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TESTIMONY BEFORE THE JOINT STANDING COMMITTEE ON  
VETERANS AND LEGAL AFFAIRS

NEITHER FOR NOR AGAINST LD 2124

*An Act to Clarify the Eligibility of an Off-track Betting Facility to Receive Funding If the Facility Is Sold or Relocates*

January 22, 2024

Senator Hickman, Representative Supica, and members of the Joint Standing Committee on Veterans and Legal Affairs, I am Shane Bacon, Executive Director of the Maine Harness Racing Commission. I am submitting for the record testimony on behalf of the Department of Agriculture, Conservation & Forestry (DACF) as neither for nor against LD 2124, *An Act to Clarify the Eligibility of an Off-track Betting Facility to Receive Funding If the Facility Is Sold or Relocates*.

In 2003, the Maine Legislature established the Fund to Stabilize Off-Track Betting Facilities. Fund revenue is derived from Maine's betting cascade. Per the statute, "off-track betting facilities [emphasis added] licensed and in operation as of December 31, 2003" are eligible to receive payouts from the fund.

For approximately the first twenty years of the fund's operation, payouts went to the Off-Track Betting (OTB) facilities in operation at the end of 2023 *as well as to their successor businesses*. Facilities that had moved or whose ownership had changed continued to receive payouts.

In 2023, the Office of the Maine Attorney General (AG) communicated to the Maine Harness Racing Commission that the practice of continuing payouts to successor businesses was in error. Specifically, the AG advised that because of how licenses are granted and because the legislation ties payouts to an OTB facility (as opposed to an OTB licensee), an OTB facility that had changed ownership or location did not meet statutory eligibility as a facility "licensed and in operation as of December 31, 2003."

This bill changes the statute to reauthorize the historic practice so that previously eligible facilities that had been sold or relocated could continue to receive the payments.

Off-track betting provides an additional revenue stream for Maine harness racing, so the Department and the Maine Harness Racing Commission have an interest in a healthy OTB

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industry. Allowing existing OTB businesses to remain eligible, even after they relocate, strikes us as sensible.

We also have no objection to allowing licensees who have purchased eligible facilities to be eligible for fund payments. We note, however, that we view those purchasing OTB facilities as essentially new businesses joining the industry. If the Committee wishes to make these OTBs eligible for payouts, the Committee might consider making all new OTBs eligible. That is, the Committee may wish to consider striking altogether the requirement that only OTBs in existence as of December 31, 2003, are eligible. This could have the effect of encouraging more entities to join this industry.

Thank you for your consideration. Representatives of the Department or of the Harness Racing Commission would be happy to be present at the work session if you anticipate having questions.