Bigger is Better

The Health of the Racing Industry in New Jersey Depends on Large Purses

by Kenneth F. Oettle

In casino games such as blackjack and roulette, one bets against the house, not the other players. It's a head-to-head contest, with the odds skewed in the house's favor so that over time, the house is a net winner. The house does not take a percentage of each bet.

In poker, in contrast, one bets against the other players, not against the house. When a player wins, the other players lose, aside from split pots. The house participates in the game only through a small 'rake' from each pot (*e.g.,* 10 percent up to a maximum of $4 per hand in $2/$4 Texas Hold 'Em).

Money bet on horseracing is also subject to a rake, called the 'take-out' or 'take' a statutorily limited percentage a racetrack is permitted to extract from the money wagered before winning bets are paid.[1] The take-out pays the track's expenses and funds the 'purses,' that is, the prize money available to pay the winning horses in all the races on a given date.

Betting in horseracing follows the pari-mutuel system, in which bettors compete against each other for the same pool of money. In this system, after the bets are pooled and the take-out is removed, payoff odds are calculated, and the remaining money is distributed among the winning bettors.[2]

Different types of bets are aggregated in separate pools. Bets on one horse to win, place or show (*i.e.,* to come in first; first or second; or first, second or third) are called straight bets. Bets on more than one horse are called exotics. This includes, for example, the daily double (winners of two selected races), the exacta (first and second in one race in exact order), the trifecta (first, second, and third in one race in exact order), and the superfecta (first, second, third, and fourth in one race in exact order).[3]

Racetracks are permitted by law to take different percentages from different pools. In New Jersey, the track can take up to 17 percent from pools where bettors select one horse, up to 19 percent where bettors select two horses, and up to 25 percent where bettors select three or more horses.[4] Generally, the more complex the bet, the greater the track's permitted share of the betting pool, and thus the greater the take-out.

Payoff odds are determined by the amounts bet on each horse in a race.[5] The odds change as the bets flow in, and they remain fluid until just before the race begins. This contrasts with fixed-odds betting, where the payout is agreed to when the bet is made.[6]

Setting the Odds

The odds on particular horses are calculated by comparing the amount bet on that horse to the total amount bet on all the horses in a race after the take-out has been subtracted. Before any bets are placed, an oddsmaker estimates the initial odds for a race, called the morning line.[7] The odds then adjust, depending on how much is bet on each horse scheduled to run in the race. Shortly before the race begins, betting is halted, and the odds are set.

Assume that a total of $50,000 is bet on all the horses in a race; the permitted take-out for a win-place-show pool is 17 percent ($8,500); and $14,000 was bet on horse #3. To determine the odds to win on horse #3, first subtract the take-out from the total amount bet ($50,000 minus $8,500, leaving $41,500 as the available payout), then subtract the amount bet on the horse to win ($14,000) from the available payout ($41,500 less $14,000, leaving $27,500). Now divide that number by the amount bet on the horse ($27,500 divided by $14,000). The odds on horse #3 are approximately two-to-one. This means that a bettor will win approximately two dollars for every one dollar bet.[8] Because the bettor also recovers his or her original bet, the bettor will receive back approximately three dollars for every one dollar bet.[9]

As more money is bet on a horse in comparison to what has been bet on the other horses in a race, the odds on the horse go down, for example, from four-to-one to three-to-one, meaning that instead of betting one dollar to win four, the bettor is wagering one dollar to win three. If people bet heavily on a particular horse (*e.g.,* Seattle Slew), the horse could go off at odds of one-to-two or lower, meaning that a bettor would have to bet two dollars to win one, unattractive odds unless the horse is almost sure to win.

Low odds don't ensure that the horse is faster than all the other horses in the field. They mean only that people are betting on the horse.[10] Whether the bets are made with smart money remains to be seen. Often, the general public isn't very smart, whereas veteran handicappers who take into account, among other things, prior performance, track conditions, the health of the horse, the competition, and the jockey can make a living at it despite the track's substantial take.

The Track Needs the Take-out

The take-out is necessary to pay the racetrack's operating expenses and to provide the purses or prize money. It's a truism in the racing business that the best horses race where the purses are largest. If purses are generous, owners bring faster horses and more horses to the track, stiffening the competition and increasing the size of the 'fields' (the horses in a given race). The size of the purses is, ultimately, what keeps horseracing viable.

If fast horses race, more interest is generated, and more money is bet. In addition, if more horses race, the odds on the favorites become longer and more enticing. For example, a favorite in a field of six might go off at even odds (one-to-one), whereas in a larger field with faster horses, the odds on the favorite might be two-to-one, five-to-two, or even longer. If bettors see an opportunity to leverage their money, they tend to bet more, the take-out is larger (though the percentage is limited by statute), the purses can be larger, and, in a seamless circle of causation, more and better horses come to compete. Success breeds success.

The central economic issue for the horseracing business is thus the size of the purses, how to keep them large enough to attract more and faster horses, generate betting interest, and produce enough income to sustain the industry.[11]

Number of Racing Dates

The size of purses is a function, in part, of the number of racing dates. Generally, more racing dates means smaller purses, and fewer racing dates means larger purses. Having more racing dates tends to reduce the size of the purses because on most days, the fields tend to be smaller, fewer patrons attend, less money is bet, and the take-out is less. With fewer racing dates, attendance tends to be higher per date, and the field in each race tends to be larger. As discussed, large fields stimulate betting interest, and the track's take-out tends to be larger. The larger the take-out, the larger the purses, the faster the horses, and so forth.

Track operators tend to prefer fewer racing dates so they can generate enough revenue to cover the daily cost of operating the track and awarding prizes. These costs must be covered by admission fees, concessions, and the track's share of the money bet on the races, whether the bets are placed at the track or at off-track sites that receive the track's video signal, including off-track wagering parlors (OTWs), other racetracks, and casinos.

On the other hand, many horsemen (those who breed, train, and race horses) prefer more racing dates (a longer 'meet') to give them more opportunities to win prizes, albeit smaller, to showcase their horses and give them racing experience, to stable their horses longer in one place, and to provide employment for those who work in, and provide services to, the racing industry.

Having money circulating in the horseracing economy is important not only to racetracks looking to meet expenses and to the state, which collects taxes on winnings, wages, and, when applicable, track profits, but also to horsemen because, among other things, owning a race horse is expensive. A horse owner typically pays a monthly retainer or, in North America, a day rate to his or her trainer, together with fees for use of a training center (if the horse is not stabled at a racetrack), veterinarian and farrier (horse shoer) fees, and other expenses, such as mortality insurance premiums, race entry fees, and jockeys' fees. The typical cost of owning a racehorse in training for one year is said to be on the order of £15,000 in the United Kingdom and as much as $35,000 at major race tracks in North America.[12] Prize money helps pay for the expense of feeding, stabling, training and racing a horse, and for the cost of breeding more racehorses.

Legislative Support

The New Jersey Legislature has declared that the state's horseracing industry is economically important to the state and that "the general welfare of the people of the State would be promoted by the advancement of horse racing and related projects and facilities in the State."[13] As racing enthusiasts know, the impact of horseracing is felt more than just at the track. Thousands of acres of open space are maintained in the state for breeding, training, and racing horses; thousands of jobs are generated by the industry; and hundreds of millions of dollars are pumped into the state's economy by the breeding and racing of horses.[14]

Looking to accommodate the racing industry in its effort to maximize purses, the Legislature has frequently adjusted the required minimum number of racing dates, mandating, for example, no fewer than 141 annual thoroughbred racing dates, a number that is attractive to horsemen, who like more dates rather than fewer, as discussed above, but allowing that number to drop to as low as 71 dates for thoroughbred racing with the consent of the New Jersey Thoroughbred Horsemen's Association (NJTHA).[15] Similar flexible mandates are applied to harness racing at the Meadowlands Racetrack and Freehold Raceway—151 standardbred racing dates at the Meadowlands and 192 at Freehold, reducible to 75 dates at each venue upon written consent from the Standardbred Breeders' and Owners' Association of New Jersey.[16]

The Legislature has even tried its hand at mandating minimum purses. The statutory section mandating minimum racing dates provided that from 2004 to 2007, the holders of permits for running thoroughbred races at Monmouth Park and the Meadowlands—at the time, the permit holder was the New Jersey Sports and Exposition Authority (NJSEA)—could schedule as few as 120 thoroughbred race dates between the two venues, but only if the permit holder would guarantee certain minimum purses for stakes races[17] and for the traditional meet (for the traditional meet at Monmouth Park, daily purses of at least $320,000 for 2004, $325,000 for 2005, $330,000 for 2006, and $335,000 for 2007).[18]

The Legislature has not mandated minimum purses since 2007.

Support from the Casinos

Between 2004 and 2010, purses at New Jersey racetracks were augmented by payments from the Atlantic City casinos in two successive multi-year deals intended to induce the racing industry not to seek slot machines, an enhancement that racetracks have added in Pennsylvania, New York, and elsewhere in the region. The casinos initially provided $86 million to augment purses over four years[19] and then $90 million over three years.[20] In 2011, casino support came to an abrupt halt when the governor refused to approve an award of additional casino money set aside for the racing industry by the Legislature.

After the two casino deals totaling $176 million, the Legislature tried to give the racing industry further support by providing that regulatory costs saved through the elimination of duplicative regulation by the Casino Control Commission and the Division of Gaming Enforcement could be awarded to the racing industry to augment purses up to $15 million the first year, $10 million the second year, and $5 million the third year.[21] The plan was to wean the horseracing industry away from reliance on monies from the casino industry while still helping to augment purses.[22]

The savings would be identified by the division, paid by the casinos to the Casino Reinvestment Development Authority (CRDA), and allocated by the CRDA to the Racing Commission to support the racing industry through the augmentation of purses. The amount to be collected and allocated in support of horseracing would be established at a Racing Commission meeting and reflected in the minutes, which would be sent to the governor for review and approval.[23]

And there was the rub. Because the governor had to approve the allocation, it became a gift that was never given.

When the Legislature passed the Off-Track and Account Wagering Act in 2001, it added to the Racing Commission's enabling act a provision that the minutes of every commission meeting would be delivered to the governor and that any commission action not approved by the governor would be null and void.[24] The commission isn't the only agency whose minutes are subject to gubernatorial approval,[25] but this concession by the commission to the governor of a second-guess opportunity undermined the Legislature's intentions when the governor vetoed the Racing Commission's attempt to award casino cost savings to the racing industry to augment purses.

On June 29, 2011, the commission approved the allocation to the industry, to be awarded in 2012;[26] and on July 1, 2011, the governor vetoed the award, stating that the proposed payment contradicted and jeopardized the state's goal of creating a self-sustaining horseracing industry.[27]

The NJTHA appealed the governor's veto, and on Dec. 7, 2012, the Appellate Division affirmed, principally on the ground that the Legislature had given the governor veto power over the actions of the Racing Commission and that the New Jersey Constitution did not prevent one branch of government from effecting a clear-eyed sharing of power with another branch.[28]

The court acknowledged that it was "an ostensibly inconsistent result," given the Legislature's statutory acknowledgement of the racing industry's importance to the state, but the result was sustainable because the Legislature specifically referred to and chose not to amend the statute granting the governor authority to review Racing Commission minutes when it enacted legislation to fund racing industry purses from casino regulatory savings.[29]

A petition for certification has been filed with the New Jersey Supreme Court.[30]

On June 20, 2012, the Racing Commission again voted a supplement for the racing industry,[31] and again the governor vetoed it.[32] A separate appeal was filed but was not resolved by the Appellate Division's ruling on Dec. 7, 2012.[33]

Governor Chris Christie's vetoes of the proposed casino supplements in 2011 and 2012 came as no surprise. The governor had made clear that the state would no longer subsidize the racing industry.[34] This policy decision ultimately resulted in the privatization of the Meadowlands Racetrack and Monmouth Park, as evidenced by long-term leases entered into by the NJSEA, the former permit holder for both the Meadowlands Racetrack and Monmouth Park, with New Meadowlands Racetrack, LLC for the Meadowlands Racetrack in Dec. 2011[35] and with the NJTHA for Monmouth Park in March 2012.[36]

The privatization leases include several terms intended to give the new permit holders a head start. For example, under the lease for the Meadowlands Racetrack, the rent for the first five years will be $1 per year, then the greater of $500,000 or 10 percent of the lessee's net operating profits. The lessee obtains certain OTW rights and has the right to conduct gaming at the Meadowlands Racetrack if state law changes to allow it.[37]

Under the lease for Monmouth Park, the NJSEA is advancing the NJTHA up to $5 million, to be repaid over five years, beginning in 2015, and it is providing a $4 million grant for the 2012 racing season to offset what was projected to be an $8 million loss. The state also agreed to advance up to $2 million to cover operating losses for 2013 and 2014, to be repaid over five years, beginning in 2016 and 2017.[38] As with the Meadowlands lease, rent is initially $1 per year. During the first 10-year renewal term, beginning in 2017, the annual rent will be the greater of $250,000 or five percent of the NJTHA's net operating profits. If the gaming laws change, NJTHA has the right to conduct permitted gaming from the racetrack.[39]

The loss of the supplemental casino money hurts, but only to a degree, given that the money would be split among several stakeholders. For example, Monmouth Park's share of the $15 million that would have been distributed in the first year of the program (2012) was to be $2.5 million.[40] By comparison, Monmouth Park awarded a total of $33.2 million in purses over 77 days of racing in 2011.[41]

Monmouth Park's Elite Summer Meet of 2010

Monmouth Park experienced significant increases in betting 'handle' (the amounts bet) from awarding extraordinarily large purses in 2010. For that racing season, the Legislature relaxed the minimum days requirement for thoroughbred racing, albeit for that year only, to "no fewer than 71 race dates in the aggregate," all to take place at Monmouth Park.[42] The plan was for Monmouth Park to conduct a 50-day meet on Fridays, weekends, and three Monday holidays, from May 22 through Labor Day, with purses of an industry-leading $1 million per day.[43]

By comparison, Monmouth Park's chief competition, Saratoga Race Course in upstate New York, offered daily purses of about $730,000 for its 2009 meet in late July and August. That was tops in the sport.[44] To fill out the legislatively required 71 racing dates, Monmouth Park would hold a second, 21-day meet from mid-September to late November, offering smaller daily purses.

Monmouth Park had been conducting racing on a Wednesday to Sunday schedule from June through August. By reducing the number of racing dates and offering the highest purses in the country, Monmouth hoped to attract larger fields and better horses for the 12 or so races it would run each day. That, in turn, was expected to lead to a significant increase in the amount of money wagered. The plan was modeled after similar approaches in Japan and Australia, where most horseracing is held on weekends with huge purses.[45] The minimum purse for a single race would be $30,000, and even races for maidens (horses that had never won a race) would be worth $75,000.[46]

The plan worked. By the end of its 50-day Elite Summer Meet in 2010, Monmouth Park had averaged the highest purses in the nation, at $797,079 per day, leading to a 213 percent increase in average daily handle over 2009, including a 79 percent increase in on-track handle (as opposed to off-track wagering), a 47 percent rise in attendance, and a 25 percent gain in field size.[47]

In 2009, by comparison, 141 days of thoroughbred racing had taken place between Monmouth Park and the Meadowlands, with Monmouth Park offering a daily average of $330,000 in purses over 93 dates. According to one commentator, "Much of the racing [in 2009] was poor, with small fields, the kind that bettors shun."[48]

Having fewer racing dates with the resultant larger fields and larger purses was a success in terms of excitement and action. But it was not a panacea. The NJSEA still lost $6 million for the year on thoroughbred racing.[49] Moreover, the huge purses for the Elite Summer Meet at Monmouth Park were not sustainable because they were subsidized by $19 million from the casino industry in the last year of a sequence of seven years in which the casinos paid the racing industry up to $30 million per year to augment purses and support breeding in return for the racing industry's agreeing not to seek slot machines at the tracks.[50]

In 2011, the size of purses returned to the levels of 2009.[51] The thoroughbred permit holder (NJSEA) ran live racing on only 71 dates,[52] but the governor had made a decision to cease providing state funds to augment purses. Consequently, the purses at Monmouth Park in 2011 were several hundred thousand dollars less per day than in 2010.

The Hanson Report

While plans were being developed for the 2010 Elite Summer Meet at Monmouth Park, an advisory commission created by Governor Christie's Executive Order 11 on Feb. 2, 2010, (the Hanson Commission, named for its chairman, Jon Hanson), was looking into New Jersey's gaming and entertainment industries, including horseracing. One of the issues the Hanson Commission was directed to examine was the "perceived need to ensure that New Jersey's horse racing industry becomes self-sustaining."[53] On July 10, 2010, halfway through the Elite Summer Meet, the commission issued an economic recovery plan for the state's gaming, racing, and entertainment industries known as the Hanson Report.[54]

The commission concluded that to compete with regional racetracks whose purses were funded by the proceeds from gaming machines, "major and dramatic changes need to be made to racing, including shorter meets, higher purses and larger fields for racing."[55] The Hanson Report opined that these changes "would result in a reduced but higher quality product," and they would "be reflected in higher wagering and thereby create greater purses."[56]

The Hanson Commission concluded that the 50-day elite meet concept, then being executed at Monmouth Park, "will have a positive and lasting effect on the industry."[57] However, the report cautioned that the purse enhancements for the Elite Summer Meet at Monmouth Park were enabled in part by casino money, and it urged that secondary revenue sources, such as food and beverage, general admission, parking, and reserved seating, be "maximized" if the meet were to be reduced to 50 racing dates.[58]

Where Does the Industry Go From Here?

The New Jersey racing industry has struggled in recent years. The combined net operating loss for the Meadowlands and Monmouth Park totaled $19.3 million in 2009, softened by income from account wagering (discussed below) and off-track wagering totaling $9.5 million. As a result, the combined loss of the Meadowlands and Monmouth Park was $9.7 million in 2009 versus $6.0 million in 2008. Freehold Raceway suffered a net loss of $4 million for 2009, and it was forced to make major cutbacks in expenses to remain financially viable.[59]

In 2010, Monmouth Park lost $6 million, the Meadowlands lost $10 million, Atlantic City Race Course lost $711,000 (in a six-day meet), and Freehold Raceway lost $3.9 million.[60]

In 2011, with 71 days of live racing, Monmouth Park's average on-track handle (amount wagered) came in at $490,999, a 19.9 percent gain over the amount wagered on average during the 93-day 2009 race meet (validating the thesis that fewer dates means increased per-day handle).[61] The total average handle jumped 49.1 percent, with $4,695,424 wagered in 2011 versus $3,148,339 in 2009. The 2011 racing year, like that of 2009, did not feature an elite meet with specially augmented purses.

In 2012, average daily attendance at Monmouth Park was 8,403 for the 65-day meet, up 10.9 percent from 7,574 in 2011.[62] However, purses at Monmouth in 2012 averaged $366,047 per day, down from $430,672 in 2011. Field size averaged 7.66 horses per race, down slightly from 7.76 in 2011.[63]

The New Jersey racing industry is waiting on developments in several areas, including sports betting, gaming machines, and the build-out of OTWs. As reported recently on almost a daily basis, the state of New Jersey and the NJTHA are litigating in federal court against the professional sports leagues, the National Collegiate Athletic Association (NCAA), and the federal government regarding New Jersey's contention that the federal statute prohibiting sports betting is unconstitutional. If sports betting were installed at the racetracks, it would provide revenue to augment purses.

The constitutional issues were argued on Feb. 14, 2013.

The racing industry continues to hope for slot machines to place the tracks on an even footing with racetracks in neighboring states. But in 2012, the governor said he would give the casino industry five years to recover before considering the installation of slots elsewhere in the state.[64] Consequently, that potential source of revenue for the racing industry is on hold.

Off-track wagering is another source of revenue with which to supplement purses, possibly the most important source under present circumstances. The racetrack permit holders have the right to operate existing OTW parlors and to build more.[65] According to Dennis Drazin, a consultant to the NJTHA and former head of the Racing Commission, a build-out of the OTWs allocated to the permit holder at Monmouth Park is necessary for that venue to become profitable:

> Obviously, in order for this place to turn around we have to build out the OTWs. We have to bring in the revenues that come from that.[66]

Under their privatized leases, the permit holders at the Meadowlands and Monmouth Park also have a 50 percent interest in net revenues from 'account wagering' (betting by telephone and the Internet).[67]

Finally, in exchange for one of the OTWs allocated to the permit holder for Monmouth Park, the NJTHA has obtained exclusive rights under a pilot program to operate up to a total of 20 electronic wagering terminals spread among up to 12 restaurants and bars in the northern part of the state.[68] This form of off-track wagering is not yet in operation.

In addition to the concessions granted by the state in connection with the privatization of the Meadowlands Racetrack and Monmouth Park, the tracks are free to add amenities and market their product. Monmouth Park, looking to enhance its appeal as an entertainment destination at the New Jersey shore, has installed four large-screen video boards and a miniature golf complex,[69] and it has plans for a water theme park, a hotel on an adjacent property, a boardwalk and an arcade.[70]

As changes installed by the new lessees at the Meadowlands and Monmouth Park take hold, as the OTWs continue to churn out revenue and new OTWs are built, and as the overall economy continues its slow recovery, the uncertain economic outlook for the racing industry in New Jersey may improve. The situation remains fluid.

The state has given the racing industry a stake, as it were, through privatization deals that require low initial rent and provide collateral revenue sources, but the state has otherwise left the industry to fend for itself. In the give and take of politics (the allocation of resources and power), the industry is seen as worth saving, but no longer worth subsidizing.[71] ⚖

Endnotes

1. *See* N.J.S.A. 5:5-64.
2. *See* http://en.wikipedia.org/wiki/Parimutuel_betting ("Wikipedia—pari-mutuel"). The pari-mutuel system is also used for greyhound racing, jai alai, and other sporting events of relatively short duration in which participants finish in a ranked order. *Id.*
3. *Id.* A 'box' can be placed around exotic bets such as the exacta, trifecta or superfecta, thus placing a bet for all permutations of the numbers in the box. An exacta box with two numbers, commonly called quinella, is a bet on either of two permutations: A first and B second, or B first and A second. It costs twice the base bet. A trifecta box, with six permutations, costs six times the base bet. *Id.*
4. N.J.S.A. 5:5-64.
5. Wisegeek.com, "How do They Determine Horse Racing Odds?"
6. Wikipedia – pari-mutuel, *supra*, n. 2.
7. Wisegeek.com, *supra*, n. 5.
8. *Id.* If $15,300 rather than $14,000 were bet on horse #3, the odds would be approximately one point eight to one ($27,500 divided by $15,300). Because horseracing odds are expressed in whole numbers, one point eight to one is converted to odds of nine-to-five. *Id.*
9. The amounts paid out are rounded down to intervals of 10 cents. The rounding loss is known as breakage, and is removed from the pool and allocated by statute to various stakeholders (*e.g.*, the racetrack permit holder, purses, the Racing Commission, health and welfare funds for jockeys and harness race drivers, and programs to aid horsemen's associations), depending on whether the breaks are from on-track or off-track wagering. *See* N.J.S.A. 5:5-64 ("The breaks are hereby defined as the odd cents over any multiple of $0.10."). *See also*, N.J.S.A. 5:5-123 to 126 and N.J.S.A. 5:5-147 and 150 to 152.
10. Low odds mean something is likely to happen. High odds mean something is not likely to happen. *See* http://grammar.quickanddirtytips.com/high-odds-low-odds.aspx.
11. "Purse money is essential to the success of the racing industry. Without sufficient purse money, horsemen will race their horses elsewhere." Motion by Commissioner Caputo at Racing Commission meeting of June 20, 2012; Minutes at 19.
12. *See* http://en.wikipedia.org/wiki/Thoroughbred_horse_racing. These figures may be low. *See* J. Cooper, "How Much Does It Cost to Own A Racehorse With A Thoroughbred Partnership?," suggesting $60,000 per year at top level.
13. N.J.S.A. 5:5-128 – preamble to the Off-Track and Account Wagering Act, L. 2001, c. 199.
14. According to S. Strunsky, Gov. Chris Christie announces deal to give Monmouth Park's 2012 race dates, *Star-Ledger*, Dec. 20, 2011, Monmouth Park, the Meadowlands and related businesses provide 7,000 jobs and $780 million in economic activity for the state each year (citing a 2007 study by the Rutgers Equine Science Center). The Rutgers study is available at www.esc.rutgers.edu/news_more/PDF_Files/2007_Equine_Economic_Impact_Study_Report.pdf.
15. N.J.S.A. 5:5-156(a). In thoroughbred racing, jockeys ride horses that run as fast as they can in an asymmetrical gait called a gallop. In harness racing, in contrast, the horses pull a two-wheeled cart called a sulky and race in a symmetrical gait called a trot or a pace. A trotter moves its legs forward in diagonal pairs (right front and left hind, then left front and right hind striking the ground simultaneously), whereas a pacer moves its legs laterally (right front and right hind together, then left front and left hind). *See* http://en.wikipedia.org/wiki/Harness_racing.
16. N.J.S.A. 5:5-156(b) and (c). Standardbreds are so named because in the early years of the standardbred stud book, only horses that could trot or pace a mile in a standard time (or whose progeny could do so) were admitted to the book. They have proportionally shorter legs than thoroughbreds and longer bodies. Standardbreds generally have a more placid disposition, suitable for a horse whose races involve more strategy and re-acceleration than thoroughbred races, because of the admixture of non-thoroughbred

blood in the breed.

The founding sire of today's standardbred horse was Messenger, a gray thoroughbred brought to America in 1788 and purchased by Henry Astor, brother of John Jacob Astor. From Messenger came a great-grandson, Hambletonian 10 (1849–1876), who gained a wide following for his racing prowess. The lineage of virtually all North American standardbred racehorses can be traced from Hambletonian 10's four sons. http://en.wikipedia.org/wiki/Harness_racing #Races.

17. A stakes race is a horserace in which the prize offered is made up, at least in part, of money (as entry fees) put up by the owners of the horses entered. *Merriam-Webster's Collegiate Dictionary,* 11th Ed.
18. N.J.S.A. 5:5-156(d).
19. *See Star-Ledger,* Nov. 23, 2004, Editorial at p. 18.
20. *See* P. L. 2008, c. 12, sec. 3: "This act...shall become operative upon the certification by the chair of the Casino Control Commission to the State Treasurer that an agreement has been executed between the New Jersey Sports and Exposition Authority and the Casino Association of New Jersey for the benefit of the horse racing industry, for $30,000,000 annually for a three-year period." *See* N.J.S.A. 5:12-38a, 5:12-144.2.
21. N.J.S.A. 5:12-223(a).
22. Motion by Commissioner Caputo at Racing Commission meeting of June 20, 2012; Minutes at 21.
23. *See* n. 21.
24. N.J.S.A. 5:5-22.1.
25. *See*, *e.g.*, N.J.S.A. 13:18A-5 (Pinelands Commission) and N.J.S.A. 5:9-9 (State Lottery Commission).
26. Racing Commission meeting of June 29, 2011; Minutes at 12-13.
27. See I/M/O the Veto by Governor Christie of Racing Commission Minutes of June 29, 2011, 2012 N.J. Super. LEXIS 186 at *6 (Veto Ruling) (approved for publication).
28. *Id*. at **7-9.
29. *Id*. at **10-11.
30. Docket number 072000.
31. Racing Commission meeting of June 20, 2012; Minutes at 23.
32. Racing Commission meeting of Aug. 15, 2012; Minutes at 6.
33. Docket number A-5571-11T3.
34. *See NJSEA press releases of Aug. 11,* 2011 and Dec. 22, 2011.
35. *See* Racing Commission meeting of Dec. 20, 2011; Minutes at 9-15, and NJSEA press release of Dec. 27, 2011.
36. NJSEA Signs Terms for Leasing of Monmouth Park Racetrack to New Jersey Thoroughbred Horsemen, *Monmouth Park News & Stats*, March 1, 2012. www.monmouthpark.com/News.aspx?id=5743 (NJSEA Signs Terms).
37. *See* J. Burd, Sports authority approves racetrack contract with Gural, NJBiz.com, Dec. 23, 2011.
38. *See* T. Luicci, Monmouth Park gets a new lease on life thanks to Thoroughbred Horsemen's Association, *Star-Ledger*, March 1, 2012; and NJSEA Signs Terms, *supra*, n. 36.
39. NJSEA Signs Terms, *supra*, n. 36.
40. Racing Commission meeting of June 29, 2011; Minutes at 12.
41. T. LaMarra, Officials See Monmouth Meet as Starting Point, at www.bloodhorse.com/horse-racing/articles/73419.
42. P.L. 2010, Ch. 18, Sec. 1 (approved May 22, 2010).
43. T. Luicci, State's cure for horse racing calls for tripled purses, fewer racing days at Monmouth Park, *Star-Ledger*, Feb. 25, 2010. *See* www.nj.com/sports/njsports/index.ssf/2010/02/monmouth_park.html.
44. *Id*.
45. *Id*.
46. B. Finley, With Elite Monmouth Meet, New Jersey Hopes to Make Money by Spending Money, *NY Times*, May 18, 2010.
47. NJSEA press release, Nov. 22, 2010.
48. Finley, supra, n. 46.
49. Racing Commission meeting of Dec. 20, 2011; Minutes at 22.
50. *See* M. Hegarty, Christie signs horseracing subsidy legislation but still holds veto power, *Daily Racing Form*, Feb. 2, 2011, at www.drf.com/news/christie-signs-horseracing-subsidy-legislation-still-holds-veto-power.
51. NJSEA press release, Nov. 10, 2011.
52. *Id*.
53. Hanson Report at 4.
54. Report of the Governor's Advisory Commission on New Jersey Gaming, Sports and Entertainment, July 21, 2010 (Hanson Report); available at www.nj.gov/governor/news/reports/pdf/20100721_state_document_final2.pdf.
55. *Id*. at 20
56. *Id*.
57. *Id*. at 22.
58. *Id*. at 23.
59. Racing Commission meeting of Sept. 15, 2010; Minutes at 7.
60. Racing Commission meeting of Dec. 20, 2011; Minutes at 22.
61. NJSEA press release of Nov. 10, 2011.
62. T. LaMarra, "Officials see Monmouth meet as Starting Point," Bloodhorse.com, Oct. 10, 2012, at www.bloodhorse.com/horse-racing/articles/73419/officials-see-monmouth-meet-as-starting-point.
63. Id.
64. J. Albright, Christie doesn't want competition for AC casinos, Jersey Journal, Aug. 23, 2012; see www.nj.com/ hudson/voices/index.ssf/ 2012/08/capital_clips_christie_doesnt.html.
65. The permit holder at Monmouth Park is obliged to pay NJSEA 10 per-

cent of its net operating profits from the Woodbridge OTW beginning on the second anniversary of the ground lease. *See* NJSEA Signs Terms, *supra*, n. 36.

66. T. Luicci, Positive changes for Monmouth, *Star-Ledger*, May 9, 2012 at 44.
67. See NJSEA Signs Terms, *supra*, n. 36.
68. P.L. 2011, c. 228; N.J.S.A. 5:5-186; *see also* J. Burd, Off-track wager policy is called off base in suit, NJBiz.com, June 18, 2012 at www.njbiz.com/article/20120618/NJBIZ01/120619887.
69. *See* T. LaMarra ,*supra,* note 51.
70. J. Meggitt, Horsemen take reins at Monmouth Park, *News Transcript*, May 23, 2012.
71. When the Racing Commission approved the privatization of the Meadowlands Racetrack in Dec. 2011, the motion as read by the executive director stated, "While the Racing Commission's approval here today can provide the harness industry with the equivalent of a 'shovel,' it is up to the impacted industry parties to collectively use that 'shovel' to construct the road to recovery for the racing industry." Minutes of Dec. 20, 2011 at 10.

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