

*New York State Assembly*  
**2011 ANNUAL REPORT**

*committee on*  
**RACING AND  
WAGERING**

*J. Gary Pretlow*  
*Chairman*



*Sheldon Silver*  
*Speaker*



J. Gary Pretlow  
Assemblyman 87<sup>th</sup> District

**THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY**

January 10, 2012

The Honorable Sheldon Silver  
Speaker of the Assembly  
Room 932 – Legislative Office Building  
Albany, New York 12248

Dear Speaker Silver:

As Chairman of the Assembly Standing Committee on Racing and Wagering, I am pleased to submit to you the Committee's 2011 Annual Report.

Several bills which were reported out of the Committee in the 2011 Legislative Session were subsequently enacted into law. Among them were laws which strengthened efforts to increase on-track attendance at live race meetings as well as legislation which expanded the games of chance authorization to offer more fundraising versatility to licensed charitable organizations. I am especially proud to report on the Committee's role in the enactment of legislation which brought new employment opportunities to New Yorkers by requiring that all call-centers operated by entities licensed to accept pari-mutuel wagers in New York, be located in the state.

Other Chapters enacted this year included measures which brought certain provisions of New York's Tax Law, which governs the Division of Lottery's licensing procedures for certain lottery agents, into compliance with federal standards as they relate to the sharing of national criminal background search results. The Committee also advanced legislation which would have: authorized racetracks and off-track betting corporations to offer rebates on pari-mutuel wagers; modified the tribal-state gaming compact laws to remove Ulster County from the sites authorized for the development of Class III Indian gaming, with exception; and legislation which would have enhanced consumer protection for purchasers of lottery game tickets.

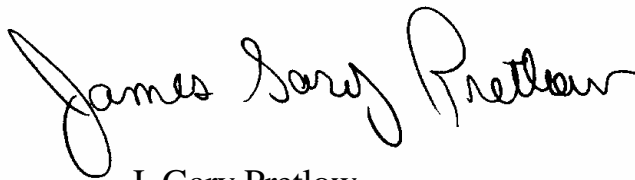
As you well know, challenges wrought by a weakened economy and a compromised off-track betting system have increased concern for the sustainability of the State's racing and pari-mutuel wagering network, thus prompting the Committee to explore all avenues for cost-savings and resource maximization within the industry. Therefore, it was crucial

that our attention be directed to the threat posed by the unregulated operation of out-of-state advanced deposit wagering businesses (ADWs) in New York. These businesses are eroding the availability of "handle" (revenues from pari-mutuel wagering) that is necessary to support not only the regulatory operations of the State Racing and Wagering Board, but also the Equine Drug Testing Program, the statutorily governed equine breeding and development funds, and not least, the hundreds of backstretch employees employed by this industry. Every dollar bet on New York's racing product through a licensed corporation in this state is proportionately distributed to the support of each of these sectors as well as paid to New York State in pari-mutuel taxes. When unregulated ADWs are accepting these wagers, revenue is lost to each of these sectors and to New York State. In September 2011, the Committee hosted a roundtable discussion to which representatives of the industry were invited to explore the impact of this issue and comment on possible solutions to protect the interests of the state.

Mr. Speaker, despite the Committee's success in securing the enactment of some very important legislative initiatives in 2011, there are several hurdles that have yet to be cleared with respect to: the out-of-state ADW issue; the current budget-related difficulties facing the State Racing and Wagering Board, and most importantly, the short and long term concerns affecting off-track betting in New York.

I want to take this opportunity to thank the members of the Committee for their support of, and contribution to the efforts of the 2011 Legislative Session. With your continued leadership Speaker Silver, we look forward to developing new programs and initiatives for the 2012 Legislative Session.

Warm Personal Regards,

A handwritten signature in black ink that reads "James Gary Pretlow". The signature is written in a cursive style with a large, looping initial "J".

J. Gary Pretlow  
Chairman

Assembly Racing & Wagering Committee

**2011 ANNUAL REPORT  
OF THE  
NEW YORK STATE ASSEMBLY  
STANDING COMMITTEE ON RACING AND WAGERING**

**J. Gary Pretlow, Chairman**

**Committee Members**

**Majority**

Aileen Gunther  
Margaret Markey  
Micah Kellner  
Michael Miller  
Bob Reilly  
Mike Spano

**Minority**

Edward Ra  
Stephen Hawley  
James Tedisco

**STAFF**

Jennifer Best, Assistant Secretary for Program and Policy  
Najay F. Roache, Analyst  
John Svare, Associate Counsel  
Jonathan Lynch, Committee Assistant  
Natisha Alexander, Committee Clerk  
Sarah Conklin, Program and Counsel Secretary

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## I. INTRODUCTION

### A. Committee Jurisdiction

New York State is home to one of the premier Thoroughbred and Harness racing programs in the nation. Each year, millions of dollars are wagered on races at the three largest Thoroughbred racetracks in the state: Aqueduct Racetrack in the South Ozone Park neighborhood of Queens County; Saratoga Race Course in Saratoga Springs, the oldest racing venue in the United States and home of the prestigious Travers Stakes; and Belmont Park in Nassau County, host to the longest dirt track in North America at one and one-half miles and, most notably, the third and final leg (also known as “the third jewel”) of Thoroughbred racing’s highest honor, the Triple Crown. Last but not least, nestled in the state’s picturesque Finger Lakes region is New York’s fourth Thoroughbred racetrack, Finger Lakes Gaming and Raceway. Across the state, there are seven Harness racetrack-casinos (“racinos”) where patrons can view live harness (also known as “Standardbred” or “trotting”) races and enjoy casino-style video lottery gaming: Empire City Yonkers Raceway in Westchester County; Buffalo Raceway in Erie County; Batavia Downs in Genesee County; Vernon Downs in Oneida County; Tioga Downs in Tioga County, Monticello Raceway in Sullivan County; and Saratoga Gaming and Raceway in Saratoga County.

In addition to attending live race meetings, racing fans may visit branches of any of the state’s five regional Off-Track Betting Corporations (OTBs): Western; Capital; Catskill; Nassau; or Suffolk, to view and wager on the state’s races or, via simulcast, races from other states and countries around the world. First authorized in the City of New York in 1970, OTBs are public-benefit corporations whose purpose is to generate revenues for the support of the localities within their geographical region. They also provide jobs for thousands of New Yorkers. Since its inception, millions of dollars in wagering revenues have been distributed to the aid of local governments across the state.

Charitable gaming in New York allows over 8,000 qualified charitable, religious and other non-profit organizations to conduct raffles, bingo and other authorized games of chance to

raise funds for the exclusive benefit of their charitable purposes. The Racing and Wagering Board is responsible for monitoring the annual sale and distribution of hundreds of millions of dollars in bell jar tickets as well as registering and training members of authorized organizations to conduct raffles, games of bingo, and Las Vegas game nights.

The New York State Racing and Wagering Board is the regulatory body charged with ensuring that the state's legalized racing and pari-mutuel operations and charitable gaming activities all operate in full compliance with the Racing, Pari-mutuel Wagering and Breeding Law and any rules promulgated by the Board in support of these laws. Additionally, the Board is charged with ensuring that each of the State's five Class III Indian gaming facilities (casinos) comply with the regulatory provisions established pursuant to the Indian Gaming Regulatory Act of 1988 and the Tribal-State Gaming Compacts governing the offering of games, and various internal controls and operating procedures of each facility.

Finally, the State Division of Lottery (DOL) is the regulatory agency charged with the administration and regulation of the state's lottery program which includes instant-win scratch-off games, multi-jurisdictional games such as Megamillions and Powerball, and the video-lottery gaming program in use at eight of the state's racetracks. The New York Lottery was enacted into the New York State Constitution by voters as a result of a ballot initiative in 1966 and has since helped to raise over \$42 billion to support education in New York State. It continues to be North America's largest and most profitable Lottery program with over 16,000 licensed lottery retailers across the state.

## **B. Summary of Committee Action**

During the 2011 Legislative Session 48 bills were referred to the Assembly Standing Committee on Racing and Wagering. Several were subsequently signed into law; such as legislation to revitalize attendance at the state's racetracks by authorizing racing corporations to offer free and reduced-admission passes to members of the public. In response to the economic pressures that continue to present challenges for job creation

and retention both here in New York and across the nation, the Committee also advanced legislation to require any racing corporation or off-track betting corporation licensed by the state to accept pari-mutuel wagers, locate any call centers for their account wagering programs within the state. To provide continued support for the fundraising efforts of duly licensed charitable organizations, this year's chapter laws included an expansion of the authorized games of chance provisions to include event games. Legislation was also enacted that clarified the Division of Lottery's authority to obtain national criminal background information on certain license holders and applicants.

The Committee also acted upon a number of other bills including legislation that would have helped to retain handle in New York State and encouraged wagering customers to utilize the state's licensed pari-mutuel wagering entities by authorizing such corporations to offer a Board-approved customer rebate program. Additionally, the Assembly secured the passage of measures that would have: removed Ulster County from the list of sites for future Class III Indian gaming developments, with exception; continued efforts to promote a humane future for the State's retired racehorses by extending the statutory authorization for the Task Force on Retired Racehorses; strengthened protections against fraud involving lottery tickets by requiring lottery sales agents to return lottery tickets submitted for verification to customers once the verification process has been completed.



## II. 2011 LEGISLATIVE ACTION

### A. Regulation of Racing and Wagering

#### **Anti-trust Exemption for Certain Horse Racing Agreements**

A.3705 (Pretlow)/ S.623 (Klein); Passed Both Houses; Vetoed, Memo 27

Attendance at the state's racetracks has been in a steady decline and this factor is only one of many that are contributing to the growing perception of Thoroughbred and Harness Horse racing as "dying sports." For an industry whose sustainability is wholly determined by handle, declining revenues and steady, oftentimes growing operating expenses are enough to cause serious financial concern. In light of this, the state's racetracks and off-track betting corporations (OTBs) have been encouraged to share services and identify opportunities for cost savings within their existing operations. To facilitate this inter-industry collaboration, Assembly bill 3705 (Pretlow) was advanced to exempt from anti-trust laws, any joint agreement entered into, by or among, racing corporations or off-track betting corporations, in consultation with, and subject to the approval of the Racing and Wagering Board.

#### **Requirement for Industry Call Centers to be Located in New York State**

A.7392 (Pretlow) / S.4876 (Lanza); Chapter 402 of the Laws of 2011

Over the years, New York State has made significant financial contributions to aid the sustainability of the horse racing and pari-mutuel wagering in the state. This industry employs thousands of New Yorkers and creates economic development opportunities in various geographical regions of the state. As the nation continues to struggle with economic uncertainty, unemployment rates and job creation remain among the highest concerns for states and the federal government. After the closure of the New York City Off-Track Betting Corporation in December 2010, the New York Racing Association (NYRA) enhanced their operating capacity to provide off-track betting services to wagering customers in the city of New York through their telephone account wagering service. The volume of telephone calls directed to their account wagering platform soon outgrew the capacity of the existing call centers thereby creating an imminent need for additional staffing. Chapter 402 of the Laws of 2011 was enacted to require all racing corporations and off-track betting corporations

licensed by the state to conduct pari-mutuel racing and wagering, and which operates an account wagering platform for the acceptance of wagers, to locate all call centers associated with such operations within the state of New York. This measure resulted in the opening of NYRA's new call center facility, located in Amherst, Erie County, and sixty new jobs to that region.

**State Fiscal Year 2011-12 Enacted Budget: Summary of Provisions**

A.4011-C (Budget Bill) / S.2811-C (Budget Bill); Chapter 61 of the Laws of 2011

The enacted SFY 2011-12 budget contained provisions, which extended for one year, until June 30, 2012; the authorization for a lower pari-mutuel tax rate; the authorization for account wagering; and various provisions of law relating to the authorization to simulcast Thoroughbred and Harness races and the distribution of revenues derived therefrom.

**B. Racing: Thoroughbred and Harness**

**Rebates for Betting Customers**

A.3648 (Pretlow) / No Same-as; Passed Assembly

In recent years, the state's racing and pari-mutuel wagering network has encountered several challenges that have hampered the growth of handle wagered in New York. One of these challenges is the presence of off-shore betting houses that are offering financial incentives for betting customers to place wagers through their services as opposed to placing a bet through an off-track betting facility or racetrack's account wagering platform. To protect the interests of the businesses licensed by New York state to accept pari-mutuel wagers and afford them an opportunity to compete with these off-shore entities, A.3648 (Pretlow) would authorize racetracks and off-track betting corporations to offer rebates on pari-mutuel wagers made by bettors, provided that such rebate programs be subject to the review and approval of the Racing and Wagering Board.

### **Authorization for the Issuance of Free and Reduced Admission Passes**

A.6255 (Pretlow) / S.3828 (Klein); Chapter 370 of the Laws of 2011

One of the strongest driving forces of handle wagered on the State's Thoroughbred and Harness races is on-track attendance. Throughout the year, high profile racing events such as the running of the Travers Stakes at Saratoga Raceway and the final leg of the Triple Crown at Belmont Park have the advantage of prestige to draw racing fans and members of the general public to the track. However, low attendance throughout the remainder of the racing season has a proportionate impact on the wagering volume. To address this concern and provide racing corporations with a tool to stimulate general interest in horse racing among the public, Chapter 370 of the Laws of 2011 was enacted to authorize the issuance of free and reduced admission passes to members of the public, as part of any marketing campaign or promotional efforts sponsored by the racing corporation for the purpose of increasing attendance at live race meetings.

### **Task Force on Retired Racehorses**

A.6877-A (Magee) / S.5482 (Bonacic); Vetoed, Memo 24

According to data compiled by the Jockey Club, North American horse breeders and owners register approximately 25,000 Thoroughbreds into the Club's registry each year. New York State alone is home to hundreds of breeding farms where millions of dollars are invested each year to continue supplying the horse racing industry with racehorses of the highest standard. Tragically, the facts are that only a small percentage of the horses bred for racing will go on to be prize-winning horses and further, these animals will only race for an average of two to five years, less than a third of their life span. Those which are fortunate enough to be retired by their owners to a reputable farm or alternate use represent an even smaller percentage of the retired racehorse population. The future for those remaining is often less than bright as some will inevitably be sold at "kill auctions" and shipped to slaughterhouses in Canada or Mexico to satisfy the lucrative foreign consumption demand.

In response to these concerns, Chapter 342 of the Laws of 2005 was enacted to create a thirteen-member Task Force on Retired Racehorses. Co-chaired by the commissioner of the Department of Agriculture and Markets and the chair of the Racing and Wagering Board

and composed of a variety of professionals from various backgrounds, the Task Force was charged with a number of tasks most notably, to study productive uses for ex-racehorses as well as the development of innovative ideas and methods to utilize both public and private funding sources to increase the number of retired horses utilized for these alternative purposes. In 2007, the authorization for the Task Force, which was slated to expire, was extended for two more years. Additionally, the 2007 chapter expanded the Task Force's mission to include a cost-benefit examination of the merits of installing artificial turf at racecourses as a means of reducing the rate of injury to horses and jockeys.

As 2011 marks the final year of the Task Force's authorization, their report is scheduled to be issued by December 31. Assembly bill 6877 (Magee) would have extended the authorization for two more years while requiring that the Task Force issue their statutorily mandated report to the governor and the Legislature detailing their findings and policy recommendations, no later than December 31, 2011 and annually thereafter.

**Payments to the New York State Thoroughbred Breeding and Development Fund and the New York Thoroughbred Horsemen's Association**

A.7852-A (Pretlow) / S.3949-B (Bonacic); Chapter 175 of the Laws of 2011

The New York State Thoroughbred Breeding and Development Fund ("the Fund"), established in 1973 by section 252 of the Racing Pari-mutuel Wagering and Breeding Law, is a public benefit corporation which serves as the regulatory body for the State's breeding and racing program, and whose purpose it is to reinvest a share of the monies wagered in the state to promote the breeding and raising of Thoroughbred horses. In addition to a small percentage reserved for administrative costs, the Racing Law authorizes the Fund to disburse its monies for awards to the breeders and horse owners of NY-bred horses; for the supplement of purses in races exclusive to NY-bred horses; and, for the publication and dissemination of materials and/or information encouraging interest in the breeding and raising of NY-breds and other general agricultural pursuits.

In recent years, due to overall declines in handle, the Fund has experienced a significant reduction in the payments it received from racetracks and regional off-track betting

corporations, which then limited its ability to make the required investments in the State's breeding program. To alleviate this limitation, Chapter 473, enacted in August 2010, modified the manner in which the Fund is authorized to receive its share of payments from an annual to a quarterly basis. The Chapter also increased the maximum percentage of the Fund's revenues that could be used for awards to breeders of NY bred horses.

The closure of the New York City Off-Track Betting Corporation in December of 2010 dealt another crippling blow to the Fund, which expects to realize a loss of nearly one-third of its annual revenues, approximately four million dollars. Since the 2010 authorization was intended to offer temporary relief to the Fund, it is slated to expire upon the commencement of video lottery gaming at Aqueduct racecourse in late 2011. In light of the events of the past year and their cumulative effect on the resources of the Fund, the Legislature enacted Chapter 175 of the Laws of 2011 to extend for an additional year until 2012, the provisions of law modifying the Fund's payment and disbursement structure.

Finally, Chapter 175 also provides an extension for the New York Thoroughbred Horsemen's Association (NYTHA) to collect an additional 1.0% from all purses paid to horse owners, until August 31, 2012. The monies collected by NYTHA are used to provide funding support for benevolent services for backstretch employees including essential medical and mental health benefits, drug and alcohol counseling and various other health related services.

### **Racing Fan Advisory Board**

A.7900 (Pretlow) / S.3759-A (Bonacic); Reported to the Assembly Ways and Means Committee

Trends show that on-track attendance is a strong contributing factor to the volume of handle wagered. Therefore, finding new approaches to broaden the sport's fan base and increase on-track attendance has become a priority for racing corporations across the country. To supplement the marketing efforts of racing and off-track betting corporations in growing support for racing in New York State, the Committee advanced Assembly bill 7900 (Pretlow) to authorize the creation of a Racing Fan Advisory Board to advise the

Racing and Wagering Board on matters relating to horse racing in the state, with the mission of encouraging fan attendance at race meetings.

### **C. Division of Lottery**

#### **Lottery Ticket for the Arts**

A.3585 (Gabryszak) / No Same-as; Reported to the Assembly Ways and Means Committee

Over the years, studies have shown, and continue to show, that arts education is an essential component of a well-balanced primary and secondary education curriculum. Exposure to these creative disciplines helps to develop individuality and creative expression in students. Unfortunately, during periods of economic difficulty, creative arts programs in public schools are among the first to be eliminated as a cost savings measure. Assembly bill 3585 (Gabryszak) would seek to provide a dedicated revenue stream for these vulnerable programs by directing the Division of Lottery to design an arts-themed, scratch-off lottery ticket for which the revenues derived would be applied exclusively for the support of elementary and secondary arts education.

#### **Returned Lottery Tickets**

A.3708-A (Pretlow) / No Same-as; Reported to the Assembly Ways and Means Committee

Lottery tickets are bearer instruments. As such, the individual who presents a winning ticket for prize redemption is presumed to be the rightful owner. In efforts to protect those who play lottery games from unscrupulous acts of theft and any financial loss, ticket purchasers are urged by the Division of Lottery (DOL) to sign their tickets upon receipt to ensure that they alone will be eligible to claim any prizes. To further support these efforts, DOL has implemented an automated verification system which allows ticket holders to use the electronic ticket readers, now available at all lottery retail locations, to verify their tickets instead of surrendering them to an agent.

While the intent is for all lottery players to use the automated verification systems, the Committee, in consideration of those individuals who may have no recourse but to submit their tickets to an agent for verification, advanced Assembly bill 3708 (Pretlow) which

would require lottery retail agents to return any previously purchased ticket which has been submitted for verification to the customer, once the process has been completed. In addition, this bill would allow lottery customers who choose to retain their non-winning tickets to offset their tax liabilities against any future prizes, to continue that practice.

**Division of Lottery Authorized to Obtain Criminal Background Information**

A.8245-A (Pretlow) / S.5760 (Bonacic); Chapter 217 of the Laws of 2011

In New York State, the Division of Lottery (DOL) is authorized to license the operation of video lottery gaming facilities and in doing so, issue licenses to individuals employed at such facilities. The Tax Law, which governs the issuance of these licenses, provides that in reviewing applications, the DOL may obtain national criminal background information from the Division of Criminal Justice Services (DCJS) for any applicant for the purpose of determining whether a license should be granted, suspended or revoked.

Pursuant to federal law, the FBI is authorized to exchange criminal history records with officials of state and local governments for the purpose of employment and licensing, if authorized by the state and approved by the FBI. Further, both justice agencies have determined that state statutes must meet certain criteria in order to authorize such access. Therefore, Chapter 217 of the Laws of 2011 was enacted to amend the Tax Law in a manner that would sufficiently clarify the DOL's authority to continue obtaining national criminal background search results for certain license holders or applicants and their affiliates.

**State Fiscal Year 2011-12 Enacted Budget: Summary of Provisions**

A.4011-C (Budget Bill) / S.2811-C (Budget Bill)

The SFY 2011-12 enacted budget contained provisions that: authorized the Division of Lottery to enter into an agreement with the commissioner of Taxation and Finance to create a program whereby outstanding tax debts are deducted from any lottery winnings in excess of \$600; to increase from three to five the number of scratch-off games with payouts that are up to seventy-five percent of sales; authorized the state's eight video lottery gaming facilities to offer a free-play allowance program and to participate in joint, multi-

jurisdiction, and out-of-state video lottery gaming; and, authorized payouts in excess of the current fifty percent limitation on multi-state lottery games (MegaMillions, Powerball) in instances where two-thirds of the multi-jurisdictional participants concur with such increase.

#### **D. Charitable Gaming**

##### **New York State Legend Required on Bell Jar Tickets**

A.3604 (Pretlow) / No Same-as; Reported to the Assembly Codes Committee

In 2010, the State Racing and Wagering Board (“the Board”) reported that bell jar games are the single most profitable charitable gaming tool for licensed organizations throughout the state. In these “instant-win” type games, a participant draws a card from a jar, vending machine, or other such device, that contains numbers, colors or symbols that are covered and when uncovered, may reveal a pre-determined prize to be awarded to the ticket holder. Bell jars are one of several “games of chance” that are authorized for use by certain charitable organizations in their fundraising programs by Article 9-A of the General Municipal Law (GMU). In 2010 alone, more than \$235 million was wagered on bell jar games across the state.

Prior to being sold in New York State, all bell jar tickets must be approved by the Board to ensure that the game complies with the provisions of the GMU and the Board rules and regulations. In addition to requiring organizations that wish to sell bell jar games to obtain a license from the municipality having jurisdiction in the area they wish to conduct their fundraising, the GMU also requires that manufacturers and distributors of bell jar games comply with the regulations adopted by the Board or face license suspension and/or fines for violations. Currently, there are thousands of different bell jar games that have been approved over the years with hundreds more being submitted to the Board for approval each year. Recognizing that it is often difficult to keep track of the vast number of approved bell jar tickets and further decipher which games are approved from those which are not, Assembly bill 3604 (Pretlow) was introduced to require that manufacturers licensed by the Board to sell bell jar tickets shall only sell those tickets that have been approved by the



board and which are imprinted with a Board-approved legend, excluding those ticket designs which would not accommodate such a marking. This measure would have allowed organizations, manufacturers and distributors to more efficiently identify which games have been approved for sale by the Board.

**Event Games Authorized**

A.7851 (Pretlow) / S.5326 (Larkin); Chapter 531 of the Laws of 2011

The General Municipal Law currently authorizes charitable organizations to apply to their local government for a license to conduct fundraising. In addition to bingo and raffles, one of the most popular fundraising mechanisms used by these organizations are bell jar games (also known as “pull tabs,” “seal cards” and “coin boards”). The length of time that a particular game runs varies as each game will continue until either all of the tickets issued are sold, or once the organization has awarded at least seventy-five percent of the available prizes. In other states, where authorized, organizations have realized significant returns on their fundraising efforts when their raffles or bell jar games were paired with event games. Event games are sold in conjunction with a bell jar deal and yield nominal prize values to add another layer, or chance for a participant to win a prize. Chapter 531 of the Laws of 2011 would enhance the ability of New York’s charitable organizations to broaden their fundraising offerings by adding event games as an authorized game of chance.

**E. Native American Gaming**

**Removal of Ulster County as an Authorized Site for Class III Gaming**

A.167 (Cahill) / No Same-as; Passed Assembly

In accordance with the Indian Gaming Regulatory Act of 1988, the State’s Executive Law authorizes the governor to execute tribal-state compacts with Native American tribes, on its behalf, for the development of up to three Class III Indian gaming facilities in Ulster and Sullivan Counties. In 2005, the Ulster County Legislature approved Resolution No. 195 which sought the legislature’s consent to allow individual municipalities in the county to decide whether Indian casinos should be located within their respective borders. After the

resolution was adopted, fourteen municipalities in Ulster County adopted individual resolutions stating their opposition to hosting a Class III Indian gaming facility.

Two years later, in 2007, legislation was advanced in the Assembly (A.6517) to remove the Executive Law's authorization for tribal gaming consideration in Ulster County and instead authorize the Town of Wawarsing, the only municipality that did not object to casino gambling within its borders, to remain an eligible site. That same year, the Ulster County Legislature adopted another resolution, (No. 190 of 2007), supporting A.6517. In 2011, the bill was again advanced as A.167, sponsored by Assembly member Cahill.

### III. PUBLIC HEARINGS and ROUNDTABLES

#### A. Impact of the Stockbridge-Munsee Tribal State Gaming Compact Albany, Wednesday, February 2, 2011

Pursuant to the Indian Gaming Regulatory Act of 1988, the Executive Law authorizes the governor, on behalf of the state, to enter into Tribal-State Gaming Compacts with Native American nations and tribes for the development of Class III gaming facilities in the state. In November 2010, the State of New York entered into a Tribal-State Gaming Compact with the Wisconsin-based Stockbridge-Munsee Community Band of Mohican Indians. Under the terms of the Compact, the Tribe would have been authorized to develop a casino offering table games and slot machines in the Catskill region as part of a land settlement agreement with the state. In the weeks following the agreement, concerns arose that the measure, which was effectuated without public input, could pose significant, fiscal implications for the state. In light of these developments, the Assembly Standing Committee on Racing and Wagering hosted a public hearing on February 2, 2011 to invite affected parties and industry stakeholders to provide testimony on the potential economic impact that such developments would have on the state and its existing network of casinos, "racinos" and thoroughbred race tracks.

Witnesses providing oral testimony included representatives from the Oneida Nation, Ray Halbritter and Peter Carmen who were joined by Andrew Roffe of the Roffe Group; Robert Odawi Porter, President of the Seneca Indian Nation. Witnesses representing the State's racing and wagering industry included: James Featherstonaugh, Saratoga Racing and Gaming; Joseph D'Amato and Charles Degliomini, Empire Resorts at Monticello Raceway; Michel Speller, President of Resorts World, NY; and Alan Schwartz, Monticello Harness Horsemen's Association.

B. **Roundtable on the Proposed Regulation of Out-of-State Advanced Deposit Wagering**

Over the course of the last year, there has been significant attention directed to the operations of out-of-state advanced deposit wagering providers (ADWs) and the impact of their unregulated presence on the state's racing and pari-mutuel wagering network. Out-of-state ADW businesses who accept wagers from New York's residents are not currently licensed to conduct business in New York, and therefore, reap the benefits of the handle without being required to reinvest in the industry, as is the case for wagers placed and accepted here in the state. It is estimated that the handle lost to these businesses are well into the millions of dollars each year, and growing. Faced with the same challenges, several states have enacted legislation governing the operation of ADWs within their borders.

In order to obtain comment from stakeholders on the merits of regulating these entities and the effect such a measure would have on the various sectors of the industry, the Committee invited representatives from racetracks, regional off-track betting corporations, horsemen's organizations and other affected sectors, to participate in a roundtable discussion, which was held in Albany, on September 20, 2011. In addition to providing an overview of how ADWs are currently operating in the state, the group discussion also explored potential solutions for improving the flow of revenue derived from these wagers back into the Thoroughbred and Harness racing industries and to New York State.

The roundtable was hosted by Chairman J. Gary Pretlow who was joined by Committee members: Assemblywoman Aileen M. Gunther; Assemblyman Michael J. Spano; Assemblyman Robert P. Reilly; Assemblyman James Tedisco; and Assemblyman Edward Ra. Also in attendance were participants representing the regional off-track betting corporations: Nassau, Suffolk, Catskill, Capital District and Western, as well as: the New York Racing Association; the New York Thoroughbred Horsemen's Association; the New York Thoroughbred Breeders Inc.; Standardbred Owners' Association; Finger Lakes Horsemen's Benevolent Protective Association;

Empire Resorts; Yonkers Raceway; Finger Lakes Gaming and Racetrack; Saratoga Casino and Raceway; Batavia Downs; and the Buffalo Trotting Association.

The Committee, along with Chairman Pretlow, will continue to work closely with the stakeholders of the racing industry to gather information regarding the future operations of the out-of-state advanced deposit wagering providers.

C. **Charitable Gaming in New York State**  
Albany, Tuesday, November 29, 2011

In view of the State's current economic climate there has been an increased interest in expanding the ways in which approved organizations can raise money through charitable gaming. In order to obtain comments and discuss how the charitable gaming industry could bolster more interest and participation, the Committee held a public hearing on charitable gaming in New York State on November 29, 2011.

Oral testimony provided an overview of each organization as well as an explanation of how games of chance are conducted. In addition, the speakers also explored potential solutions for improving the charitable gaming industry such as decreasing the limitations on games of chance and their locations, as well as expanding the definition to include poker tournaments such as Texas Hold 'Em.

Witnesses who provided oral testimony included representatives from the Ancient Order of the Hibernians, Benevolent and Protective Order of the Elks, Veterans of Foreign Wars, Fraternal Order of the Eagles, Moose Legions of New York State/FASNY, VSweeps Inc., and the National Association of Fundraising Ticket Manufacturers.

The public hearing was hosted by Chairman J. Gary Pretlow who was also joined by Committee members: Assemblywoman Aileen Gunther; Assemblyman Michael Miller; and Assemblyman James Tedisco.

The Committee will continue to research and review legislative changes that will seek to improve and expand charitable gaming opportunities.

#### **IV. OUTLOOK FOR 2012**

During the 2012 Legislative Session, the Committee will continue to oversee legislation affecting the state's racing and pari-mutuel wagering network with respect to improving the sustainability of the state's off-track betting system. Among other issue areas to be considered are: the continued monitoring and assessment of the impact of out-of-state account wagering providers, potential placement opportunities for retired race horses, as well as possible legislative changes to the charitable gaming industry in order to increase interest and participation.

APPENDIX A  
2011 SUMMARY SHEET

SUMMARY OF ACTION ON ALL BILLS  
REFERRED TO THE COMMITTEE ON

RACING AND WAGERING

<u>FINAL ACTION</u>	<u>ASSEMBLY BILLS</u>	<u>SENATE BILLS</u>	<u>TOTAL BILLS</u>
<b>BILLS REPORTED WITH OR WITHOUT AMENDMENT</b>			
TO FLOOR; NOT RETURNING TO COMMITTEE	4	0	4
TO FLOOR; RECOMMITTED AND DIED			
TO WAYS AND MEANS	6	0	6
TO CODES	2	0	2
TO RULES	2	0	2
TO JUDICIARY	0	0	0
TOTAL	14	0	14
<b>BILLS HAVING COMMITTEE REFERENCE CHANGED</b>			
TO <u>Ways and Means</u> COMMITTEE	0	0	0
TO <u>JUDICIARY</u> COMMITTEE	0	0	0
TOTAL	0	0	0
<b>SENATE BILLS SUBSTITUTED OR RECALLED</b>			
SUBSTITUTED		0	0
RECALLED			
TOTAL		0	0
<b>BILLS DEFEATED IN COMMITTEE</b>	0	0	0
<b>BILLS HELD FOR CONSIDERATION with a roll-call vote</b>	0	0	0
<b>BILLS NEVER REPORTED, HELD IN COMMITTEE</b>	34	0	34
<b>BILLS HAVING ENACTING CLAUSES STRICKEN</b>	0	0	0
<b>MOTIONS TO DISCHARGE LOST</b>	0	0	0
<b>TOTAL BILLS IN COMMITTEE</b>	48	0	48
<b>TOTAL NUMBER OF COMMITTEE MEETINGS HELD</b>	5		



**APPENDIX B: CHAPTERS OF 2011**

<b><u>BILL/SPONSOR</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>ACTION</u></b>
A.6255 Pretlow S.3828 Klein	Authorizes racetracks to issue free and reduced admission passes.	Chapter 370
A.7392 Pretlow S.4876 Lanza	Requires any entity licensed by the state to conduct pari-mutuel wagering to locate any call centers for such operation within the state of New York.	Chapter 402
A.7851 Pretlow S.5326 Larkin	Amends the General Municipal Law to add "event games" as an authorized game of chance.	Chapter 531
A.7852-A Pretlow S.3949-B Bonacic	Extends for one year, until August 31, 2012, provisions of law relating to the New York State Thoroughbred Breeding and Development Fund.	Chapter 175
A.8245-A Pretlow S.5760 Bonacic	Clarifies the Division of Lottery's authority to obtain national criminal background search results for certain license holders or applicants, and their affiliates.	Chapter 217

**APPENDIX C: BILLS REPORTED IN 2011**

<b><u>BILL/SPONSOR</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>LAST ACTION</u></b>
A.167 Cahill No Same as	Would remove all of Ulster County, excluding the the Town of Wawarsing, from the locations where the governor is authorized to enter into tribal-state gaming compacts, for the development of Class III gaming facilities.	Passed Assembly, referred to Senate Rules Committee.
A.3585 Gabryszak No Same as	Would create an arts-themed scratch-off lottery ticket, for which the sales proceeds would be used exclusively for the support of elementary and secondary arts education.	Reported to the Assembly Ways and Means Committee.
A.3604 Pretlow No Same as	Would require a Board approved legend to be imprinted on all bell jar tickets authorized for sale in the state.	Reported to the Assembly Codes Committee.
A.3648 Pretlow No Same as	Would authorize racetracks and off-track betting corporations to offer rebates on pari-mutuel wagers made by bettors.	Passed Assembly, referred to Senate Rules Committee.
A.3705 Pretlow S.623 Klein	Establishes antitrust exemptions for certain horseracing agreements.	Vetoed, Memo 27
A.3708-A Pretlow No Same as	Requires lottery sales agents to return previously purchased lottery tickets to customers who submit them for verification, after the process has been completed.	Reported to the Assembly Ways and Means Committee.
A.6384-A Pretlow No Same as	Would extend for one year, until August 31, 2012, the authorization for the horsemen's organization to receive an additional 1.0% of purse monies collected from race meetings at Aqueduct, Saratoga, and Belmont racetracks.	Passed Assembly, referred to Senate Racing, Gaming and Wagering Committee.
A.6877-A Magee S.5482 Bonacic	Extends for two years, the authorization for the task force on the use of retired racehorses, until December 31, 2012.	Vetoed, Memo 24
A.7900 Pretlow S.3759-A Bonacic	Would establish a Racing fan advisory board to advise the Racing and Wagering Board on matters relating to growing the fan base for horse racing in the state and create a new non-monetary award for "New York State Horse Racing Farm of the Year."	Reported to the Assembly Ways and Means Committee.

END OF REPORT