

NEW YORK STATE  
A S S E M B L Y

SHELDON SILVER, SPEAKER



committee on  
Racing and Wagering  
J. Gary Pretlow, Chairman



Annual Report 2010



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

**THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY**

December 15, 2010

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 2010 Annual Report.

Several bills which were reported out of the Committee in the 2010 Legislative Session were subsequently enacted into law. Among them were laws which strengthened the oversight and regulatory authority of the State Racing and Wagering Board as well as legislation which increased the fundraising allowance for not-for-profit organizations. In addition to the enactment of law to improve the efficiency of equine drug testing at race meetings, the Committee also advanced measures which would have strengthened protections for purchasers of lottery game tickets.

In recent years, public demand for transparency and accountability coupled with high profile reports of inefficiencies and misuse of resources by public benefit corporations has resulted in closer examination of these entities. The regional Off-Track Betting corporations of this state exist for the purpose of generating revenues for localities and are therefore required to operate in a manner which best serves the public interest. To ensure that the maximum amount of revenues are being dedicated for localities and not absorbed by inefficient management practices, the Committee advanced legislation, subsequently enacted into law, requiring OTBs to submit copies of their approved annual budget to the State Racing and Wagering Board for review. Furthermore, the new authorization provides that upon examination of an approved budget, should the Board have reason to believe that inefficiencies are present, they may direct that an OTB cause its business and managerial practices to be audited.

The New York State Racing and Wagering Board is charged with ensuring industry compliance with the provisions of the Racing and Wagering Law as well as any rules and regulations promulgated in support of these laws. To improve the Board's ability to fulfill these duties, legislation was enacted to increase the maximum amount of fines that may be imposed for

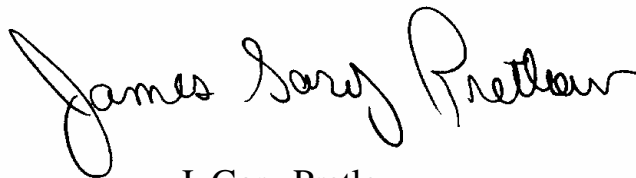
violations of the Racing, Pari-Mutuel Wagering and Breeding Law or rules and regulations promulgated by the Board pursuant to such laws. For some violations, this increase is the first modification to the penalty structure since its inception. Additionally, current law was amended to provide the Board with the option to impose monetary sanctions of up to \$50,000, for violations relating to off-track betting.

Other noteworthy Committee action in 2010 included extending the authorization to perform steroid testing at race meetings to State colleges with a Regents approved Equine Science Program. As a result of the previous criteria, there was but one qualified testing program in the state, which over time became unable to meet the demands of the industry. By expanding the qualifying standards, this measure will be instrumental in ensuring the regularity of equine drug testing at harness race meetings.

Mr. Speaker, despite the year's progress, the recent bankruptcy filing by the New York City Off-Track Betting Corporation has rendered a crippling blow to the racing industry. With the closing of over fifty parlors, the loss of hundreds of jobs, and the aftermath of the closures yet to be fully realized, it is now more evident than ever that a plan is needed to preserve the future of off track betting in New York State. While the Assembly was successful in passing legislation that would have provided for its reorganization and in doing so, kept the doors of NYC OTB open, at the end of the day, the fate of the corporation was determined by other factors. In light of these events it is imperative that the priorities of the 2011 Legislative Session include finding a long term solution for the State's remaining Off-Track Betting Corporations.

I want to take this opportunity to thank the members of the Committee for their support of, and contribution to the efforts of the 2010 Legislative Session. With your continued leadership Speaker Silver, we look forward to developing new programs and initiatives for the 2011 Legislative Session.

Warm Personal Regards,

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

J. Gary Pretlow  
Chairman

Assembly Racing & Wagering Committee

**2010 ANNUAL REPORT  
OF THE  
NEW YORK STATE ASSEMBLY  
STANDING COMMITTEE ON RACING AND WAGERING**

**J. Gary Pretlow, Chairman**

**MEMBERS**

**Majority**

Francine DelMonte  
Tim Gordon  
Aileen M. Gunther  
Margaret M. Markey  
Michael Miller  
Bob Reilly  
Mike Spano

**Minority**

Robert D. Barra  
Joe Giglio  
Stephen M. Hawley

**COMMITTEE STAFF**

Louann Ciccone, Assistant Secretary for Program and Policy  
Stephen Bochnak, Principal Analyst  
Jonathan Lynch, Committee Assistant  
Natisha Alexander, Committee Clerk  
Molly McDonald, Program and Counsel Secretary

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## **I. INTRODUCTION**

The Racing and Wagering Committee's jurisdiction includes all legislation involving pari-mutuel wagering on and off-track, intra- and inter-state, thoroughbred and standard bred horse racing and breeding, regulation of racing and wagering, lotteries --- including video lottery gaming --- bingo, games of chance, Indian gaming, charitable gaming and constitutional amendment resolutions concerning any of the above.

## **II. RACING: THOROUGHBRED & HARNESS**

### **Equine Drug Testing**

**A.9954 (Pretlow) / S.6352-A (Adams)**

**Chapter 15 of the Laws of 2010**

This chapter allows state colleges with regents approved equine science programs and drug administration facilities to administer steroid testing at race meetings overseen by the Racing & Wagering Board. The state's current equine drug testing program, overseen by the college of Veterinary Science Medicine at Cornell University has not been operating at its fullest capacity. This legislation allows the program to be continued at Morrisville State College in its accredited equine science program.

### **Payments to the Thoroughbred Horsemen's Association**

**A.10222-A (Pretlow) / S.6781-A (Stachowski)**

**Chapter 259 of the Laws of 2010**

This chapter continues the payment of an additional 1.0% from all purses paid to horse owners to be allocated to the horsemen's organization in order for it to continue (until 8.31.2011) to support benevolent activities for backstretch employees, including medical and mental health services, drug and alcohol counseling, various tests and screenings.

### **Payments to the Thoroughbred Breeding and Development Fund**

**A.11130-A (Pretlow) / S.7578-A (Adams)**

**Chapter 473 of the Laws of 2010**

This chapter authorizes the Thoroughbred Breeding and Development Fund to collect and receive payments on a quarterly basis and authorizes that the fund may increase the percentage of revenue allotted to breeder awards to an amount not to exceed sixty-five percent of total revenue. Also, this chapter permits the fund to allot no more than six percent of total revenue towards the advancement and promotion of breeding and development in New York State and an amount of no more than five percent for the administration and management of the fund.

## **III. OFF-TRACK BETTING: BY REGION**

### **OTB Related Fines**

**A.8182 (Spano) / S.3021 (Adams)**

**Chapter 241 of the Laws of 2010**

This chapter empowers the Racing and Wagering Board to impose fines on off-track betting (OTB) corporations and other persons or corporations participating in off-track betting for violations of any provision of racing law. It was intended to fill a gap in the Board's regulatory authority concerning the imposition of fines on OTB corporations. Currently, lacking the ability to impose fines, the Board has no other option for penalization than to suspend the entire operation of an OTB.

**OTB Corporation's Annual Budget**  
**A.3322 (Pretlow) / S.2717 (Adams)**  
**Chapter 459 of the Laws of 2010**

This chapter authorizes the Board, upon a reasonable finding that an off-track betting corporation (OTB) is not complying with law, to order that OTB to cause its business and managerial practices to be audited by an independent auditor at the OTB's expense. It also would require OTB corporations to submit copies of the corporations' annual budgets to the Board no later than 20 days after approval by the corporations' boards of directors. OTB corporations are public benefit corporations which are intended to be operated in the public interest. Currently, because of ambiguities in law, the Board has been found to have no authorization to audit an OTB even if it appears that an OTB is in violation of law. Recent events have focused attention on the practices of these public benefit corporations and have demonstrated the need to require this type of managerial and business examination, when necessary, in order to assure compliance with statutory objectives and generally accepted business management practices.

**New York City Off-Track Betting Oversight Functions**  
**A.10475 (Pretlow)**

This bill would provide that the oversight functions of the franchise oversight board would apply to the New York City Off-Track Betting Corporation and that no former or current director of the New York City Off-Track Betting Corporation may be appointed as a member of the franchise oversight board. Additionally, the New York City Off-Track Betting Corporation would be required to transfer all wagering accounts to the franchise oversight board. Currently, there are no provisions for any agency or entity of the state to oversee the operations of the New York City Off-Track Betting Corporation, which is now a state owned public benefit corporation. This measure will provide for a state entity to review the Corporation's policies, capital and operating plans, simulcasting agreements and other contracts, as well as budgets.

The bill was reported to the Assembly Ways & Means Committee.

**New York City Off-Track Betting Restructuring and Business Plan**  
**A.10476 (Pretlow)**

This bill would provide the franchise oversight board with the authority to retain a restructuring firm to prepare a restructuring and business plan for the New York City Off-Track Betting Corporation.

The bill was reported to the Assembly Ways & Means Committee.



## **IV. REGULATION OF RACING & WAGERING**

### **Imposition of Certain Fines by the Racing & Wagering Board**

**A.8181 (DelMonte) / S.3023 (Adams)**

**Chapter 240 of the Laws of 2010**

This chapter increases, from \$5,000 to \$25,000, the maximum amount of fines that may be imposed for violations of the Racing, Pari-Mutuel Wagering, and Breeding Law and rules and regulations. The current \$5,000 maximum fine is neither adequate to address the severity of a violation nor is it an effective deterrent for would-be violators.

### **Casino Gambling in Sullivan County**

**A.219 (Pretlow) / S.634 (Bonacic)**

This proposed amendment to the state constitution would permit the construction and operation of up to three privately owned casinos in Sullivan County. It would expand wagering permitted at those casinos to include all forms of gambling usually associated with casinos, including pari-mutuel betting on horse races. It is intended to stimulate economic development in the Catskill Region, where there are currently no casinos in operation. The state constitution presently prohibits all gambling except that which is expressly authorized therein. This resolution is presented for passage as the first step in the process of amending the state constitution, with a second passage needed for the proposed change to be voted upon as a public referendum.

The bill was reported to the Assembly Ways & Means Committee.

### **Casino Gambling in Sullivan County (including sports wagering)**

**A.221 (Pretlow) / S.633 (Bonacic)**

This proposed amendment to the state constitution would permit the construction and operation of up to three privately owned casinos in Sullivan County. It would expand wagering permitted at those casinos to include all forms of gambling usually associated with casinos, including pari-mutuel betting on horse races and wagering on professional sports. It is intended to stimulate economic development in the Catskill Region, where there are currently no casinos in operation. The state constitution presently prohibits all gambling except that which is expressly authorized therein. This resolution is presented for passage as the first step in the process of amending the state constitution, with a second passage needed for the proposed change to be voted upon as a public referendum.

The bill was reported to the Assembly Ways & Means Committee.

### **Antitrust Exemptions for Certain Horseracing Agreements**

**A.2750 (Pretlow) / S.6197 (Klein)**

This bill would permit racetracks and other racing event producers or retailers to join together to establish agreements governing the scheduling of their races and to establish joint agreements involving the sale and purchase of broadcasting and simulcasting rights. These entities would be granted anti-trust immunity to develop agreements which coordinate the dates and time of their

aces and are also given immunity to enter into contracts involving the joint purchase or sale of their broadcasts, simulcasts, and electronic transmissions. The bill would provide that any such agreements be subject to the approval of the Racing & Wagering Board.

The bill was advanced to third reading.

**Imposition of Fines by the Racing and Wagering Board  
A.2751 (Pretlow)**

This bill would increase, from \$5,000 to \$10,000, the maximum amount of fines that may be imposed upon any person, corporation, or association by the Racing & Wagering Board for violations relating to pari-mutuel thoroughbred racing. Additionally, this bill would empower the Board to fine, up to \$10,000 for each violation, any corporation, association, or person involved in off-track betting on which pari-mutuel betting is conducted. Currently, lacking the ability to impose fines, the Board's only recourse for addressing violations is to suspend the operation of an OTB.

The bill was reported to the Assembly Codes Committee.

**Interstate Compact for Occupational Horse Race Licenses  
A.8183 (Pretlow) / S.3022 (Adams)**

This bill would allow New York State to enter an Interstate Compact on Regulation of Horse and Greyhound Racing and Pari-Mutuel Wagering Activities. This compact would allow New York to join with other states to create uniform practices, programs, and rules and to act collectively.

The bill was referred to the Assembly Rules Committee.

**Display of Live Races and Special Events on Telephones  
A.9847-A (Pretlow)**

This bill would provide specific authority to video stream live races to any New York licensed track or off-track betting corporation which accepts internet wagers. The Racing & Wagering Board concluded that Chapter 314 of the Laws of 2006 did not authorize video streaming of live races, and as a result, bettors are discouraged from wagering on races they cannot watch live.

The bill was advanced to third reading.

## **V. LOTTERY**

**Video Lottery Gaming and Quick Draw Games  
A.9710-D (Budget) / S.6610-C (Budget)  
Chapter 57 of the Laws of 2010**

The enacted 2010-11 budget contained provisions which amended the terms of the Video Lottery

Gaming Program (VLG) to allow facilities which are authorized to conduct video lottery terminals to do so until 4 a.m., provided that the number of consecutive hours of operation may not exceed 20 hours. In addition, the bill provided for a 1% reduction in vendors' fees; thereby increasing the State's share of revenues from the operation of video gaming. The enacted budget also included modifications to the restrictions on the operation of Quick Draw games. These modifications included removal of the limits on hours of operation and various other provisions which collectively, allows Quick Draw to be offered at commercial bowling establishments and pari-mutuel wagering facilities.

### **Return of Purchased Lottery Tickets**

#### **A.9953 (Pretlow) / S.1892 (Klein)**

This bill would require lottery sales agents, after verifying a lottery ticket, to return the ticket to the customer even if the ticket does not yield a prize value. This bill attempts to address the potential for fraud which currently exists when quick draw lottery tickets are sold. Additionally, this legislation would allow purchasers of tickets to retain their losing tickets so that they may claim the loss on their taxes against any future winnings they might receive.

The bill was reported to the Assembly Ways & Means Committee.

## **VI. GAMES OF CHANCE/ CHARITABLE GAMING**

### **Increased Cap on Raffle Prizes**

#### **A.11065-A (Hoyt) / S.7801-A (Stachowski)**

#### **Chapter 302 of the Laws of 2010**

This chapter increases the total raffle prize permissible during a license period from \$100,000 to \$500,000. As funding for not-for-profit organizations becomes scarce, many organizations are relying on raffles as a fund-raising source.

### **Bell Jar Ticket Legends**

#### **A.10859 (Pretlow) / S.7165 (Adams)**

This bill would require that bell jar tickets sold in New York State contain an imprint of a legend approved by the New York State Racing and Wagering Board. The measure is intended to ensure that purchasers of bell jar tickets have a mechanism to determine if the ticket is permissible for sale in New York State.

This bill was passed by the Assembly.

## **VII. NATIVE AMERICAN GAMING**

### **Removal of Ulster County from the List of Approved Casino Sites**

#### **A.679-A (Cahill)**

This bill would remove Ulster County, with the exception of the Town of Wawarsing, from the counties that the Governor is authorized to enter into tribal compacts for the placement of casinos. The measure is intended to assure the residents of Ulster County, outside of the Town of Wawarsing, that a casino cannot be approved without further amendment to the authorizing legislation.

This bill was passed by the Assembly.

## **VIII. NEW YORK CITY OTB**

### **New York City Off-Track Betting Corporation's Emergence from Bankruptcy**

#### **A.42001 (Rules) / S.68001 (Rules)**

This bill would allow New York City Off-track Betting Corporation (NYC OTB) to confirm a plan of reorganization that would permit the corporation's emergence from bankruptcy. This bill would also establish a new entity titled the New York Racing Network, Inc. and transfer the title and ownership of NYC OTB's advance deposit wagering accounts to the New York Racing Network. The New York Racing Network's equity would be held by the tracks which are owed the largest amounts of money by NYC OTB and the majority of NYC OTB's pre-petition debt would be alleviated in this transfer. In addition, this bill would also free NYC OTB from certain economic requirements that would allow it to continue its operations and maintain jobs.

This bill was passed by the Assembly.

## **IX. OUTLOOK FOR THE 2011 LEGISLATIVE SESSION**

The events of 2010 have demonstrated the need for a comprehensive evaluation of the existing off-track and pari-mutuel wagering systems being employed in New York. For the 2011 Legislative Session, the Racing and Wagering Committee will work towards the development of a viable plan for the future of the off-track betting corporations and pari-mutuel wagering in the State.

**APPENDIX A  
2010 SUMMARY SHEET**

**Summary of Action on All Bills  
Referred to the Racing & Wagering Committee**

<b>FINAL ACTION</b>	<b>ASSEMBLY BILLS</b>	<b>SENATE BILLS</b>	<b>TOTAL BILLS</b>
<b>Bills Reported With or Without Amendment</b>			
To Floor; Not Returning To Committee	3		3
To Floor; Recommitted and Died			
To Ways and Means	6		6
To Codes	2		2
To Rules	2		2
To Judiciary	0		0
<b>Total</b>	26		26
<b>Bills Having Committee Reference Changed</b>			
To Judiciary Committee			
<b>Total</b>	0	0	0
<b>Senate Bills Substituted or Recalled</b>			
Substituted		3	3
Recalled		1	1
<b>Total</b>		4	4
<b>Bills Defeated in Committee</b>			
<b>Bills Never Reported, Held in Committee</b>	4	0	4
<b>Bills Never Reported, Died in Committee</b>	37	3	40
<b>Bills Having Enacting Clause Stricken</b>	0	0	0
<b>Motions to Discharge Lost</b>			
<b>TOTAL Number of Bills in Committee</b>	54	7	61
<b>TOTAL Number of Committee Meetings Held</b>	5		

**APPENDIX B  
BILLS THAT WERE CHAPTERED IN 2010**

<b>BILL/SPONSOR</b>	<b>DESCRIPTION</b>	<b>ACTION</b>
<b>A.9954 Pretlow S.6352-A Adams</b>	<b>Provides authorization for any state college with a regents approved equine science program to administer steroid testing.</b>	<b>Chapter 15</b>
<b>A.8181 DelMonte S.3023 Adams</b>	<b>Increases fines for violations of the Racing, Pari-Mutuel Wagering and Breeding Law.</b>	<b>Chapter 240</b>
<b>A.8182 Spano S.3021 Adams</b>	<b>Authorizes the Racing and Wagering Board to impose fines on off track betting corporations and other persons for violations relating to off track betting.</b>	<b>Chapter 241</b>
<b>A.10222-A Pretlow S.6781- A Stachowski</b>	<b>Extends the expiration date to 2011 for the contribution of an additional 1.0% of purse money to be used by the thoroughbred horsemen's organization.</b>	<b>Chapter 259</b>
<b>A.11065-A Hoyt S.7801-A Stachowski</b>	<b>Increases the cap on total raffle prize awards permissible during a single license period.</b>	<b>Chapter 302</b>
<b>A.3322 Pretlow S.2717 Adams</b>	<b>Relates to the authority of the Racing and Wagering Board to audit an Off-track Betting Corporation's business and managerial practices.</b>	<b>Chapter 459</b>
<b>A.11130-A Pretlow S.7578-A Adams</b>	<b>Relates to how the Thoroughbred Breeding and Development Fund collects and allots payments made to the fund</b>	<b>Chapter 473</b>

**APPENDIX C  
BILLS THAT PASSED THE ASSEMBLY IN 2010**

<b>BILL/SPONSOR</b>	<b>DESCRIPTION</b>
<b>A.3322 Pretlow S.2717 Adams</b>	<b>Relates to the authority of the Racing and Wagering Board to audit an Off-track Betting Corporation's business and managerial practices.</b>
<b>A.8181 DelMonte S.3023 Adams</b>	<b>Relates to the increase of imposed fines for violation of the Racing, Pari-Mutuel Wagering and Breeding Law.</b>
<b>A.8182 Spano S.3021 Adams</b>	<b>Relates to the imposition of fines on off-track betting corporations by the Racing and Wagering Board.</b>
<b>A.9954 Pretlow S.6352-A Adams</b>	<b>Relates to amendments in the law to allow any state college with regents approved equine science programs to administer steroid testing.</b>
<b>A.10222-A Pretlow S.6781 Stachowski</b>	<b>Extends the expiration date to 2011 for the contribution of an additional 1.0% of purse money to be used by the thoroughbred horsemen's organization.</b>
<b>A.11065-A Hoyt S.7801-A Stachowski</b>	<b>Relates to the increase on the cap on total raffle prize amount permissible during a license period.</b>
<b>A.11130-A Pretlow S.7578-A Adams</b>	<b>Relates to how the Thoroughbred Breeding and Development Fund collects and allots payments made to the fund.</b>



**Appendix D  
BILLS THAT WERE REPORTED IN 2010**

<b>BILL/SPONSOR</b>	<b>DESCRIPTION</b>
A.219 Pretlow S.634 Bonacic	Would authorize up to three casinos to be built in Sullivan County and expands wagering at the casinos to permit all forms of gambling associated with casinos including pari-mutuel wagering on horse racing.
A.221 Pretlow S.633 Bonacic	Would authorize up to three casinos to be built in Sullivan County and expands wagering at the casinos to permit all forms of gambling associated with casinos including wagering on horse racing and professional sports.
A.679-A Cahill	Relates to the removal of Ulster County, with the exception of the town of Wawarsing, from the counties the Governor is authorized to enter into tribal compacts for certain types of gaming facilities.
A.2750 Pretlow S.6197 Klein	Relates to exemptions from state and federal anti-trust laws for agreements between or among pari-mutuel licensees to schedule and coordinate race and bet types and times in the best interests of NYS.
A.2751 Pretlow	Empowers the Board to impose fines with regard to violations of pari-mutuel thoroughbred racing and permits the Board to impose fines on off-track betting corporations.
A.3322 Pretlow S.2717 Adams	Relates to the authority of the Racing and Wagering Board to audit an Off-track Betting Corporation's business and managerial practices.
A.8181 DelMonte S.3023 Adams	Relates to the increase of imposed fines for violation of the Racing, Pari-Mutuel Wagering and Breeding Law.
A.8182 Spano S.3021 Adams	Relates to the imposition of fines on off-track betting corporations by the Racing and Wagering Board.
A.9847-A Pretlow	Relates to the authority of any New York licensed track or off-track betting corporation which accepts internet wagers to video stream live races.
A.9953 Pretlow S.1892 Klein	Would require lottery sales agents, after verifying a lottery ticket to see if it is a winner, to return the ticket to the customer.

<b>A.9954 Pretlow S.6352-A Adams</b>	<b>Relates to amendments in the law to allow any state college with regents approved equine science programs to administer steroid testing.</b>
<b>A.10222-A Pretlow S.6781-A Stachowski</b>	<b>Extends the expiration date to 2011 for the contribution of an additional 1.0% of purse money to be used by the thoroughbred horsemen's organization.</b>
<b>A.10475 Pretlow</b>	<b>Provides that no former or current director or officer of New York city off-track betting corporation shall be appointed as a member of the franchise oversight board and to extend the oversight functions of the board to apply to the New York City Off-Track Betting Corporation.</b>
<b>A.10476 Pretlow</b>	<b>Provides the franchise oversight board with the authority to retain a restructuring firm to prepare a restructuring and business plan for New York City Off-Track Betting Corporation.</b>
<b>A.10859 Pretlow S.7165 Adams</b>	<b>Relates to the requirement that bell jar tickets sold in New York State contain an imprint of a legend approved by the New York State Racing and Wagering Board (Board).</b>
<b>A.11065-A Hoyt S.7801-A Stachowski</b>	<b>Relates to the increase on the cap on total raffle prize amount permissible during a license period.</b>
<b>A.11130-A Pretlow S.7578-A Adams</b>	<b>Relates to how the Thoroughbred Breeding and Development Fund collects and allots payments made to the fund.</b>

**END OF REPORT**