MEMORANDUM

HOUSE FISCAL AGENCY

DATE: March 2, 2011 - *revised*

TO: House Appropriations Subcommittee on Agriculture and Rural Development

FROM: William E. Hamilton

RE: Agriculture Equine Industry Development Fund – State Support for Horse Race Programs

This memo was presented to the House Committee on Agriculture and Rural Development and the House Appropriations Subcommittee on Agriculture and Rural Development on March 2, 2011. This version reflects relatively minor editing and formatting changes.

Background

The State of Michigan has provided support for the horse racing industry in two primary ways: through the regulatory and promotional activities of the Office of Racing Commissioner, and through various awards, purses, and purse supplements available to horse owners and breeders.[1]

For many years, appropriations for both the Office of Racing Commissioner (ORC) and for horse program awards, purses, and purse supplements were included in the Agriculture budget. This was true through FY 2009-10. Starting in FY 2010-11 the appropriations for the ORC were included in the Treasury/Casino Gaming section of the General Government appropriation act (2010 PA 191). The change reflected Executive Order 2010-45, which abolished the ORC and transferred the functions of, and funding for the ORC to the Michigan Gaming Control Board (MGCB), effective January 17, 2010. Funding for horse program awards, purses, and purse supplements remain in the Agriculture budget. The fund source for both the horse racing regulatory functions under the MGCB, and the awards, purses, and purse supplement appropriations in the Agriculture budget is the Agriculture Equine Industry Development Fund.

Agriculture Equine Industry Development Fund

The State of Michigan has long imposed taxes on horse race wagering. According to a 1995 analysis of House Bill 4526 of the 1995-1996 legislative session, the bill that was enacted as the Horse Racing Law of 1995, "*Michigan's horse racing tradition began in 1933 at the Michigan State Fairgrounds in Detroit with a season of 31 days of racing. Over 100,000 fans place bets of over $3.5 million, generating $123,783 in state wagering tax revenue.*"

Historically, tax revenue generated from horse race wagering has been used to support horse racing programs. However, at times horse race wagering tax revenue has also been credited to the state General Fund.[2]

Prior to the enactment of the Horse Racing Law of 1995, revenue from horse race wagering was generated primarily from a tax on live horse racing. The Horse Racing Law of 1995 eliminated all taxes on live horse racing, provided for expanded simulcast racing, and created a 3.5% tax on simulcast race wagering. The Horse Racing Law of 1995 (1995 PA 279) also dedicated revenue from the simulcast racing tax to a new state restricted fund, the Agriculture Equine Industry Development Fund (AEIDF), created and defined in Section 20 of the act to provide funding for agriculture and equine industry development programs.

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[1] For purposes of this memo, the term "horse racing" refers primarily to horse racing at pari-mutuel tracks in Michigan.

[2] The Racing Law of 1980 specifically directed that money received under the act, after set asides for certain horse racing programs, be credited to the General Fund. The Racing Law of 1980 was repealed by the Horse Racing Law of 1995.

AEIDF Revenue Sources, Revenue History, and Revenue Problems
As noted above, the primary source of AEIDF revenue is a 3.5% tax on simulcast race wagering under the Horse Racing Law of 1995.[3] In FY 2001-02 revenue from this simulcast wagering tax generated $11.9 million for credit to the AEIDF. Revenue from the simulcast racing tax has been declining. Estimated revenue from the simulcast wagering tax is only $5.1 million in for FY 2010-11.

As a means of supplementing declining revenue from the simulcast wagering tax, in 2004 the Legislature dedicated a portion of a tax on casino wagering to the AEIDF.

Casino Wagering Tax Earmark
In 2004, Public Act 306 of 2004 amended the Michigan Gaming Control and Revenue Act (Initiated Law 1 of 1996) to impose an additional 6% wagering tax on the three Detroit casinos. This additional 6% tax brought the total tax imposed on Detroit casino wagering from 18% to 24%. Public Act 306 also earmarked a portion of the increased tax revenue to the AEIDF. This earmark of a part of the increased Casino Wagering Tax to the AEIDF started in FY 2004-05 and continued through the first quarter of FY 2008-09.

In FY 2004-05 and FY 2005-06 the Casino Wagering Tax earmark generated $6.0 million and $6.4 million, respectively, in additional revenue to the AEIDF. In FY 2006-07, $6.6 million from the Casino Wagering Tax earmark was credited to the AEIDF. In FY 2007-08, only $2.2 million was credited to the AEIDF from the Casino Wagering Tax.

According to the provisions of PA 306 of 2004, the additional 6% wagering tax was reduced to a 1% (making the wagering tax 19% in total) once a casino was certified to be fully operational or "permanent." Once a casino was certified as permanent, the tax fell from 24% to 19% and the AEIDF did not share in any portion of the Casino Wagering Tax. The remaining 1% increase in the Casino Wagering Tax, from the original 18% tax to the 19% tax, was dedicated to the General Fund of the city of Detroit.

One of the three Detroit casinos was certified as permanent by the MGCB in January 2008. A second Detroit casino was certified as permanent by the MGCB in March 2008. The MGCB certified the last of the three casinos (Greektown) as permanent under PA 306 in March 2010, effective February 15, 2009. Except for a small amount credited to FY 2009-10, FY 2008-09 was effectively the last year the AEIDF received money from the Casino Wagering Tax earmark.

Use of State Services Fee Fund Revenue
In addition to providing additional revenue to the AEIDF through the Casino Wagering Tax, additional support was provided to horse racing industry programs by funding ORC regulatory costs from State Services Fee Fund (SSFF) revenue.[4] This use of SSFF revenue effectively freed up AEIDF revenue for direct horse racing programs, including awards, purses, and purse supplements. This fund shift began in FY 2001-02 when SSFF revenue partially replaced AEIDF funding for the ORC. In FY 2004-05, and continuing through FY 2007-08, the SSFF provided the entire support, approximately $3.5 million annually, for the ORC.

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[3] The AEIDF also receives revenue from fees and fines under the Horse Racing Law of 1995, as well as a portion of uncashed winning wagering tickets under Public Act 90 of 1951 (an act dealing with racing meets). These additional revenue sources generate approximately $600,000 in AEIDF revenue.

[4] State Services Fee Fund (SSFF) revenue is generated primarily from annual assessment fees paid by the three Detroit casinos under the authority of the Michigan Gaming Control and Revenue Act (1997 PA 69).

The use of SSFF revenue in the Agriculture budget began to end in FY 2008-09 with Executive Order 2009-22, which, among other things, shifted funding for the ORC back to the AEIDF. Since FY 2008-09 ORC functions have been funded at approximately $2.0 million per year using the AEIDF as the fund source.

Other Uses of AEIDF Revenue

It should be noted that during the same period that the Casino Wagering Tax earmark increased AEIDF revenue, and ORC costs were transferred to the SSFF to free up AEIDF revenue for horse racing programs, some AEIDF revenue was appropriated for activities unrelated to horse racing or the equine industry. As noted above, the AEIDF was established in the Horse Racing Law of 1995 as a restricted revenue fund to be expended for agriculture and equine industry development programs as defined in the law. However, from FY 2003-04 through FY 2008-09 AEIDF revenue was also used to offset shortfalls in the state General Fund.

Starting with FY 2000-01 the state General Fund/General Purpose (GF/GP) budget has been in a structural deficit; baseline GF/GP revenue was consistently less than GF/GP appropriations and expenditures. During that period the shortfall between GF/GP revenue and appropriations/expenditures was covered largely through the use of one-time revenue sources, including the transfer of state restricted revenue to the state General Fund. The AEIDF was one of the restricted revenue sources tapped for transfer to the General Fund.

In both FY 2003-04 and FY 2004-05, $2.0 million in AEIDF revenue was indirectly transferred to the state General Fund through appropriation in the Agriculture budget. In FY 2005-06, $2.0 million was directly transferred from the AEIDF to the General Fund through an amendment to the Horse Racing Law of 1995 (2006 PA 185). AEIDF revenue was also used to off-set General Fund revenue in the Agriculture budget. Starting in FY 2005-06 and through FY 2007-08 from $2.3 million to $2.1 million in AEIDF revenue was appropriated each year to supplant GF/GP funding in the department's Animal Industry/Bovine TB programs. In FY 2008-09 approximately $700,000 in AEIDF revenue was appropriated for Animal Industry/Bovine TB programs.

Conclusion

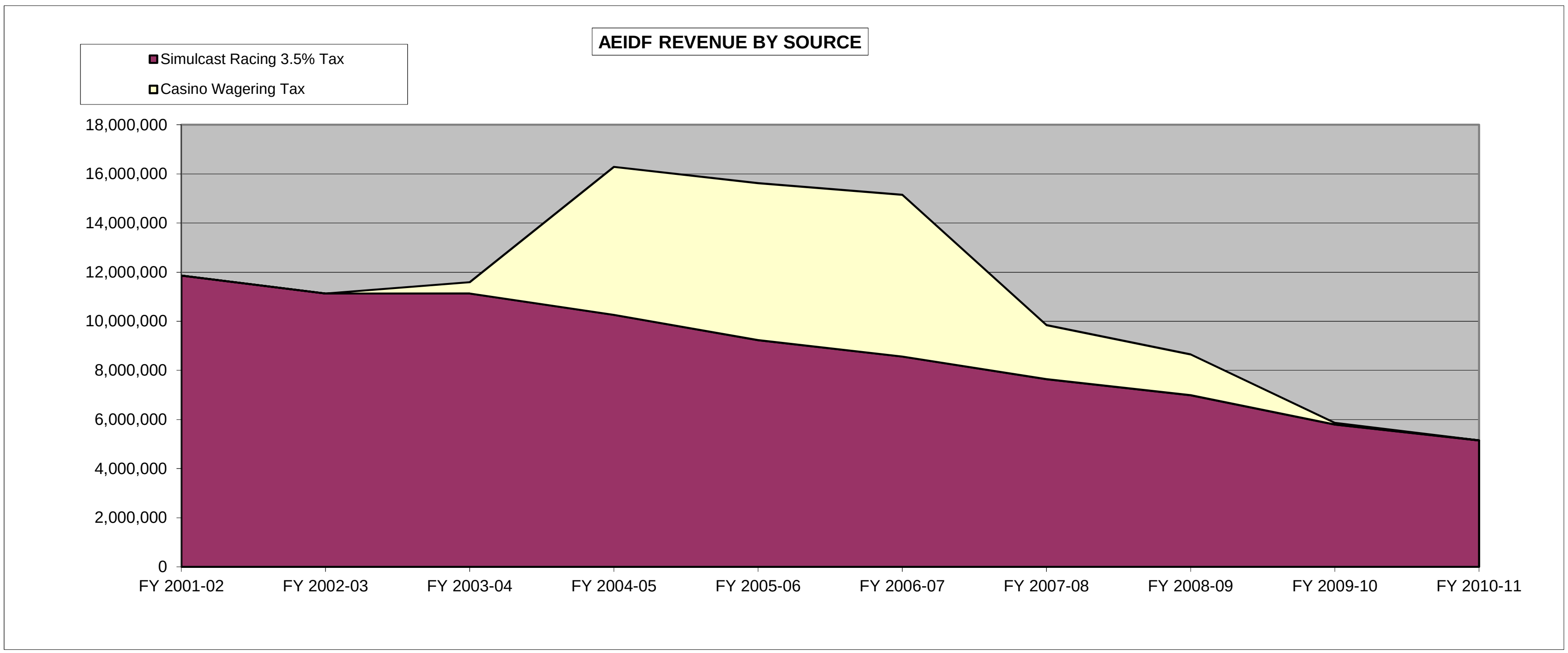
From FY 2004-05 through FY 2008-09 AEIDF revenue from the simulcast racing tax was supplemented with revenue from an earmark of the Casino Wagering Tax. That revenue increase effectively ended in FY 2008-09.

From FY 2001-02 through FY 2007-08 ORC regulatory costs were borne by SSFF revenue, effectively freeing AEIDF revenue for direct horse programs, including horse race awards, purses, and purse supplements.

The additional state support for horse racing programs during this FY 2003-04 through FY 2008-09 period was partially offset by use of AEIDF revenue to offset shortfalls in the state General Fund. Nonetheless, AEIDF expenditures on direct horse racing programs, including awards, purses, and purse supplements, peaked in FY 2004-05 at $14.4 million and have declined each year since. With the end of SSFF support for ORC regulatory costs, and the effective end of Casino Wagering Tax revenue, AEIDF appropriations for direct horse programs fell to $4.5 million in FY 2008-09.

With the 3.5% simulcast wagering tax as the only significant revenue source, AEIDF revenue declined to $5.8 million in FY 2009-10, with only $3.4 million available for direct horse programs. The decline in AEIDF revenue is expected to continue in FYs 2010-11 and 2011-12.

AGRICULTURE EQUINE INDUSTRY DEVELOPMENT FUND											
Revenue History											
										Estimate	**Estimate**
	FY 2001-02	**FY 2002-03**	**FY 2003-04**	**FY 2004-05**	**FY 2005-06**	**FY 2006-07**	**FY 2007-08**	**FY 2008-09**	**FY 2009-10**	**FY 2010-11**	**FY 2011-12**
Simulcast Racing 3.5% Tax	11,860,617	11,127,972	11,129,936	10,259,683	9,231,625	8,563,453	7,640,730	6,989,246	5,795,309	5,147,000	4,117,600
"Outs," licenses, fines, misc.	893,855	914,155	898,997	851,230	834,690	735,929	686,397	645,285	559,485	*(not estimated)*	*(not estimated)*
Casino Wagering Tax			459,182	6,025,254	6,391,881	6,585,250	2,202,113	1,660,478	67,455	*(not estimated)*	*(not estimated)*
TOTAL AEIDF REVENUE	**$12,754,472**	**$12,042,127**	**$12,488,115**	**$17,136,167**	**$16,458,196**	**$15,884,632**	**$10,529,240**	**$9,295,009**	**$6,422,249**	**$5,147,000**	**$4,117,600**



Source: Michigan Department of Agriculture restricted fund revenue reports, MAIN revenue reports, Executive budget estimates.

AGRICULTURE EQUINE INDUSTRY DEVELOPMENT FUND
EXPENDITURES/APPROPRIATIONS

Appropriation Line Item	FY 1998-99 Actual	FY 1999-2000 Actual	FY 2000-01 Actual	FY 2001-02 Actual	FY 2002-03 Actual	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07 Actual	FY 2007-08 Actual	FY 2008-09 Actual	FY 2009-10 Actual	FY 2010-11 Enacted	FY 2011-12 Exec. Rec.
Non-Equine Uses of AEIDF														
Statistical Reporting									49,256					
Department-wide														
Animal Industry/Bovine TB						50,000	302,754	2,351,082	2,396,680	2,028,728	703,072	0	0	0
Non-Equine Subtotal	$0	$0	$0	$0	$0	$50,000	$302,754	$2,351,082	$2,445,936	$2,028,728	$703,072	$0	$0	$0
AEIDF Transfer to the General Fund [1,2,3]						$2,025,000	$2,025,000	$2,000,000						
Office of Racing Commissioner [4]	$3,526,676	$3,500,964	$3,854,190	$2,665,917	$2,217,209	$2,008,350					$2,561,866	$1,872,113	$2,206,100	$2,193,300
Distribution of Other Costs to AEIDF														
Accounts Receivable Write Offs								164	60					
Laboratory Services [5]	517,200	492,170	492,970	505,204	469,027	444,654	13,398	32,550	7,777			519,698	541,700	557,800
Information Technology					142,200	124,000	142,800	43	0	97,731	204,500	90,510	115,100	116,600
Other Horse Program-related	$517,200	$492,170	$492,970	$505,204	$611,227	$568,654	$156,198	$32,757	$7,837	$97,731	$204,500	$610,208	$656,800	$674,400
Fairs and Racing														
Fairs and racing administration							20,000					439,317	394,400	331,300
Building and track improvement - county and state fairs	753,100						692,500	963,200	835,995					
Building and track improvement - licensed tracks							2,115,048	87,634						
Distribution of outstanding winning tickets*							626,197	648,155	539,919	532,847	455,782	443,911	375,000	350,000
Licensed tracks - light horse racing	67,200	79,400	69,950	73,900	65,110	73,140	115,800	121,850	152,370	93,236	22,000	4,544	42,600	34,100
Purses and supplements - fairs/licensed tracks	2,499,785	2,721,950	2,796,917	3,009,868	2,571,670	2,503,945	2,579,665	3,028,609	2,991,696	2,353,373	942,627	815,182	764,300	611,400
Quarterhorse programs	34,700	38,100	43,700	45,800	42,500	27,500	38,500	40,900						
Standardbred breeders' awards	1,234,000	1,300,000	1,280,000	1,323,670	1,281,753	1,167,300	1,207,865	1,186,753	1,263,900	788,583	462,497	131,058	312,500	250,000
Standardbred Fedele Fauri futurity [6]	78,000	96,000	96,000	96,000	86,800	86,000	85,400							
Standardbred Michigan futurity [6]	78,000	96,000	96,000	96,000	86,800	86,000	85,400							
Standardbred purses and supplements - licensed tracks	258,800	256,900	300,000	424,800	297,100	242,400	1,720,900	2,305,700	2,305,700	1,360,117	933,980	302,946	577,000	461,600
Standardbred sire stakes			1,230,300	1,240,000	1,111,300	1,050,000	1,075,900	1,040,000	1,040,000	615,600	350,000	278,640	261,200	209,000
Standardbred training and stabling	42,400	41,400	43,700	44,920	40,670	34,725	35,315	37,105	32,170	27,360		12,400	11,600	9,300
Thoroughbred owners' awards	17,750	147,600	118,200	180,100	167,300	136,500	150,900	159,900	159,900	100,776	1,217	41,605	39,900	31,900
Thoroughbred program	1,753,600	1,790,200	1,870,800	2,126,597	1,780,457	1,639,350	2,741,502	3,001,017	3,024,585	1,859,874	820,620	634,756	774,000	619,200
Thoroughbred sire stakes			996,700	1,196,100	1,066,175	906,800	1,002,900	1,063,100	1,063,100	690,208	558,213	285,520	267,600	214,100
Future farmers of America foundation							20,000	80,000						
4-h foundation							20,000	20,000						
Michigan state university							80,000							
Fairs & Racing Subtotal	$10,237,635	$8,600,750	$8,942,267	$9,857,755	$8,597,635	$7,953,659	$14,413,793	$13,783,922	$13,409,335	$8,421,974	$4,546,936	$3,389,879	$3,820,100	$3,121,900
Total AEIDF Expenditures/Encumbrances	**$14,281,511**	**$12,593,884**	**$13,289,427**	**$13,028,876**	**$11,426,071**	**$12,605,663**	**$16,897,744**	**$18,167,761**	**$15,863,109**	**$10,548,433**	**$8,016,374**	**$5,872,200**	**$6,683,000**	**$5,989,600**
AEIDF Revenue [7]	**$13,495,493**	**$13,621,693**	**$12,659,032**	**$12,754,472**	**$12,042,127**	**$12,488,115**	**$17,136,167**	**$16,458,196**	**$15,884,632**	**$10,529,240**	**$9,295,009**	**$6,422,249**	**$5,147,000**	**$4,117,600**

Notes:

1. The FY 2003-04 budget bill, SB 288, (2003 PA 157) effectively offset $2,025,000 of GF/GP with AEIDF.
2. The FY 2004-05 budget bill, HB 5509, (2004 PA 353) effectively offset $2,025,000 of GF/GP with AEIDF.
3. Public Act 42 of 2006 amended the Horse Racing Law of 1995 to transfer $2.0 million from the AEIDF to the state General Fund for FY 2005-06.
4. Office of Racing Commissioner (ORC) funded from State Services Fee Fund from FY 2004-05 through FY 2007-08.

Executive Order 2009-45 transferred the ORC to the Michigan Gaming Control Board (MGCB) effective January 17, 2010; appropriated in the General Government bill starting in FY 2010-11.

5. Equine-related laboratory costs funded from State Services Fee Fund from FY 2004-05 through FY 2008-09.
6. Lines rolled up in FY 2005-06
7. Public Act 306 of 2004 imposed new Casino Wagering Tax and dedicated a portion to AEIDF.