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2007 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1180

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1180

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: January 18, 2007

Recorder Job Number: 1379

Committee Clerk Signature

Morgan Reuter

Minutes:

Rep. Haas: We have an unusual circumstance with this bill. The prime sponsor of the bill has asked me to postpone the hearing on this bill until next week Thursday because several of the people that he had to testify on the bill are not available. However, for those of you who have come to testify we will give you the option of either presenting your testimony today or next week.

Leigh Backhaus: *There are a lot of people that would be here but they went to a sale and they can't make it. This bill enacts many things that should have been done many years ago. I myself have stood in front of the commission and we might as well have talked to a wall. The commission has no representation from the industry. They don't care. In the past I have argued that they do not know anything about this industry at all. They take money out of our horse fund and where are they next year? They are gone. We need representation from the industry. No other board in the country has no representation. The horse racing industry in ND rates low. We have an Agricultural state and we have all the stuff that could support horse racing. We can raise these horses cheaper. Right now we have to foal the mares out in Minnesota because it is worth more. I have spent thousands of dollars in Winnipeg, Minneapolis, and South Dakota. I have to go out of state to support my industry. If we could*

change that, if we could get a committee that would try to change that, it would be helpful.

There is too many politics in this industry which gave it a bad name. The racing industry has never done anything wrong. I come from a dairy farm in New Salem. People would be raising horses if there was an industry for it. The economy that could be generated with an industry like this goes all the way down to a feedlot. It goes all the way down to the farmer raising the feed. Why not support it? Let's open this thing up and get it going. Right now we are going backwards. There are no checks and balances in this commission. We have had problems in the past few years. At least if we find someone who has knowledge of the industry they can police themselves a little bit.

Rep. Haas: Your primary concern is that there needs to be more representation from the industry on the commission?

Leigh Backhaus: We need somebody who wants to promote this industry instead of sit in a chair and waste their time.

Rep. Amerman: Can I get a background on people who sit on this committee? Where they come from, what they do?

Leigh Backhaus: There is one person on there that is from the horse industry but he won't listen. If we have a problem we should be able to go in there and work it out. We have a Vet on there. We need representation.

Rep. Wolf: You say you sit on the advisory board? What happens when you want to be placed on the agenda?

Leigh Backhaus: Usually we don't get on there, or it's like talking to a wall.

Senator Marcellais: Testimony Attached.

Marty Beard: *I am here strictly as a racing fan. I'm in favor of this bill because I have tried getting a lot of my friends and families to take their children to the races. There has been so*

much bad publicity for horse racing. Every time something bad happens its front page. We have \$99 million dollars in illegal bets and \$6.5 million worth of horseman's money missing. I think this recent commission has a dark cloud over it right now. We've got working horseman, working tracks, and if we had a working racing commission I think we could turn this around and make it a family activity. We live in a western state that is full of agriculture and everyone loves horses. I think if everyone had a fair shot we wouldn't have the bad publicity. Do we want illegal offshore betting in North Dakota racing?

Douglas Plummer: *I have been in the horse racing business for years raising and racing horses. I have been involved in what has been happening over the last ten years, and it has been terrible for our industry in North Dakota. I believe this bill is one small, bright spot for our horse racing if it is implemented. I know the legislatures have been wrestling with it for several sessions and don't know what to do with it. I have looked at it very carefully. I have written the Attorney General and gotten a response back. In 2000, things were going really bad. At that point the Attorney General wrote and essentially said that he didn't have much control over the racing commission. It was a line item in his budget. He didn't have much control. He did have an assistant Attorney General sitting in on every meeting. I looked at that and then I complained about rules not being enforced or followed in racing. The letter I get back from the racing commission is the only appeal we have to that is a fine or a license suspension. Adding two and two together, no one is really minding the racing commission. I don't think you guys are getting the information you need to make a good decision. A quote from October 16, 2001, Sandi Tabor from the attorney general's office appeared before the legislature in their interim budget committee and said there is no conflict between the horse racing enforcements and promotion. It also says they have ample oversight of the horse racing commission. That isn't what the Attorney General said. Since this time we have had the biggest fraud in ND history. I*

think this bill would let you guys have first hand information and have something to go forward with.

Rep. Kasper: The bill doesn't change the oversight does it?

Douglas Plummer: I hear there are rumors that there might be a bill coming up that will bring racing commission back under his authority. The Attorney General took the racing commission out of his office, and now it's sitting alone with no oversight.

Rep, Kasper: Would you be in favor of putting this bill back into the Attorney Generals office with stronger direction, with stronger direction of more involvement and oversight?

Douglas Plummer: I think there is a feeling that we are going to have to do something like that. I think his office dropped the ball the first time around, but they learned a little. Something has got to be done. Things are not being enforced right now. We are missing a lot of money. The racing commission will not enforce it.

Rep. Froseth: What changes will this make? It replaces two members of the board with a member from each of the two licensed racing tracks in the state. What other changes does it make?

Douglas Plummer: You will have people on there that understand horse racing and horse breeding. We have people that are not involved with it. Things are getting out of control. That is a major deal because we will be getting major representation.

Rep. Potter: This bill changes the makeup of the board of the racing commission? I can see it taking care of a few problems, but it sounds as if there are so many other problems. I'm not quite sure how this one person can make huge changes.

Douglas Plummer: I think it has to be enforced. Four years ago we had a real problem with people coming in and discrimination, etc. They tried to close down the racing in Belcourt. We

have no chance to even train horses in Fargo. That is another broken promise by the commission. There are problems because things are not being enforced.

Rachelle Backhaus: As my husband has stated, there is no representation for the breeders or the racers. If we could get this commission to get a couple of members from the thoroughbred and quarter horse, at least we would have a say in something. We have no say in anything right now. Nobody listens; I think if we got members from our industry we would at least have a voice because there is none now.

Rep. Haas: Any additional testimony for HB 1180? Any opposition testimony against HB 1180? If not we will temporarily close the hearing on HB 1180.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1180

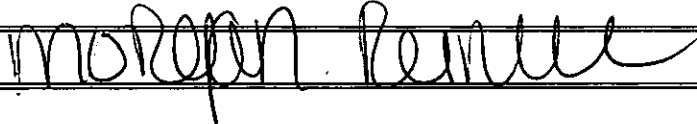
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: January 25, 2007

Recorder Job Number: 1922

Committee Clerk Signature



Minutes:

Rep. Haas: I would like to remind the folks that are here on this bill that this is actually a continuation from last Thursday. The sponsor of the bill asked me last Thursday to postpone the hearing on the bill because some of the people that wanted to testify were out of state. To accommodate that we did make the adjustment. Some did testify in favor last week. Today we are going to allow 30 min for each side of the bill.

Rep. Dekrey: *I want to thank you for accommodating me. I know that the racing commission has certainly been a hot topic in the last few years. I thought that this would be a good session to take a look at the makeup of the board and see if we should do some tweaking. That is basically what the bill does. I will let them represent their case to you.*

Randy Schwartz: *I am involved in horse racing. I am director of the ND Quarter horse Racing Association. I have also been breeding and raising race horses. I would like to express my support for this bill. In my personal observation that the learning is very steep. I think we have had a problem on the board of appointing people that have no background at all in horse racing. There are three legs that you have to be knowledgeable in which are the breeding, Para mutual end of it, and the racing. I have been involved in this since 1992. In all three aspects, especially the breeding, I am learning everyday. If you put someone on this*

commission that has no background in any of those three areas they are lost for quite a period of time. I have actually had a commission member say that it took 2 years to grasp the issues. This bill will find more knowledgeable people to serve on the board. I don't take any power away from the governor. It's just that we are going to be represented also. It will put us with a better board. The medical board doesn't put contractors on there. That is just my position on the bill and I would like to see this put into law.

Rep. Haas: Where is your business located at?

Randy Schwartz: Three miles south of Dickinson.

Leon Glasser: *I'm not here on behalf of the quarter horse association. I am President of that Association and a member. I'm also on the Racing Commissions Advisors. I'm in favor of this bill but not to the point where I had any major instances with the people on there now. However there is a knowledgeable aspect that is missing here and that is that there is no one on the horse industry that is actually involved in our own business. I don't think this bill is going to hurt the race track in Fargo because they will be represented. I don't think it will hurt the race track in Belcourt because they will be represented. Both sides will be represented. I don't think the horse men have been getting the acknowledgement that they should. It's been hard. I would just like to see the bill passed.*

Rep. Weiler: You had said something at the start of your testimony that you are the president of the Quarter Horse Association in ND?

Leon Glasser: Yes.

Rep. Weiler: At the same time you said you're not here on behalf of them?

Leon Glasser: Correct. Our association is in favor but I thought I had to sign up as a lobbyist in order to speak for our association.

John Bubel: I am in favor of this bill passing as the previous people have stated. I raise horses and race them. It just seems like we don't always get fair representation. It is hard to get our point across. I think that this would be a very good thing for the industry.

Rep. Haas: Is there any opposition testimony?

Randy Blaseg: Testimony attached.

Rep. Haas: We have heard from people who support this bill last week and this morning that in some cases they don't feel that the voice of the breeders or the ones that raise horses is being heard by the commission. What is the basis of that controversy?

Randy Blaseg: I would have to say that they feel that they would want to be placed on the agenda basically so they can voice their opinions more often. There was a bill that was passed that would state that they would if they requested to be on the agenda. I have no objection to that. I think a lot of the issues that they are concerned about involving the numbers of races are issues that need to be dealt with. The regulations are very clear in that each track is to offer one quarter horse race, one thorough bred race each day. Now in that regulation if the races do not fill as that there would be entrance into that race, then the track is not going to have that race. This is a problem. Races many times are written and they can't get enough interest in, in order to utilize this. The horsemen love to see those races. We certainly don't have any objection to that. There needs to be more interest in order to have them. There is a specific requirement that if it receives 6 entrants it is considered a full gate and used. This is an issue that we have been dealing with for a long time. It is a racing issue. It's an issue that the commission does not have the ability to fix. We need to make more horses available to hold the races. That is one element. Another problem I would assume but I don't know is that I have not received one formal written request from these associations to be placed on the agenda.

Rep. Haas: When you say placed on the agenda you are talking about meetings of the racing

commission agenda?

Randy Blaseg: Correct. Now don't get mistaken. I have calls after we have created the agenda and they want to be on the agenda. On the last meeting we placed a lawyer on the agenda that was representing one of the associations. I would assume and correct me if I'm wrong for assuming this, if you wish to be placed on the agenda with the racing commission at a future date, would you not prepare a letter and mail it to the director saying that you want to be on the agenda? In this case they don't.

Rep. Haas: Have you established a set procedure for placing items on the agenda?

Randy Blaseg: No we haven't to place items on the agenda. If we are notified in advance so that I can inform my commissioners about all of this they will be on the agenda.

Rep. Boehning: This problem seems to be coming back over and over. One of the questions that always comes up is the minutes aren't up there and you are over six months behind on doing minutes on the meetings?

Randy Blaseg: I can't tell you that.

Rep. Boehning: I have heard from different sources that the minutes aren't out there, they don't know what's going on. I'm looking at it and saying that one thing we need to do with this bill is to appoint someone from the list.

Randy Blaseg: My own personal stance is that I firmly feel that the current statute is a good statute. I think that it is without a doubt as liberal as any statute that any state has. I contacted each of the directors personally. They informed me that the governor does not restrict in making this selection. Nebraska has been racing for a long time, South Dakota has been racing for a long time, Minnesota has not been in the industry as long as those two. There is a reason why the system is the way it is.

Rep. Kasper: On your second page you sighted some numbers. On the pension fund, can you tell me how those dollars come into those two funds?

Randy Blaseg: The way the tax structure is set up at this time, on the first \$11 million that is raised you have a tax of 2% which goes to the general fund. One half of 1% goes to the first promotion fund, ½ of the 1% goes to the breeders fund, and ½ of 1% goes to the purse fund. That is the source of revenue. After you have reached that our tax rate goes to a quarter of 1%. That ¼ of 1% is divided four ways equally between the general fund, the purse fund, the breeders fund, and the promotion fund. Those funds are replenished through the tax dollars.

Rep. Kasper: Are these numbers typical of what comes in on an annual basis? Since you've jumped to the \$74 million in 2006, are these numbers going to be a whole lot bigger?

Randy Blaseg: You mean the \$74 million that I was referring to earlier? That is the amount of money that was wagered in ND this past year. That is the total dollar figure that was wagered.

Rep. Kasper: Is that reflective then in those 2006 numbers? Are they requested then granted? There is a number missing to keep the fund balanced.

Randy Blaseg: The money that was requested was simply the funds that the associations asked for in order to operate. What they ask for has no bearing on what is being generated into the funds. That is what they needed to create structure and offset their expenses.

Rep. Kasper: So what amount annually goes into each of these funds about?

Randy Blaseg: If a handle remains where it is at, and if the structure that comes out of committee as a do pass recommendation, based on the calculations there will be approximately 500 of \$60,000 going into the general fund. There will be a little over \$1 million go into the other three funds combined and that is over the course of the biennium. That calculation did not take into account any revenue coming in from the providers which was just

licensed and is in the process of setting up in Fargo. Hopefully if they handle any money whatsoever it would be an addition to the dollar figures.

Rep. Kasper: What is the current balance in each of these funds now?

Randy Blaseg: I already gave you the one in the promotion fund.

Rep. Haas: The current balance is at \$873,000.

Randy Blaseg: The current balance of the breeders fund as 12-31-06 is \$1,327,611. The purse fund at this time as of 12-31-06 is \$1,355,274. The promotion fund has \$873,268.

Rep. Kasper: So if I may continue you have \$3.5 million going into your funds?

Randy Blaseg: You are right.

Rep. Kasper: With that balance who decides who much money will go out for prizes for this coming year?

Randy Blaseg: Requests are submitted by the racing association. They then have to evaluate what they feel would be suitable. If they have taken into account the past few years that we are attempting to rejuvenate our handles and replenish the funds.

Rep. Kasper: How often does your commission meet annually? Do you have requirements?

Randy Blaseg: Call of the chair.

Rep. Kasper: How often did you meet in 2006?

Randy Blaseg: I am going to say we had about 4 or 5 meetings.

Rep. Kasper: And can the public be informed of the minutes and so on?

Randy Blaseg: Yes they have. Those that have been through there.

Rep. Kasper: That is what I am trying to get to here. You had someone mention that you are behind in meetings. How many meetings have you actually published the minutes for?

Randy Blaseg: I will refer this to someone who works in the office.

Helen Tessman: *You now see the complete staff of the racing commission. Rep. Kasper had a question on the minutes. At the time you are referring to I had gotten an email from a person who wanted to know why the majority of the minutes weren't top priority. At the time our agency has been a stand alone state agency. We haven't been granted an additional staff. You can imagine the work load that the racing commission has. At the same time frame, we are ending a biennium and beginning a biennium and did not have a director on board. During my three years with the racing commission, 9 months has been without a director. We remained a stand along state agency. You must be appalled by the person who helped this tiny agency do this in becoming a state agency. The horseman themselves have priorities. The minutes at the time were being transcribed verbatim. One of the horsemen here did come into the office and ask to see the tape. He took the tapes, got through the first half hour, and didn't listen to the rest. The minutes are transcribed verbatim until a short time ago. Once the minutes are transcribed they are put on our website. Our website has the minutes of our meetings back to 2002. The minutes are there. We are behind 3 sets of minutes since December. We have an additional workload. I would be more than joyful if I could get them transcribed right after those meetings. Those horsemen have attended those very meetings. So you can see why that can't be a priority. If anyone wants their own copy they can get a tape. During that time period also, I think we had 37 requests for records. We had more requests then the Attorney General's office. We can't get those minutes done on time. I hope that answers your question about the minutes.*

Rep. Kasper: With these huge dollar amounts in these funds, are any of these dollar amounts able to be used as an example, to hire an outside service to transcribe your minutes on a timely basis? Could you hire another person or are you limited by the FTE's that you're allowed to hire by ND Statute?

Randy Blaseg: We have one part time person that can help.

Rep. Kasper: The question is do you have the authority to go beyond that if you as the director so chose?

Randy Blaseg: I would have to have permission to do so.

Rep. Kasper: But it could be done?

Randy Blaseg: Yes.

Rep. Potter: In your testimony you talked about various groups or individuals and letting them on the commission would be giving them the opportunity to kind of grind an ax. Do you think they want on because they would have a voice? I don't understand that.

Randy Blaseg: In a nutshell all we intend to do is stay a commission that meets the rules and regulations that are before them when they are appointed to the board. They interpret those and make decisions based on everything they hear. What I hope to avoid is to have someone be a member of the commission who would possibly have restraints for a particular purpose. That is the sole reason why you see statutes written as they are in other jurisdictions.

Rep. Potter: I have heard various testimonies from people who raise quarter horses and show horses. They want to be a part of the commission.

Randy Blaseg: I have no idea on that one way or another. What I was simply quoting was a quote from a previous person in Kentucky. In dealing with the breeders fund in particular, that fund has been handled very carefully. I think it was a wise move to see that it would last a minimum of eight years, in allowing for an increase. It's a very serious responsibility that these commissioners have in deciding how these funds are allocated. On the one hand you have entities who want the money all at one time. I feel personally and as a director that being fiscally responsible is a wise move. I feel that buying time will hopefully provide an increase which is a wise move.

Rep. Dahl: This bill also provides for a member of the legislative assembly to sit on the board, do you have thoughts on that?

Randy Blaseg: I'm here providing you information on how several other jurisdictions feel. This should be formed ideally. The governor has made very wise choices in his selection. I think it is outstanding that we have a veterinarian, we have two lawyers, and they come from different varieties of backgrounds. You get various opinions on the matter when it comes to that point of view. I think that this is good. I like how the commission is made up.

Rep. Karls: In your testimony you mentioned that because the racing commissions are regulating gambling it is totally unbiased. Do you have any knowledge of the ND Gaming Commission? Is that a requirement of those boards also, that they not benefit personally from the industry?

Randy Blaseg: I've never seen any gaming commission?

Rep. Haas: The Attorney General's office is in control of that. It is my understanding that those people could never claim the winnings of the lottery ticket.

Rep. Karls: Is there not a ND gaming commission?

Rep. Haas: Yes there is.

Rep. Karls: I believe that they can't receive a direct monetary benefit.

Rep. Haas: They can't.

Rep. Schneider: I'm trying to get a better grasp on this. When the horsemen show up and want to be placed on the agenda, what happens if they want to be on there? Are they placed on there?

Randy Blaseg: Yes they are placed on our agenda.

Rep. Schneider: With regards to the minutes and the transcripts, do you think you could summarize the agenda?

Randy Blaseg: I don't know.

Rep. Kasper: I want to follow up on Rep. Schneider's area of questioning on the allowance of flexibility on your agenda. Is it your policy that if a constituent of yours calls, but doesn't send you a notice, and asks to be on the agenda. Will you allow that at all times or is it at your call, or could you say the meeting is tomorrow you are too late. What is your policy for a phone call request to be on the agenda.

Randy Blaseg: I have no objection to place someone on the agenda. What I would inform them of is that I want them to follow that up with something in writing so that I can have that placed on the agenda. I could then inform my commissioner on what topic they are going to be discussing.

Rep. Kasper: So therefore you do have a policy. A phone call is ok but send me a letter? So a phone call is not sufficient.

Randy Blaseg: A phone call is sufficient to initiate being put on the agenda. A follow up letter declaring what that is going to involve is needed.

Rep. Kasper: If someone walks into your meeting and hasn't called you, but wants to be heard, what is your policy on that regards?

Randy Blaseg: I would assume that if they wished to do so at a reasonable request, they would.

Rep. Kasper: So therefore you can make the decision. If you don't like the request you will deny it.

Randy Blaseg: We do have the authority.

Rep. Weiler: Do you have in your current bylaws a process for people being put on the agenda. I apologize but do you have a process to go through if someone wants to be put on

the agenda. Is this process written and published, or is it something that the other members hear?

Randy Blaseg: There are bi-laws. We publish our meetings.

Rep. Weiler: That is not my question. I'm not concerned about what you published. I'm concerned about what happens leading up to that. The people who want to be heard, do they understand the process that they need to go through. If not maybe you need to come up with something that is in writing and that they do understand.

Rep. Potter: You were asked about how many meetings that you had. How do people find out when your meetings are? If I wanted to come and sit in on one of your meetings, are they published in advance or how do folks find out?

Randy Blaseg: They would have to contact the office.

Rep. Potter: Ok. Are they not in a regular schedule?

Randy Blaseg: They are in one sense. Normally they are in January, April, and in the late fall. The reasons being is for the funds allocated.

Rep. Haas: Is there additional testimony on opposition of HB 1180?

Tom Seacrest: *I am a lawyer from Hettinger. In 1973 I started breeding and racing quarter horses and paint horses. I am a member of the commission. I raced in South Dakota, Montana, Wyoming, and in Oklahoma. The reason I went to Oklahoma is because the breeder stallions is located there and that is where I bred at. I got out of that business because I nearly went broke. I still raise horses but they are arena horses so I can control the expenses better. I have been familiar with breeding horses for quite some time. I applied to the commission two years before I got on there. The governor told me that there were too many from the west on the commission already. Then when a vacancy arose he called me in and asked me if I still wanted to be on the commission and I said yes. When he was appointing me he made some*

good points. He told me that they had problems on the commission and they now have a stable chairman. He is a business man. I wanted racing to be successful in ND. He wanted to know if I was a team player. He appointed me in December 2005. I have been on there a short period of time. The first meeting I went to they hired Randy Blaseg as secretary. There are something's that I didn't know about racing when I was on the commission. The big thing was Para mutual betting. I was deficient in that area. I made it my business to learn as much as I could about that. Once people came in and proved to be authorized and licensed, I sat with them and learned. I'm not an expert but I do know a lot about the betting portion of things. Getting down to the last point, the overriding goal of all of us on the commission is making live racing successful in ND. You have all the elements on the racing commission to make this happen. You can't just worry about who wins or loses and how happy or unhappy you are. The point of it is that unless we get some money to put into this live racing, we are going to be out of business. There won't be racing because you need money to support it. In a way we have a chance of getting money to do that. We have 2 groups of betters now. Because that goes into live racing. That is where we are going to make the money. We need to make live racing successful in ND. There is one other element connected to this. It's not just live racing in ND. There is an economic development factor. I found out that when I went to Oklahoma to race, it is a multi billion dollar industry. There are many offshoots like vets, fees, and so forth. That is what the economy in ND needs. These are the primary goals that I have on the racing commission. The rest of that is minor. If we don't have money we won't have racing.

Rep. Kasper: I have the occasion to hear and be part of a testimony in legislation in the last number of years when we had that fiasco in Fargo. Whatever happened, happened. We won't point fingers but there is still thought that there is millions of dollars missing. I don't know if that is true or not. Because of the oversight not being there and the investigation not being

thorough enough. One of the things she came to our committee about was talking about these big betters. What she said in that committee was that if we reduce the tax to these big betters they will come and we are going to make multi millions of dollars. This legislator did do that. What we ended up having is the worst black eye in the history of racing in the United States. Now I hear the same thing that we are going to have big betting. What oversight is there right now in the commission to be sure that the unfortunate incident that happened won't happen again?

Tom Seacrest: You have to have a commission that knows that is going on and knows how to investigate. I wouldn't want to be connected with anything like that. I'm very concerned about that. As long as I am on the commission, that is going to be a priority.

Rep. Kasper: Does your commission now have the investigatory authority and the proper funds and expertise available to dig where you want to dig.

Tom Seacrest: You are in the process of this. There is no question in our mind that we won't have everyone involved. I have a lot of confidence in our chairperson. I think when you hear him you will have confidence too.

Rep. Haas: Is it also not true that if you would suspect criminal activity that you can involve BCI or the Attorney General's office in further investigation?

Tom Seacrest: Yes.

Rep. Wolf: Are you saying that by allowing breeder's on your commission that the integrity of the commission might be somewhat less.

Tom Seacrest: I'm not saying that at all. I know a lot of these breeders out here. I have nothing against them. I do think a balance on the commission is important.

Rep. Wolf: Then why are you opposing the bill?

Tom Seacrest: I'm opposing the bill because the governor is not given the free hand. The

