislation, but does not wish to speak. Clark Corson signed in on his own behalf in support of the legislation, but does not wish to speak. Ann Rice is here to speak from the AG's Office in opposition. Ms. Rice? Good morning and welcome to the Committee.

Attorney Ann Rice: Good morning. Thank you, Mr. Chair, members of the Committee. For the record, my name is Ann Rice. I appear on behalf of the Attorney General in opposition to this bill.

Unfortunately my testimony comes somewhat in a vacuum because I had assumed that you might hear about what historical racing is. It sounds like a very innocuous term, but in fact what it is is just another form of slot machine gambling. What this is is an electronic way to bet on races in a very fast pace with machines that look indistinguishable from slot machines and I will just show you a couple of the pictures.

This is a brochure that we got from Race Tech, which I understand is the company that would be providing the machines for this historic gambling,

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historic racing. The screens that they show are very similar to ones that you would see in any kind of a slot machine. This is what a bettor would be sitting in front of as they are working on the machine. The pace can be done very immediately as it could with any other slot machine.

Our office historically has been opposed to the expansion of legalized gambling and we continue to be opposed to it because we believe that the social costs and related public safety issues far outweigh the monetary benefits.

Just to put this into context, pari-mutuel, as it now stands, is really live racing, whether it be in New Hampshire or through simulcast in other states. The pace of betting is controlled by the timing of the races. When a race happens, bettors can bet on the race and then the race happens. There is some delay. People can watch the window, get their earnings. What this historical racing does is allow for someone to put money into a machine, pick of a random, my understanding is that the machine randomly picks an old race that has already been run and then the person can bet on that race sitting at the machine and if they bet and win, they get it credited right to their card or whatever is put into the machine. So, it is very fast-paced. Those are the kinds of things that happen with the slot machines.

So, what's the problem with that? Why are we opposed to that? Well, we are opposed to it because video slot machines are one of the most problematic types of gambling. Studies have shown that, because of the pace of the betting and because of the instantaneous payback inherent in those kinds of machines, that they are associated with quicker onset of pathological gambling, gambling addictions and problem gambling. The people who have gambling habits start to interfere with their other, critical parts of their lives, their financial, their ability to keep up with their bills, the ability to pay their rent. Those sorts of things lead to financial turmoil, increased rate of bankruptcy, familial stress, including domestic violence and child abuse, and increased crime. I think that even those in the gambling industry themselves acknowledge that this is a problem part of gambling.

I have this material for you to review. These are the studies that we submitted to the Governor's Commission on Gambling. These are all of the studies that we are relying on for my representations about the increase in crime, the increase in bankruptcy rates and those things. So, I would like to submit these to the Committee. I have a copy for each one of you.

Note: The brochure from Race Tech is too voluminous to attach to this transcript, but is available in the original bill file.

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Note: Attorney Rice provided to each member of the Ways & Means Committee a CD, "Studies on Gambling and Related Materials, NH Attorney General's Office". Additionally, there is one in the original bill file.

But, that brings to issue the fact that there is a Governor's commission to study gambling. This is a commission that has looked at all aspects of gambling, the benefits, the monetary benefits, the disadvantages, the social costs, all of the things that we're looking at. You have a group of people that are spending a significant amount of time looking at these issues and it is anticipated to come out with a report, I believe, in November. Why we would want to take any step at this point to enact legislation that would allow the expansion of gambling without the information provided from that commission doesn't seem to make good policy sense. We need to give the commission time to look at this issue. So, I would urge you to find this inexpedient to legislate.

I would like to point out, though, one very troubling part of this bill that we are talking here about technology, technology that needs to be regulated and there is absolutely nothing in this bill that would look to the licensing, the regulation of the technology providers. I think, if you look at any state where there is gambling, one of the big issues is making sure that the technology providers are licensed, complete background investigations, and that the technology itself is subject to strict testing to make sure that we can protect the integrity of the game. So, I don't go into the details of the bill too much other than that is a huge gaping hole in this bill. But, we oppose it in any event, for the reasons that I have stated. I'm happy to take questions.

Senator Bob Odell, D. 8: Thank you, Ms. Rice. I would make one correction. The Gaming Commission, by executive order issued by the Governor, is required to issue its report in June.

Attorney Rice: Oh, thank you. I apologize for that.

Senator Bob Odell, D. 8: Questions? Senator Reynolds?

Senator Deborah R. Reynolds, D. 2: Thank you very much, Mr. Chair and thank you very much, Attorney Rice. I appreciate the material that you have brought in today and it may be included in what you have given us, but my question is, is there any data about historical racing in terms of comparing that to the video slots at all in terms the speed or the addictive nature of those machines?

Attorney Rice: I'm not aware of it.

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Senator Deborah R. Reynolds, D. 2: Okay.

Attorney Rice: When I saw the demonstration, when we went to the presentation on this machine, my understanding from the description was that it was similar speed to the slot machines. But, I don't have data on that.

Senator Deborah R. Reynolds, D. 2: Thank you.

Senator Bob Odell, D. 8: Other questions for Attorney Rice? Senator Gilmour?

Senator Peggy Gilmour, D. 12: Thank you, Mr. Chairman. I don't remember if Senator Sgambati said, but when did simulcast racing become allowable?

Attorney Rice: It is in the statute and I would have that with me if you could give me a minute.

Senator Peggy Gilmour, D. 12: My question is, did the Attorney General's Office oppose simulcast racing at that time?

Attorney Rice: Senator Gilmour, I don't have the answer to that. I would be happy to get that for you. I think that the simulcast is much more like live racing, it is live racing and, for that reason, I don't think that we would have the same objections. But, I don't know where the Office would stand with that. I think that the Office may have supported the lottery bill. I don't know for sure.

Senator Lou D'Allesandro, D. 20: Twenty-one?

Attorney Rice: I don't know. I would need to check on that.

Senator Bob Odell, D. 8: Other questions for Attorney Rice? Seeing none, thank you very much.

Attorney Rice: Thank you. I appreciate your time.

Senator Bob Odell, D. 8: I will now call on Dan Callaghan from Rockingham Venture, Inc. and Yankee Greyhound Racing, Inc. Good morning, Mr. Callaghan. Welcome to the Committee.

Attorney Dan Callaghan: Thank you, Mr. Chairman. My name is Dan Callaghan. I'm a lawyer at Devine Millimet in Manchester and represent

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Rockingham Ventures, Inc. the operator of Rockingham Park in Salem and Seabrook Greyhound Park, Yankee Greyhound Racing, the operator of Seabrook Greyhound Park in Seabrook. Because your boxes say either opposed or in support, I checked off opposed and I should have added, or I will make clear, as drafted.

My concern with the drafting of this is that it is part of the simulcast statute and all the tracks. In 2009, you amended the simulcast statute through the budget to allow for the option for the tracks not to do live racing and continue to do that.

I do think that historic racing, if you want to consider that as part of the package of opportunities for the race tracks, and Senator Janeway's comment that all the tracks would be authorized to do it, as I understand, you should have it as a separate section just to make sure that there is some clarity with regard to there isn't some confusion.

One of the points I would suggest where the confusion might come in is on page 2 of the bill, lines 3 through 8, deal with the elimination of the option on live racing. It doesn't mention historic racing there. So, the question would be is, if you wanted to do historic racing, do you have to do live racing at the track? So, my position is simply, as drafted is, I think, if you were going to bring this in as a bill, and I know that Mr. Newman and his principles from Belmont Track or the principles supporting this legislation, I think that you would probably want to consider as a separate section of RSA 284 just as an option because of the unique nature of it and not to interfere with the simulcast was my point.

Two questions. Simulcasting became law in 1983 as part of the legislation to rebuild Rockingham Park. It was amended in the early '90s to allow the dog tracks to simulcast Rockingham Park when simulcasting came to New Hampshire initially. It was, you allowed simulcasting of races outside the state of New Hampshire. So, our dog tracks, which could do simulcasting of horse racing, could not simulcast Rockingham Park, but could simulcast everyone else. So, you amended the statute in the early '90s to allow for that and to streamline that.

That comment, and I just think it needs a little bit of work and I would be glad to work with the Committee if it is your desire to pass the legislation with regard to that.

I would be glad to answer any questions.

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Senator Bob Odell, D. 8: Thank you for your testimony. Questions? Seeing none, thank you for being here.

Attorney Callaghan: Thank you.

Senator Bob Odell, D. 8: Paul Kelley from the Racing and Charitable Gaming Commission. Good morning, Mr. Kelley.

Paul Kelley: Good morning, Mr. Chairman, members of the Committee. For the record, my name is Paul Kelley. I am Director of the Racing and Charitable Gaming Commission. The Commission does support the bill.

It doesn't mean an expansion of gambling; it is just an enhanced type of gambling which we already have, which is pari-mutuel wagering. We certainly echo the Attorney General's comment, though. If you give us the teeth to allow us to investigate a background for licensing, that is always a good move for a regulatory body. So, we would endorse that in the bill. That would give us specific authority to do background checks and authority of licensing of the technological providers and we support that. I have no further comment.

Senator Bob Odell, D. 8: Are there questions for Director Kelley? So, your Commission has taken a vote on this?

Director Kelley: We voted at the last Commission meeting, actually at several meetings, Senator, but again at the last meeting to support the concept of historical racing.

Senator Bob Odell, D. 8: And where there is no live animal involved in this racing, any place in the country, they believe that this is not an expansion of gambling; this is simply taking old races and calling that the equivalent of live racing and it would be under simulcast?

Director Kelley: They didn't use that language, Senator. Their concern was that they thought it was revenue enhancing. It provides the money to help the purses, provides the money to the state and it is pari-mutuel based. The odds are determined by how much money is wagered by other people. So, it is not a set law like a slot machine of 300 to one or a thousand to one. It is pari-mutuel wagering based and like pari-mutuel equipment.

Senator Bob Odell, D. 8: They didn't compare it to a slot machine.

Director Kelley: They didn't discuss the slot machines when they were talking about historical racing.

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Senator Bob Odell, D. 8: Any other questions? Seeing none, thank you very much.

Director Kelley: Thank you.

Senator Bob Odell, D. 8: I'm sorry. I should have mentioned that Representative Keans from Strafford District 1 is here in support of the bill, but does not wish to speak. Jay Ward is signed in in support of the legislation. I don't know if Jay wants to speak or not.

Jay Ward: I don't need to speak. (Inaudible, speaking from the back of the room.)

Senator Bob Odell, D. 8: Alright. Jim Rubens from Granite State Coalition and I forget the rest.

Jim Rubens: Against Expanded Gambling.

Senator Bob Odell, D. 8: Against Expanded Gambling. Alright.

Mr. Rubens: Thank you, Mr. Chairman.

Senator Bob Odell, D. 8: Welcome, Mr. Rubens and former colleague.

Mr. Rubens: The Granite State Coalition Against Expanded Gambling has been around since 1993. We are a broad based coalition which incorporates every anti-tax organization in the state, most of the organizations in the state, the Medical Society. Our position is endorsed by a variety of other organizations, including the state teachers' union. So, we span the spectrum of politics and interest groups around the general agreement that there is already enough gambling in the states.

This bill looks small, it is a million or two million bucks a year, but it is the whole enchilada. This bill is the choice to allow slot machines in the state. Slot machines are at the core of the other bill here, this body similar to yours, the Finance Committee, will hear on Thursday. It is the same decision. Slot machine is where the money is.

These are called historical racing, but the distinction between this and a slot machine is so minor as to be safely categorized as a choice of a type of display for a slot machine. This is a choice of a particular kind of display for a slot machine. So, rather than having the full range of displays you would see at a regular slot machine casino, this will have a more limited range of displays,

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but they work exactly the same. The reason you know these are the same are because of the way that the vendor of the product advertises it to their customers, racetracks. They describe it as an experience just like slot machines. The tracks themselves, in Arkansas, one or more of them that have it, I went to their website yesterday, and they describe this machine as having an experience just like a slot machine.

I pulled from the Wyoming Supreme Court that went all the way up to the Wyoming Supreme Court that Wyoming has a state gambling law very similar to ours in New Hampshire. I will just quote one brief sentence from the Wyoming Supreme Court's decision, which was basically to determine whether this was pari-mutuel wagering or slot machines. "We are not dealing with a new technology here, we are dealing with a slot machine that attempts to mimic traditional pari-mutuel wagering. Although it may be a good try, we are not so easily beguiled."

So, while, again, this is, I think there might be an attempt to sneak this in under the radar because it is small, it is only for a track, it might be only for three tracks or something. This is the whole choice you are facing here.

The reason that the Granite State Coalition Against Expanded Gambling is gravely concerned about slot machines, and you have heard this testimony, this Committee has heard this testimony in the past in past years; slot machines are the source of most of the profits at casinos. They are very distinct in terms of their behavioral impact, both on individuals who gamble and on society at large around them than any other type of gambling we have in the state. They are completely distinct from lottery, they are distinct from horse racing, they are distinct from simulcasting in the sense that people get into, random people, unpredictably, get into very serious trouble on a statistically predictable basis when you put slot machines into particular geographic regions.

And the impact of the addictions and the crime and Ann Rice from the Attorney General's Office has handed you out on a CD some information about the crime impacts of slot machines. The impact of the addiction and crime on the surrounding population is both measurable and unmeasurable. The measurable parts of it add up to sums of money bigger than the revenues the state would get and those measurable components include things like theft of money, embezzlement from employers, violent physical assaults and a variety of other things that cause family incomes to deteriorate, law enforcement costs to go up, social services costs to go up. It is a net money loser. There are unquantifiable costs associated with persons, one out of five, who become addicted to slot machines who attempt to commit suicide. Those

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are not quantifiable costs, but they have devastating impact on families that become involved.

So, in summary, with respect to our concerns, these are slot machines. This bill is a choice to legalize a specific kind of slot machine that has a specific kind of display. Once you do this, the conceptual choice has been made. Others will argue and we argue to you that we already have this type of machine in the state. May we simply not have a machine that has a different type of display. That, I submit, is a much easier conceptual choice than choosing to have a slot machine. Again, the choice to allow different types of slot machine displays.

One more point I would like to make is the company, I don't know which company, would be the vendor of this technology. My understanding is, and I will have to leave it to the Committee because I wasn't able to find this out yesterday as I was last minute checking this. This may be a sole source vendor situation which the Legislature may be legislating itself into a revenue source from a sole source. Race technology in the past had a business relationship with what I understand to be the patent holder of this technology, AmTote. AmTote is a subsidiary of Magna Entertainment Company. Magna and its subsidiary declared bankruptcy in March last year.

So, I would be concerned and this Committee should be concerned about the possibility that the technology or some type of business relationship may entangle this Legislature a revenue source on which it may be dependent, tracks that may be dependent upon this with entities that may licensed or failed to properly license the technology necessary as it works through the bankruptcy process of Magna Entertainment and what I understand to be the intellectual property owner here, AmTote.

Thank you.

Attachment #2 - prepared testimony from Jim Rubens, Granite State Coalition Against Expanded Gambling.

Senator Bob Odell, D. 8: Thank you very much for your testimony. Any questions for Mr. Rubens? Senator Janeway?

Senator Harold Janeway, D. 7: Thank you, Mr. Chairman. Is it your understanding that the way these work is almost instantaneous results as they are with video terminals?

Mr. Rubens: They can be played that way.

RB

Senator Harold Janeway, D. 7: This doesn't have to wait for the horses to go around the track. Right?

Mr. Rubens: Right.

Senator Harold Janeway, D. 7: You hit the button again so it has the same characteristics?

Mr. Rubens: Correct. The player can elect to play just the last furlong of the race and ignore the rest of the race. If you examine the way that people play this race in casinos that have them, you will see that customers prefer to play them fast. People that play slot machines, the reason slot machines are very profitable is because you can play them fast, you can lose money fast. That's why they are profitable. That's the way the players play them. They are advertised to customers as having that option and customers typically elect that option to play them fast. That's why they are slot machines.

Senator Bob Odell, D. 8: Further questions for Mr. Rubens? Seeing none, thank you very much for being here.

Mr. Rubens: Thank you.

Senator Bob Odell, D. 8: I will now call on Louis Cella from Race Tech, Oaklawn Jockey Club. Good morning and welcome to the Senate Ways & Means Committee.

Louis Cella: Thank you, Mr. Chair. Thank you, members of the Committee. My name is Louis Cella. I'm here on behalf of Race Tech, LLC and Oaklawn Jockey Club. Thank you for permitting me to speak before the Committee.

It is always interesting when I sit in the back and hear people explain what this product is better than what the manufacturer and the people that created it could give a little history. I think it is important for this body to understand a little history of where pari-mutuel wagering and the evolution of pari-mutuel wagering is happening in the United States.

Oaklawn – my great grandfather built it in 1904. We're the oldest family in racetrack management in the United States. The reason that is important is not who we are, but who we are not. We're not IGT, we're not Harrah's, we're not a gaming company. We're in the racetrack business and have been for three generations.

In 1904, just like in New Hampshire, we had live racing, but you did not have the totalizator. It wasn't invented yet. You had bookmakers. You had real

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bookmakers on the side and they took people's wagers and when money was bet on it, they would fluctuate the various odds and it would be ongoing until a race came up. You only had win, place, show, daily double. Didn't have anything beyond.

But, it wasn't until the mid-1930s that Mr. Straus created AmTote International, the very first totalizator company. Today, there are about three of them. But, the first one was AmTote based in Maryland, Hunt Valley, Maryland. That did away with the illegal and legal bookmakers and created the totalizator. The totalizator is nothing more than a computer that took all of the wagers and calculated the various odds so they would fluctuate. But, it wasn't really until we got through fast forward to the '80s that we started to see the evolution of wagers. Up until that time, you win, place, show, daily double. Nothing really more than that.

Starting in the '80s in California, you started to have intrastate within the state of simulcasting and you had Pick 6s, but that was it. You had six races in a row and you tried to pick a winner of all six and you had a common pari-mutuel pool. If there were no winners, the 6s would be carried over. But, that was only in the '80s. In the '90s, we started this crazy thing called interstate simulcasting.

What was not mentioned earlier is the very first interstate comingled simulcast wager in the United States was between Oaklawn Jockey Club, our track, and Arlington Park in Chicago. It had never been done. Prior to that time, tracks like Oaklawn, tracks like Rockingham, there is absolutely no difference. We had a live season and at the end of the live season, you closed. What this afforded us to do is to have a year round season. So, the very first track, Oaklawn, Arlington with interstate simulcasting with comingled pool like New Hampshire residents taking a wager in Massachusetts.

Starting in the '90s, states started to pass enabling legislation for interstate simulcasting with comingled. New Hampshire is no different. You started to see the proliferation of exotic wagers, just as we did at Oaklawn. And, it is history parallel.

So, when you go back in the 1904 with legal bookmakers, a win, place, show to the Pick 6s intrastate simulcasting to trifectas in exotics and exactors and super factas of the '90s, you have seen the evolution of racing. For instance, as you have in New Hampshire today because of that enabling legislation, you have as many signals that are available to the patron offered, which is as many as forty different signals going on all the time. Very fast paced. Extremely fast paced compared to back twenty years ago and thirty years ago. You have all these different races coming in at one time. The patron

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gets to choose them all or they get to choose none of them or they get to choose what the live race is. But, we have seen an evolution throughout racing and the pari-mutuel nature of it.

Oaklawn started to see the decline in our business in the '90s, just like New Hampshire. We started live racing, we had instant racing, pardon me, simulcast racing, and in the '90s we started to see the proliferation of casinos around our market and competing with our patron base and we started to see some money leaving. Our attendance was declining and our purse structure was declining and our handle was declining and the state revenues were declining. We had to do something, so we did what every other state is trying to do – we were going to get slots. Couldn't be difficult.

Well, in 1994, we lost. In 1996, we lost. We realized that, at that time, we will never get slots in Arkansas. It is not going to happen because the competition surrounding has to protect their turf. That's the reality, unfortunately, and what we were faced with paralleled New Hampshire precisely. You are either going to cut jobs, cut back, close or come up with something and what we came up with, Oaklawn, not AmTote that was earlier stated, Oaklawn came up with a product called instant racing.

Well, what is instant racing? We are limited under the laws to offer pari-mutuel wagering on racing. That is all we are allowed to do. We are not allowed to have fixed based odds, house based games, games of chance, that's what a slot machine is by definition. We are only permitted to do instant racing, or pardon me, pari-mutuel wagering on racing. We came up with this concept. We started in January of 2000 at Oaklawn and from that time the evolution of instant racing, it stayed racing in Arkansas. We handle over \$225 million in handle on instant racing pretty much year-in and year-out. That generates an additional \$250 thousand or so in purses every month. And, from January of 2000, what we saw at Oaklawn is we saw our attendance starting to go up, our purses starting to go up, our revenue to the state starting to go up. And, what we did is we saved an industry. Rather than cutting jobs, we added jobs. Rather than cutting revenue to the state, we have added revenue to the state.

This is an industry effort. This is everything within our industry is part of this. Just as it was from live racing to simulcast racing, we now have instant racing.

Mr. Chairman, I have a handout and with the power point we have made some slides. If I may pass this out please.

Senator Bob Odell, D. 8: Thank you.

RUB

Mr. Cella: As you will see in this handout and I'll give it a moment, we are an open book. This is not AmTote International. This is a race track. This was created specifically to save racing in Arkansas. It in fact did and I believe you have had testimony or will have testimony from various horsemen to that effect that how it has increased and saved racing in Arkansas.

But, if you go to this, and this will just take a couple of minutes. Mr. Chairman. The very first talks about who we are. Well, this is an industry effort. Of course, we are Oaklawn, but we are also AmTote. We are only allowed to offer pari-mutuel wagering. We are not allowed to have house bank games, games of chance, slot machines. We are the daily racing form. We provide skilled data, which is the skill data provided at the race tracks today.

The HBPA, that's our horsemen, those are our breeders. This is an industry. NAPRA is the organization that the commission, your racing commission in New Hampshire, belongs to. It is a national organization of regulators and they have model rules for instant racing. We talked earlier about the integrity of instant racing and licensing.

Well, we are the TRPB. This is our industry law enforcement agency. They work with federal, state and local law enforcement every single day. It started in 1954, this organization. They are our outside auditors. They freely go into and look at the system, as do our racing commissions and other regulators because we are a totalizator base. We are the Tote Standards Committee. That's the international organization that regulates all things pari-mutuel. They also have passed model rules for instant racing.

The next line is what you have, or picture rather, is what you have in New Hampshire today. That is the various racetracks, but the common theme is the central tote. There was a question about is this a slot or can it be a slot. The slot does not have a central tote. The central tote is what the totalizator, Mr. Strauss in the mid-1930s created. Without that, it would be illegal. It would be a house based game. That is not the case.

This crazy drawing that you will see, this sketch, which you will see next, this is what you have in New Hampshire today. This is what you have. This is the totalizator system in New Hampshire and if you look at the little black box on the middle right, that is your self-service terminal that you have at The Lodge at Belmont, at Rockingham Park today. It is exactly the same. This system goes through, whenever someone walks up and places a wager, it goes through the system to the hub because we are an AmTote track, based

in Hunt Valley, Maryland, so all of those pari-mutuel wagers go to Hunt Valley, Maryland, just like they do in traditional racing and they come back.

The bottom is the instant racing. It follows the exact same system, the exact same pari-mutuel wagering system. You will see the only difference is up here in the upper right, it is a video server. The only difference is the video server because you have to have a VCR to show the video tapes at historic races. Other than that, it is precisely the same.

The next paper, slide, sheet, these are all the tracks that provide historic races. It was referenced earlier these racetracks that are, horses that have been dead for years and whatnot. That is not true. Many of these horses have been retired. Some have, of course, passed away; some might still be racing. But, the historic races that we have collected into a video library we have restrictions. The restrictions are that at these races, you have to have a ten-horse field. There cannot be any disqualifications. There cannot be any coupling of races, 1-1-8, those kinds of things. These are real races and the reason we do this is just like what you're doing in New Hampshire today. You have simulcasting in New Hampshire today. Every time you take a race, for instance at Oaklawn, our track, you pay as a fee the betting to our pari-mutuel pool. When we show one of these races, we pay a fee to show one of the historic races. So, the money goes right back into the system and into the industry.

You see the daily racing form information. We have contracted with the daily racing form information to provide all of the information to handicap the race. Now, do we show them a thirty-page racing form? No, we do not. We show various slides, three, four, five slides per race. We have another product for that. It is called live racing or simulcast racing. But, let's not be confused about that. The Lodge at Belmont is going to take forty different signals this week, all coming in at different times. People don't even, you can't even see some of the races on there. Yet, people are going to wager on them. They might take advantage of the handicap data; they might not.

These next couple of pages talk about the distinction between what instant racing is and what you see at The Lodge. In New Hampshire at Rockingham, traditionally, players wager on the same race at the same time. Back in 1904, prior to 1989, that's exactly what you all did. Every thirty minutes or so, you have a live race. But then, like instant racing, players wager on different races at different times. That is simulcasting. You are already doing it. Traditionally, there are many different wagering pools on one race. Win, place, show, exactor, trifecta. In instant racing, one pool on many different races. New Hampshire has been doing this for decades with their

Pick 6s, with their Pick 5s, with their Pick 3s, various different races coming on at different times. You are already doing it.

What was referred to earlier about the design of what this thing looks like, a slot machine. This black looking self-service terminal was the AmTote self-service terminal before instant racing. The next one, they designed this self-service terminal for instant racing. Today, every track that is an AmTote track in North America utilizes this self-service terminal. We designed it, AmTote designed it, on our behalf so that if instant racing failed, they could re-use it. This was the very first terminal for instant racing. We brought in a consultant after the first year of operation and they said, add a bottom and add a top, and it looks like a slot machine. Yes, it does. It absolutely does. But, there is a huge distinction between an instant racing terminal and a slot terminal. When the slot machine that we see as a competing casino down the road, and if you unplug it and put it in your basement, it works because all of the mechanics are inside. It is a slot machine. When an instant racing, self-service terminal, if you unplug it and stick it in your basement, it does not work because you don't have the central totalizator. That's what makes this work. It is the engine. So, when you take and peel away the onion, if you will, the ice, it is the exact same self-service terminal that we started with in racing today. New Hampshire already has this.

These last couple of slides, this is instant racing. This is the very first game called Thoroughbred Mania and you will see on the very first slide of the page, the very first slide on the lower right, long version, short version. You let the patron decide if they want to see the entire race, that's referred to as the long version, or the short version, the last several seconds of the race. They were historic, so when we created it instant racing, we arbitrarily said, okay, we will show the last hundred yards of the race. The patron gets to choose. At The Lodge at Belmont, Rockingham today, they are seeing these races coming on all the time. Many times, they don't even see the race. We are letting the patron choose.

This slide you will see a couple of things that are quite noticeable. You will see, for instance, three exact order, top two exact order. If you have ever been to the racetrack and you see someone and they said, wait a minute, that's a trifecta, that's an exactor. Yes, it is. We changed the name of the pari-mutuel pool because what are we trying to do? We are trying to break away from that traditional player and trying to reach out and grab the non-traditional player, the same player we lost a decade ago, to come back to the racetrack. You will see the handicapping data with a slide and a pie chart. So, we have the patron gets to look at, has an ability to look at it if they so choose.

RAB

You have to pick three horses you think are going to win. We do not have a quick pick feature which is my understanding, I don't know this, I think New Hampshire might have a quick pick feature. We do not. Then you will see the race that was run previously. The reason we show this is, if you see this on the left-hand column, 3-2-7, that's my pick, you see the race in the order of finishes, 3-2-7, you will get that pari-mutuel pool. In this case, three exact order, a trifecta and you will get that money in return. If the order finishes 3-2-10, you get the top two exact order or an exacta.

Starting the game and we heard earlier about maybe sneaking something in. This was on a movie clip that we were showing in the power point of actually how it was played on the floor. In fact, there is a demonstration terminal that is at The Lodge right now to be seen. Really, the last couple of slides are the most important. What did it do? What has instant racing done? Well, with the purses, we're generating \$200-250,000 every single month. So, we can see how racing, how purses in instant racing can generate purses to bring back the industry. From the state's perspective, you will see the last. Since our inception, the handle of instant racing and you can see that since about 2006, we handled between \$15-20 million every single month. Revenue sustainability. That's what it is. In Arkansas, the tax rate is 1% of the handle. I don't know what the bill here requires, but that is what the revenue sustainability you can see historically has been the same.

So, wrapping it up before questions, Mr. Chair, in 1904, we had live racing with legal bookmakers. We then had the 1930s with totalizators. We then evolved into exotic wagers. In 1989, the very first comingle of interstate simulcast started. In 2000, we started instant racing. The product works. It creates jobs. At Oaklawn, we create one job for every two terminals. We have 357 terminals through 2009. We just added fifty more. We had about 175 growing to 200 full-time employees because of instant racing. Revenue sustainability. We can show historically in Arkansas that we have a consistent base that generates revenue, the integrity of the system.

This is the commission's responsibility. They have oversight. They have been doing it since the inception of racing. Because it is the totalizator, because we have that benefit, they have real time reporting, which is required in the state. It is an open book and, of course, we have the TRPB, our industry's law enforcement agency that oversees everything.

Mr. Chairman, I will be glad to answer any questions if there are any.

Attachment #3 - RaceTech, submitted by Mr. Cella.

QMB

Senator Bob Odell, D. 8: Thank you very much for your testimony. Just to make sure that we understand. Your family owns Oaklawn?

Mr. Cella: Yes, sir.

Senator Bob Odell, D. 8: And then who owns totalizator?

Mr. Cella: AmTote? AmTote was purchased by, which is accurate, purchased by Magna Entertainment. They have filed bankruptcy. They have absolutely nothing to do with instant racing.

Senator Bob Odell, D. 8: They have nothing to do with instant racing, but they own?

Mr. Cella: They are a service provider. We have contracted with them. You all...

Senator Bob Odell, D. 8: From the Strauss family?

Mr. Cella: Yes, that is correct.

Senator Bob Odell, D. 8: Questions? Senator Reynolds?

Senator Deborah R. Reynolds, D. 2: Thank you very much and thank you for your testimony, sir. Just for those of us who are not very knowledgeable about gambling, I think it might be helpful to us, because you are talking about things that are very familiar to you and terminology. I think you might want to speak to the difference between the odds with historical racing and instant racing versus a slot machine model because I think what you were trying to explain to us that there is such a difference between those odds and I'm hoping that you can elaborate.

Mr. Cella: Right.

Senator Deborah R. Reynolds, D. 2: Thank you.

Mr. Cella: Mr. Chairman, Madam Senator, thank you. There are quite distinctions. In fact, if you go to one of the pictures here of the, I will pull it for you, this one that shows the various pari-mutuel pools, there is a distinction between odds and what pari-mutuel pools are. You can see the morning line. Lucky Jack is 2-1 in the morning line. Well, what does that mean? That means that when the race goes off, it is suggested that that horse, when all of the money is wagered versus all of the other tickets calculated with the totalizator, when you add it up, that horse ought to be

JRB

about 2-1. Might be 10-1; might be even money. In other words, I put \$2 in it. If we have so much more money in it, odds are going to decrease.

When you're in a slot machine and you get five cherries or three cherries, you're going to get \$5,000. It is a pay table. It is fixed odds. No matter what, when you get cherry, cherry, cherry, you're going to get \$500. It can be two in the morning, three in the afternoon. It doesn't matter.

With pari-mutuel, it does matter because it depends on who is playing. So, we're all paying. These pari-mutuel pools are going to fluctuate up and down because who wins and who doesn't win. We could have added a column and say you have a 25, let's for purposes of math, say it is a dollar and this is a \$10 pari-mutuel pool. So, it would be 10-1. Well, all of a sudden, it goes up to \$9, 9-1 and then it goes up to \$21, 21-1. We could have added a column and fluctuated going up and down, but it is always moving in pari-mutuel. It is constantly moving because all the money is going into the pari-mutuel field and it is being split up on how many tickets or on Lucky Jack, whereas a slot machine, it is house banked. You don't need a totalizator. You get three cherries, you get \$500. That's what it is. So, there is an absolute distinction.

There is yet another distinction when they talk about the difference between a slot machine and what this is. This was issued a patent – pari-mutuel wagering on historical racing. If it was a slot machine, you can't get a patent. That was long ago. It is unique and separate and distinct from anything slot related.

Senator Deborah R. Reynolds, D. 2: Thank you.

Mr. Cella: Thank you.

Senator Bob Odell, D. 8: Other questions? Senator Gilmour?

Senator Peggy Gilmour, D. 12: Thank you, Mr. Chair. You have a ten-year experience from the time simulcast was introduced to the time that historical racing was introduced, a nine or ten year experience. Do you have the data on the crime statistics in those, that ten-year block?

Mr. Cella: Mr. Chair, Madam Senator, first off, no, but I'm sure we can provide it. We do have, we're not as naïve to think that there is not problem gambling. There certainly is. There certainly is, statistics that, for instance, commonly used Orlando or Disney World or Disney Land, I can't remember which is down there. Because of all the population, you have a population base and statistics go up as opposed to Las Vegas when statistics go down. It is crazy. We don't follow that. We know about Hot Springs where we are

located, the police department certainly did not have a problem with it. We do provide eight hundred numbers, Gamblers' Anonymous, those kind of things to the point where the organization that ran that disbanded because, frankly, they didn't, whatever it is, they didn't have the problem in Hot Springs that they have had with other types of slot gambling.

Keep in mind, with instant racing, we have been doing this in Arkansas through a totalizator since 1936 and simulcast since 1989. There is no difference. The difference is how do you present this. But, there is no difference. New Hampshire is the same.

Senator Bob Odell, D. 8: Other questions? Senator Janeway?

Senator Harold Janeway, D. 7: Thank you, Mr. Chair. Are these terminals sold or leased? Does the operator pay an annual or monthly fee based on volume? How do the numbers add up? I'm looking for the short version.

Mr. Cella: Right. Mr. Chair, Senator, with racing at Oaklawn, RaceTech does two things with those. They sell the terminals to Oaklawn and about half of the terminals that Oaklawn has actually purchased and they lease about half the terminals, based on use of the terminals. So, they offer both.

Regarding the short play, you will see an evolution and a change. Some people use the long play; some people like the short play. Some people at the racetrack here in New Hampshire don't care if they see the race, because they are just going to bet; others can't wait and park in front of the television and see it. As to the statistics, we can provide the Committee with that, but we don't follow that.

Senator Bob Odell, D. 8: Senator Reynolds?

Senator Deborah R. Reynolds, D. 2: Thank you very much. With simulcasting, you have a screen upon which you bet. Right? I guess what I would ask you to comment on is the difference, if there is one, of the speed at which you bet for live racing and I think you can probably arrange to get on any number of live races at the same time probably versus the instant racing machine. Can you speak to that? There are concerns raised about the addictive nature of this and how it might be like a slot machine. I'm wondering if you could speak to that.

Mr. Cella: Sure. Mr. Chair, Senator, let's talk live racing. Very slow. Every thirty minutes, you have a race. Simulcast racing you can get as frequently or as infrequently as there is a race that is going on. Instant racing, the player chooses short version, which can be anywhere from seven to ten

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seconds start to finish, or the long version, which can be, at a six furlong race, which is three-quarters a mile a minute twelve to a mile to a mile and a half race which might be in excess of two minutes. There are distinctions. That can change. Because it is historic, we can change. As I said earlier, we arbitrarily said let's go seven, eight, nine seconds for a short version of the race. There is no magic behind that; that is just something we did ten years ago.

Senator Deborah R. Reynolds, D. 2: Thank you.

Senator Bob Odell, D. 8: Let me make sure I am correct on this. When I go to a simulcast facility, even though I can bet as rapidly and as fast as the race is going on, the fact is that, if I am there betting, even if I'm just trying to bet money to do things, I still have to go to the program, identify the race, identify the number of the horse and go up to the window and say, I'll take trifecta on 3-6-9 or something like that. Name the track, name the race, name the debt and name the amount. There is a lot of moving around

Mr. Cella: Right.

Senator Bob Odell, D. 8: Somebody is coming and taking the bet from me.

Mr. Cella: Right. Mr. Chair, you're absolutely correct. At The Lodge, we will pick on The Lodge, with all the races that go in, you will go in and say, Oaklawn, fifth race, one to place, go. With instant racing, when you stick your dollar in, you will get a race that is assigned to your terminal. You now can say, okay what is the handicapping data? I can look at it. Maybe I want to use their picks or not. I have to pick the same three horses I think are going to win and then I will hit start. So, there is a lag. Is it going to take longer for live racing and simulcast racing? Absolutely. And, just as we have evolved from live racing to simulcast racing, which was a sea change, we have made the evolution continue for simulcasting and instant racing. It is a sea change, no question. Bottom line is it works for racing.

Senator Bob Odell, D. 8: Any other questions? Senator Downing?

Senator Michael W. Downing, D. 22: Thank you, Mr. Chairman. We heard earlier that there is only one vendor for these machines or one manufacturer. Could you talk about that? Is there only one, is there more than one?

Mr. Cella: Thank you. Mr. Chair, Senator, right now we have a service contract with AmTote. We can, anyone can manufacture them. In fact, we have looked at numerous manufacturers for various orders when we priced it out. Because this is a self-service terminal for racing, the totalizator

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company that does that, that makes these self-service terminals at racetracks, they are the most competitive. Now, we have priced out terminal orders for \$500, \$1,000 and \$2,000 simply to give us a reality check. There are many manufacturers out there that can beat those types of orders. When we do 50, 100, the racetrack provider, the tote company, is the most economically feasible. But, we're not scripted by any means to that.

Senator Bob Odell, D. 8: Follow up?

Senator Michael W. Downing, D. 22: Just a follow-up. Who is authorized to work on them, the technicians?

Mr. Cella: Mr. Chair, these are self-service terminals, so typically a tote vendor, whoever manufactures them does that. What we found at Oaklawn is that, at Oaklawn, we found it economically and more efficient to train our own employees than to hire AmTote employees to work on the self-service terminals. Keep in mind, it is not terribly scientific because the brains, if you will, that make it function, that's at the tote company. That's at Hunt Valley in Maryland. This is just a paper reader, a bill acceptor, those kinds of things. It is not terribly complex.

Senator Michael W. Downing, D. 22: Thank you.

Senator Bob Odell, D. 8: Just to follow up and make sure we understand. Away from the machines, the Hunt Valley people you refer to, they are the exclusive provider of historical racing?

Mr. Cella: Oh, no. Mr. Chair, no, absolutely not. Any tote company. There is no restriction whatsoever to say AmTote International. Any tote company. RaceTech could create their own tote company. In fact, we have talked to folks in Florida with the legislature that they are currently in session, the state is going to create their tote company and run it through their racing commission's office.

Senator Bob Odell, D. 8: Let's not get started on that here.

Mr. Cella: There's no handcuffs to say that.

Senator Bob Odell, D. 8: Alright. Any other questions? If not, thank you very much.

Mr. Cella: Mr. Chair, members of the Committee, thank you.

RB

Senator Bob Odell, D. 8: You've come a long way. We have two other individuals who are signed up to speak on behalf of this bill. After that we will take, if we want to, a short break or we can keep going. I intend to make sure we have both of these bills, the other two bills that are ahead of us, heard today. So, we will just press on, if it is alright. I will call on Rick Newman for The Lodge at Belmont.

Rick Newman: Thank you, Mr. Chairman. I appreciate that you have a long day and I am going to be very brief.

Senator Bob Odell, D. 8: Thank you.

Mr. Newman: For the record, Rick Newman, representing The Lodge at Belmont. Thank you for having me this morning. I have passed out to you, having confidence that you will read, so I won't go through the documents.

What you're being passed is basically general information on The Lodge at Belmont pari-mutuel licensee, and some of our thoughts on what we would do if this bill is adopted. Just pointing out the enhancement of our current business, including we certainly know that we will, for instance, hire at least a hundred new employees. We believe this legislation will galvanize and help us to maintain the current sixty or so employees that we have today and would be a great success at The Lodge.

As was mentioned, if any of you are interested, we do have a display terminal up there. We have had it out in the general part of our facility for a couple of weeks. People are very interested in it. We have gotten a lot of great positive feedback from customers who have been able to play it in demonstration mode and we just are very confident that this would be successful.

A couple of things. I wanted to answer some questions. Senator Downing asked the question about servicing. I would like to pick up on that if I could and elaborate a little on Mr. Cella's comment. We do have this exact terminal at The Lodge right now. People go up and use our self-service terminal and it is the same technology. Up until about eight or nine months ago, we have on-site United Tote. We happen to have United Tote as our tote company. We had, by rules of the commission, on site United Tote technicians who, part of their responsibility was to service those terminals. The Racing Commission relaxed that rule and we now, much of our service is done remotely, but still done by United Tote. If we have serious problems, they will send people up. If they are not serious, we have people in-house who can fix minor problems. But, keep in mind that, because it is the same technology, it is very simple to do and it is being done at our track and at the other two tracks today.

RMB

One final comment regarding licensing of the vendors. We currently require, the Racing Commission currently licenses tote companies. So, in this state, United Tote and AmTote are both licensed because they are here. Again, that is the integrity of the product. Because these wagers all go through the tote company, we have protection. We have the integrity with the oversight of the Racing Commission requirement that these people be licensed. The Lodge at Belmont used this as a way for us to enhance the business we are in. It is something we have been working to do. We would love all the wonderful opportunities that the Legislature's considering in terms of gambling, but at the present, we are trying to focus on enhancing the business we are in. We are in pari-mutuel wagering. We are in games of chance for charity. This is pari-mutuel wagering. We believe it is a natural evolution to what we currently have.

Note: Mr. Newman provided handout which is too voluminous to attach to this transcript. All Committee members were provided a copy and the original is in the original bill file.

Senator Bob Odell, D. 8: Thank you for your testimony. Questions for Mr. Newman?

Mr. Newman: Than you, Mr. Chairman.

Senator Bob Odell, D. 8: On the back of your chart, you have a phased-in approach where you are showing the budget and taxes that would be generated at 1¼ %.

Mr. Newman: That's correct. The legislation would tax, does tax simulcast horse racing today at 1¼% of the handle.

Senator Bob Odell, D. 8: Do you think the market at The Lodge would sustain 2,000 machines or 1,500 as presented here?

Mr. Newman: I don't believe they would sustain that today. I think that we are trying to show looking out to the future. I believe that the market today would sustain 300 machines very comfortably. I do believe that, over the course of time, it would grow and, at some point, I think if there are no other changes in gambling laws in the State of New Hampshire, yes I believe there would be a point. It would be years. It wouldn't be months. But, 300 machines, as that chart shows, would definitely be sustainable at The Lodge.

Senator Bob Odell, D. 8: Other questions?

JAB

Mr. Newman: If I could, Mr. Chairman. I won't speak for the other racetracks, but obviously the legislation would allow them to do it as well and I believe, because of the geographic location, were they to do it, they would be more likely candidates to have the larger number of terminals than we would have. Thank you.

Senator Bob Odell, D. 8: Thank you very much. The last person signed up to speak this morning is Ralph Adams or Andrews. Good morning. Thank you for being here. Thank you for your patience.

Ralph Anderson: Thank you. Good afternoon, Mr. Chair and members of the Committee. For the record, my name is Ralph Anderson. I am the Executive Director of the Western New England Harness Horsemen Association. The Western New England Harness Horsemen Association is a membership association formed to support the sport of harness racing. Our Association represents the interests of the horsemen – those who train, race standard bred racehorses all over the country. We have approximately 300 members, 75 of which are in New Hampshire and New Hampshire has a strong tradition of horse farms and harness racing in the state. We have licensed over 800 people in 2009.

Thank you for the opportunity to speak here today on SB490. As I understand SB 490, it would expand the current opportunities for pari-mutuel wagering in New Hampshire by authorizing historical racing, also known as instant racing at the racetracks. Our understanding of historical racing, based on a letter which was written by the attorneys for The Lodge at Belmont, is that it is another form of pari-mutuel wagering on harness racing and another way to increase purses for live racing. We support this form of racing so long as it continues to support purses for live racing.

We believe that New Hampshire should allow historic racing and distribute a small portion of the income from this form of racing to increase live racing purses.

I would be happy to answer any questions at this time.

Attachment #4 - prepared testimony from Ralph Anderson, Western New England Harness Horseman Association, together with copy of a November 7, 2008 letter from Attorney Daniel Mullen to Paul Kelley, Director, New Hampshire Racing & Charitable Gaming Commission.

Senator Bob Odell, D. 8: Thank you very much. Just looking at this letter, I'm curious how the money would get to the purses.

JHB

Mr. Anderson: I was led to believe that it would be earmarked from Belmont to races to race live at Rockingham Park.

Senator Bob Odell, D. 8: A percentage?

Mr. Anderson: Yes.

Senator Bob Odell, D. 8: Because that letter also says, and Mr. Kelley is here, it is our opinion that the Commission has the authority to authorize instant racing at racetracks within the State of New Hampshire and yet here it says legislatively. So, I'm curious. You think it is going to be a percentage?

Mr. Anderson: Yes.

Senator Bob Odell, D. 8: Alright. Any other questions for Mr. Anderson?
Senator Janeway?

Senator Harold Janeway, D. 7: Could you define a small amount please?

Mr. Anderson: They are still trying to work that out with people we have talked to in Belmont and Mr. Cella also. I don't know what that number would be right now.

Senator Harold Janeway, D. 7: Hundreds of thousands of dollars? Is this under 50?

Mr. Anderson: Right now, I'm not positive what that number would be. It would depend on the handles.

Senator Bob Odell, D. 8: Senator D'Allesandro?

Senator Lou D'Allesandro, D. 20: Just a follow-up on that. First of all, thanks for your patience and thanks for coming.

Would it be a percentage of the handle that was transferred to a fund that provides enhancements of the purse structure?

Mr. Anderson: That would make sense, yes.

Senator Lou D'Allesandro, D. 20: Okay. But where? I don't know if it is in the legislation. Where does it come from and how is that ascertained? Usually what you do is you talk about this percentage would be allocated specifically to enhancement of the purses and that would go to the Racing and Charitable Gaming Commission which would then transfer it to the

track where the racing takes place. Is there some kind of an agreement or how do you stipulate that? That's the question.

Mr. Anderson: That is. From talking with people at Belmont, they said that they would be willing to work with the horsemen to transfer a percentage to be set aside for purses. It would have to be put in the bill.

Senator Bob Odell, D. 8: Further questions? If not, thank you very, very much.

Mr. Anderson: Thank you.

Senator Bob Odell, D. 8: Mr. Newman?

Mr. Newman: I believe Mr. Cella could answer the question.

Mr. Cella: Mr. Chair, thank you. Senator, I think to answer your question a little bit more specifically. There is federal law out there called the Interstate Horse Racing Act of which each horsemen's association has to approve simulcast agreements before those signals go back and forth. So, in Arkansas, as an example, the franchise, the pari-mutuel franchise Oaklawn, negotiates with our horsemen's association, of which, if they do not agree, there will not be simulcast agreements. So, in Arkansas, we have negotiated 15%, approximate, 15½% of the take out goes earmarked for purses. In other jurisdictions, it is either statutorily defined or it is through negotiations.

Senator Bob Odell, D. 8: That 15%, that's from the simulcast proceeds and is that also from historic racing?

Mr. Cella: That is historic racing specifically. Simulcasting is actually a little higher. Live racing is even a little bit higher.

Senator Bob Odell, D. 8: Senator Reynolds?

Senator Deborah R. Reynolds, D. 2: Thank you very much and really quickly because I know we're behind schedule, but we have you here in the state probably only for today. In Arkansas, do you know whether or not historic racing machines are statutorily defined differently than a slot machine? Do you have background on that?

Mr. Cella: I do. Mr. Chair, Senator, thank you. In 1989, there was a handshake deal between Oaklawn and Arlington. There were no laws on the books. 1990 forward, every state started defining simulcasting. Arkansas, we were one of the first in 1990. We defined it as simultaneous audio visual

transmission of a "live race". Other jurisdictions did away with live. Other jurisdictions went so far as to say racing commission, you deal with it. So, to answer the Chair's earlier question, you have the Racing Commission that some think we can do it. As an example, in Wyoming, the case was referred to the Racing Commission, thought they could to it. The Supreme Court of Wyoming said no, change your laws. As recently as January, two months ago, the Attorney General of Kentucky said Racing Commission, you have all the authority, change it. In fact, they are in the process of doing that today. In Alabama, the Racing Commission, the Attorney General's Office said, Racing Commission, you have the authority. In Florida, the Racing Commission, AG said, change your law. So, because it was new territory in 1990, the various states defined it differently.

Senator Deborah R. Reynolds, D. 2: Thank you, sir.

Mr. Cella: But, if I may just add quickly, the distinction is it has always been construed as simulcasting on horse racing, very distinct from fixed odd slots.

Senator Deborah R. Reynolds, D. 2: Thank you.

Mr. Cella: Thank you.

Senator Bob Odell, D. 8: And, thank you very much. With that, I am going to close the public hearing on SB 490.

Hearing concluded at 12:10 p.m.

Respectfully submitted,



L. Gail Brown

Senate Secretarial Supervisor

7/1/10

4 Attachments

Attachment #1

To Members of the Senate Ways and Means Committee

RE: SB490

Dear Senators:

Thank you for this opportunity to speak on SB490. The League of Women Voters New Hampshire opposes funding government with revenue from expanded gambling.

The optimum tax is one that provides a reliable source of revenue, raises adequate revenue to justify its imposition, is based on ability to pay, and is levied on a broad segment of the population. The League supports, where appropriate, a tax that is a direct payment for a service or benefit ("user's tax").

The League opposes expansion of gambling as a source of revenue in part because it meets none of the criteria above. SB490 adds historical racing on machines to the mix of gambling already present at a race track in NH. Such machines have been ruled by the Wyoming Supreme Court in a 2006 decision as slot machines under the guise of historic or instant racing terminals. Slot machines are especially addictive and would be a first step toward this type of gambling in the state.

The Governor's Commission is studying the expansion of gambling in NH and citizens have given input at meetings around the state. They are now also commenting via email on line. The Commission will be apprised of the results of the February 13 day-long meetings around the state and the conversations going on now via the internet. Approving SB490 preempts the Commission made up of men and women who have been investing a lot of time meeting monthly, receiving and studying reports and making visits to casinos to study them.

The League of Women Voters NH supports an ITL decision by the Senate Ways and Means Committee on SB490.

Sincerely,

Liz Tentarelli

Sally Davis

Co-presidents, League of Women Voters New Hampshire

Attachment #2

Granite State Coalition Against Expanded Gambling

PO Box 3931, Concord, NH 03302-3931

NoSlots.com

Senate Ways & Means Committee Hearing on SB490

Jim Rubens, GSCAEG Chair, (603) 359-3300, JimRubens@aol.com

March 4, 2010

The Coalition opposes the legalization of "historic" (or "instant") racing machines because they are video slot machines by another name, and SB490 would take the highly-controversial and irreversible step of legalizing them. The door would then be opened to slot machines statewide, and with that the addiction, crime, and gambling industry political influence and corruption problems seen in every state that has done this.

How do we know that instant racing machines are slot machines? The Wyoming Supreme Court ruled as such under its state law gambling definition functionally identical to New Hampshire's. The court leaves no ambiguity in this ruling:

"[W]e are not dealing with a new technology here, we are dealing with a slot machine that attempts to mimic traditional pari-mutuel wagering. ...Although it may be a good try, we are not so easily beguiled."

Our second major concern is that, Magna Entertainment Company and its American subsidiary, AmTot International, sole-source provider of the machines, software, and data servers required to operate instant racing machines, as of March 5, 2009 filed for Chapter 11 bankruptcy.

Has gambling money swamp fever reached such an extreme that this legislature would seriously contemplate, as does SB490, legalizing a form of gambling built completely around a bankrupt, source-source slot machine vendor?

URLs:

<http://caselaw.lp.findlaw.com/data2/wyomingstatecases/2006/2006wy55.pdf>

<http://www.magnaentertainmentcommittee.com/>

GSCAEG Board

Tom Boucher
Chief David Dubois
Herb Hansen
David Lamarre-Vincent, Treasurer
Ed Naile
Jim Rubens, Chair
Peter Schmidt
Katrina Swett

GSCAEG Organizations

NH Lodging and Restaurant Assn
NH Chiefs of Police
Granite State Taxpayers
Coalition of NH Taxpayers
NH Advantage Coalition
NH Citizens for A Sound Economy
NH Council of Churches
United Church of Christ
NH Baptists Association
Unitarian Universalists Group
for Social Responsibility
Episcopal Diocese of NH
Cornerstone Policy Research
Children's Alliance of NH
NH Citizens' Alliance
League of Women Voters of NH
Stonyfield Farm, Inc

Organizations Opposing Casinos

National Education Assn - NH
NH Republican Party
NH Medical Society
Roman Catholic Diocese of Manchester

Advisory Board

Warren Rudman
Phil McLaughlin
Brad Cook
Gary Hirshberg
Meg Cadoux Hirshberg
Patty Humphrey

Legislative Anti-Gambling Caucus Leaders 2009

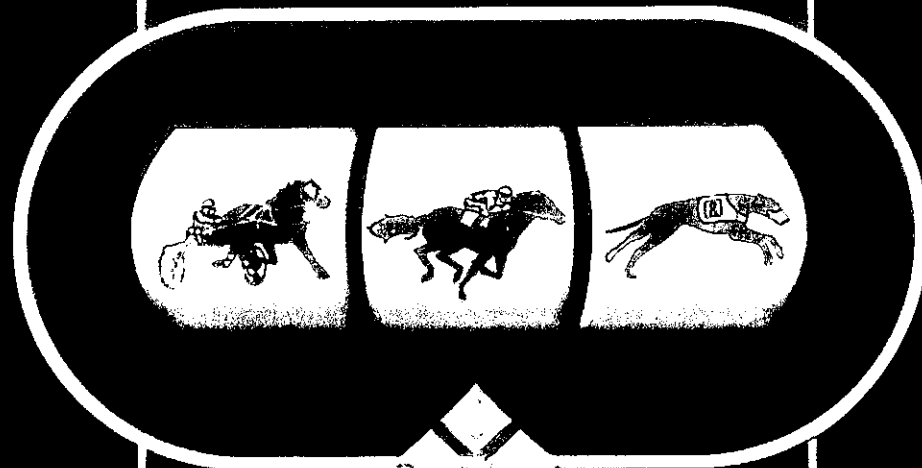
Sen Martha Fuller Clark (D)
Sen Bob Letourneau (R)
Rep Dan Itse (R)
Rep Peter Schmidt (D)

Newspapers Opposing Slots Casinos

Concord Monitor
Eagle Tribune
Fosters Daily Democrat
Keene Sentinel
Laconia Citizen
New Hampshire Union Leader
Portsmouth Herald
Valley News

Please visit our website
www.NoSlots.com

*RACE*TECH



.... of, by and for, RACING

Oaklawn Park

AmTote International

Daily Racing Form

HBPA

RCI (Racing Commissioners International)

NAPRA (North American Pari-Mutuel Regulators Association)

TRPB (Thoroughbred Racing Protective Bureau)

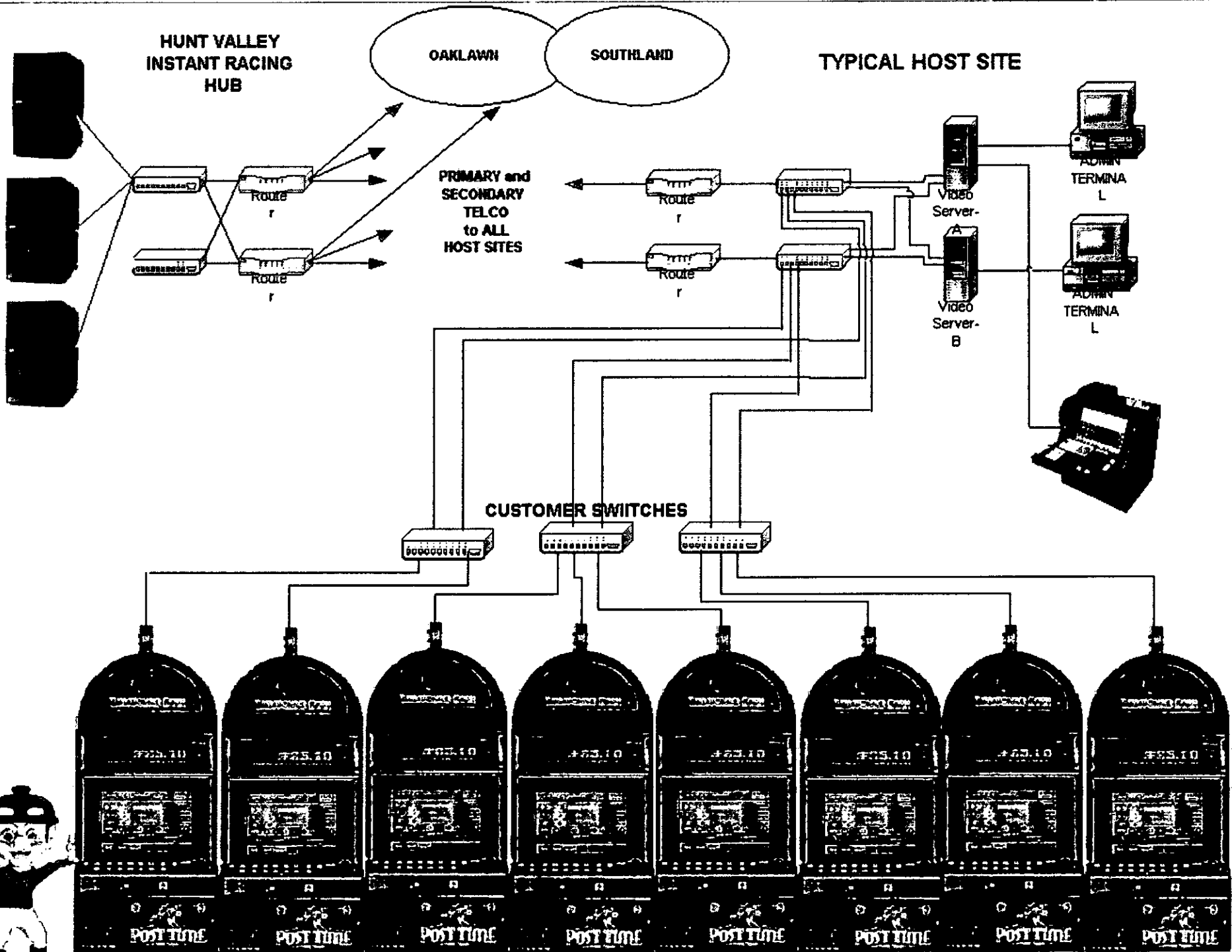
Totalizator Standards Committee

Pari-mutuel Wagering on Racing:



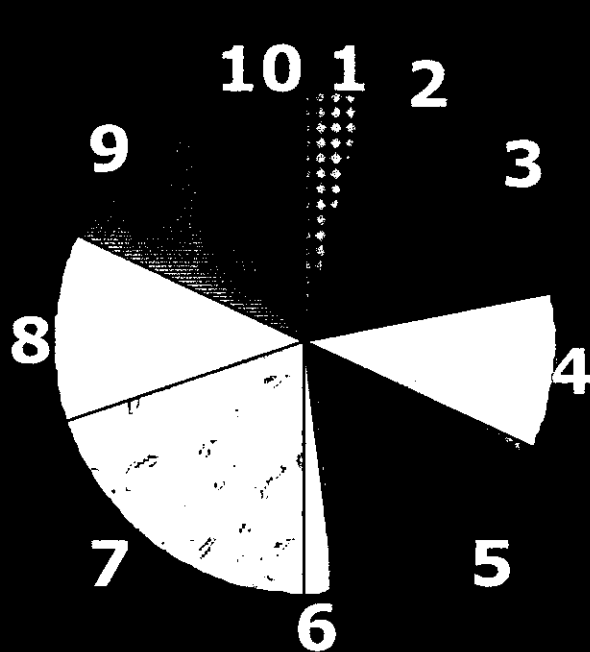

CENTRAL TOTALIZATOR



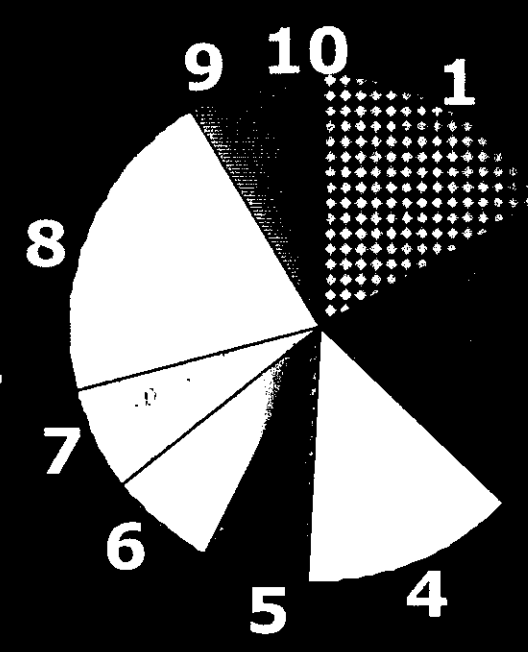




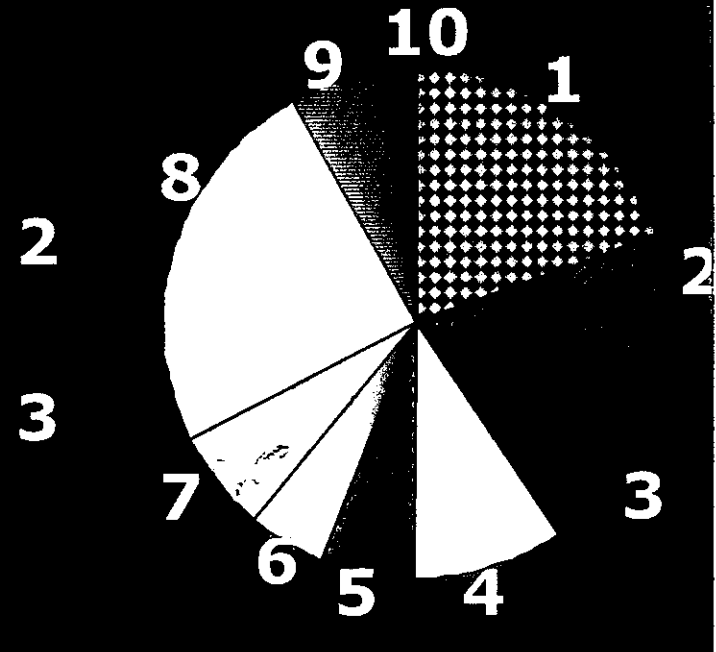
Racing Daily Form



Average Earnings/Race by Trainer, Lifetime



Races Won, Trainer, Same Year



Average Earnings/Race by Trainer, Same Year

Tradition:

Players wager on the same race at the same time

vs.

Instant Racing:

Players wager on different races at different times

Tradition:

Lots of different wagering pools on one race

vs.

Instant Racing:

One pool on lots of races

LIKE A PICK SIX!

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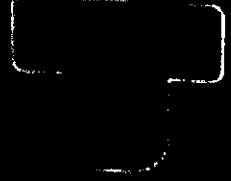
DO NOT OPERATE THIS TERMINAL WITHOUT THE PROPER TRAINING

SPECTRUM
SELF-SERVICE TERMINAL

Insert Load Bar 50¢
Face Down



Take Ticket



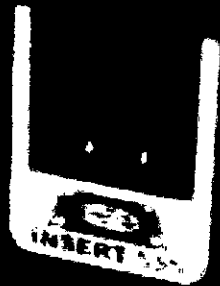
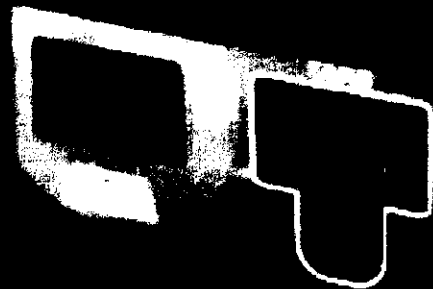
700-A-N050

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RETURN MANAGE

Low Entry Fee

Balance \$1.00





THE UNIVERSITY OF CHICAGO

1988

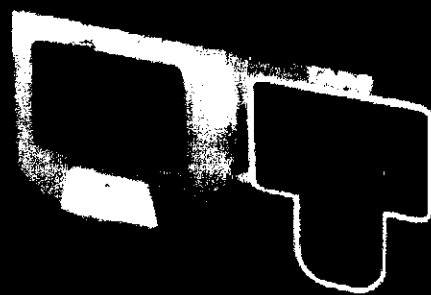

UNIVERSITY OF CHICAGO PRESS
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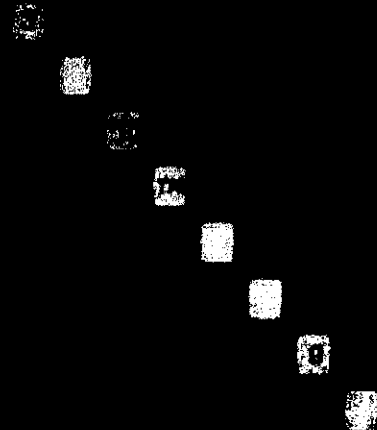


DIS-A-VIS

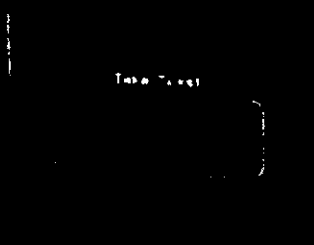
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WIRELESS TELEPHONE SERVICE



SPECTRUM
SELF-SERVICE TERMINAL





Race
Time

Handwritten style text

CREDIT

\$0.00

CASH
OUT

HELP

SHORT RACE

LONG RACE

PLACE YOUR PARI-MUTUEL WAGER

POST TIME • POST TIME • POST TIME • POST TIME • POST TIME • POST TIME • POST TIME • POST TIME • POST TIME • POST TIME

Copyright 2000, RaceTech, LLC PATENT PENDING



PLAYS *PER DAY*

Pick 4 Jackpot (BET MAX)
319.50

Pick 4 Consolation
31.95

1ST

2ND

3RD

Your Picks

Largest Qualifying Pool Wins



Current Pools

1 Exact Order	8.50
Top 2 Exact Order	1.25
Top 2 Picks 1st, 2nd or 3rd	0.35
1 to Get Top 2	0.50
3 to Get 1st, 3rd	0.35
Top Pick Wins Race	0.25

8 Ways To Win!

To play, press **BET MAX**

CREDIT \$6.50

Select Your Horses



CLEAR SELECTIONS

EXIT TO MENU

HELP

BET

BET MAX

QUIT

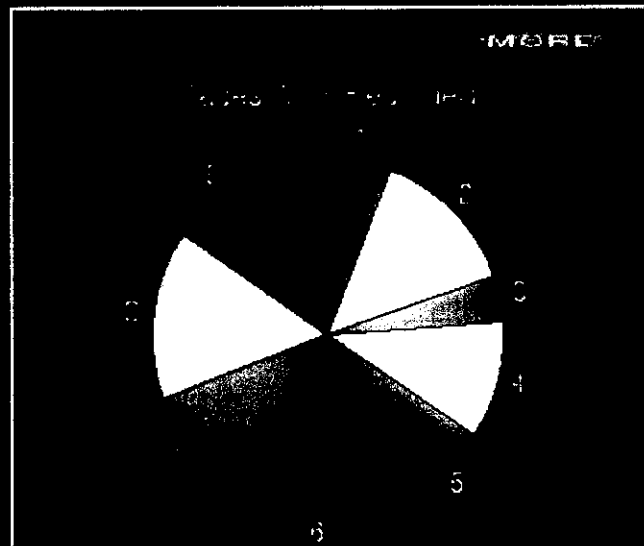




Pick 4 Jackpot (POT MAX)
433.10
 Pick 4 Consolation
43.30



SELECT
1ST



Current Pools

1 Exact Order	19.85
Top 2 Exact Order	1.25
Top 2 Picks 1st, 2nd or 3rd	0.35
1 to Get Top 2	0.90
3 to Get 1st, 3rd	0.70
Top Pick Wins Race	0.25

Your Picks

8 Ways To Win!

Select Horse to Finish First

BET \$0.50 CREDIT \$6.00

Select Your Horses



CLEAN SELECTIONS

HELP

PER PLAY



1 

Pick 4 Jackpot (BET MAX)
431.50

Pick 4 Consolation
43.15



MORE

Racing Daily Form



Current Pools

3 Exact Order	2.50
Top 2 Exact Order	1.80
Top 2 PICKS 1st, 2nd or 3rd	0.35
3 to Get Top 2	0.50
3 to Get 1st, 3rd	1.20
Top Pick Wins Race	0.25

Your Picks

8 Ways To Win!

Press START to begin

BET \$0.50 CREDIT \$4.75

Select Your Horses 



CLEAR SELECTIONS

BET

HELP

BET

BET

START



Pick 4 Jackpot (BET MAX)

Pick 4 Consolation

Your Picks

Results

Largest Qualifying Pool Wins

Oaklawn
Race 4
02/18/99

Current Pools

3 Exact Order	
Top 2 Exact Order	3.20
Top 2 Picks 1st, 2nd or 3rd	0.35
3 to Get Top 2	0.50
3 to Get 1st, 3rd	0.35
Top Pick Wins Race	0.25

8 Ways To Win!

[Empty box]

BET \$0.50 CREDIT \$4.25

Select Your Horses



EXIT TO MENU

HELP

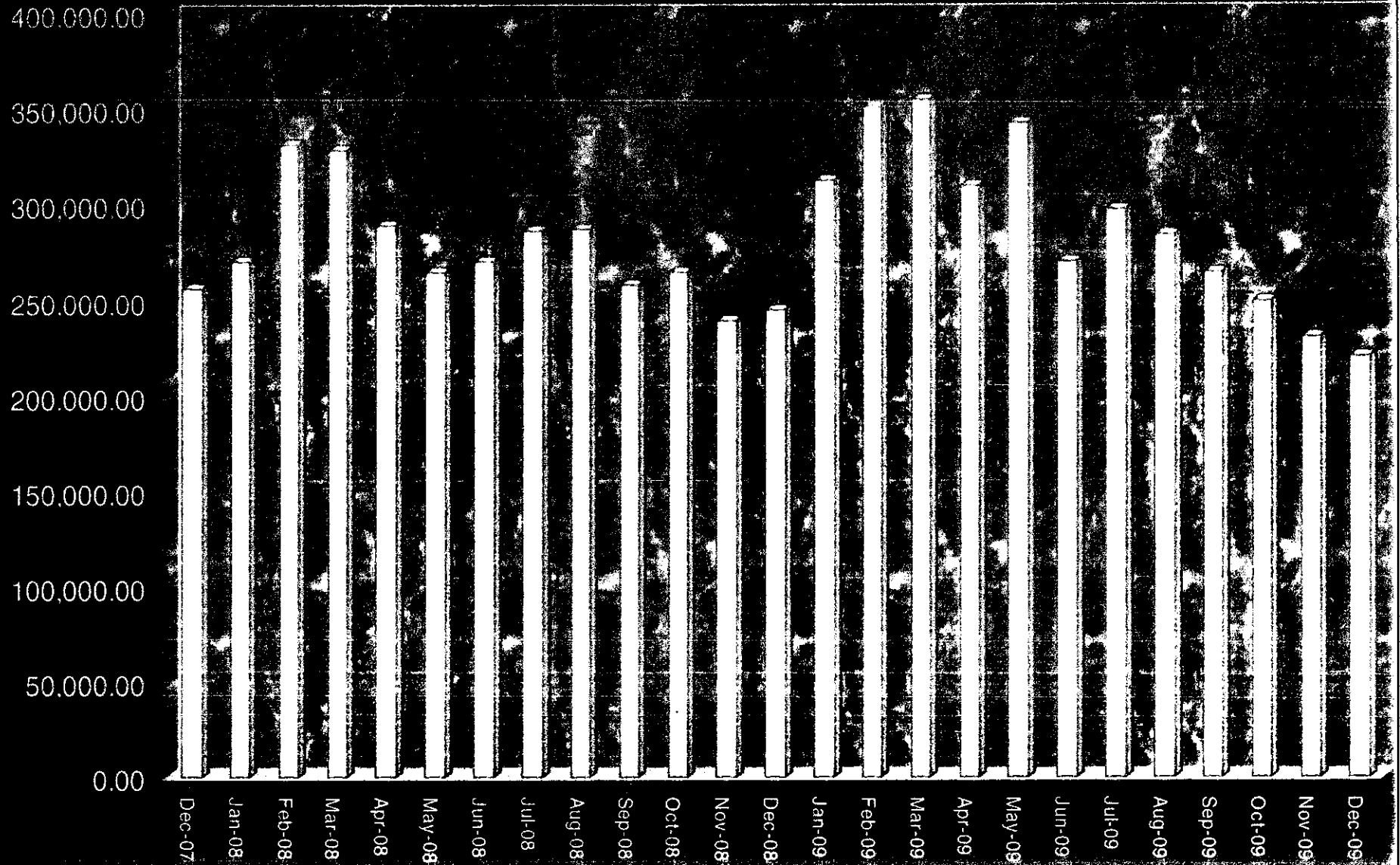
BET

BET MAX

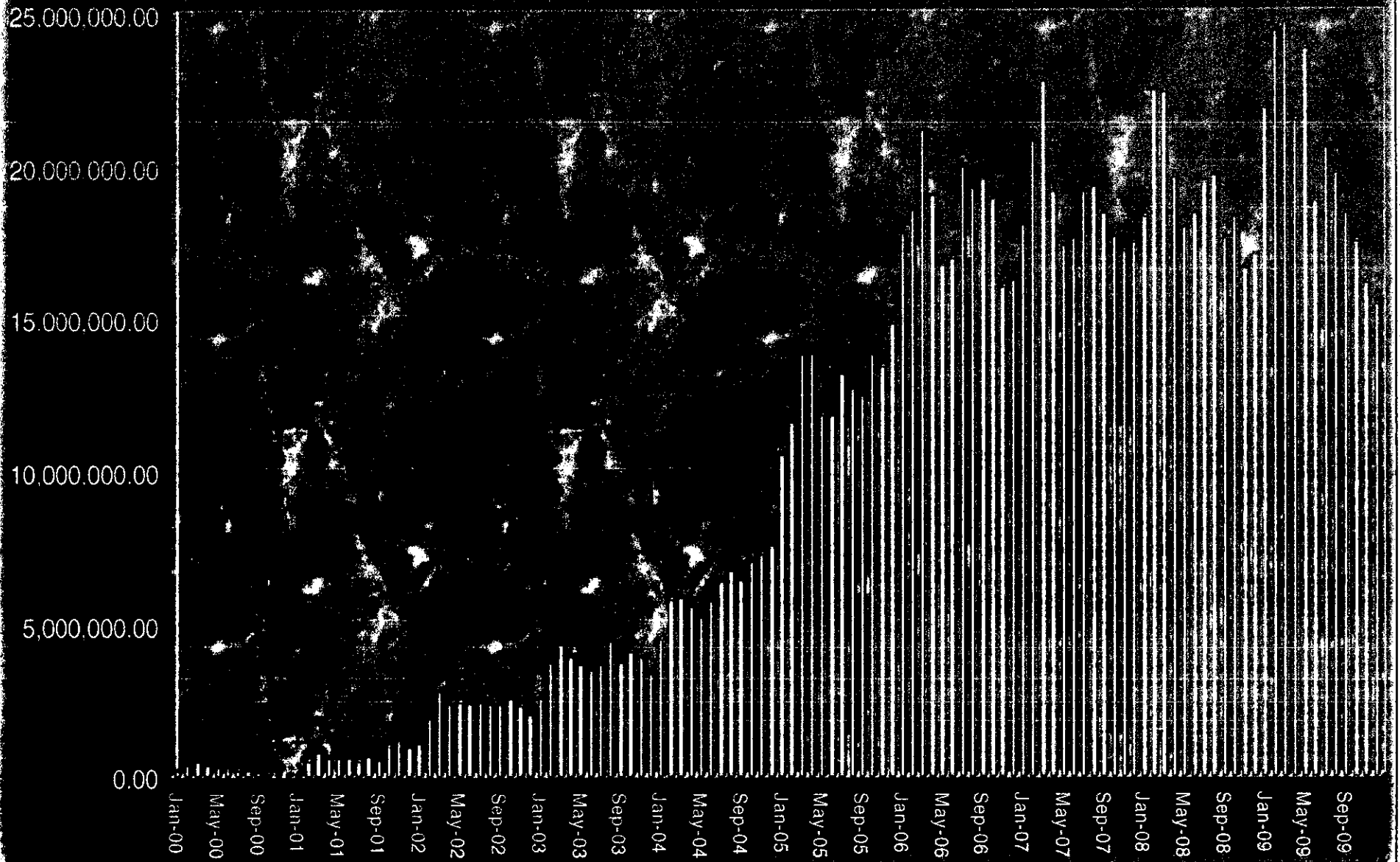
START

Start Game

Monthly Purses Generated



Monthly Handle Total History



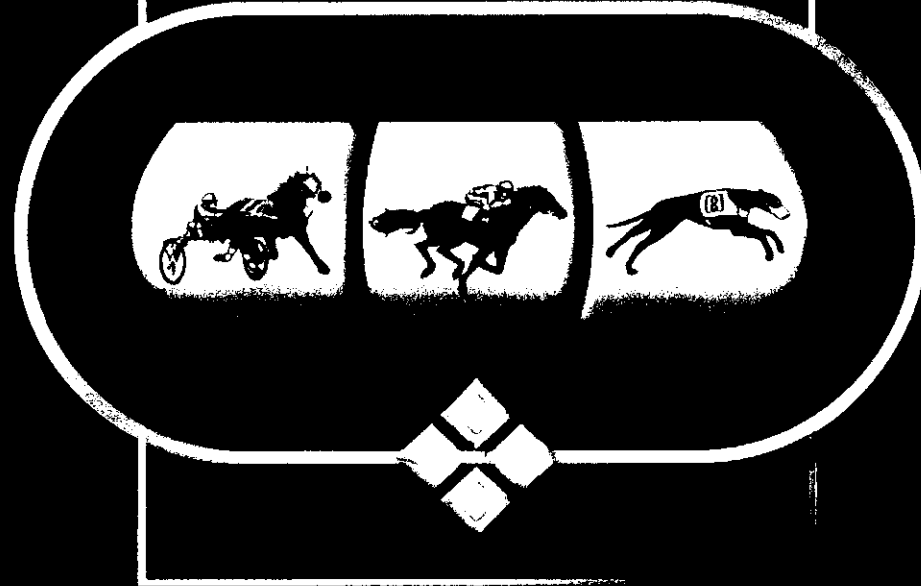
1904 → Live Racing

1989 ----→ Simulcast Racing

2000 -----→ Instant Racing

- Clearly Pari-Mutuel
- Clearly Racing
- Clearly Fun

RACE TECH



Also enclosed with document
is a Compact Disc

Attachment # 4

**Western New England Harness Horsemen Association
Testimony for SB 490
March 2, 2010**

Good Afternoon Mr. Chair and members of this committee.

For the record, my name is Ralph Anderson and I am the Executive Director of the Western New England Harness Horsemen Association. The Western New England Harness Horsemen Association is a membership Association formed to support the sport of harness racing. Our Association represents the interests of the horsemen – those who raise, train, and race standard bred horses that race all over the country. We have approximately 300 members, 75 of which are from New Hampshire. New Hampshire has had a strong tradition of horse farms and harness racing in the State.

I thank you for the opportunity to speak here today on SB 490. As I understand SB 490, it would expand the current opportunities for pari-mutuel wagering in NH by authorizing “historical racing,” also known as “instant racing” at the racetracks. Our understanding of historical racing based on a letter written by the attorneys for The Lodge at Belmont, is that it is another form of pari-mutuel wagering on horse racing and another way to increase purses for live racing. (see attached letter). We support this form of racing so long as it continues to support purses.

We believe that New Hampshire should allow historical racing and distribute a small portion of the income from this form of racing to increase live racing purses.

I would be happy to try and answer any questions you may have.

Thank you.

John T. Alexander
Tina L. Annis
Biron L. Bedard
Lisa L. Biklen
Ronald E. Cook *
Frank E. Kenison
Garry R. Lane **
Lisa M. Lee
Andrew B. Livernois
Paul H. MacDonald ***
Thomas N. Masland
Daniel J. Mullen
Roberta J. O'Leary ****
John C. Ransmeier
Lawrence S. Smith
Jeffrey J. Zellers *****

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Dom S. D'Ambruoso
Retired

Lawrence B. Spellman
1924-2001

* Also admitted
in Rhode Island

** Also admitted
in Maine and
Connecticut

*** Also admitted
in Vermont

**** Also admitted in
Massachusetts
and Illinois

***** Also admitted
in Massachusetts

November 7, 2008

VIA FACSIMILE AND REGULAR MAIL

Paul M. Kelley, Director
New Hampshire Racing & Charitable Gaming Commission
57 Regional Drive, Unit 3
Concord, NH 03301

Dear Mr. Kelly:

This office represents Marlin Torguson, an officer of The Lodge at Belmont ("The Lodge"). The Lodge is interested in introducing a form of pari-mutuel wagering through a method called "Instant Racing". Instant Racing is a method of wagering on the results of horse races. Instant Racing wagers are pari-mutuel wagers, meaning that the racetrack accepting the wager has no interest in the outcome of the race. Rather, the wagered money is "pooled". The racetrack deducts a said amount from the pool to pay for horsemen's purses, operating expenses and other costs. The balance of the pool is returned to patrons who place winning wagers.

Instant Racing is conducted through the use of self-service totalizator machines. The self-service totalizator machines used for Instant Racing operate on the same basic principal as traditional self-service totalizator machines used throughout the United States. In either case, a patron places a wager on the machine, and the machine transmits information regarding the wager to a central totalizator system. The central totalizator system keeps track on all wagers placed into a given pari-mutuel pool, calculates the amount of take-out the racetrack is permitted to deduct, and calculates the pay-out for winning wagers. In addition to these traditional functions, the totalizator machines used for Instant Racing incorporate new technology. This new technology permits a patron to not just place a wager on the machine, but to also watch the race (or portion thereof) and view the official race results on the machine. The Instant Racing totalizator machine then displays the results of the patron's wager using video and/or mechanical displays.

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Page 2

The only substantive difference between Instant Racing and traditional pari-mutuel wagering on horse racing is that in Instant Racing, the patron wagers on a previously-run horserace. Each Instant Racing totalizator machine is connected to a central server that stores digital image of tens of thousands of previously-run races. Each horserace on the server is an actual horserace that was conducted by a licensed US pari-mutuel facility, and that concluded with official results. Each horserace on the server has exactly ten separate wagering interests (i.e., ten different horses on which the patron can wager). The identity of the horserace, the racetrack at which such race was conducted, and the horses participating in the race are withheld from the patron until after the patron has placed the wager. However, prior to placing the wager, the patron does have the opportunity to examine past performance data showing the relative merits of each of the entries as they actually existed on the day of the race.

Instant Racing is a patented pari-mutuel wagering system consisting of a number of remote computer terminals connected to a central server. The patent for the Instant Racing system is held by Race Tech, LLC, an Arkansas limited liability company. As described above, the Instant Racing central server contains more than one hundred thousand races which have previously been run at various locations around the United States under the authority of the state licensing and regulatory agency of the particular jurisdiction. When money is inserted at a remote terminal, information regarding a historic race is displayed on the terminal without identification of the location where, or date on which, it was run. Horses and jockeys are identified only by number, such that it is a statistical impossibility for the wagerer to know the result of the race prior to the placement of his wager. True and accurate past performance information (as published in the "Daily racing form" for horse races, on the date of the race), presented in graphic form, is displayed on the terminal to enable the wagerer to handicap the race prior to placing the wager.

Following placement of the wager, the wagerer has the option of viewing the entire race, or viewing only the final furlong of the race and after the race is shown, the date and location of the race is disclosed to the wagerer. The wagered amount is placed in a pari-mutuel pool of similar denomination wagers, and the first wagerer within the pool to have placed a winning wager wins the pool, less authorized deductions established by the law in the jurisdiction in which the wager was placed. If no wagerer within a particular pari-mutuel pool is successful, the pool is carried over.

Wagerers who utilize the handicapping information provided enjoy a significant increase in the odds of placing a winning wager over the odds of winning based upon pure chance. In our opinion, the New Hampshire Racing and Charitable Gaming Commission has the authority to authorize use the Instant Racing technology at racetracks licensed within the State of New Hampshire and we respectfully request that the Commission give such authorization.

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Page 3

A. Powers of the Commission

The Commission is granted "all the powers, duties and rights conferred upon State commissions under the United States Interstate Horseracing Act of 1978."¹ RSA 284:6-a, III. These rights, powers and duties include adopting rules relative to the operation of racetracks in which horseraces or meets are held, and the rules of greyhound racing. Furthermore, New Hampshire case law has interpreted the powers of the commission, and has found the commission to be a quasi-judicial body whose decisions and orders are afforded deference in judicial review. *See North Hampton Racing and Bidding Association v. New Hampshire Racing Commission*, 94 N.H. 156 (1946). The Commission, therefore, has the power to make any decision, or to promulgate any rule or regulation that it sees fit, as long as it falls within the very broad framework of "reasonableness".

The statute which grants the pari-mutuel the authority to regulate pari-mutuel pools is RSA 284:22. This statute states, in relevant part, that licensees may "sell pari-mutuel pools in accordance with this chapter and rules adopted by the Commission. Pari-mutuel pools shall be sold within the enclosure of the racetrack where a licensed race or race meet is held or as provided in RSA 284:22-a, and not elsewhere." There are no further limitations on sales; only location of sales, not manner of sale is covered by this section. Section 22-a, which governs simulcast racing, provides that, when a licensee receives a transmission of a race which is run at another track, the licensee may sell pari-mutuel pools on that race as long as the sale takes place "within the enclosure of the racetrack at which the licensee holds a license for the current year to conduct live racing in this state." RSA 284:22-a, II (a). The sale must be made "with the agreement or approval of the racetrack which provides the transmission of the races to be simulcast and the racetrack which conducts the races to be simulcast." RSA 284:22-a, II (a), (emphasis added). The provider and conductor as described in this section may presumably be one in the same, but the legislative intent that there be an agreement among all parties involved in this enterprise is clear. Aside from this contractual mandate, there is no indication that the legislature meant to control any other part of the pari-mutuel sale.

¹ The Interstate Horseracing Act (IHA) 15 U.S.C. §§3001 et seq. was passed in 1974. In it, Congress recognized the importance of pari-mutuel horseracing as an industry which provides substantial revenue to the state. Congress established its intention to regulate interstate commerce in this field, while at the same time reaffirming the State's traditional role in regulating gaming within their borders.

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Page 4

B. Rule Making

The Commission is authorized to adopt rules relative to the sale of pari-mutuel pools, and these rules are exempt from the provisions of the administrative procedure act ("APA"), RSA 284:12, ¶4; RSA 541-A:21. This exemption from the APA indicates that the legislature intended the Commission to formalize these rules without any hearing or comment from interested parties. The effect of this exemption is that the Commission is truly the first and last word when it comes to decision making in the area of pari-mutuel sales. The exclusion of the notice and hearing requirement that accompany most other agency action affords the Commission unlimited discretion in the promulgation of rules relevant to racing and the sale of pari-mutuel pools. Thus, its rules will not be found invalid if it can cite any conceivable reason for promulgation of such sales.

The language in RSA 284:22 is simple in regard to pari-mutuel pools. "[A] licensee under this chapter may sell pari-mutuel pools in accordance with this chapter and rules adopted by the Commission." "Pari-mutuel pools shall be sold within the enclosure of a racetrack or a licensed race as held or as provided in RSA 284:22-A, and not elsewhere." RSA 284:22.

This language is not restrictive. It enforces the theory that the legislature intended the Commission to determine in what manner the sale occurs. The statute only mentions that a licensee may sell pari-mutuel pools, and they must be sold *within the enclosure of the racetrack*. No further restrictions on sales were written into the statute. The Commission, having been charged by this statute with promulgating rules relative to racing, becomes the sole authority as to how sales take place.

The Commission has adopted rules relative to harness racing and greyhound racing which provides a definition of pari-mutuel wagering. In the greyhound racing rules found at Pari 800, Pari 801.41 defines pari-mutuel wagering as "a form of betting on the outcome of a race in which all bets are pooled and held by a licensee for distribution of the total sum of the bets, less any deductions authorized by law, to holders of winning tickets. For the rules of harness racing, the definition of pari-mutuel wagering is found in rules which has been incorporated by reference by the Commission. Those rules are found at the Association of Racing Commissioners International-North American Pari-Mutuel Regulators Association Joint Rules (ARGI/NAPRA). Pari-mutuel wagering is defined as "a form of wagering on the outcome of an event in which all wagers are pooled and held by an association for distribution of the total amount, less the deductions authorized by law, to holders of tickets on the winning contestants."

As described above, Instant Racing is a method of wagering on the outcome of a horserace in which all wagered money is "pooled". The only deductions allowed are those authorized by law, such as paying for horsemen purses, operating expenses, and other costs. The

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Page 5

balance of the pool is returned to patrons who place the winning wagers. Instant Racing thus falls within the definition of pari-mutuel wagering contained in the rules of the Racing and Charitable Gaming Commission.

As stated above, RSA 284:22 simply provides that "pari-mutuel pools shall be sold within the enclosure of a racetrack or where a licensed race or race meet is held or as provided in RSA 284:22-A, and not elsewhere." The statute gives the Commission broad authority to sell pari-mutuel pools and only states that they must be sold within the enclosure of the racetrack. No further restrictions on sales were written into the statute. The Commission therefore becomes the sole authority as to how sales may take place.

Moreover, if the Commission believes that any of its rules do not authorize it to allow for Instant Racing, Pari 502.02 authorizes the Commission to waive any rule if the Commission determines that compliance with any rule is rendered unnecessary by new technology or innovative design or construction of facilities. Additionally, Pari 603.01 authorizes the Commission to waive any rule relative to harness racing in order to advance the purposes of RSA 284 as it applies to harness racing.

Furthermore, should the Commission wish to promulgate rules which address the issues which have been raised here, it has the authority to do so via regulating the sale of pari-mutuel pools. The process of promulgating these rules would not have to follow the usual process outlined in RSA 541-A because the rule making would be regulating the sale of pari-mutuel pools.

C. Conclusion

It is our opinion that the Commission has the authority to authorize Instant Racing at racetracks within the State of New Hampshire. In our view, RSA 284:22 and 22-A authorize the Commission to promulgate rules necessary for the use of such a method for pari-mutuel wagering, if the Commission believes that such rules are necessary.

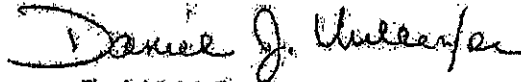
As an aside, it should be noted that Instant Racing has been very successful in other jurisdictions. With the advent of Instant Racing, jurisdictions have found that it has had a profound impact on purses, the breeders fund, employment and tax revenues in the jurisdictions in which it is allowed. As Congress has recognized the Interstate Horseracing Act, horseracing provides substantial revenue to the State of New Hampshire. This revenue can be further enhanced by authorizing the use of Instant Racing at licensed racetracks within the State of New Hampshire. Accordingly, we respectfully request that the Commission authorize the use of Instant Racing within licensed racetracks in the State of New Hampshire.

November 7, 2008

Page 6

We would be happy to meet with you and members of the Commission to discuss this further if the Commission so chooses. I look further to hearing from you regarding this matter in the near future.

Very truly yours,



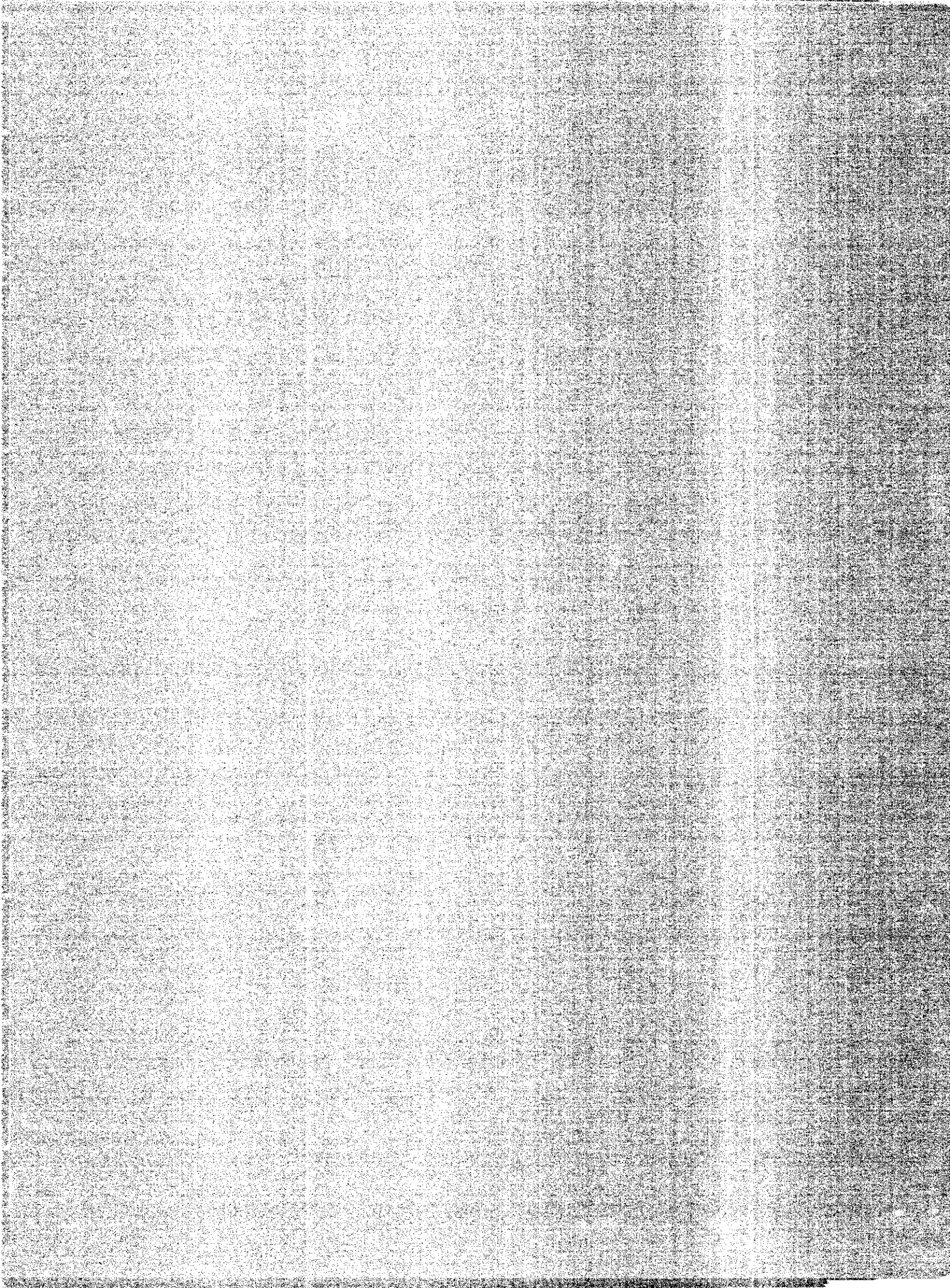
Daniel J. Mullen
dmullen@raispol.com

DJM/dj

cc: Marlin Torguson
383460

Speakers

Testimony



**THE
Lodge
AT BELMONT**

HISTORICAL RACING INFORMATION

March 2010

**TORGUSON
GAMING GROUP, INC.**

THE Lodge AT BELMONT

Historical Racing

- **Pari-Mutuel wagering on a historical race, a race previously run race at a licensed U.S. pari-mutuel facility.**
- **Historical Racing was developed by RaceTech with technical assistance by AmTote International, a leader in the pari-mutuel industry.**
- **Historical Racing is a way to incorporate new technology and broaden the audience appeal for pari-mutuel wagering. It was developed by the pari-mutuel industry to generate growth in visitation and handle.**
- **Strictly pari-mutuel in operation. Historical Racing Terminals (HRTs) are only communication devices, just like a self service wagering terminal in place at New Hampshire tracks today. HRTs are connected to a central totalizator (tote) system that calculates payouts for each pari-mutuel pool in the same manner as it does for “traditional” pari-mutuel wagering. No calculations or payout decisions are made within the terminal; terminals only communicate wagers to the tote and receive the historic race and payout information from the central tote, just like what is happening in New Hampshire today.**
- **Pari-Mutuel Wagering – New Hampshire law permits only pari-mutuel wagering on racing. By definition these Players bet against other players in the pari-mutuel pool. The “house” has no interest in the outcome. HRTs do not operate on “fixed odds” nor is it “banked” by the house as with slots. HRTs will not function alone; they will not function without the central tote system.**

THE Lodge AT BELMONT

Historical Racing (cont.)

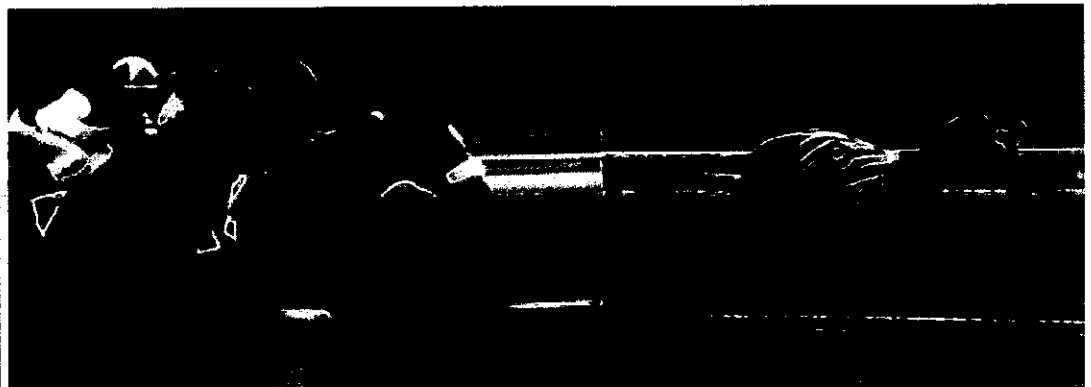
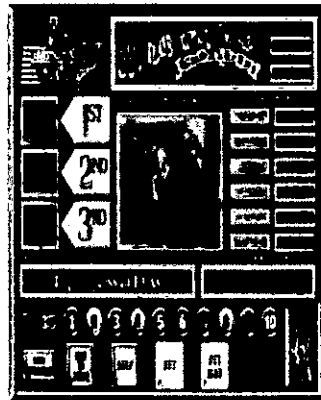
- Tens of thousands of historical races stored in a database in a remote, secure location
- Historical race chosen at random
- Race is not identified. Handicap statistics provided for player information are the same as those provided on the day of the actual race by Daily Racing Form or Rosnet, in a manner that does not identify the race.
- Player chooses horses he/she thinks will come in first, second or third. Player may also choose a Handicapper Helper option which suggests a winner.
- Player may choose to watch the entire race or a shorter version of that race.
- Results are displayed and wagers are paid based on the pari-mutuel pool.
- At the end of the race, the name of the track, date and race number are displayed.
- Thoroughbred Racing Protective Bureau (TRPB) conducts monthly regularly scheduled audits of the Historical Racing System, including review of past performance data and results.
- HRTs have been operating in Arkansas for more than ten years and several states are currently reviewing allowing historical racing.

THE Lodge AT BELMONT

Historical Racing Plans

Upon approval of Legislation to allow HRTs at New Hampshire tracks, The Lodge at Belmont plans the following:

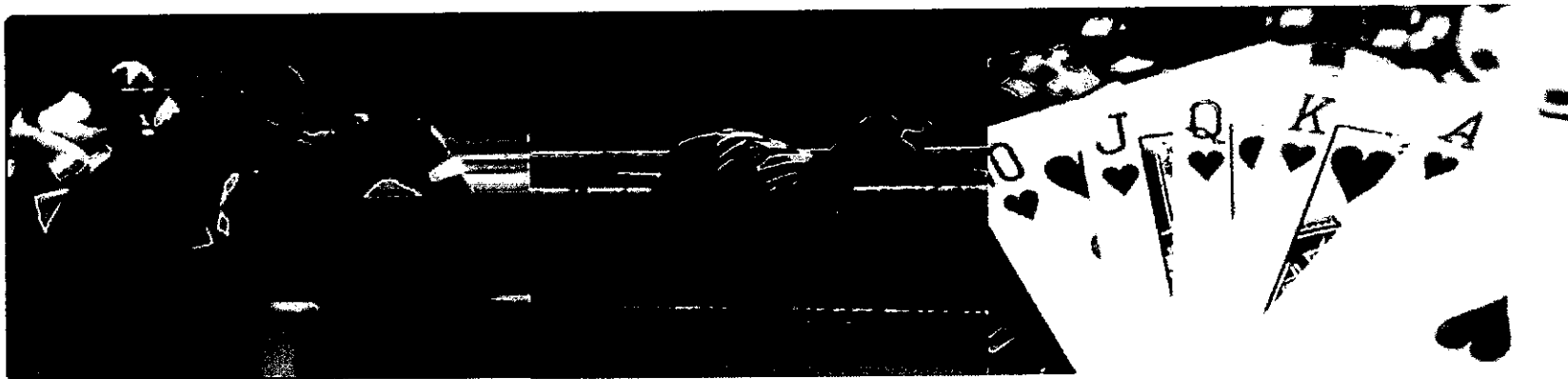
- Within 60 days, 100 terminals would be installed
- Expand to 300 terminals within 6 months
- Utilize Existing 35,000 Square Foot Building
- Maintain Charitable Games of Chance
- 80 Seat Casual Dining Restaurant
- 35 Seat Seafood & Steak House Restaurant
- Maintain Current Pari-Mutuel Simulcast Racing Offerings
- Add approximately 100 Full & Part Time Jobs
- Estimated Additional Annual Pari-Mutuel Tax Revenue of \$2.4 Million (300 HRTs)



THE Lodge AT BELMONT

The Lodge at Belmont is the only Racetrack in New Hampshire's Lakes Region & Features:

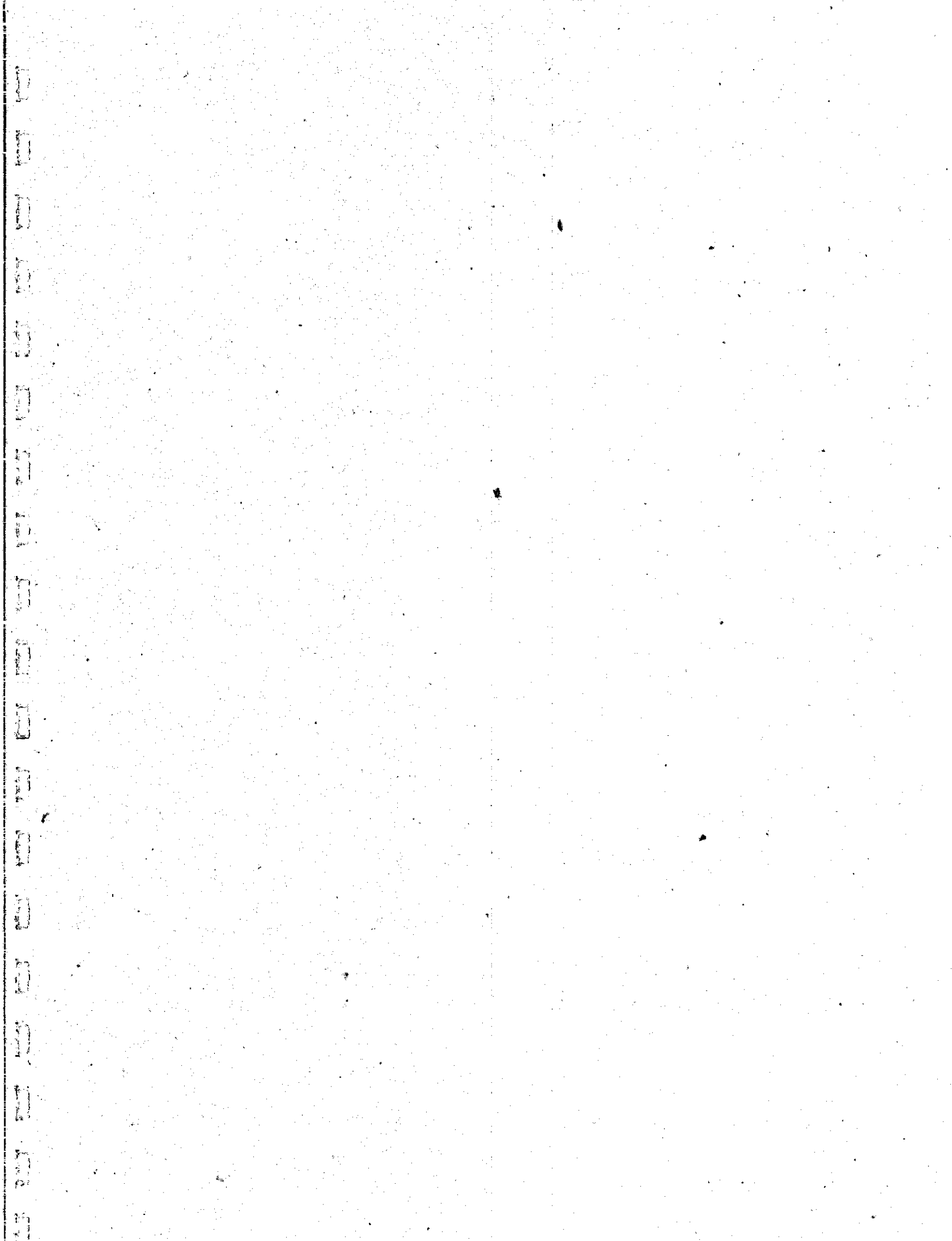
- ▣ **Year-round Simulcast Thoroughbred, Harness and Greyhound Racing from over 50 Tracks Nationwide**
- **Advanced Deposit Telephone Wagering**
- **Charitable Games of Chance, including Poker, Blackjack, Craps, Roulette, Three Card Poker & Let It Ride**
- **Blues-ology Bar & Restaurant Offering Casual Dining for Lunch & Dinner**
- **Special Events – Snocross and Motorcross Racing**
- **35 Seat Restaurant – Private Dining & Special Events**
- **Currently Provides 60 Jobs**
- **2009 Payroll - \$1.3 Million**



THE Lodge AT BELMONT

12 Month Tax Projection with Historical Racing

	Budget with Historical Racing by Terminal count				
	300	500	1,000	1,500	2,000
<u>Taxes</u>					
Taxes from Historical Racing	2,399,828	3,763,331	6,918,705	9,504,520	11,559,173
Taxes from Pari-Mutuel	606,432	612,497	618,622	624,808	631,056
Taxes from Games of Chance	46,717	47,184	47,656	48,133	48,614
Total Gaming Taxes	3,052,978	4,423,012	7,584,983	10,177,460	12,238,843
Real Estate & Business Tax	195,522	195,522	195,522	195,522	195,522
Meals and Room Tax	70,107	70,808	71,516	72,231	72,954
Other Taxes & Licenses	18,196	18,742	19,304	19,884	20,480
Total Other Taxes	283,825	285,072	286,343	287,637	288,956
Total Taxes	3,336,803	4,708,084	7,871,326	10,465,098	12,527,799



Voting Sheets

Senate Ways & Means Committee

EXECUTIVE SESSION

Bill # SB 490

Hearing date: 3/2/10

Executive session date: 3/3/10

Motion of: ITL

VOTE: 2-5

Made by Odell
Senator: D'Allesandro
 Gilmour
 Janeway
 Reynolds
 Bradley
 Downing

Seconded Odell
by Senator: D'Allesandro
 Gilmour
 Janeway
 Reynolds
 Bradley
 Downing

Reported Odell
by Senator: D'Allesandro
 Gilmour
 Janeway
 Reynolds
 Bradley
 Downing

Motion of: OTP

VOTE: 5-2 0+1

Made by Odell
Senator: D'Allesandro
 Gilmour
 Janeway
 Reynolds
 Bradley
 Downing

Seconded Odell
by Senator: D'Allesandro
 Gilmour
 Janeway
 Reynolds
 Bradley
 Downing

Reported Odell
by Senator: D'Allesandro
 Gilmour
 Janeway
 Reynolds
 Bradley
 Downing

<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator Odell, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator D'Allesandro, Vice-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Gilmour	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Janeway	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Reynolds	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Bradley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Downing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*Amendments: _____

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: March 4, 2010

THE COMMITTEE ON Ways and Means
to which was referred Senate Bill 490-FN

AN ACT allowing historical racing.

Having considered the same, the committee recommends that the Bill:
OUGHT TO PASS

BY A VOTE OF: 5-2

AMENDMENT # s

Senator Jeb E. Bradley
For the Committee

L. Gail Brown 271-3076

New Hampshire General Court - Bill Status System

Docket of SB490

Docket Abbreviations

Bill Title: allowing historical racing.

Official Docket of **SB490**:

Date	Body	Description
01/27/2010	S	Introduced and Referred to Ways & Means; SJ 4 , Pg.59
02/10/2010	S	Hearing: === TIME CHANGE === March 2, 2010, Room 100, State House, 10:30 a.m.; SC7
03/04/2010	S	Committee Report: Ought to Pass 3/10/10; SC10
03/10/2010	S	Ought to Pass, Division 14Y-10N, MA, OT3rdg; SJ 9 , Pg.149
03/10/2010	S	Passed by Third Reading Resolution; SJ 9 , Pg.151
03/17/2010	H	Introduced and Referred to Local and Regulated Revenues; HJ 26 , PG.1392
03/23/2010	H	Public Hearing: 3/31/2010 10:00 AM LOB 210-211
03/31/2010	H	Full Committee Work Session: 4/6/2010 10:00 AM LOB 303
03/31/2010	H	Executive Session: 4/13/2010 10:00 AM LOB 303
04/13/2010	H	Committee Report: Inexpedient to Legislate for April 21 (Vote 14-5; RC); HC 31 , PG.1534-1535
04/21/2010	H	Inexpedient to Legislate: MA RC 236-113 ; HJ 35 , PG.1671-1673
04/21/2010	H	Reconsideration (Rep Vaillancourt): MF DIV 87-254; HJ 35 , PG.1679

NH House

NH Senate

Contact Us

New Hampshire General Court Information Systems
 107 North Main Street - State House Room 31, Concord NH 03301

Other Referrals

COMMITTEE REPORT FILE INVENTORY

8B490 ORIGINAL REFERRAL

_____ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE SECRETARY AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

DOCKET (Submit only the latest docket found in Bill Status)

COMMITTEE REPORT

CALENDAR NOTICE on which you have taken attendance

HEARING REPORT (written summary of hearing testimony)

HEARING TRANSCRIPT (verbatim transcript of hearing)

List attachments (testimony and submissions which are part of the transcript) by number [1 thru 4 or 1, 2, 3, 4] here: _____

SIGN-UP SHEET

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

____ - AMENDMENT # _____ ____ - AMENDMENT # _____
____ - AMENDMENT # _____ ____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED ____ AS AMENDED BY THE HOUSE
____ FINAL VERSION ____ AS AMENDED BY THE SENATE

____ PREPARED TESTIMONY AND OTHER SUBMISSIONS (Which are not part of the transcript)

List by letter [a thru g or a, b, c, d] here: _____

EXECUTIVE SESSION REPORT

____ OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):

IF YOU HAVE A RE-REFERRED BILL, YOU ARE GOING TO MAKE UP A DUPLICATE FILE FOLDER

DATE DELIVERED TO SENATE CLERK

8/16/10

[Signature]
COMMITTEE SECRETARY