
Public Hearing

before

SENATE ECONOMIC GROWTH, AGRICULTURE AND TOURISM COMMITTEE

SENATE BILL No. 1961

*(Establishes off-track wagering facilities and
account wagering system for parimutuel betting on horse races)*

LOCATION: Committee Room 1
State House Annex
Trenton, New Jersey

DATE: June 3, 1999
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Martha W. Bark, Chairwoman
Senator William E. Schluter, Vice-Chairman
Senator Bernard F. Kenny Jr.
Senator Edward T. O'Connor Jr.



ALSO PRESENT:

Kevin J. Donahue
*Office of Legislative Services
Committee Aide*

Josie DiRienzo
*Senate Majority
Committee Aide*

George LeBlanc
*Senate Democratic
Committee Aide*

Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

TABLE OF CONTENTS

	<u>Page</u>
Senator Richard J. Codey District 27	2
Raymond H. Bateman Chairman New Jersey Sports and Exposition Authority, and Former State Senator	5
Bruce Garland Senior Executive Vice President, Racing New Jersey Sports and Exposition Authority	7
William G. Dressel Jr. Executive Director New Jersey State League of Municipalities	15
Hal Handel President Penwood Racing	18
Frank Zanzuccki Executive Director New Jersey Racing Industry Study Commission	21
Stanley Panco Executive Director Thoroughbred Breeders' Association of New Jersey	23
Robert Liguori Business Manager Local No. 137 Sports Arena Employees Laborers	27
Kevin Jarvis Representing New Jersey State AFL-CIO	31
John H. Forbes Horse Trainer, and President New Jersey Thoroughbred Horsemen's Association, Inc.	34

TABLE OF CONTENTS (continued)

	<u>Page</u>
Mark L. Fleder, Esq. Legal Counsel New Jersey Thoroughbred Horsemen's Association, Inc.	37
Alan Foreman, Esq. Chairman and CEO Thoroughbred Horsemen's Association, Inc. Columbia, Maryland	41
Richard Thalheimer President Thalheimer Research Associates Lexington, Kentucky, and Associate Professor Equine Industry Program University of Louisville, and Consultant New Jersey Thoroughbred Horsemen's Association, Inc.	44
Robert Penchina, Esq. Rogers and Wells LLP, and Representing TVG New York, New York	49
Dennis Drazin, Esq. Thoroughbred Horse Owner-Breeder	53
Anthony Costabile Jr. President Equine Services, Inc.	60
Edwin King Thoroughbred Jockey	61
Leon J. Zimmerman New Jersey Legislative Representative Standardbred Breeders and Owners Association of New Jersey	61

TABLE OF CONTENTS (continued)

	<u>Page</u>
Rhys Leager Representing Local No. 54 Hotel Employees and Restaurant Employees Union	67
Dave Feeback President and Business Manager Local No. 69 Hotel Employees and Restaurant Employees Union	68
APPENDIX:	
Testimony submitted by Raymond H. Bateman	1x
Letter plus attachments submitted by Stanley Panco	5x
Testimony submitted by Kevin Jarvis	8x
Testimony plus attachments submitted by John H. Forbes	11x
Letter plus attachments addressed to Senator Martha W. Bark from Robert Penchina, Esq.	19x
Statement submitted by Leon J. Zimmerman	26x
lmb: 1-69	

SENATOR MARTHA W. BARK (Chairwoman): Good morning. This hearing will come to order. I would ask that the roll would be called.

MR. DONAHUE (Committee Aide): Senator O'Connor.

SENATOR O'CONNOR: Here.

MR. DONAHUE: Senator Kenny.

SENATOR KENNY: Here.

MR. DONAHUE: Senator Schluter.

SENATOR SCHLUTER: Here.

MR. DONAHUE: Senator Bark.

SENATOR BARK: Here.

This is a public hearing on the off-track betting bill. This is a public hearing. We will not be taking a vote to release this bill today. This is simply to air the issues and to hear all sides of the issues.

I would ask also -- we have a number of people to testify. I would ask if at all possible to keep your remarks to five minutes perhaps, and if not, perhaps you could have one person speak for your group so that we would not have maybe everybody saying the same thing. I would appreciate that very much, and maybe we can all then be able to have a nice lunch today.

I would also like to ask Senator Codey to make the opening remarks on this bill.

Kevin, do you want to outline the bill before Senator Codey starts?

MR. DONAHUE: I'll read his statement.

Senate Bill No. 1961 authorizes the Racing Commission to issue one or more licenses for the purposes of establishing an off-track wagering

system in the state comprised of one or more off-track wagering facilities at which may be conducted parimutuel wagering on simulcast horse races. A maximum of 15 licensed off-track wagering facilities are authorized under the bill. The bill also authorizes the Commission to issue licenses to participate in an account-wagering system.

SENATOR BARK: Thank you.

Senator Codey.

SENATOR RICHARD J. CODEY: Thank you, Madam Chairlady, members of the Committee, for having this hearing on a very important bill, important not only to the industry, but literally tens of thousands of people throughout the State of New Jersey. Going back, I guess, to maybe the early '70s, horse racing really was a thriving and very helpful industry in the State of New Jersey -- was without question the most popular sport in terms of attendance far outstripping football, baseball, basketball, or any other leisure time sport. Then, of course, the advent of lotteries not only here in the State of New Jersey, but competing states. Then in the late '70s, the advent of casino gaming right here in our own state. So clearly, this is an industry that's been hurt, and in a miniway we have been helpful in hurting, unfortunately, this industry when we legalized lotteries and casinos.

This is an industry that provides both directly and indirectly tens of thousands of jobs throughout the State of New Jersey and just as important and maybe even more important open spaces. As someone who represents an urban county, I can't tell you the joy that it is for those of us who live in urban counties to drive through, for example, Monmouth County and to show our children the horse farms, something obviously we don't see in Essex County.

But if we continue to go the way -- the same path that this industry has been going down for the last 20 years, there won't be too many of those horse farms left in the State of New Jersey, and instead of seeing horses on open spaces, we might be squelching development of condominiums, housing, or whatever and not horse farms.

This bill puts us into the next century. And in some ways, it catches us up to our neighboring states. New York, of course, has had OTB for decades. Pennsylvania, our other neighboring state, now has phone wagering and OTB. Clearly, we must help our industry to stay competitive with their competitors. This bill clearly does that. This bill allows for a system of phone wagering in the State of New Jersey and also OTB on a very limited basis. As you know, within the bill, it states 15 throughout the State of New Jersey.

Having said that, and as you've said, Madam Chairlady, today is a public hearing and not a day to vote or to do amendatory language. This bill still needs some work. There are still some labor issues that have not been resolved in this bill. There are still the issues of racing dates. When I say racing dates, what I mean by that is there is a concern by some legislators, and I could understand that and agree with it, that if we allow OTB that it's -- we would allow maybe the tracks to have less racing days because it's more profitable not to race, but just to allow simulcasting, and OTB is more profitable for them. So the live racing industry would hurt. We don't want to see that, and I'm sure you don't want to as well.

There's also the issue -- I understand it's very technical -- of the split between the Standardbred horseman, in terms of the breakage money, and the Thoroughbred. I would say to you to do whatever is fair in that

particular matter. So there are some issues that need to be clarified and some amendatory language that need to be worked out in this Committee over the next couple of days in regards to this bill. But clearly, it's a bill that, hopefully, we can have signed into law sometime this summer so that the racetracks themselves can get working on the phone wagering and OTB.

I'd be more than happy to try and answer any questions that the Committee may have, Madam Chairlady.

SENATOR BARK: Thank you.

Anyone have any questions for Senator Codey? (no response)

Thank you. Would you please join us up here (indicating position on panel) and listen to the testimony--

SENATOR CODEY: I would be happy to.

SENATOR BARK: --and I appreciate your being here, Senator.

SENATOR CODEY: Thank you.

SENATOR BARK: For those that are present, we are not only just having a hearing today, but I intend to, if everyone can -- or if the problems can be resolved, have this heard again on the 17th for a vote, June 17. So if you want to put that down as a time frame in which we are going to work and I also would like Senator Codey to be aware of that so he, too, can have his amendatory language ready for that time.

Thank you.

Okay. It has also been suggested to me that-- One minute here, I have to confer. We had had a suggestion that maybe the language of the referendum might be helpful to be heard at this time, but we are not prepared to do that, but OLS is going to provide that to us shortly.

But in the meantime, we will start with testimony, and I would ask that Bruce Garland, of the New Jersey Sports and Exposition Authority, and Ray Bateman come forward, please.

SENATOR RAYMOND H. BATEMAN: Senator Bark, good morning--

SENATOR BARK: Good morning.

SENATOR BATEMAN: --Senators.

We appreciate the opportunity, and we will be brief. I'm with Bruce Garland who operates the Meadowlands Track and the Monmouth Park Track, two of the finest tracks in the United States today. Bruce has had a significant hand in the drafting of very difficult legislation, and he's prepared to talk about the legislation and also to talk about what Senator Codey just mentioned. There are some loose ends that happily this hearing-- I was delighted to hear you point towards a schedule for voting because we think it's very significant that all the problems be resolved as quickly as possible so that before you leave, before the budget is over this can, in fact, be approved legislation.

It's hard for me to believe that 28--

I have a statement incidentally. It's okay if I just pass it to you, and I don't want to read it.

SENATOR BARK: Absolutely. Yes. Okay.

SENATOR BATEMAN: But 28 years ago, this Senate with Governor Cahill, especially with Governor Cahill, started a process that helped us to develop in New Jersey the finest Sports and Exposition Authority in the United States, really in the world, and it all revolved around racing. The

engine for the Sports Authority, since it got going in 1976, has been the Meadowlands Racetrack. That was the reason that it was created. It's been a tremendous force. As Senator Codey said, racing was -- has slipped a good deal. It still is a very significant, nearly \$20 million-a-year bottom-line positive for the Sports and Exposition Authority. It makes us run, so we have been deeply involved.

We were involved in the Governor's Study Commission which made the recommendations that we're here to talk about today, which made the recommendations to increase purses. We just had a significant effect already on both flat track and all the racing in New Jersey already. That Commission, as you know, recommended that we have a referendum question which would allow you, this Legislature, to make basic decisions to make us competitive with other states around us to enhance our capabilities to promote racing in New Jersey.

And as Senator Codey so effectively said, "It's not just racing." It's farms. It's a huge industry. It's a significant environmental plus for New Jersey, so we're here. We're happy that you're starting a process that makes sense. We're going to talk about some of the loose ends, and Bruce will talk about them. We stand ready to help in any kind of compromises which may need to be made between now and when this bill gets to the Senate floor. We hope that you will be successful. This will be a big stimulus for racing in New Jersey.

It has gone through a variety of meetings with the Attorney General's Office. It has gone through a variety of meetings with the Senators who were so significant in the Governor's Study, Senator Codey and Senator

Singer. It is here. It has some problems, and we're happy to try to address ourselves of those problems as quickly as possible.

And incidentally, as I quit, I want to extend to you an invitation, when you have time, for your Committee to come to the Meadowlands and have a hearing on our plans for the 21st century which are big, which will keep the Sports and Exposition Authority at the front of sports and entertainment in the United States including a new arena. We cordially invite you when you have time.

SENATOR BARK: Thank you.

SENATOR BATEMAN: And at that, I'd like to ask Bruce Garland to give us a little background on where we have come from and where we are going.

SENATOR CODEY: Madam Chairlady, the only thing I would say, if you're going to do that, then you're going to have to go to Hoboken for Bernie. (laughter)

SENATOR BARK: Okay, Mr. Garland.

BRUCE GARLAND: Thank you. I appreciate the opportunity to appear here today. If you're like everyone else who's read this legislation, you probably have a number of questions. I'd like to save some time at the end to attempt to answer them.

One of the reasons why you probably have questions is this is very difficult legislation. This is a very complex industry in New Jersey with many diverse and sometimes vocal elements making up the industry. This is a new approach to an off-track wagering system, and it's an attempt to take a view of an off-track wagering system from a much broader perspective, which

recognizes that especially in New Jersey, the whole is greater than the sum of its parts. This looks at the racing industry on a statewide basis. It incorporates the best of other systems, and it adapts those other systems to New Jersey's specific needs.

Because of the many various and diverse interest groups, we spent time meeting with the groups -- all the industry groups -- as a whole. We met with individual groups. We've already incorporated a number of suggestions and changes from earlier drafts of the bill into the legislation that's before you. We've negotiated a number of other changes already from original drafts and they've been incorporated, and we're continuing to engage in ongoing discussions to attempt to resolve even the remaining issues.

As the Chairman indicated, our Chairman, my Chairman--

SENATOR BATEMAN: The Chairman sounds good to me.
(laughter)

MR. GARLAND: We're here today also with some staff members of the Authority, and we'll attempt even today to attempt to resolve issues as they're raised at the hearing if at all possible. Ones we aren't able to resolve, we'll continue to work on. While I don't want to minimize anyone's concern over the bill, I'd be remiss if I didn't indicate a major, unresolved issue is the split of what's known as out-of-state purse money between harness and Thoroughbred groups. I'm sure you'll hear more on that today from each side.

There are some technical changes which have been either submitted to the Office of Legislative Services or the Attorney General's Office for incorporation, but a brief overview at this point might be appropriate.

The statute is based on an underlying belief that this system would improve our competitive position vis à vis other racing states, and it would provide a higher volume of business creating a bigger pie, which would increase everyone's share proportionately. If this bill were to pass, it's our belief that every aspect of the industry in New Jersey would improve their position. There may be some disagreement on how much their position would be improved, and some people may want to improve more than others, but it's our belief that this bill would fairly improve everyone's competitive position in this state and everyone's economic position in this state.

There are some key provisions which I'd just like to highlight very quickly. The New Jersey Racing Commission with licensed facilities be directly involved in the regulation. There's also provision for additional Attorney General review and oversight, and as part of the bill, the industry -- the licensees would, after a series of preliminary steps, assume all expenses of the Racing Commission under this legislation. It would create a statewide off-track wagering and phone system, which is basically unprecedented -- involve cooperation between all permit holders in the state. And no one would be able to be licensed unless they were able to enter into a participation agreement among all qualified permit holders. The off-track wagering system would be upscale, limited in number, and a single phone system benefiting the entire state.

Purses approximate on-track dollars. There's basic agreement between the two breeds as to amounts of purse money that would come from the overall pie. As I said, there is a portion of that pie that they are still discussing a split over. For out-of-state wagering, there would be a net

percentage approach. The statute before you provides for a third of that money to go toward purses. And there's a simplified distribution formula. If you're familiar with the current racing legislation, it's very difficult. All the different wagers have different take-outs. Each racetrack basically has a different takeout. This is a more simplified distribution formula. It would provide for public hearings in the municipality before any license could be issued by the Racing Commission and, as Senator Codey indicated, provide for no more than eight in the first two years or fifteen in total.

Having said that, I'd be happy to attempt to answer any questions anybody might have.

SENATOR BARK: Does anyone have any questions?

Senator Codey.

SENATOR CODEY: Thank you, Chairman Bateman. You've done a lot of hard work and good work on the bill moving it forward, and knowing the legislative system certainly has helped as you do.

Bruce, in regards to the labor issue, you and I have spoken. As you know, the concern is, for example, and I know the gentlemen here who are running the Garden State are here, that Garden State is financially -- can go either way. And many legislators said to me, "Well, Senator, we would allow OTB, and then they would close because it would be more profitable to close. What would happen to those jobs?" Basically, what I have asked you to do is to have amendatory language or saying to you that we would like to have amendatory language that would provide security for those individuals to go over to the OTB parlors, but at the same rate. Similar to what you did with other employees when you switched many of your operations and you

privatized, they were given the same benefit level and wage level as well. So that's really what we're saying to you today is we want protection for them and protection at the same level, not to go over to be a teller at OTB at a reduced wage and benefits.

I think it's fair. We've done it in other industries. We did it in the energy deregulation bill as well, to provide protection for those workers who may be adversely effected by dereg.

MR. GARLAND: To date, Senator, we have had discussions with Local 137 in particular. We've not only recognized their jurisdiction at the off-track wagering system sites, we have attempted to offer them job transfer ability and negotiate as part of our contract what kind of carryover comes over. But I'm here today. I know that Local 137 has a large continuum here today. Be happy to continue that discussion with them, especially in light of your comments and wishes in that regard.

SENATOR CODEY: Which also as you know and I've expressed to you the sentiments of the President of the Senate, who I met with on this issue.

MR. GARLAND: We're here today, and they'll be the first ones on my agenda when I leave the table.

SENATOR CODEY: And they'd only be given the option of doing it one time. If they don't avail themselves of it, that's fine. That's their business because they're rolling the dice. Pardon the pun. But that's the way it is.

In regards to the racing dates concern is -- as well a track closes because you've given them this, so you have less live racing than you did

before. So again much more profitable to be closed, accept bets on other tracks than it is to be open and have live racing.

MR. GARLAND: Well, in regard to that, Senator, I'd be surprised if a track closed solely because of this system. For example, the two tracks I could speak most authoritatively about are the two Sports Authority tracks. We would hope that when this system was mature, we'd actually add racing dates rather than reduce racing dates. And on those two tracks, I've discussed with both the Thoroughbred and harness horsemen, as well as Local 137, the concept of I could guarantee a certain number of dates at the two Sports Authority tracks.

SENATOR CODEY: Yes, but it's not in the statute. I wouldn't want it in the statute because I think the Thoroughbreds have lost about 100 dates in the last 10 years; harness has lost maybe 15, something like that. So they've both suffered, and you want to stop that bleeding.

MR. GARLAND: I discussed this issue yesterday with the Chairman, and I think he would be interested also in resolving that issue, but we would like at least-- I can only speak for the two Sports Authority tracks on racing dates, and we have had a good run at those two tracks, and I'm willing to commit and guarantee a certain number of live dates at both tracks at levels I think would be acceptable to not only harness and Thoroughbred and all, but I will discuss again with the Chairman about putting language in the statute which would be specific.

SENATOR CODEY: We've also got to see something for Freehold and for Garden State as well. I know the erstwhile Mr. Hal Handel is here.

SENATOR BATEMAN: Legislating numbers of race dates to me doesn't make sense.

SENATOR CODEY: Well, it makes sense--

SENATOR BATEMAN: Just put it in a statute.

SENATOR CODEY: We've done it before, Ray.

SENATOR BATEMAN: But that doesn't make it good, though.

SENATOR CODEY: Well, in regards to-- In fact, Garden State couldn't do casino simulcasting because they didn't have enough live racing. Legislators don't want to hurt a sport -- supposedly trying to help. And when you reduce the dates, that's less purse money for these horsemen, less open forums. You're going to get to a system where all you are is an OTB parlor, Meadowlands or Freehold or any other track. I don't want to see that happen, nor does anybody else.

SENATOR BATEMAN: Nor do we.

SENATOR CODEY: That's why we're seeking a guarantee on racing days. It's a concern of legislators on both sides of the aisle, Ray.

MR. GARLAND: It would obviously depend upon the level that you're seeking.

SENATOR CODEY: Oh, right. It's got to have some flexibility.

MR. GARLAND: The issue you raised, Senator, on the casino simulcasting, for example, I think it has a negative result and a negative impact on racing because, first, the people in the casinos couldn't bet on the Garden State races. Second, Garden State didn't benefit from sending their races there, nor did the horsemen receive any purse money as a result of that. So we may actually go to the Racing Commission and request, for example, that the

Sports Authority not be allowed to receive money or the Garden State Park in that situation not be allowed to receive their share of the money, but continue to be purse money generated. But that's one of the examples of having an inflexible requirement in a statute could cause some adverse effect on elements of the racing industry and not produce the desired effect. But overall, I mean, it would obviously depend on the number of dates, but if that were a requirement of the statute to pass the statute, we'd certainly put it in.

SENATOR CODEY: See if you can all collectively come together maybe today.

MR. GARLAND: Absolutely. We'll try and do that.

SENATOR BARK: Anyone else?

SENATOR BATEMAN: Senator, one of the unintended questions in the legislation is with respect to the 15 off-track betting sites is local zoning. It's not in the legislation. I just want you to know that the Sports Authority has always respected local zoning regulations, and we've been involved in a lot of projects around the state. If you wanted to build something in, it doesn't offend us at all if you wanted to make a reference in the legislation.

SENATOR BARK: Thank you. I do believe that Bill Dressel, from the League of Municipalities, is here and may want to address that issue. I think it's a very good issue along with the other issue that goes with municipalities is also the liquor license, which is another issue. I believe because most municipalities now govern who gets those licenses, and I'm not sure that they're going to-- I'm not even sure my town would have one available, so we might be automatically out of the running to have an OTB, and I'm sure that my town is not the only town. There's probably a lot of

other towns who have utilized all their permissible liquor licenses, I think. I think this is something to take a look at anyway. Maybe you need a special license for these parlors or whatever, but I do believe it could be an issue.

SENATOR BATEMAN: Just precedent for that.

SENATOR BARK: So I would ask you to think about that, if you would please.

MR. GARLAND: Absolutely.

SENATOR BARK: Anything else? Anyone else have any other questions? (no response)

And I thank you very much.

Mr. Garland, are you going to stay in case we have further questions?

MR. GARLAND: I'll be here all day, Senator, yes.

Thank you very much.

SENATOR BARK: Thank you.

I would like then to call on Bill Dressel and Mayor Dancer.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Mayor Dancer had to leave.

SENATOR BARK: He had to leave. Oh, okay. I'm sorry.

WILLIAM G. DRESSEL JR.: Thank you very much, Madam Chair, members of the Committee. My name is Bill Dressel. I'm the Executive Director of the State League of Municipalities, and I am here to raise a couple concerns that we have made note of in the legislation.

I noted with interest, Madam Chair, that the bill will not be coming up for a vote until the 17th, and I will get more detailed comment back

to you before that time. In my review of the legislation, I think first and foremost the concern that Senator Bateman raised with regard to the home rule concern. I think in Section 7 of the bill it does discuss a public hearing; however, it does not suggest or make mention of the fact that these applications would include any approval by the local municipality for planning or zoning, nor does it discuss any site plan approval. There's no mention of the fact that -- how far would these projects be from the distance of such things as churches, schools, day care facilities, etc. I think that the point was well made and I would echo that concern that by all means that these applications must include approval by the local jurisdiction for planning, zoning, and site plan approval.

With regard to your concern on liquor licenses, I do not see anything in here which suggests, one, as you correctly noted, there are a finite number of liquor licenses available through the State. I plan to do some further research with regard to that, but absolutely that is issued through the municipality, and there has to be some mention of the municipal involvement with regard to the initial issuance of the license. And again that is something I will get back to you with some specific recommendations, Madam Chair.

Section 36A, Page 21, provides for payment in lieu. I think this is unprecedented in that we're providing in lieu tax payments to commercial enterprises. Yes, the property is going to be basically purchased in the name of the authority, but in essence, we're giving out a benefit to in lieu tax payments to commercial enterprises, and I think that's a dangerous precedent, and we would be opposed to that. We would also support that all of the property be subject to local taxation -- local real property taxation. There is

some language in there I am going to look at, but I think on first blush we would insist that all those properties be subject to real property taxation.

Also, Section B -- or subitem b. of Section 36 -- it talks about-- Let me read this. It says, "Each municipality in which any facility licensed by the Commission is located shall provide for the facility, police, fire, sanitation, health protection, and other municipal services of the same character and to the same extent as those provided for other residents of the municipality." Residents, I interpret that to meaning residential services. This is a commercial use. You should consider changing that to commercial uses. In many towns, we provide solid waste services to the residential, but we do not provide solid waste services to the commercial. That would be under a separate contract, not in all cases, but in most cases that I'm familiar with, and I would point that out as a concern.

There are some of the issues that kind of jumped out at my first review of it. I will get back to you, Madam Chair, with more specifics, but again I think there has got to be more attention here payed to the municipal concerns and the home rule concerns, specifically planning and zoning.

And I thank you for your time.

SENATOR BARK: Thank you. And I would also urge you to get -- anything that you get to me, please share that with Senator Codey and Senator Singer.

MR. DRESSEL: Absolutely. Absolutely.

SENATOR BARK: They are the sponsors of the bill.

MR. DRESSEL: Absolutely. I'll get that to you as soon as possible.

SENATOR BARK: Thank you.

MR. DRESSEL: Thank you.

SENATOR BARK: Are there any questions? Anyone have any questions? (no response)

Thank you very much, Mr. Dressel.

MR. DRESSEL: Thank you.

SENATOR BARK: Next, I'd like to have Hal Handel.

HAL HANDEL: Madam Chairwoman, Senators, I'd like to introduce myself. My name is Hal Handel. I'm the President of Penwood Racing, which is the joint venture comprised of Greenwood Racing, a Philadelphia-based company, and Penn National, a Harrisburg-based company that have acquired Freehold Racetrack and have entered into a lease on Garden State Park.

We would like to commend the Sports Authority for the leadership position they've taken on this bill and for the fine work that the Thoroughbred and Standardbred horsemen and breeders have done in providing input to bring this bill forward. As a company involved in both off-track betting and account wagering in Pennsylvania, I can assure you that this bill were to pass, and obviously there is going to be some amendment on some issues, would represent a new standard for this book of business. It's by far a better piece of legislation than either Pennsylvania or New York operate under and, in my opinion, would serve as a model for other states in the country as they move forward in this area. So we are supportive of the bill.

If anyone has any questions for me, I'd be happy to try to answer them.

SENATOR BARK: Does anyone have any questions?

Senator.

SENATOR CODEY: Hal, in regards to the issue of Garden State. You heard what I said before, especially from those legislators who represent South Jersey. They're concern that this bill would help Garden State close, as opposed to help it stay alive in the long term.

MR. HANDEL: It's a very vexing, very difficult issue, Senator. We have a seven-year lease on Garden State Park. The lease can be terminated by the leaseholder, which is still ITB, at any time after the first 12 months if, for instance, they find a buyer for the real estate. I've gone on record with the New Jersey Racing Commission and with the horsemen's groups at the dates hearing this past fall that our intention is to at a minimum race through the year 2000 at Garden State Park provided that we're in a legal position to do so.

The results from the abbreviated Thoroughbred meeting this past winter was somewhat heartening. The purses per race were significantly better, which meant for a better product. I think the meeting at that level had some life to it, so we're at least somewhat encouraged, but it would be disingenuous of me to sit here and say that this legislation or any legislation can assure the political body of New Jersey that there will be live racing at Garden State Park, say in the year 2003 or 2004. We think, at least our company's opinion is, that the network and system that this legislation would create would, in fact, be an inducement for operating racetracks to run more racing days, not less. I'd be happy to try to explain that to you. The most profitable race for a consortium of racetracks, and for the horsemen as well, for a wager to be placed on is a New Jersey race. There's no out-of-state commission payed to

another racetrack. So the economic return is the strongest of any dollar bet. We believe, and especially on behalf of Freehold, that under this legislation the concept of a guarantee of a minimum number of live dates at Freehold would not be a problem at all. We would be happy to make that and would respect that kind of (indiscernible). And we believe and have communicated to the Standardbred horsemen of New Jersey that we think that under this legislative package, there would be a tremendous incentive to run more days at Freehold and not less. And that's the posture with which we're looking at Freehold.

SENATOR CODEY: So you can understand their concern--

MR. HANDEL: Yes.

SENATOR CODEY: --that they echo. Do you have an option to buy?

MR. HANDEL: We have an option to match, whatever--

SENATOR CODEY: No. Option to purchase it after seven years or within those seven years?

MR. HANDEL: I'm not sure of that. I know within the seven years, if ITB advises us that they have a bon afide offer to purchase the land, we have an--

SENATOR CODEY: Match?

MR. HANDEL: --ability to match that price and acquire the property. But obviously, if the property is going to be acquired as a real estate play, that's a whole different multiple of value than what's barely a break-even racetrack.

SENATOR CODEY: So there's a different multiple of value if, in fact, this legislation passes.

MR. HANDEL: I'm not sure of that.

SENATOR CODEY: Well, it makes the entity itself more valuable.

MR. HANDEL: It should. It should.

SENATOR BARK: Anybody else have any other questions? (no response)

Will you be staying with us, Mr. Handel, in case there are questions later on?

MR. HANDEL: Yes, I'll be here all day.

SENATOR BARK: Thank you.

MR. HANDEL: Thank you.

SENATOR BARK: Frank Zanzuccki, New Jersey Racing Commission.

F R A N K Z A N Z U C C K I: Madam Chairwoman, members of the Committee, my name is Frank Zanzuccki. I'm the Executive Director of the New Jersey Racing Commission, and I want to thank you for this opportunity to speak in support of S-1961.

The legislation authorizes the establishment of off-track wagering facilities and a statewide account-wagering system in New Jersey and delegates to the New Jersey Racing Commission licensing and regulatory oversight responsibilities. Neighboring states such as New York and Pennsylvania currently permit these types of wagering on horse races. Not only will this bill allow New Jersey racing industry to compete with these neighboring states, it will also serve to promote the economic future of the horse-racing industry in New Jersey and increase the potential for employment, commerce, and

recreational opportunities for our state that results from a healthy horse-racing industry.

As authorized by the bill, the Commission is charged with promulgating comprehensive regulations to guide the implementation of off-track wagering facilities and the account-wagering system. These contemplated regulations will include procedures and conditions for the issuance and renewal of off-track wagering licenses, the maximum hours of operation, standards for size, seating capacity, parking, and services to be provided, procedures for issuance and renewal of account-wagering licenses, and employment qualifications for employees of off-track wagering facilities.

The bill provides for the public to participate in the licensing process by requiring the Commission to hold a public hearing in the municipality where any proposed off-track wagering facility is to be located. In the Commission's experience, these hearings are essential to obtain the necessary input from all interested parties, especially those in the municipalities directly affected by a proposed facility. The Commission is also responsible for regulating the facilities themselves. Thus, once a license is granted, the Commission will take all the necessary steps to ensure that these facilities operate properly and in accordance with statutory requirements and will meet the highest standards.

I believe that the Commission's 60 years of experience in regulating every facet of the horse-racing industry will help enable the State to offer off-track and account wagering with every assurance of fairness, quality, and integrity.

Thank you again for the opportunity to speak in support of this legislation, which is of great importance to the racing industry.

SENATOR BARK: Thank you.

Does anyone have any questions? (no response)

Thank you very much. Will you be here, too, if there are other questions?

MR. ZANZUCCKI: Yes, I will.

SENATOR BARK: Thank you.

Stanley Panco, Executive Director, Thoroughbreds.

Good morning.

STANLEY PANCO: Good morning. Thank you for the opportunity to speak.

I have distributed a letter with some figures that you may be able to look at, at your leisure. We all know this piece of legislation will permit off-track betting parlors and telephone wagering. It is imperative that we do not allow the inequities in this type of wagering as we did in full-card simulcasting. As you can see from the enclosed chart that the harness industry has received over \$70 million during the last six years, since the implementation of full-card simulcasting for purses that should have rightly gone to the Thoroughbred industry.

This means that we lost \$12 million a year that if applied to Thoroughbred industry purses, would have allowed for many additional Thoroughbred racing days and increased the overall purses higher than we are receiving now. This would have encouraged better trainers and better horses to race here over a longer period of time, which in turn would have produced

a more marketable product to sell to our out-of-state simulcasting facilities, which in turn would have generated additional revenue for purses. In other words, it's a vicious cycle. But instead, using Thoroughbred money, the Standardbreds have benefited from this scenario that I just set forth.

I would respectfully request that you do whatever you can to help the pendulum swing in the Thoroughbred industry direction. To accomplish this, I would like you to ask Bruce Garland and the architects of this bill to address the eight concerns that Thoroughbred Breeders' Association has outlined in the attached document.

Some of the things that we're concerned about is live racing dates, but more dates is not the answer. It's more purse money. The reason why the Standardbred industry has not lost racing days is because they have our money to support the purse structure. If we had \$12 million additional a year, we'd be able to put probably 25 more races on for the Thoroughbreds, and we would be able to increase the purses. So you don't need a guarantee of racing days, you need a guarantee of dollars. Those dollars will then go into live racing. You can't take a small pot and whack it up too many ways; otherwise, you're going to end up with purses that will not attract good horses, that will not allow for an owner to even breakeven. I'm not saying a profit.

I'm the Executive Director of the Thoroughbred Breeders' Association, but I'm also a breeder and an owner. I have nine horses that race track. I have nine bay beauts that will be broke this fall. I have 25 horses totally, so I'm looking at it from all aspects, not only as a leader in the Thoroughbred industry, but an owner and a breeder myself. I feel that this bill, if passed in its present form, would be the end of Thoroughbred industry

in this state. There's no reason why we should give a portion of our money to the Standardbreds.

I am sure that if the Democrats held a fund-raiser and raised \$14,000 and the Republicans raised \$86,000, the Republicans wouldn't be happy to put that in the pot and split it 50-50 and say, "Oh, that's fair." Because you know what would happen? The same thing that happened to us when we gave them our money. We were the big -- '70s, we were the big guns, but we took care of them like little brothers. And guess what? They grew up and overtook us. And that would be the same thing if you gave the Democrats your fund money. The next thing they would be the majority party. So I think that what you earn you should be able to utilize, and what we earn we should be able to utilize.

We spend millions of dollars annually on national advertising to promote Thoroughbred racing. And who benefits mostly in New Jersey? The Standardbreds. Not fair. We ask our breeders to make a contribution when they register their foals. We make the buyers of horses make a contribution based on the value of the foal or the horse sold. We make the sellers pay a portion, but where's it going? In New Jersey, it's going to the Standardbred industry, and it's not fair.

At one time, yes. When Codey was talking about the '70s, racing was great. You know where it was great? In the Thoroughbred industry. It wasn't great in the Standardbred industry. They had a little fair-type operation at Freehold. We felt sorry for them. We give them the bigger percentage of the handle, and guess what? They overtook us. And now we're not talking about affecting the windfall that they're receiving from the current

legislation. They're going to still receive that, but we don't feel that we should perpetuate a bad thing, and we can't do it, and we can't support it.

Now, there are some other minor things in this bill that we have to address, but I don't know how to address them until I know what portion of the handle we're going to get. It's like me asking you, "Could you live on half my salary?" when you don't know what my salary is. And this is what you're trying to say, "Is that percentage big enough?" Big enough of what? I want to know what we're dividing up. And if they're getting the majority of it, there's no percentage that will satisfy me.

I'm concerned about the makeup of this bill as far as licenses. If a licensee gets a license and closes down racing, does he still have the license?

Senator Codey and Mr. Bateman said it's cheaper to operate an OTB facility, an off-track betting facility. But guess what? In this bill, the licensee gets more than if he was running a racetrack. That's not right. He has no cost of maintaining a backstretch or maintaining a racetrack. All he has is a betting parlor. And if he's going to get a bigger percentage than handle, sure he's going to close the racetrack. I wouldn't keep it open either. It's a necessary evil. This bill has to address that and has to address it financially. I think that an operating racetrack that loses dates or closes should be a financial burden on the licensee. That money should revert to purses that can be used at the tracks that remain open.

So there are a lot of things-- I'm not going to belabor this, but there are a lot of things in this bill that upset me. I can see the telephone wagering going to Pennsylvania and us just getting a pittance. I can see where Greenwood Industries would own more than half of the off-track betting

facilities because right now they own four permits. They have two permits at Garden State and two permits at Freehold. If they whack it up according to the number of permits that each racetrack has, they're going to get four. If they give two to each permit holder, they're going to end up with eight.

It says in a news article that New Jersey Sports Authority would be getting a fair share of the profits on telephone betting. Who knows what the fair share profit is? I don't know. And until some of these questions are answered, I respectfully request that you hold this bill.

SENATOR BARK: Thank you.

Anyone have any questions? (no response)

Thank you very much.

Next, Robert Liguori representing Local 137.

UNIDENTIFIED SPEAKER FROM AUDIENCE: He's out in the hall.

SENATOR BARK: He's out in the hall.

UNIDENTIFIED SPEAKER FROM AUDIENCE: He'll be right in.

SENATOR BARK: Seems like more is going on in the hall than in here. I hope they get it resolved.

Good morning.

ROBERT LIGUORI: Good morning.

I apologize. Senator Codey and the Committee were so convincing that we were partaking in some negotiations outside.

SENATOR BARK: That's fine. My true interest is resolving the issues so that, in fact, we can vote this out on the 17th. So if you're doing that, that's great.

MR. LIGUORI: It's wonderful. I can be optimistic and say things look better than they did at 10:00.

SENATOR BARK: Great.

MR. LIGUORI: So at least we're moving a little bit forward.

SENATOR BARK: That's what this hearing's for.

MR. LIGUORI: My name is Robert Liguori, and I'm the Business Manager of Sports Arena Employees Laborers Local 137, and we represent the racetrack employees in the State of New Jersey, most notably the parimutuel clerks and the admissions department personnel. I'd like to thank you for the time and the consideration to hear our plight and our side of the story.

When I reviewed Senate Bill No. 1961, it appears to me -- and I know all the issues aren't resolved yet, but it looked like almost every part of the racing industry has something in that bill to cover their issues except labor. We've been through the mill, back and forth in negotiations, discussions, but when I look and I see the Racing Commission has language in there about jurisdiction and about funding, and I see the owners, breeders, and horsemen's groups have language in there about purse money and funding -- and although they might not have an agreement, it's in there: Backstretch Benevolence Association money for health care, Council on Compulsive Gambling money to do the fine job they do, and of course, our racetrack operators for increased revenue. There's even language in there for -- to create a special racing industry special fund that will help generate purse money, which is wonderful.

And even the Governor's Office has a piece in there that would allow the Governor's Office to veto Racing Commission minutes. So it looks like pretty much the entire industry has at least something in there.

And when I looked down the list, I see none of our issues. None of the labor issues that we've tried to bring to the forefront prior to the referendum having been addressed. We've talked. We've discussed, and we've had some verbal commitments, but we're looking to try to get some of the commitments right built into the legislation. We don't want to overburden the process. We've heard about mandating live days and how important live days are to the industry, and we're on board with that, and we think that's important to do. We're willing to discuss the numbers and where that should go.

One thing that you haven't heard that we brought up and is some kind of a reasonable limit on the number of off-track sites -- the bill calls for 15 and, I guess, after a two-year period-- We're concerned about the saturation of off-track sites and how that's going to cannibalize and affect the on-track attendance and handle and therefore our jobs as admissions clerks and parimutuel clerks. So we think that needs to be addressed.

We discussed about a mandate maybe of trying to keep existing racetrack facilities open when there are no periods of live racing. For example, Meadowlands historically closes for about three or four weeks in August. And with the hard work of the industry several years ago, we all worked together to get full-card simulcasting from across the country, and it's kept our tellers employed during those periods when there's no live racing. And we would like

to see some kind of condition that the racetracks continue to stay open in between periods of live racing so that those jobs don't move off track.

Finally but, of course, most importantly is that you heard Senator Codey talk about the ability for our existing employees -- existing members and employees of the racetracks to be able to transfer laterally to these new operations both phone bet and off track. We've learned in Pennsylvania -- we also represent the same group of people in Pennsylvania -- 10 years ago, when off-track and phone betting were introduced, there was a gradual but steady decline in on-track attendance and hence on-track jobs. And what happened there was that the on-track, long-term career racetrack jobs were cannibalized by off-track, part-time, no-benefit jobs, and we've been fighting an uphill battle ever since.

We don't want to make that same mistake in New Jersey. We think the racetrack owners have a great plan with keeping this a statewide, uniform system both in off-track and phone wagering, but we would like the ability to maintain our current status -- for these people to transfer and maintain their status, and then we would be more than willing and have been more than willing to sit down and negotiate all the other terms and conditions. I'm not asking the Senators to sit there and do our negotiations. I know that's our job. Our members have come too far and have given many concessions within the last several years industrywide to try to keep racing viable, to try to maintain our jobs, and to try to keep the racetracks open and running. I think if you ask any of the operators, they'll admit that we've done our share. We've given back wages and benefits and everything it took to try to stay things. We don't want to be left out in the cold. They sold this prior to the referendum

as a preservation of the racing industry and a preservation of open space and a preservation of jobs. And that's what we're looking to do. We're looking to preserve our jobs, and before we create new jobs, which they've indicated they would like to be part-time, no-benefit jobs, and we'll negotiate that as it goes -- but before we create these new jobs, we want our members to have the ability to preserve their career and their jobs.

So we're hard at work. We're talking with the management, and for now we oppose this legislation as it's drafted, and we hope to be able to offer with the help of everyone involved -- we hope to be able to offer an amendment that we can live with. And again, it's not going to be a long wish list. I always have my wish list with me if anyone wants to listen, but we'll do that at the negotiating table, but we're looking to a couple of key issues about -- in the legislation to try to preserve this transfer -- this lateral transfer.

SENATOR BARK: Thank you.

Are there any questions? (no response)

Then I'm going to just say why don't you go back out and see what you can negotiate. I think if we can get this problem solved, we might be on our way to a bill.

MR. LIGUORI: Thank you, Senator.

SENATOR BARK: Thank you very much.

MR. LIGUORI: Thank you.

SENATOR BARK: Kevin Jarvis.

KEVIN JARVIS: Thank you, Madam Chairwoman, members of the Committee. I'm here today representing the New Jersey State AFL-CIO, and

to a large extent my comments will echo those you've heard earlier from both Senator Codey and Mr. Liguori, who just spoke.

We do have some concerns with the legislation in its unamended form, specifically with the protections for the current racetrack employees. Some of the other gentlemen who testified today mentioned how important this legislation is to the farmers, to the horses, but we just want to drive home the issue and ensure that the Committee members remember that just as important are the workers and the employees and their families, some of whom are here with us today.

As the attendance at the racetracks decreases and shifts to the off-track facilities that are to be established by this legislation, the need for skilled and experienced racetrack employees will also shift to the off-track facilities. And so we feel very strongly that the voluntary transfer ability of the employees that Mr. Liguori spoke of are critical and need to be amended into the bill.

Contrary to some earlier testimony that this bill will improve everyone's economic position in the State of New Jersey, without these protections that's a hollow statement because it won't improve the economic conditions of the current employees, which again we think is pivotal. We've heard the analogy before by Senator Codey. Why should a parimutuel or a bartender or a clerk who's earning whatever the rate maybe, \$10, \$15, \$20 an hour, at a live racetrack be required to move to an off-track facility, a part-time job, half the wages, no benefits, when really they're doing the same work? It's just really a shift in geographic location, and they're getting their pay cut and their benefits cut. It's a fairness issue. It's an equity issue we think.

I just want to remind the members of the Committee that the referendum on which the bill is predicated was, in fact, designed to help the horse-racing industry to create jobs and to help the current employees. And without labor protections in there, it won't do that, and it won't be true to the intent of that referendum.

So again we thank the members of the Committee for listening. We thank Senator Codey, the sponsor, and for his willingness to listen to our concerns and to consider amendments to the bill. We thank you for your time, and we will be working on language that, hopefully, everyone will be able to live with and will provide the protections that we think the bill requires.

Thank you.

SENATOR BARK: Thank you.

Does anyone have any questions? (no response)

Thank you very much.

Now, I have a number of people signed up from the Thoroughbreds. I'm sort of hoping you don't all want to speak, but I will give you an opportunity to do so if you really want to. They are Mark Fleder and John Forbes.

Would you like to come up together? (affirmative response from audience)

Do all the rest of you, like, want to speak, too? Do all these people want to speak? (affirmative response from audience) Okay. And then I would ask you, as you follow these gentlemen, please don't be too repetitive. I would appreciate that a lot. I think the Committee can understand it if it's said once to us.

Thank you.

J O H N H. F O R B E S: Madam Chairwoman and members of the Committee, thank you very much for giving us a chance to speak to you. We'll try to be as brief as we can. My name is John Forbes. I'm the President of the Thoroughbred Horsemen's Association in New Jersey. I'm a horse trainer. And because Mr. Fleder is going to represent the Association, I'm going to speak to you as a horse trainer.

The advent of full-card simulcasting in New Jersey has had a negative effect on the existence of live racing in New Jersey, and that's the point that I want to bring up as a trainer. I moved here around 1980 with a stable of horses. New Jersey at that time had a fairly full schedule of racing days. Keep in mind that we need to attract horses and horse owners to this state in order to put on a live program.

In 1992, we started down a road with an experiment to import betting on horses from other states. That's how we make our money in this industry. As a horseman, we love to see people betting on race horses, but depending upon where the race is run and where the race is bet on, money begins to shift. Prior to 1992, the only race that you could wager on in New Jersey -- 95 percent of the races were bet on live horses running in live races in New Jersey. So there had to be a horse show up before anybody could bet. In 1992, we thought it would be a good idea to import the signals from all over the country, we could increase the handle, we'd all make more money, and what has happened is the handle has increased, but the affect has been on our live-racing product, rather surprising. We have 141 less live racing days since we started to bring the signals into the state, which is, of course, from a

trainer's standpoint a very difficult situation. I'm having a lot of difficulty, as are most trainers, attracting owners to come to New Jersey because there are no races to run the horses in. And as that number shrinks, it's becoming increasingly difficult.

I think that it's probably best expressed by a statistic. In 1992, about 100 percent of the money bet in New Jersey on horse racing was bet on live horses racing here. Now that number is one-third of the money is bet on horses that race live here in New Jersey. So that is the trend that is affecting me as a trainer. So our concern is the protection of those live days be addressed in this bill and legislation because it's very clear that it's much more profitable and easier to make the money selling the bets if you don't have to put the race on. Of course, I'm the guy who shows up with the horse. We know that live racing is going to be the essence of our existence and some protection of it really needs to be, we think, dedicated in the bill.

Secondly, and I'll only make one more point after this, our concern is that as the business migrates away from our live tracks and the tracks where we now show full-card simulcast, we know they'll be a migration of -- the handle at those tracks will be lower because of the new OTB facilities. As that money shifts over to the new OTBs, we will lose what we get that's bet now. So we're concerned that the percentage dedicated, set aside, for purses at the new facilities where they don't even need to put a racetrack is at least the same that we get paid at the track. As we lose our customers at the track and they migrate to the OTB shops, we would like to at least get the same amount of purse money set aside at those OTB shops because we'll be losing the business on the other end.

And thirdly, the issue is how do we divide the money that is set aside for purses at the OTB shops. And because harness racing and Thoroughbred racing coexist in New Jersey, we are concerned about how that money is divided between the two breeds. Our feeling is that the money that's spent on Thoroughbred races should be dedicated to Thoroughbred purses and vice versa. One of the things that is most troubling to us is that presently 56 percent of the revenue from imported signals into the State of New Jersey right now is paid to the harness industry in the form of purses, but that 86 percent of the races that are imported are Thoroughbred races. So while our industry is sending in 86 percent of the product that's bet on, the harness industry is being paid 56 percent of the revenue from those signals. We've experienced firsthand what happens when that shift is put into place. As I say, we are down 141 days, and we're really afraid that if we lose anymore racing dates, we won't be able to attract any owners to New Jersey.

The final point that I'd like to make is something several of my clients have said to me. They've said, "John, you've got us to bring the horses here." And some of my clients live here. "Before we know it, the meet's over, and you have to pack our horses up and take them someplace else." We used to be able to stay here within our home state and race, but now you got to put them on trucks and take them to Florida or New York or Chicago or wherever it might be. We have to then be licensed in those states. We have to suffer that lack of use of the horse while he's on the road and acclimating to his new racetrack. And they said, "John, what really irritates us is, after we get to that new location, the signal, the picture of our horse that we put all this money in, is being sent back to New Jersey. and the money that's being bet on that horse

is paid to the harness industry.” And they think that that’s grossly unfair. They think they’re going to send their horse to Florida because Jersey racing stopped. And when that signal comes back into New Jersey with their horse on the television set, it shouldn’t be paid to a harness industry.

And thank you very much.

SENATOR BARK: Thank you.

Mr. Fleder.

MARK L. FLEDER, ESQ.: Madam Chairwoman, and other Senators and members of the staff, my name is Mark L. Fleder. I’m the Legal Counsel to the New Jersey Thoroughbred Horsemen’s Association. I’ve held that position since I helped form the organization more than 14 years ago. And my experience as a lawyer with Thoroughbred horsemen in New Jersey goes back almost 30 years. I’ve also been a Thoroughbred horse owner with some modest success.

I appreciate the opportunity to have members of our group and myself as well address you briefly this morning. You can well imagine this piece of proposed legislation is of terribly great importance to us. I would commend to you three notions.

Let me start by saying what may not be obvious. Very obvious to us, but it may not be obvious to members of the public who have little association perhaps with horse racing other than visiting a racetrack. There’s only one way that money gets into the horse economy in New Jersey, and that is that owner’s race horses win purse money at racetracks. That is where the money starts and ultimately funnels through all aspects. It gives owners money to buy horses, breed horses, hire trainers such as John Forbes. It gives money

to owners and trainers to pay for all of the services that create this multimillion dollar economy, everyone from the feedmen, veterinarians, owners of boarding farms, and all up and down the line every single aspect of that horse economy, which is terribly important in New Jersey, of course, pay taxes and large amounts of them.

We all know that a major proposition of passing the referendum was open space preservation and, of course, the preservation of the equine economy in New Jersey. And with all due respect to the great amount of hard work that went into the draft of this legislation that's before you, there is little here that specifically goes to the very fundamental issues of preserving live racing and the only method of supporting the New Jersey horse-racing economy. There's nothing in this bill and we would beg you to address the issue of how we are going to meaningfully protect live race dates in New Jersey as we enact legislation which will pass out licenses to a relatively small group of operators who will be able to operate off-track betting parlors and/or phone bet wagering systems which have nothing to do with running live races. To say the least, we are terrified.

When I testified in the front of the Racing Commission recently, I used that same phrase. We're terrified to watch the numbers of live-racing days year after year after year go rocketing downward, and we are afraid that without live race protection that at least the Thoroughbred part of this industry could be facing extinction in New Jersey. There is no one who wants that to happen.

Secondly, I would suggest to you as well that the matter, as John Forbes mentioned to you-- The matter of how the money is to be divided up,

and this is only the so-called new money. This is purse money generated under this bill from new forms of wagering. It has nothing to do with the existing legislation that permits full-card betting at racetracks on televised signals or at the casino race books. Those laws will stay in place until perhaps some attention is given to them with a view towards perhaps amending them.

But as to this legislation and the new money that's undoubtedly to be generated for purses, we would respectfully suggest that the draft which suggests an arbitrary 50-50 split between harness and Thoroughbred is unfair. It has no basis in any kind of fact. This kind of wagering is not competitive with wagering on the live racing, as could be argued at the racetrack when there's both live racing and televised racing. People who are betting in their living room on the phone or at OTB parlors that have nothing to do with live races being run along side of the televised signals-- People who bet on Thoroughbred racing ought to have those dollars that are generated for purses go to Thoroughbred racing in the New Jersey Thoroughbred industry. And we would challenge anyone to give you a logical explanation for any different arrangement. So we would again beg your indulgence on that.

I would just-- One other comment and that is briefly the following. There are others who are going to speak to this issue, but it has come to our attention that something, very frankly, that we thought was of not much matter to us originally is now a matter of some significant concern. This bill provides that bettors in New Jersey who would like to open up an account-wagering facility and be able to bet on the phone can only do that with the licensee who is given a license under this bill. The group of people who could qualify for that license is very small. It's either one or two entities. It

certainly is not people from other places. And we would call to your attention, and you're about to hear from a representative, the fact that there is an organization with which many of the people involved in Thoroughbred racing in the United States have had a hand in creating. This is putting together a system to be based outside of New Jersey but which intends to show really the majority of the best of the racing across the country, which in turn will command the best and largest amount of the off-track and phone wagering. And if that entity is precluded by this law from operating in New Jersey, there literally are millions of dollars of purse money and millions of dollars of monies which would come back to New Jersey racetracks which won't occur.

We are very seriously concerned about that, and you will hear shortly some suggestions for a rather simple amendment to that part of the bill. But it certainly would be of concern to New Jersey Thoroughbred horsemen to find that millions of dollars of money which could come from betting all across the United States, as well as in New Jersey, won't get back here if some entity is precluded because we pass a bill that says the only entity with which New Jersey residents can bet is someone who happened to have run some live racing in 1999.

We appreciate your patience and your attention to all of our representatives. We can tell you that we have and we will continue to work very hard to do everything possible. We support the intent of this legislation. It has some glitches that need to be addressed, and we know you will do that. We're anxious to do our part, and we very much appreciate your support.

Thank you and good morning.

SENATOR BARK: Thank you.

I'd like to call Alan Foreman.

ALAN FOREMAN, ESQ.: Good morning, Madam Chair, members of the Committee. My name is Alan Foreman. I'm an attorney, and I am Chairman and CEO of the Thoroughbred Horsemen's Association, which is located in Columbia, Maryland. I am not a New Jersey resident. I don't race in New Jersey. Our Association has among its members the New Jersey Thoroughbred Horsemen's Association, but I am very much interested in the state of racing in New Jersey and am happy to see legislation that hopefully will strengthen and make Thoroughbred racing viable into the 21st century in the State of New Jersey.

I was invited this morning to address one very specific issue, and that is a major issue of controversy in this legislation, and that is the breed-to-breed issue of the division of revenues between the Thoroughbred industry and the Standardbred industry. I think the reason why I have been asked to appear is because I come from a state that may have certain parallels to the issues that are being faced here in New Jersey. I don't obviously profess to know the nuances of what's going on here in New Jersey, the nuances of the legislation, but there are some parallels. We have a very viable Thoroughbred and Standardbred industry in the state of Maryland. We coexist and we have been in the position for a number of years, because of cross-breed simulcasting and out-of-state simulcasting, of having to deal with this very issue that you are dealing with.

Maryland has a very peculiar statute that was enacted before full-card simulcasting and off-track betting were enacted, and that prevented the Thoroughbred industry from doing any business after 6:15 p.m. When

simulcasting and off-track betting became very popular, it presented a problem for the state of Maryland in that we could not take Thoroughbred signals after 6:15 p.m., and it required a negotiated agreement between the Thoroughbred industry and the harness industry. We have been operating up until the present time under a joint agreement whereby all Thoroughbred signals that are taken before 6:15 -- all those revenues generated are paid to the Thoroughbred industry, and any harness signals that come in before 6:15 p.m. are divided 50-50 between the Thoroughbred industry and the harness industry. After 6:15 p.m. in order to allow Thoroughbred signals into this state, the Thoroughbred industry receives in a blended rate, because it's a rather complex situation, approximately 30 percent of those revenues and the harness industry approximately 70 percent.

That agreement and that situation has collapsed, and the harness and Thoroughbred industries have been negotiating for quite some time a new arrangement, and there is an agreement in principle that has been adopted, and there is an agreement that has been circulated. The issue of controversy is not the distribution of revenues. But what Maryland will be doing will be putting all wagering revenues into one pot whether it's live Thoroughbred, live harness, cross-breed simulcast revenues, simulcast revenues from out of state into Maryland, and the sale of races from Maryland out of state. All of those wagering dollars will be placed into one pot, and after certain expenses are taken off the top, 80 percent of the revenues will be paid to the Thoroughbred industry and 20 percent will be paid to the harness industry.

And there's a factual basis for that. And that is, and you can track this trend throughout the United States, 80 percent of the wagered dollars on

simulcast and live races are placed on Thoroughbred races and approximately 20 percent are placed on harness races. In fact, if you look at the Maryland numbers, approximately 82 percent is wagered on Thoroughbred races and approximately 18 percent are wagered on harness races. So it would be a substantial inequity in Maryland, and I would suggest elsewhere, to be paying the 50-50 and taking a substantial portion of dollars that are being wagered on the Thoroughbred product and giving it to a competitor.

The second aspect of that-- And I would suggest to you that it's obviously not based upon the number of harness operations in the state or harness farms or horsemen, the number of days, or otherwise. The racing commission/the task force that we have that is studying the viability of racing in Maryland have all concluded that based on betting patterns, an 80-20 split is a fair way to go. And quite frankly by putting all the money into one pot, we believe that everyone will benefit from that including the harness industry substantially.

The second and last point I'd like to make is that given the competition in the mid-Atlantic region that we all face, and I know you face here in New Jersey -- we have been severely impacted by casino gaming. The Maryland Legislature in order to help the Thoroughbred industry compete in the marketplace has granted purse enhancements. It's a rather unique feature of Maryland legislation where we are getting purse enhancements in 1999. Those enhancements will be \$10 million. The purse is to come from lottery revenues and other sources. Of those purse enhancements, 70 percent will be paid to Thoroughbred purses and 30 percent will be paid to harness purses. The original proposal, and this is the second year we will be doing it, was for

an 80-20 split, but because the harness industry needed some additional assistance, the Thoroughbred industry agreed to a split of 70-30. So I merely offer that to you as an example in the region of how the breed-to-breed issue has been dealt with.

I would suggest to you, in closing, that there is, and would be, an ongoing concern if a substantial portion of dollars wagered on races in Maryland and other states -- races being sold into the State of New Jersey -- if a substantial portion of those revenues were not being paid to the Thoroughbred industry who we are trying to help by paying those revenues to the harness industry.

I thank you for the opportunity for allowing me to appear today.

SENATOR BARK: Any questions? (no response) Okay.

MR. FOREMAN: Thank you.

SENATOR BARK: Richard Thalheimer from Kentucky.

RICHARD THALHEIMER: Madam Chairwoman and members of the Committee, I appreciate the opportunity to speak to you briefly today. I'm President of Thalheimer Research Associates in Lexington, Kentucky. I'm also an Associate Professor in the Equine Industry Program at the University of Louisville. The views that I give you today will be mine, and I have been retained as a consultant by the New Jersey Thoroughbred Horsemen's Association.

Over the past decade, I've performed a number of studies of the economics of horse racing nationally and in New Jersey. New Jersey has been one of my test areas and a place where research can be done because of the

many innovations that have been introduced here by the Sports Authority and other entities in this state, and they're to be congratulated for that.

Okay. Just to tell you sort of a background of what's happening in racing today, over the past several decades after inflation, betting on horse racing has had a severe decline. It's down about 40 percent or 45 percent since 1960, and the reasons for this are fairly well documented. That is, and even in New Jersey where we've done studies, we can attribute about 34 percent of this decline to the advent of casinos in '78 and another 15 percent or 16 percent to the lottery. So were there no lottery or casino gaming today in New Jersey, betting would be about 50 percent greater. It just says that the people who go to horse races like to do other things also when given the opportunity.

Well, how has racing combated this? And what I'm telling you here is that the trends -- the long-run trends in racing to combat this decline have been an increase in product, that is, getting the product, getting the signal, getting the races out to other places both in the state and out of state. And these have become very, very significant sources of revenue.

For example in New Jersey today, as Mr. Forbes pointed out, before 1992 when we had full-card simulcasting introduced here, everything was bet on live New Jersey product. After that and today it's about one-third, and the rest is bet on signals from out-of-state entities. So this is the future. The future is expansion of the wagering product. So the trend now is to offer a quality racing product. When I mean quality, the definition of quality in racing is purses. The better the purses, the better the event, the more the wagering. Purses, for example, would be purses for special events like Kentucky Derby. These types of purses are what attract people to horse racing

today, and we have to be able to offer that. So again this is the trend. Churchill Downs -- I know you are all familiar with that racetrack because of the Derby. Its stated program is to buy racetracks coast to coast and offer year-round simulcasting from Churchill. They want to be a provider. They want to be a survivor. They want to be a provider, and they want to offer quality racing year-round because someone in this industry, when it all shakes out, has to be the provider of the signal to these off-track betting parlors. They just don't go by themselves. So that's what they see the future as, and there a number of other racetracks doing the same thing.

And in New Jersey, your proposed bill here, which I commend you for, is forward looking. It proposes to have account wagering, telephone wagering, and off-track betting, which is merely an expansion of the racing product. But the trick here and the purpose of this bill, if I read it correctly, is to preserve live racing and to preserve jobs in this state and green space. Well, if you have no live racing, you have no racetrack jobs. You have racetrack jobs, you have no green space, you have no breeding, and you have no grooms, trainers, and owners. Those jobs are all lost, and that's more than half of the total 11,400 jobs that we've estimated in this state. So the live racing is very important, and the industry is preserved by purses.

And today to compete in today's horse-racing industry, the purses have to be competitive. Today the harness racing in New Jersey is the best in the world. The Sports Authority has done a marvelous job with harness racing. It's the best in the world. On the other hand, by far, the purses at the Meadowlands are 50 percent greater than the next racetrack nationally. On the other hand, the Thoroughbred racetracks are -- the two best, Monmouth

and the Meadowlands, are 10th and 17th in the country. They're 50 percent below the top purses being offered in the country today. And again the survival of the industry depends on being able to offer large purses, good quality racing, and be able to provide that signal all over the world. That is what will preserve jobs. That is what will promote live racing in this state and assure live racing days. The better the quality, the more people will bet, and the more days you can race at that level of quality.

What's been happening is the days are shrinking because the purses are not keeping up. The days are shrinking so that the purses are okay for each day of racing, but what's happening is as those days of racing decrease you lose jobs. You lose green space because there's no incentive for breeders because you don't have enough total purse money to go around. So it's an economic issue here. It doesn't look like you're going to have casino gaming at the racetrack, which is another big trend around the country. Currently, there are 12 states which allow that which have helped in a number of these cases. Money has been dedicated to purses, for example in Delaware, next door, which is now encroaching upon New Jersey racing and New Jersey horses. This is your shot. This type of expansion is your shot to preserve racing through an economically feasible plan.

Two more things that I want to mention here. Number one is, though, this plan is okay. It's going to generate more money. It doesn't look like it's going to generate a great deal more money, but anything is better than nothing. On the other hand -- and it could be good in the long run. It will be good. But on the other hand, it's the pie that is of importance to the horsemen in this racetrack. The total pie. We know by design when you add this type

of wagering, phone wagering and off-track wagering, that it is going to make it convenient for your customers, more convenient. And so you'll lose-- My money will migrate from the tracks to the off-track wagering facilities by design. There's nothing particularly wrong with that as long as the purse money increases. If you borrow from the on-track, you make it more convenient, your total wagering goes up, and your share stays the same or increases, the purses will go up.

In the bill as it is written now, the share going to the pie, going to purses for both breeds, is not large enough. Our computations show that it is -- they're going to lose. The Thoroughbred horsemen will make less on a dollar wager on off-track than on. That's not the intent if I read that correctly of the legislation. Then, the other issue, of course, is the split between the two breeds. All I can tell you here is objectively looking at numbers provided by the New Jersey Racing Commission, which they just get from the racetracks on wagering, 86 percent of the amount wagered on other races, out-of-state races in New Jersey -- 86 percent of that is wagered on Thoroughbred races, 14 percent on harness. That just says that people in New Jersey, accepting the absolute best in the world harness racing which they wager on, don't wager on harness racing from other states. They prefer to wager on the Thoroughbred signal.

So how that issue is resolved, I don't know. But it appears that the way it's split now with 56 percent of that money going to harness racing -- it appears to be inequitable and, especially since harness racing is at the top -- the very top -- by 50 percent and Thoroughbred racing is not and if it continues to go down, what you're looking at, in my opinion, in the long run, maybe not

too long run, is the extinction of Thoroughbred racing in this state and maybe all racing. So you need to have good purses. You need to have quality to satisfy the customers.

Thank you.

SENATOR BARK: Any questions?

Yes.

SENATOR O'CONNOR: What you said under the bill, the money that's going into the pot is not enough?

MR. THALHEIMER: Yes, sir.

SENATOR O'CONNOR: So how do we fix that?

MR. THALHEIMER: Well, the way this bill is constructed-- What I'm saying is it's not enough. What I mean is it doesn't give-- I know from the Thoroughbred horsemen having looked at what they get now and what it will be under the bill, you can raise the percentage going to what is called the New Jersey Special Fund up to a point where it will be equivalent to what they're doing now. It's a different formula, but it can be very easily fixed, and we know what we're getting now -- what we, meaning the Thoroughbred horsemen, are getting right now. The pie has to be right to start with, and then the agreement on the split between the breeds, that's a separate issue. The pie needs to be right to start out.

SENATOR BARK: Thank you very much.

MR. THALHEIMER: Thank you.

SENATOR BARK: Robert Penchina, and I hope I didn't mangle that too much.

ROBERT PENCHINA, ESQ.: You got it just right.

Good morning, Madam Chair, Senators. Thank you for the opportunity to address you this morning. I'm Robert Penchina of the law firm of Rogers and Wells LLP, and we represent TVG. I'm here to speak about a very important but very narrow issue concerning the account-wagering provisions of the proposed legislation and, in particular, a provision that on its face appears to be economically protectionist, and thus it would run afoul of the Commerce Clause of the Federal Constitution.

This is a significant defect, but there is a relatively easy solution, which I will discuss in a few moments. The proposed legislation would permit New Jersey residents to engage in account wagering but only if they did so with wagering systems in the state. Essentially, the legislation would permit residents to wager by telephone on horse races, whether they're run in the state or run out of the state, but only if the bettor's money stays in the state, and that is something that the Commerce Clause prohibits.

When Congress passed the Interstate Horseracing Act, Congress made clear that wagering on horse racing is a very significant interstate commercial activity, and generally, under the Commerce Clause when an activity falls within the area of interstate commerce, a state may not legislate that area in a way that benefits in-state economic interest but burdens out-of-state economic interests.

As the U. S. Supreme Court said in a case 20 years ago between the city of Philadelphia and this great state, "Where simple economic protectionism is affected by state legislation, a virtually per se rule of invalidity has been erected." As a result, the Supreme Court does not hesitate to strike down legislation that favors in-state commercial providers of services while

restricting out-of-state providers of that same commercial activity. Of course, this does not mean that states cannot implement laws to protect the commercial well-being or other well-being of their residents, but they must do so in an evenhanded manner that affects in- and out-of-state interests evenly.

And a simple example of that would be a regulation that is intended to protect minors that says something to the effect of, “Because we wish to protect minors, they may not engage in account wagering.” That would affect in-state providers as well as out-of-state providers equally, that is, none of them could accept a wager from a minor.

A bad example that would run afoul of the Commerce Clause would be a legislation that would state that “in order to protect minors, minors may only wager with providers in the state.” That kind of a rule would have a disparate impact on out-of-state providers, while leaving in-state providers unaffected.

The way this comes up in the current proposed statute is that it essentially limits New Jersey residents to wagering by telephone only with account-wagering facilities located in the state. This comes up in the current proposed Section 24A that states that “a bettor may not place an account wager unless the bettor has established an account with an account-wagering licensee.” And then the statute goes on to define account-wagering licensees as an “entity approved by the New Jersey Racing Commission to participate in account wagering provided for in this state.” And then later in the statute it makes clear that the Commission is only empowered to authorize those who have “held a valid permit to hold or conduct a race meeting in this state.” And then it’s all driven home by Section 24L, which says that would require

“persons accepting account wagers on behalf of an account-wagering licensee shall do so at a location within this state.” So that it makes absolutely clear that New Jersey bettors only can engage in account wagering within the state.

This is a very similar kind of restriction to one that the state of Florida had enacted which prohibited out-of-state financial institutions from providing certain investment services for Florida residents. And the Supreme Court recognized in that case that even though banking and related financial services are of profound local concern, they nevertheless struck down the legislation because of the disparate impact and the burden it placed on out-of-state providers while favoring in-state providers.

The Commerce Clause protection works both ways. I note that in the current legislation New Jersey would contemplate accepting wagers from residents in other states as part of this proposed system. And someone noted this morning that this legislation may, in fact, become a model for other states. If the other states were to follow New Jersey’s lead and prohibit their residents from betting with out-of-state providers, then New Jersey would not have access to the bettors in any other state while it could preserve its own bettors. But the Commerce Clause doesn’t permit the other states to engage in that activity any more than it would permit New Jersey to.

The fix for the statute is relatively simple. In Section 24A where the statute says, “A bettor may not place an account wager unless the bettor has established an account with an account-wagering licensee,” we should insert the phrase, “or other account-wagering facility.” And then in our definitional section we should add the definition or that phrase to mean “a facility licensed by the state in which that facility is located to conduct account

wagering.” In that way, the proposed statute would be consonant with the Commerce Clause and avoid being virtually per se and valid.

Thank you.

SENATOR BARK: Thank you.

Are there any questions? (no response)

Thank you very much, sir.

MR. PENCHINA: Thank you.

SENATOR BARK: Dennis Drazin.

D E N N I S D R A Z I N, ESQ.: Thank you, Madam Chairwoman, members of the Committee. My name is Dennis Drazin. I’m speaking here today as an owner and a breeder. I’m also an attorney licensed to practice in this state and have an active trial practice. My experience in the horse-racing business began through being taken to see horses by my father. In 1959, I first went out to the farms, watched horses that he had trained, became very enthused in the business, and dedicated a portion of my life, because my life is frankly very busy with the law, to some enjoyment in the horse industry.

During my youth, I became very friendly with another boy who ended up going to veterinary school at the University of Pennsylvania, and he and I began racing in New Jersey in 1981. About 1990, he decided that New Jersey racing and the purse levels that we received here were not really where he wanted to be because New Jersey was not doing enough to promote high purses, which in turn flows a lot of other benefits, and he broke off and went to New York. My heart was in New Jersey. I live in Monmouth County about 10 minutes from Monmouth Park. I go out in the mornings, and I get a thrill

from racing. It is truly my passion and my pleasure, and I would do anything to keep racing in New Jersey.

What I am concerned about is that I see the future of racing 10 years down the road of perhaps being in my home, sitting with either a computer or phone next to me, watching a racing product on TV from maybe 12 tracks throughout the country and having no ability to go to a live race here in New Jersey. We do not have sufficient protection in this bill. I commend all the work that everyone has done, and they've worked hard in trying to put forth legislation that would help the industry. The industry that I speak of is not only the Thoroughbred end, but the Standardbred, because both ends do need help.

What we see, though, is a desire in this field to make sure that we don't get bad legislation. We would rather have no legislation than something that's bad. And as Senator Codey expressed this morning and I think others have echoed and I was happy to hear Bruce Garland say that he is in favor of live racing and, perhaps, can work out something with us to guarantee a number of dates, but we desperately need a guarantee of live racing.

If you go back 10 years, we probably had 141 days more of live racing. When we did the full-card simulcasting, we felt that we had a representation that the days of racing would not be cut back beyond 75 percent of those levels, but nevertheless, they've fallen 140 days, and this has devastating effects to all of us. The difficulty that we're experiencing is that we see that Atlantic City is closing after this year. We think that although Garden State may have good intentions and will race in the year 2000, there is no guarantee beyond that date. We are then left with the Meadowlands and

Monmouth Park. We need a guarantee of a set number of racing dates and also a set number of purses to go into racing dates because the way that the legislation works now is not really working in a fair, equitable way to the horse owner.

What happens now, just to give you an example, is under the old legislation, the Standardbred end of the industry gets 56 percent of all the money bet even though we know that 86 percent of the dollars are bet on the Thoroughbred signal and 14 percent on the Standardbred signal.

This year, to give you an example, the Meadowlands meet was cut back 11 days for the Thoroughbred horsemen. When you cut back racing days at the Meadowlands under the current legislation that exists, that money goes to the next live meet racing at that track. So the Thoroughbred horsemen lost all the revenues that should of gone into their purses by virtue of the decline in racing dates, and that happens in each instance. So what happens, if you were to say that under the old statistics that a day of racing simulcasting was 70,000 a day times 11, you're losing \$770,000 that would go into it.

When New York started sending their signal in, we anticipated there was an increase, so you're probably talking about more like a million to two million dollars of lost purse monies, which is our money. Our meet was canceled. Our meet was shortened, but all those purses go into the Standardbred meet. That needs to be fixed.

Frankly, while we're fixing bills, I don't know why we don't go back to that old formula. And if the Standardbred people want to put everything into a pot and try and divide it equitably, that might be something different, but they don't want to give up their 56 percent on the old legislation.

So we're talking about new legislation. If the old legislation has to be challenged, then so be it. If it has to be amended, so be it. But on the new legislation, we should not be put in the same position that we were before. There should be an equitable split based upon the breed to breed which is the basis of how the money is bet.

What happens when you cut down dates, also-- New Jersey always had the year-round cycle so that what happened is that when you went from track to track, Meadowlands, Monmouth, Atlantic City, Garden State, you had year-round stabling for horses. The tracks had to be opened 30 days before and 30 days after the meet, so you could train and get ready for the meets. The way that things will be in the future with Atlantic City and Garden State closed for those purposes is that you'll have Monmouth Park and you'll have the Meadowlands. If the Meadowlands date is a short meet, you're going to have horses that are coming up here in April. You're going to have horses that are leaving after the Meadowlands. I mean, you're going to have a big period of time that people cannot train in New Jersey, and they have to go out of state. There will be no facility to train at unless you buy a farm or rent space at a farm.

This past year -- and I have 20 horses in training at the tracks right now. I have another 30 in breeding stock. What you have to do and what we had to do this past year, we had to rent a barn on the farm at additional expense in order to keep the horse there, and then we shipped down to Philadelphia Park, we shipped to New York, and these are expenses that some of us can afford, but the majority of the horsemen in New Jersey cannot.

I love racing in New Jersey, so if it costs me more to stay here, I would make that decision because I enjoy it, but there are a lot of people that are being put out of business. There are people who can't afford to ship all over the place. There are people who can't afford to take 20 horses down to Florida at an expense maybe of \$15,000 just to ship them. You have a situation where if you ship, the horses may get sick, and then you're out of racing, but we desperately need more racing days in New Jersey so that we have the facilities to keep horses coming to the state training and helping the little guy who really make up the farms, the people who are employed in this state. The majority of the people who are in this state in the horse business have their horses at farms. They train. They do their best, and they come into the tracks. They depend on the Garden State. They depend upon Atlantic City. They depend on racing days in order to make a living, but it's a more widespread concern than that.

In my law business, I have occasion to speak with many different people in the community. There's a significant economic impact that affects this entire racing area when you have less racing days. The people thrive on Monmouth Park. You go into any restaurant around Monmouth Park, you go into the car wash, you go into any of the industry or the commercial places around there, and they love it when Monmouth's open because they do at least 50 percent better when Monmouth is open. When Monmouth closes, their business goes downhill, and they are clinging on to survive till the next meet comes around. The same would apply to the other areas where racetracks are.

So I think the real important thing in terms of our opposition to the current legislation is the absence of a guarantee of live racing and also the

guarantee of the purses going into those dates. So if Mr. Garland can broker a deal or change the legislation so as to include the live racing protection that we're seeking, we certainly welcome that.

On the split -- the breed-to-breed split -- that we're seeking, if the breed-to-breed concept is offensive to someone and instead in your wisdom you can work out a equitable way of applying a formula taken into consideration the fact that 86 percent of the money is bet on the Thoroughbred industry and 14 percent on the harnessbred industry, then so be it. You have that ability to use your equity to work out those numbers. We've met with them on a number of occasions, and their concerns are legitimate, too. We're not trying to hurt the Standardbred industry. What they have said to us in effect, as I read them, is that we've -- we're now No. 1 and No. 2 in the world, being Meadowlands and Garden State. We recognize that you're maybe 10 and 17, and we want to help you, too, but what they say is that they want some protection that their purse levels stay the same, that they stay 1 and 2, and that any money that's coming in goes to give them something also because they will have cost of living increases, there will be inflation, and they want to keep up with what they're doing now. But there should be some ability to create a formula which, while doing that for them, gives us something where you're not taking it away from us. In the past, you've taken it away from our industry to elevate their industry, and we're trying to set things back straight.

Senator O'Connor, I wanted to try and respond to a question that you had asked of Professor Thalheimer on the takeout, the money that is the handle. The Standardbreds by legislation get 4.7 percent. The Thoroughbred

industry has been getting 5.7 percent the way that it works currently. Under the proposals in the current bill, under the current level, the Thoroughbred industry would be dropped. We would not get our 5.7 guarantee. We'd be back down to about 4.7. It doesn't affect the Standardbred people because that's what they're getting. It does affect us. So the handle that is the big pie that we're trying to split, you have to raise from the 30 percent to 40 percent under our numbers in order to make it 5.7 and keep us all. By the same token, you have to look at the telephone account wagering, and you have to raise that from the 20 percent to the 40 percent. And that would create the pie which then the Standardbred and Thoroughbred people could divide. And what we're trying to get is an equitable approach to all of this.

I know that I could probably go on forever, but you've got a lot--

SENATOR BARK: Well, I would ask that you not. (laughter)

MR. DRAZIN: --of other people to hear.

SENATOR BARK: Basically, I think that we can summarize the issues from what has been stated here already, and that certainly is the division of the pot, how much the pot should be; account betting versus State slice U.S.A.; Thoroughbred versus Standard purses; labor issues; live days of racing; and track facilities available for Thoroughbreds. Now, that I think summarizes pretty much a lot of the issues that have been presented here today without the detail that all of you have provided.

Having said that, and I thank you very much for your testimony, I have three more people here from Thoroughbreds. I would ask you to please try to not be repetitive.

Anthony Costabile.

I wanted you to understand that we have gotten a lot of information from you. You have presented us with a lot of the issues, and I would ask that you keep your remarks very succinct.

ANTHONY COSTABILE JR.: Okay, thank you.

Thank you for having me here this morning. My name is Anthony Costabile Jr. I'm President of Equine Services, a company involved in the horse transportation industry in the State of New Jersey for the last 21 years. Equine Services has various types of -- transports various types of horses throughout the state including Thoroughbreds and sometimes Standardbreds. Its employees are mostly residents of the State of New Jersey. It is in accordance with this that we are concerned about the live racing dates and the purse structure within the State of New Jersey. Our business depends on the quality of racing, both New Jersey and New York. If New Jersey's horse-racing industry died, we would be out of business, as well as my employees would be out of jobs, and so on, and so forth, with the people that I do business with -- gasoline, tolls, so on, and so forth.

We are dependent on the horse owners and trainers with large operations staying within the state, and that would depend on the live racing dates as well as the purse structures. Those of us who own and manage our business would like to keep racing in the State of New Jersey alive and well into the next millennium and as far along as we possibly can.

I thank you on behalf of my employees and everyone else.

SENATOR BARK: Thank you.

MR. COSTABILE: Thank you very much.

SENATOR BARK: I appreciate it.

Do you have any questions, Senator O'Connor?

SENATOR O'CONNOR: No.

SENATOR BARK: Okay.

Edwin King is a jockey. Did you wish to speak?

EDWIN KING: (speaking from audience) Obviously, saying the same thing.

SENATOR BARK: Okay.

MR. KING: I just want to let you know we're here representing the riders, and we want live racing.

SENATOR BARK: Live racing and, I assume, lots of Thoroughbreds, too. Okay. (laughter) I appreciate that.

Rich Ciambrone from Mid-State Feed. (witness declines to speak from audience)

SENATOR BARK: And basically, you want more live days and more horses. (affirmative response from audience) Okay. And thank you very much for being here.

Leon Zimmerman and Pat Salerno.

LEON J. ZIMMERMAN: Thank you very much, Senator, and members of the Committee. I've submitted to you a prepared statement which I will not read and instead try to hit the highlights and summarize our position.

I think you've heard a pretty consistent theme throughout here which the Standardbred industry-- By the way, Mr. Salerno is the Executive Administrator of that Association which represents more than 6000 people actively involved on a daily basis in harness racing throughout the year on a

full-time basis throughout the year. We heard here today the importance of protecting live racing, and we also support that very vehemently. We would love to see a guarantee as well of live racing dates, but we realize that that might not be practical in some cases. At the very least, we should suggest to you that if you can't see your way clear to protecting live racing in that manner that you would at least provide in the statute language that would allow the racetrack permit holder, off-track wagering system to negotiate with the Horsemen's Associations the minimum number of live racing dates. There's precedent for that in the statute. There already exists a provision for the racetrack permit holders to negotiate the split of overnight purses for races that are run regularly at stakes races, and that's part of what's negotiated in the contract between the horsemen's group and the racetrack. And I think at the very least, you could do that same thing with minimum number of racing days, and that would be a way to protect it because the horsemen's organizations would be then fighting for that.

We saw with the referendum that was passed, and we all worked very hard for the passage of it, the primary goal there was to allow the Legislature to provide for additional forms of wagering and additional systems to help provide more revenue for the industry. The reason for that, obviously, is yes it would provide more jobs, yes it would preserve open spaces, but the principal thing is that it would increase purses that would allow New Jersey to remain competitive with its neighboring states.

We look at the State of New Jersey and see that we have more than twice as many harness racing dates as Thoroughbred dates. There are twice as many Standardbred horses as Thoroughbred horses. And you heard

Senator Bateman, by the way-- We probably all wouldn't be here if it wasn't for the foresight of Senator Bateman and people in the Legislature and the administration in the early '70s to develop the Meadowland Sports Complex, which provided the best harness racing in the world right here in New Jersey.

And with me today, and he's not going to testify, but Mr. Tom Charter's (phonetic spelling) over here, the President and CEO of the Hamiltonian Society, and they operate and present the most prestigious harness race in the world, and it's done right here in New Jersey at the Meadowlands. I would think that that together with other things we do not want to place at risk. Because we have a very viable harness-racing industry, we shouldn't be made to pay the price for having that. We should not jeopardize it. Senator Bateman reported to you that there was \$20 million that the Sports Authority was able to get from racing to help fund its operations. I want to point out to you that \$17 million of that comes from harness racing. I don't think we want to jeopardize that.

The success of harness racing at the Meadowlands primarily, but racing in general, has allowed the Sports Authority to expand into adding Monmouth Park to its operations, State Aquarium in Camden, and the new Convention Center in Atlantic City. That's all resulted from the racing that we have at the Meadowlands.

Another aspect of that is that for years -- for many years, until the Meadowlands came along, harness racing was a stepchild, so to speak, in the racing industry of New Jersey. It wasn't thought very much of. Since the advent of the Meadowlands and its success, it, of course, is the No. 1 harness track in the nation. Contrary to what you heard, harness racing has

significantly subsidized Thoroughbred racing at the Meadowlands in that regard by producing all the additional revenue and as well has helped the Sports Authority operating Monmouth Park by providing additional revenue.

The reason of emphasizing this is that the protection of live racing as I said before is really critical to this issue, and you cannot simply isolate what type of race the wager was placed on. You heard some testimony from our friends at the Thoroughbred industry about most of the out-of-state simulcasting wagering is done on Thoroughbreds and not harness. There are a lot of reasons for that. For example, the harness racing out of state is not as good as it is in state, so people wagering on harness racing are wagering on in-state Meadowlands racing primarily and Freehold during the day. And they're not wagering on the out of state, but they are wagering on the out-of-state Thoroughbreds because a good portion of the year there isn't even any Thoroughbred racing going on in New Jersey for them to wager on, so they're wagering on out of state.

No. 2, the statistics that were cited to you were based on wagering that's conducted at the racetrack, and that wagering is conducted primarily at harness racing tracks where there is live harness racing. So that if that live harness racing is jeopardized by receiving less purse money, there will be fewer people there wagering on any kind of race at all.

Now, why would we support this bill with a 50-50 split when it's clear that harness racing has more at stake in terms of the number of its horses, the number of farms, the number of people, and the number of race dates and the parimutuel handle. Well, because there's already precedent for it. For this year, the Sports Authority decided that to keep New Jersey competitive until

you could pass legislation they would appropriate \$9 million from their accounts, from their operations to racing. They split it 50-50. They gave 50 percent to harness and 50 percent to Thoroughbred.

In the casino simulcasting, when that was added, and Senator Codey was the sponsor at that time in the mid-1980s, and one of the things he emphasized to protect the live racing and to do so was critical to avoid the erosion of live racing dates. A kind of convoluted formula, which I couldn't even begin to explain to you, was developed with that preceding simulcasting law originally on the money wagered on races in the casino. There was a three-year sunset provision put in that law to reassess it afterwards. And at the end of the three years, there was a reopener and discussions about. It was discovered that the harness industry got about 60 percent of the money for their purses and Thoroughbreds got about 40 percent. Well, the two industries sat down, and much to the amazement, I'm sure, of a lot of people involved, instead of days of discussions and negotiations which have been taking place with regard to this legislation, in about an hour or so, the two groups agreed that for the next three years, the Thoroughbreds would be given a 60-40 split edge, an advantage, to make up for the three years that they had a disadvantage. And after that three years expired, it would be 50-50, and that's what it is today, 50-50. So there you have two examples of where the industries got together, worked it out, one, where the Authority appropriated 50-50 and the casino simulcast law became 50-50.

I would suggest to you that what you might want to consider as mandatory language is a sunset provision in this bill that would say-- And I would suggest to you that five years would be better than three because the

system won't be operational to any great extent for at least two or three years. The first year or two-- The first year probably only telephones will be going. The next year maybe a handful of off-track betting facilities will be started. So it might be two to three years before you have everything operational. In five years, put in a sunset, look at the 50-50 formula and say, "What was it? What did it come out to be?" Let's try and see what the statistics are because we don't know yet-- We have people guessing here today, but we don't know yet what the actual wagering will be at off-track betting as compared to racetrack facilities. It might be the same. It might not.

Finally, just one comment, and I just want to point out and I know you know this. We are talking about a New Jersey situation and we are in New Jersey, and I appreciate the visit from the gentleman from Maryland who said he had a viable racing industry in Maryland. I don't think there's anybody sitting here today that would want to compare Maryland's unviable racing industry to New Jersey's racing industry. As a matter of fact, it's not a healthy industry in Maryland, and I don't think we would want to copy any part of it for fear of being in the same boat. I think New Jersey's far ahead of Maryland, and I would think that we would want to keep New Jersey ahead.

So in summary I just want to say to you that it's important that this legislation be enacted. We believe that it's critical to our future. I personally served as a member of the Governor's Racing Industry Study Commission and worked with 18 colleagues on that Commission to make recommendations for this kind of legislation and for the referendum that

passed. I would hope that it could be enacted, and I would hope that we could work out the differences and treat everybody fairly.

I thank you very much for the opportunity to appear here today. I'd be happy to answer any questions.

SENATOR BARK: Does anybody have any questions? (no response)

Thank you very much.

MR. ZIMMERMAN: Thank you.

SENATOR BARK: I have one more slip here. (indicating witness sign-in sheets)

Rhys Leager and Dave Feedback. You represent hotel employees and restaurant employees. You sure you're in the right hearing?

R H Y S L E A G E R: Go figure.

SENATOR BARK: Okay.

MR. LEAGER: Thank you, Chairwoman, for allowing us to speak in opposition, very strong opposition, to Senate Bill No. 1961. We oppose this bill for many of the same reasons that our brother from the laborers expressed, Mr. Liguorie, but we also have issues that we feel are of vital importance to the well-being of our members that have not yet been heard and have not yet been addressed by any party.

Our Union represents bartenders and bathroom attendants. It represents men and women of varying races and ethnicities. It represents people in skilled and unskilled positions, and we fear that the voices of this diverse group of people have yet to be heard. Just make no mistake, unless and until their voices are heard and their concerns addressed, our Local, Local No.

54, which represents over 16,000 working families in southern New Jersey will do whatever is necessary to oppose this bill.

DAVE FEEBACK: Madam Chairwoman, Committee members: Dave Feedback, President and Business Manager of Local No. 69. We represent some 4000 working families in northern New Jersey. We, too, are opposed to this bill. Until such time that we are brought in to meaningful negotiations and made a part of this process, we would be opposed to this. I recently learned from the negotiating hotbed, called the hallway, that it's now a problem with our workers, with the counter workers, with the bartenders, with the waiters and the waitresses, with the busboys, that their wages would be a heavy burden for these parlors, which I find amazing.

We're simply here representing all of labor, and until this bill addresses all of labor, we would certainly be opposed to it.

MR. LEAGER: Madam Chairwoman, if I may, the suggestion that somehow the paying union scale in the positions that our members are employed in would make or break the potential financial opportunities of the licensees which the bill envisions seems ridiculous, and I would just point you to today's *Star-Ledger*, which, in fact, talks about a Canadian, (indiscernible), a very wealthy industrialist that's looking to come in and to see if he can't talk the State into selling its tracks in northern New Jersey for \$200 million. We find it hard to believe that paying tipped employees a few dollars an hour and providing them with some health benefits would be such an undue burden on any operator, regardless of the track involved.

SENATOR BARK: Thank you.

Any questions? (no response)

Well, that concludes the people here to testify. I would only say to you that I personally would like to see this bill passed. It seems to me that Thoroughbreds and Standards have some commonalities, and I think you ought to build on the commonalities of trying to secure more race dates, to try to figure out a way that you can all be viable. Certainly, that is the intent of this legislation, and there must be a way if we can overcome some of the -- what do I want to say? -- the differences of opinion. It seems as if we also have differences of dollars and cents in terms of numbers. I don't mean a negotiated agreement, but I do mean the basis on which you're developing your positions. I would hope also that labor issues can be resolved, and I'm assuming that I will see you all back on the 17th to tell me that you have resolved all of these issues and that we can go forward with this bill.

And, sir, yes.

UNIDENTIFIED SPEAKER FROM AUDIENCE: (indiscernible)

SENATOR BARK: I understand that, and that's a totally different labor issue, but I think that's going to have to be resolved some other way. I'm not quite sure how.

But I would hope that-- I like horse farms, and I don't care which kind of horse is on a horse farm. We have a lot of horse farms in my county. I know that Senator Schluter does, too. I like the horses being there. In fact, we have lost a tremendous number of dairy farms, and what we have gotten is horse farms, and I'm thrilled and I'm delighted with that. So I urge you all to find a resolution to this, so I can continue to drive by those lovely, lovely horse farms.

Thank you all for being here.

(HEARING CONCLUDED)