



RACING INDUSTRY STUDY COMMISSION REPORT

January 16, 1998

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To the Governor:

Executive Order #60 empowered a Racing Industry Study Commission to “undertake a thorough and comprehensive study of the horse racing industry in New Jersey including existing statutes and regulations, in-State competition for the gambling dollar, and legislation in neighboring states that impacts on the economic growth and prosperity of New Jersey’s horse racing industry. We have met that challenge and the following summary encapsulates the key findings supported by a clear majority of the Commission.

The nineteen members of the Commission, State departments of Law and Public Safety, Treasury and Agriculture, the New Jersey Sports and Exposition Authority, owners, breeders, industry and labor, worked together through months of public testimony and research to develop this plan for the future of an important New Jersey economic, cultural and environmental resource----the equine industry.

Our essential partners in the process of developing this plan for the future and fulfilling the Governor’s mandate were the people of New Jersey.

Three well attended public hearings were held around the State. On February 10 a public hearing was held in Trenton. On March 25 another hearing took place at Garden State Park in Cherry Hill and the final meeting was May 21 at The Meadowlands in East Rutherford. A wide range of industry experts, observers, media, and those men and women employed in the equine industry shared their views with the Commission.

The Commission members constituted three working committees to research and examine the condition of horse racing in the State and its impact on New Jersey life.

The **Racing Operations Committee** was chaired by Ed McGlynn of the New Jersey Racing Commission, the **Green Acres and Open Space Committee** was headed by State Agriculture Department Commissioner Arthur Brown and the **Economic Impact Committee** was led by (then) State Treasurer Brian Clymer. Their efforts resulted in the conclusions and proposals which are presented in this summary. Full sub-committee reports are appended. In essence, their efforts suggest a basic four word guideline to nurture the future of racing in New Jersey... "level the playing field."

THE HORSE RACING INDUSTRY

Clear evidence exists of the enormous positive economic and environmental impact of horse racing on New Jersey. Detailed testimony to that effect is available through the Commission. There is consensus that these benefits are worth preserving and nurturing for the next generation.

The most visible face of the horse racing industry to most New Jerseyans are the five racetracks including The Meadowlands, Monmouth Park, Freehold, Garden State and Atlantic City Racecourse. But these facilities are only the peak of a billion dollar industry in the state which includes some 300 horse breeding farms, 120,000 acres of precious open space devoted to equine operations, and tens of thousands of jobs being directly supported by racing.

All industries in the 1990's are sensitive to state and federal legislation and regulation. The horse racing industry is no exception. It also finds itself in a regionally fiercely competitive marketplace with neighboring states New York, Pennsylvania, Delaware and Maryland.

In Delaware, slot machines have increased purse 229% in two years, a total of over \$30 million annually. In Maryland, the State Lottery granted racing \$5 million in 1997, a figure that may double in 1998. In New York, Governor Pataki is reviving the casino gaming bill that includes slot machines at racetracks and Mayor Guiliani has raised the specter of a casino at Governors Island.

The racetracks themselves compete on a nationwide basis with a peer group as far away as Illinois, Florida and Kentucky for their basic product, racehorses to perform at their venues.

Within New Jersey's borders, horse racing is in an intense competition for the gaming dollar with casinos and the lottery as well as other forms of entertainment. Research and testimony clearly show that the racing industry has been put at a regulatory and legislative disadvantage in recent years vis-à-vis its intra and inter state competition.

Strong support developed for a number of proposals..

The Racing Industry Study Commission recommends a two-fold strategy for addressing the development needs of the racing industry in the State.

- 1) A series of regulatory, legislative, and racing oversight reforms designed to bring New Jersey competitive parity with its neighbors.**
- 2) A long range strategy to bolster purses, the financial underpinning of the equine industry from racetrack to supplier to farm by infusing \$25 million annually of new revenue to this purpose.**

As the racetracks themselves represent the pinnacle of the broad-based state equine industry, the purses paid at those racetracks represent the pivotal economic component of the entire sport. Competitive purses make for a better product at the racetracks, healthier farms and better business for the industry. As legislative and regulatory disadvantages have been imposed, betting handle and thus purses, have suffered. When purses suffer, owners and breeders and their suppliers struggle, farmland becomes housing development, the product on the racetrack diminishes and the downward spiral continues.

We recognize the need to infuse new purse revenues in order to provide for a healthy racing industry. We further recognize that previous State action expanding other forms of gaming impacted the growth rate of purses in the State. The Commission recommends an infusion of \$25 (twenty five) million into purses. Sharing this new revenue with all racing interests, including significant increases in breeding incentives, will allow New Jersey purses to be competitive and keep our racing stock from departing for Delaware, Pennsylvania, and Maryland tracks. Further, we recommend an annual contribution be made from this new revenue to the New Jersey Council on Compulsive Gambling.

Competitive purses directly translate into better racing stock and increased handle. Conversely, allowing the New Jersey purse structure to continue its competitive slide will be devastating to the equine industry in the State. In 1997, the Maryland lottery donated \$5 million and in 1998 is expected to give \$10 million towards enhancing the State's total purse distribution of \$45 million. A comparative 25 percent increase in New Jersey purses (which totaled \$98 million in 1996) is vital for the State's racetracks to maintain their current industry position without further slippage. Inaction on purse enhancement will find our racetracks trailing not only New York and Kentucky but falling behind other regional jurisdictions. If that occurs the economic fallout will be felt from the tracks through the owners and breeders to the farms.

The downward spiral impacts more than racetracks, farms, and equine industry suppliers. There is a far reaching effect into New Jersey's fabric of life. Ample testimony and witness was brought to these proceedings at public hearings regarding the unique and vital nature of the New Jersey equine industry.

Racing is also the engine which fuels the billion dollar sports and entertainment industry created by the Sports and Exposition Authority at the Meadowlands Sports Complex. The health of this industry is related to the health of the racing business.

Marketplace realities are in a constant state of flux for the industries delivering an entertainment or gaming product to the consumer of the 1990's. Unprofitable stores in poor locations are quickly closed by effectively managed retailers. Yesterday's movie theater on Main Street has become today's CinePlex.

A cold sober evaluation of product offerings and distribution is a vital management function for any business to survive changing competition and diverse consumer needs. We must look at racing in the State of New Jersey in purely consumer product terms and answer some tough questions.

Are five racetracks too many? The answer is, in their present form, undoubtedly yes. Atlantic City Racecourse has already pursued development of a car-racing facility on its premises. Live horse racing may no longer be a viable use of that property.

Garden State Park in Cherry Hill faces daunting competition. Delaware valley racing may not be able to sustain three racetracks as currently constituted. With slot machines bolstering Delaware Park and Philadelphia Park anchoring the exceptional Pennsylvania Off-Track betting and telephone wagering systems it may be the proper time to look for long term solutions for Garden State, such as O.T.B., rather than live racing.

New Jersey racetracks need regulations which will level the competitive playing field. In the decade of the 1990's New Jersey has fallen behind the competitive curve due to aggressive legislation and regulatory action in our neighbor states of Delaware, New York and Pennsylvania. The single most vital element in insuring the long term health of the New Jersey racing industry is a purse structure which will be sufficient to support breeders, owners, attract quality horses to racetracks, and protect green acres by keeping farms economically viable.

Racing would compete fairly if put on the same footing in Trenton as the Lottery and the casinos. Finally, common sense tell us that the gaming introductions in Delaware, Connecticut and upstate New York in recent years will not be the last. With expanded gambling potentially coming to New York, Maryland and Pennsylvania in the years ahead, neither racing, nor the casino gaming industry, nor the State Treasury can afford to be unprepared.

To meet the potential serious public policy question of greatly expanded gaming on our borders, the Commission recommends that the Governor establish a mechanism by which an advisory board can present the Administration and the Legislature with suggested responses should such competitive threats occur.

To be prepared for the marketplace of the next few years requires us putting the interests of New Jersey first.

Finally a necessary first step in redressing the competitive imbalances faced by the contemporary racing industry is to put that industry on the same legislative footing as the casinos and the State lottery.

The answer to the long term needs of New Jersey's economically and environmentally valuable racing industry is to bring it back to regulatory and legislative parity with other gaming interests and simply let it compete from there. The Commission proposals streamline regulation, do not propose new taxes or fees, and allow for leveling the playing field. We urge prompt action in the Legislature on these proposals, for inaction will bring damaging economic and green acres consequences to racing and the State in 1998 and beyond.

Motion: The Racing Industry Study Commission hereby recommends to the Governor and the Legislature the following:

- 1) Allow the Legislature to regulate racing**
- 2) Authorize account wagering**
- 3) Adopt limited off-track betting locations**
- 4) Consider closing no longer viable live racing operations and allowing them the option of operating as OTB sites**
- 5) Provide \$25 million annually to augment racetrack purses and revenues**
- 6) Pursue regulatory reforms and initiatives as contained in the Racing Operations Committee report.**

Motion made:

Seconded:

EXECUTIVE ORDER NO. 63

WHEREAS, Executive Order No. 60 established the Racing Industry Study Commission, consisting of 17 members; and

WHEREAS, in recognition of the appropriateness of having a representative of the casino industry on the Commission, Executive Order No. 60 provides that the membership of the Commission shall include a member of the Casino Association of New Jersey, but that Association, although it has not formally dissolved, has ceased active operations since Executive Order No. 60 was issued; and

WHEREAS, it is appropriate for a member of the public to represent the public's interest on the Commission, and

WHEREAS, the public officers serving on the Commission in an ex officio capacity, namely the Attorney General, the State Treasurer, the Secretary of Agriculture and the Commissioner of the Department of Commerce and Economic Development, should have the discretion and flexibility to designate a member of their respective departments to represent them on the Commission;

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Membership in the Racing Industry Study Commission created by Executive Order No. 60 is hereby expanded from 17 members to 19 members.

2. In addition to appointing a member of the Casino Association as provided for in Executive Order No. 60, the Governor shall, no later than December 31, 1996, appoint another representative of the casino industry from a casino that is not a

member of the Casino Association of New Jersey to serve as a member of the Commission.

3. The Governor shall, no later than December 31, 1996, appoint a member of the public to serve as a member of the Commission.

4. The public officers serving on the Commission in their ex officio capacity, namely the Attorney General, the State Treasurer, the Secretary of Agriculture and the Commissioner of the Department of Commerce and Economic Development, may designate a member of their respective departments to represent them on the Commission.

5. The New Jersey Sports and Exposition Authority is hereby directed, to the extent not inconsistent with law and within budgetary constraints, to cooperate with the Commission and furnish it with such information, personnel and assistance as is reasonably available to accomplish the purposes of Executive Order No. 60 and this Order.

6. The remaining provisions of Executive Order No. 60 shall remain in full force and effect.

7. This Order shall take effect immediately.

/s/ Christine Todd Whitman
GOVERNOR

[seal]

Attest:

/s/ Michael P. Torpey
Chief Counsel to the Governor

EXECUTIVE ORDER NO. 60

WHEREAS, the New Jersey Constitution of 1844 was amended in 1939 to authorize horse racing and pari-mutuel betting; and

WHEREAS, the Legislature in 1940 created the New Jersey Racing Commission and vested it with the authority to regulate horse racing and the system of pari-mutuel betting; and

WHEREAS, the Legislature in 1971 created the New Jersey Sports and Exposition Authority in, but not of, the Department of Community Affairs to promote the general welfare, health and prosperity of the people of the State, and the principal source of the Authority's revenue is from proceeds derived from pari-mutuel betting at race tracks operated by the Authority; and

WHEREAS, the Legislature in 1985 enacted the Simulcast Racing Act, which provided for pari-mutuel betting at one race track on a race at another race track, either in the State or out of the State; and

WHEREAS, despite these significant changes to the laws regulating horse racing, there has been no thorough and comprehensive review of the entire horse racing industry since 1940; and

WHEREAS, the horse racing industry is feeling the strain of increased competition from other forms of legalized gambling in the State and from neighboring states that are expanding, or considering expanding, legalized gambling in a variety of ways, including telephone wagering on horse races and slot machines at race tracks; and

WHEREAS, tens of thousands of people are employed in industries directly related to horse racing that play a vital role in preserving farmland in a State that values open space;

NOW, THEREFORE, I, CHRISTINE TODD WHITMAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established the Racing Industry Study Commission, hereinafter referred to as the Commission.

2. The Commission shall consist of 17 members to be appointed as follows: two State Senators appointed by the President of the Senate, two State Assembly Members appointed by the Speaker of the Assembly, 13 members appointed by the Governor as follows: the Attorney General, the State Treasurer, the Secretary of Agriculture, the Commissioner of the Department of Commerce and Economic Development, one member of the New Jersey Racing Commission, one licensee of the New Jersey Racing Commission, one member of the New Jersey Sports and Exposition Authority, one private race track permit holder, one member of the Council on Compulsive Gambling of New Jersey, Inc., one member of the New Jersey Thoroughbred Horsemen's Benevolent Association, one member of the Thoroughbred Breeders Association of New Jersey, one member of the Standardbred Breeders and Owners Association of New Jersey, and one member of the Casino Association of New Jersey. The chairperson and vice-chairperson of the Commission shall also be designated by the Governor. All members of the Commission shall be appointed no later than December 1, 1996. Vacancies shall be filled in the same manner as the original appointments were made.

3. The Commission shall undertake a thorough and comprehensive study of the horse racing industry in New Jersey, including existing statutes and regulations, in-State competition for the gambling

dollar and legislation in neighboring states that impacts on the economic growth and prosperity of New Jersey's horse racing industry.

4. The Commission shall meet as soon as practicable after December 1, 1996.

5. The Commission is authorized to call upon any department, office or agency of State government to provide such information, resources or other assistance deemed necessary to discharge its responsibilities under this Order. Each department, officer, division and agency of this State is hereby required to cooperate with the Commission and to furnish it with such information, personnel and assistance as is necessary to accomplish the purposes of this Order.

6. The Commission shall file a report with the Governor no later than 6 months following the first meeting of the Commission, which report shall include short-range and long-range recommendations, including any recommendations for legislative bills.

7. This Order shall take effect immediately.

GIVEN, under my hand and seal this
31st day of October in
the Year of Our Lord, One
Thousand Nine Hundred and
Ninety-Six, and of the
Independence of the United
States, the Two Hundred and
Twenty-First.

/s/ Christine Todd Whitman

GOVERNOR

[seal]

Attest:

/s/ Michael P. Torpey

Chief Counsel to the Governor

**MEMBERS OF THE
RACING INDUSTRY STUDY COMMISSION**

Candace L. Straight
Chair
New Jersey Sports & Exposition Authority
Authority Member

Edward R. McGlynn
Vice Chair
New Jersey State Racing Commission

Assemblyman Michael J. Arnone
Assemblyman State of New Jersey

The Honorable Arthur R. Brown
Department of Agriculture

Senator Richard J. Codey
Senator State of New Jersey

The Honorable James A. DiEleuterio Jr.
Department of the Treasury State of New Jersey

Ms. Deborah A. Halliday
Public Member

Mr. Francis X. Keegan, Jr.
Thoroughbred Horsemen's Benevolent Association of New Jersey

Mr. Edward Looney
Council on Compulsive Gambling of New Jersey, Inc.

The Honorable Gualberto Medina
Department of Commerce and Economic Development State of New Jersey

Mr. Everett Novak
Thoroughbred Breeder's Association of New Jersey

Mr. Robert J. Quigley
Garden State Park & Freehold Raceway

Assemblyman Joseph J. Roberts, Jr.
Assemblyman State of New Jersey

Senator Robert W. Singer
Senator State of New Jersey

Mr. Donald J. Trump
Trump Plaza

Mr. Robert A. Tucker
Standardbred Breeders & Owners Association of New Jersey

The Honorable Peter Verniero
Attorney General State of New Jersey

Mr. Herbert R. Wolfe
Showboat Casino Hotel

Mr. Leon Zimmerman
Licensee of the New Jersey Racing Commission

RACING OPERATIONS SUBCOMMITTEE REPORT

December 20, 1997

Edward McGlynn, Chairman

The Racing Operations Subcommittee recommends a series of regulatory, administrative and legislative reforms to bolster racing.

REGULATORY, ADMINISTRATIVE AND LEGISLATIVE REFORMS:

I. Racetrack Operations

A.) Wagering related

- 1) Allow tracks to reduce wagering takeout and increase return to bettors (existing levels would be the ceiling; reductions would be proportionate for track share, purses, etc.)
- 2) Allow for fixed odds wagering
- 3) Allow for proposition wagering
- 4) Allow handicapping contests with prizes (similar to Pennsylvania or Nevada)
- 5) Eliminate daily expiration of account requirements
- 6) Eliminate expiration of betting vouchers
- 7) Simplify takeout and wagering format statutes (update language)
- 8) Seek equal tax treatment for racing and casino winnings.

B.) Other

- 1) Provide NJSEA with the ability to exclude racing participants equal to the common law rights of private tracks
- 2) Eliminate restrictions on minimum live racing dates rules (current standards of dates is outdated, imperils participation in Casino Simulcast Act funds and restricts conversion of existing racetracks to off track wagering facilities.

II. Revenue Enhancements

- A) Allow for **account based phone wagering** (including Internet applications) for NJRC permit holders in good standing. Reason dictates that New Jersey residents who can wager by telephone account in neighboring states should have the barriers to doing so in New Jersey removed. **In fact New Jersey residents now wager by phone account in New York and Pennsylvania but are not allowed to do so in New Jersey. This should be immediately addressed.**
- B) Allow **Off track wagering sites for NJRC permit holders** in good standing. Racetracks without live dates may operate as an OTB with a significant portion of handle dedicated to purses at those NJRC permit holding tracks that run live races. The Cherry Hill location is a clearly feasible off track betting location as is Atlantic City Racecourse.
- C) Lottery Connection
 - 1) Create annual or semi annual game with proceeds to benefit racing industry
 - 2) Establish frequent game tied in with New Jersey racing; proceeds to be split between Lottery and racing industry
- D) Marketing
 - 1) Provide State sponsored marketing expenditures for tourism that include advertisements for racing
 - 2) Budget State sponsored marketing expenditures for agriculture that include advertisements for racing
 - 3) Enhance other agricultural related projects including more funding for 4-H clubs

III. Racing Commission

A) Restructure

1) Membership

- a) Curtail restrictions on members of the industry serving as commissioners
- b) Reduce number of commissioners and eliminate geographic restrictions

2) Staff

- a) Eliminate State Steward position for Harness Racing
- b) Revamp Investigators role, deployment and funding
- c) Eliminate Supervisor of Mutuels position at each track and centralize
- d) Eliminate NJRC Fire and Safety Inspector position in cases where superior regulation exists (i.e. NJSEA tracks under aegis of DCA regulation)

B) Funding

- 1) Review current distribution of NJRC regulatory costs and consider a more equitable distribution of costs (in particular costs related to the investigative unit)
- 2) Mandate that all license fees be used to support racing industry and regulation
- 3) Provide a portion of "new" revenue for regulatory needs.

C) Regulatory changes

1) Simulcasting

- a) Delegate approval to staff for:
 - races of interest (separate pool)
 - inter or intra state simulcasting
 - allow casinos to receive races of national interest for more than the legislated limit of 3%

2) Other

- a) Eliminate NJRC approval for racing format (i.e. admission fees, advance wagering requests, hours of operation, trifectas, etc.
- b) Streamline NJRC suspension / appeal process by bypassing current Office of Administrative Law avenue
- c) Streamline process for approval of new wagers
- d) Provide for reinstatement of inadvertently scratched horses, if done within a reasonable time period