S T A T E O F N E W Y O R K

1

Third Extraordinary Session

I N A S S E M B L Y

November 29, 2010

Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the racing, pari-mutuel wagering and breeding law, in relation to pari-mutuel tax rates at certain facilities and establishing the New York Racing Network, Inc.; and to amend the tax law, in relation to authorizing subsidized free play credits

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative findings and intent. The legislature hereby finds and declares that the New York city off-track betting corporation is an integral component of the horse racing industry in New York. The legislature further finds that in order to preserve its continuing existence, the corporation was allowed by executive order to file a petition for bankruptcy protection under Chapter 9 of the Bankruptcy Code in the southern district of New York. The bankruptcy proceedings have resulted in a reorganization plan, the approval of which by the official committee of creditors is contingent upon enacting legislation to implement certain elements of that plan.

The legislature further finds that the labor unions representing the employees of the corporation have signed memoranda of agreement, which ratify portions of the reorganization plan affecting their membership. This approval represents concurrence with the corporation's leadership and the view of the legislature that a plan that allows the corporation to remain sustainable upon exiting bankruptcy will preserve employment opportunities for New York residents, and is preferable to a liquidation of the corporation. Furthermore, the legislature finds that the tens of thousands of jobs both directly and indirectly supported by the racing industry will be protected by a reorganization plan that supports a seamless exit from bankruptcy for the corporation.

Therefore, the legislature finds this legislation, which strictly enacts elements of the reorganization plan, to be essential to maintain-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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ing a vibrant horse racing industry in New York, and to protecting the thousands of jobs supported by the horse racing industry.

S 2. Subdivision 5-a of section 307 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

5-a. The board shall not issue a license pursuant to this section to any harness racing association or corporation which does not apply to conduct at its facilities a minimum number of pari-mutuel programs and pari-mutuel races at its facilities equal to at least seventy-five per centum of the programs and races so conducted during nineteen hundred eighty-five or during nineteen hundred eighty-six, or one hundred per centum of the programs and races so conducted during two thousand, whichever is greater; provided, however, that for a harness racing association or corporation located in Westchester and Erie counties, such minimum number of pari-mutuel programs and pari-mutuel races at its facilities shall equal at least one hundred per centum of the programs and races conducted during two thousand, AND PROVIDED FURTHER, HOWEVER, THAT FOR A HARNESS ASSOCIATION OR CORPORATION LOCATED IN SULLIVAN COUNTY, SUCH MINIMUM NUMBER OF PARI-MUTUEL PROGRAMS AND PARI-MUTUEL RACES AT ITS FACILITIES SHALL EQUAL AT LEAST SIXTY PER CENTUM OF THE PROGRAMS AND RACES SO CONDUCTED DURING NINETEEN HUNDRED EIGHTY-SIX OR EIGHTY PER CENTUM OF THE PROGRAMS AND RACES SO CONDUCTED DURING TWO THOUSAND, WHICHEVER IS GREATER. If the track did not conduct races during two thousand, such minimum number of pari-mutuel programs and pari-mutuel races at its facilities shall equal at least ninety per centum of the programs and races conducted during two thousand at Buffalo raceway, in the town of Hamburg and county of Erie, unless cancellation of a race day because of an act of God, which the board approves or because of weather conditions that are unsafe or hazardous which the board approves shall not be construed as a failure to conduct a race day; provided further, the board shall not grant a license to such association or corporation upon application unless such programs and races are conducted during the same calendar year period as were conducted during the applicable period above utilized to measure the minimum number of pari-mutuel programs and pari-mutuel races, as approved by the board. Nothing in the foregoing paragraph shall affect any agreement in effect on or before the effective date of this paragraph. The board may grant a license to such association or corporation to conduct fewer such programs and races for good cause shown due to factors beyond the control of such association or corporation, and upon consent of the representative horsemen's association, as determined pursuant to section three hundred eighteen of this article.

S 3. The opening paragraph of paragraph a of subdivision 5 of section 318 of the racing, pari-mutuel wagering and breeding law, as added by chapter 261 of the laws of 1988, is amended to read as follows:

Notwithstanding any other provision of this section to the contrary, for any calendar year commencing on or after January first, nineteen hundred eighty-nine, in which a harness racing association or corporation does not conduct a minimum number of pari-mutuel programs and pari-mutuel races at its facilities equal to at least ninety per centum of the programs and races so conducted during nineteen hundred eighty-five or during nineteen hundred eighty-six, PROVIDED, HOWEVER, THAT FOR A HARNESS RACING ASSOCIATION OR CORPORATION LOCATED IN SULLIVAN COUNTY, FOR ANY CALENDAR YEAR COMMENCING ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, IN WHICH SUCH HARNESS RACING ASSOCIATION OR CORPORATION DOES NOT CONDUCT A MINIMUM NUMBER OF PARI-MUTUEL PROGRAMS AND PARI-MUTUEL RACES

AT SUCH FACILITIES EQUAL TO AT LEAST SEVENTY PER CENTUM OF THE PROGRAMS AND RACES SO CONDUCTED DURING NINETEEN HUNDRED EIGHTY-FIVE OR DURING NINETEEN HUNDRED EIGHTY-SIX, whichever is less, in lieu of the tax rates set forth in subdivision one of this section the applicable pari-mutuel tax rates for such association or corporation with respect to on-track pari-mutuel betting pools during such year shall be as follows:

S 4. Subdivision 2 of section 529 of the racing, pari-mutuel wagering and breeding law is amended to read as follows:

2. Ninety-five percent of the balance of such account remaining unclaimed as of the last day of February of such year shall be paid BY EACH REGIONAL OFF-TRACK BETTING CORPORATION, EXCEPT THE NEW YORK CITY OFF-TRACK BETTING CORPORATION, to the state tax commission by March fifteenth. On or before April tenth of each year the balance of such account and any other unclaimed amounts received in the course of conducting off-track betting shall be paid by [such] EACH REGIONAL OFF-TRACK BETTING corporation, EXCEPT THE NEW YORK CITY OFF-TRACK BETTING CORPORATION, to the state tax commission. A penalty of five percent and interest at the rate of one percent per month from the due date to the date of payment of the unclaimed balance due March fifteenth or April tenth, as the case may be, shall be payable in case such balance is not paid when due. Such amounts, interest and penalties when collected by the state tax commission shall be deposited into the general fund of the state treasury. THE BALANCE OF SUCH UNCLAIMED ACCOUNTS RETAINED BY THE NEW YORK CITY OFF-TRACK BETTING CORPORATION MAY BE USED FOR ITS CORPORATE PURPOSES.

S 5. Subdivisions 1, 3, 6, 7 and 11 of section 603 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 115 of the laws of 2008, are amended to read as follows:

1. A corporation to be known as the "New York city off-track betting corporation" is hereby created. Such corporation shall be a body corporate and politic constituting a public benefit corporation. It shall be administered by a board of directors consisting of five [members] VOTING DIRECTORS AND THREE NON-VOTING DIRECTORS, who may be public officers, appointed by the governor [for fixed terms as hereinafter provided, one of whom shall be appointed on the recommendation of the temporary president of the senate, and one of whom shall be appointed on the recommendation of the speaker of the assembly]. THE VOTING DIRECTORS, ONE OF WHOM SHALL BE APPOINTED ON THE RECOMMENDATION OF THE TEMPORARY PRESIDENT OF THE SENATE AND ONE OF WHOM SHALL BE APPOINTED ON THE RECOMMENDATION OF THE SPEAKER OF THE ASSEMBLY, SHALL SERVE FOR FIXED TERMS AS HEREINAFTER PROVIDED. OF THE NON-VOTING DIRECTORS, ONE SHALL BE APPOINTED ON THE RECOMMENDATION OF THE FRANCHISED CORPORATION; ONE ON THE JOINT RECOMMENDATION OF THE HARNESS TRACKS LOCATED IN WESTCHESTER AND SULLIVAN COUNTIES; AND ONE ON THE RECOMMENDATION OF THE UNION REPRESENTING A MAJORITY OF THE UNIONIZED EMPLOYEES OF THE CORPORATION. THE NON-VOTING DIRECTORS SHALL NOT HAVE A FIDUCIARY OBLIGATION TO THE CORPORATION, BUT SHALL BE REQUIRED TO PROTECT INFORMATION DEEMED TO BE, OR WHICH COULD BE REASONABLY ASSUMED TO BE, CONFIDENTIAL, INCLUDING, WITHOUT LIMITATION, ALL MATTERS DISCUSSED IN EXECUTIVE SESSION.

3. The governor shall designate one of the VOTING directors to be chairman of the board of directors and may at his OR HER pleasure, change his OR HER designation of any such VOTING director to be chairman.

6. The powers of the corporation shall be vested in and exercised by the board at a meeting duly held at a time fixed by any by-law adopted by the board, or at any duly adjourned meeting of such meeting or at any

meeting held upon reasonable notice to all of the directors, or upon written waiver thereof, and a majority of the whole number of VOTING directors shall constitute a quorum; provided that neither the business nor the powers of the corporation shall be transacted or exercised except pursuant to the favorable vote of at least a majority of the VOTING directors present at a meeting at which a quorum is in attendance.

7. The board may delegate to one or more of the VOTING directors, officers, agents or employees of the corporation such powers and duties as it may deem proper.

11. The fiscal year of the corporation shall be the same as that of [the city, provided, however, that the corporation shall have a nine month fiscal year from July first, two thousand eight through March thirty-first, two thousand nine, and then the fiscal year of the corporation shall be the same as] the state.

S 6. Subdivisions 8 and 11 of section 604 of the racing, pari-mutuel wagering and breeding law, subdivision 8 as amended by chapter 115 of the laws of 2008, are amended to read as follows:

8. To make contracts and leases, including joint ventures with third parties or entities, EXCEPT THAT ANY JOINT VENTURE WITH THIRD PARTIES OR ENTITIES FOR THE PURPOSE OF RAISING CAPITAL FOR THE CONSTRUCTION AND OPERATION OF A NEW OR EXPANDED LICENSED SIMULCAST FACILITY AS DEFINED IN SUBDIVISION J OF SECTION ONE THOUSAND ONE OF THIS CHAPTER OR EXPANDED SIMULCAST THEATER AS DEFINED IN SUBDIVISION 1 OF SECTION ONE THOUSAND ONE OF THIS CHAPTER SHALL BE SUBJECT TO A RIGHT OF FIRST REFUSAL BY ANY NEW YORK STATE LICENSED HARNESS TRACK OR FRANCHISED CORPORATION WITH RACING FACILITIES LOCATED WITHIN THIRTY MILES OF THE PROPOSED LOCATION (IF MORE THAN ONE SUCH HARNESS TRACK OR FRANCHISED CORPORATION'S RACING FACILITIES ARE LOCATED WITHIN THIRTY MILES OF THE PROPOSED LOCATION THEN BOTH WILL HAVE THE RIGHT OF FIRST REFUSAL AND MAY PARTNER TOGETHER THEREIN) TO BE THE FINANCIAL AND OPERATING PARTNER OF THE CORPORATION IN SUCH JOINT VENTURE, and to execute all instruments necessary or convenient to accomplish its corporate purpose; provided, however, that the corporation may only enter into agreements for the purchase or lease of any property to be used in whole or in part as an off-track betting branch office which is conditioned upon the location thereof being approved by the site selection board; and further provided, that such location prior to its use as such off-track betting branch office shall have been approved by the site selection board. TO THE EXTENT THAT ANY PROVISION OF THIS CHAPTER, INCLUDING, WITHOUT LIMITATION, SUBPARAGRAPH (II) OF PARAGRAPH C OF SUBDIVISION TWO OF SECTION ONE THOUSAND EIGHT AND PARAGRAPH B OF SUBDIVISION THREE OF SECTION ONE THOUSAND NINE OR OF ANY OTHER LAW, RULE OR REGULATION, REQUIRES THE AUTHORIZATION OR CONSENT OF ANY REGIONAL TRACK TO THE CONSTRUCTION, OPERATION OR LICENSING OF A SIMULCAST FACILITY OR SIMULCAST THEATER, THEN IN THE EVENT THAT SUCH RIGHT OF FIRST REFUSAL IS NOT EXERCISED, THEN IF SUCH SIMULCAST FACILITY IS LOCATED IN NEW YORK COUNTY OR IS LOCATED MORE THAN TEN MILES FROM ANY REGIONAL HARNESS TRACK OR A RACING FACILITY OF THE FRANCHISED CORPORATION SUCH CONSENT OR AUTHORIZATION IS HEREBY DEEMED GRANTED. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER OR OF ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, THE OPERATOR OF SUCH JOINT VENTURE SIMULCAST WAGERING FACILITY SHALL NEITHER BE REQUIRED TO COLLECT A SURCHARGE ON BETS MADE THEREIN NOR BE REQUIRED TO CHARGE AN ADMISSION FEE FOR ENTRANCE THERETO;

11. In the manner and subject to the terms and conditions set forth in this article, and article five-a of this chapter to establish and

conduct a system of off-track pari-mutuel betting in the city on horse races WHICH SHALL NOT INCLUDE THE CONDUCT, OPERATION, OR MAINTENANCE OF TELEPHONE BETTING ACCOUNTS AND TELEPHONE WAGERING AS DEFINED IN SUBDIVISION FOUR-A OF SECTION ONE THOUSAND TWELVE OF THIS CHAPTER, PROVIDED THAT THE CORPORATION MAY AFFILIATE OR JOINT VENTURE SOLELY WITH AND AT THE SOLE OPTION OF THE NEW YORK RACING NETWORK, INC. IN THE CONDUCT, OPERATION, OR MAINTENANCE OF TELEPHONE BETTING ACCOUNTS AND TELEPHONE WAGERING AS DEFINED IN SUBDIVISION FOUR-A OF SECTION ONE THOUSAND TWELVE OF THIS CHAPTER;

S 7. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 604-a to read as follows:

S 604-A. TRANSFER OF ACCOUNT WAGERING OPERATIONS. NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, THE CORPORATION SHALL TRANSFER OWNERSHIP AND TITLE TO ALL TELEPHONE BETTING AND TELEPHONE WAGERING ACCOUNTS AS DEFINED IN SUBDIVISION FOUR-A OF SECTION ONE THOUSAND TWELVE OF THIS CHAPTER THAT ARE MAINTAINED AND OPERATED BY THE CORPORATION TO THE NEW YORK RACING NETWORK, INC. THE CORPORATION SHALL UPON SUCH TRANSFER NO LONGER HAVE THE AUTHORITY TO MAINTAIN TELEPHONE BETTING OR TELEPHONE WAGERING ACCOUNTS AS DEFINED IN THIS CHAPTER OR TO CONDUCT TELEPHONE OR INTERNET WAGERING AS PROVIDED FOR IN THIS CHAPTER EITHER DIRECTLY OR INDIRECTLY THROUGH A THIRD PARTY PROVIDER INCLUDING BUT NOT LIMITED TO A REGIONAL OFF-TRACK BETTING CORPORATION, EXCEPT AS PROVIDED FOR IN SUBDIVISION ELEVEN OF SECTION SIX HUNDRED FOUR OF THIS ARTICLE. THE CORPORATION SHALL UPON SUCH TRANSFER OF TELEPHONE BETTING AND TELEPHONE WAGERING ACCOUNTS AS PROVIDED HEREIN NO LONGER HAVE AUTHORITY TO JOINTLY OR OTHERWISE APPROVE THROUGH WRITTEN AGREEMENT, CONSENT OR OTHERWISE THE CONDUCT OF IN-HOME SIMULCASTING PURSUANT TO SECTION ONE THOUSAND THREE OF THIS CHAPTER.

S 8. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 604-b to read as follows:

S 604-B. ACCOUNT SERVICING FOR NEW YORK RACING NETWORK, INC. 1. NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY, THE CORPORATION SHALL PERMIT ACCOUNT HOLDERS OF THE NEW YORK RACING NETWORK, INC., AS ESTABLISHED PURSUANT TO ARTICLE SIX-A OF THIS CHAPTER, TO MAKE DEPOSITS AND WITHDRAWALS AT BRANCH OFFICES, SIMULCAST FACILITIES OR SIMULCAST THEATERS OPERATED BY THE CORPORATION FROM THEIR ACCOUNTS AT THE NEW YORK RACING NETWORK, INC. A FEE OF .25 PERCENT PER TRANSACTION UP TO A MAXIMUM OF TEN DOLLARS PER TRANSACTION SHALL BE ASSESSED BY THE CORPORATION ON THE ACCOUNT HOLDERS OF THE NEW YORK RACING NETWORK, INC. FOR SUCH DEPOSITS OR WITHDRAWALS ON THEIR ACCOUNTS.

2. TO THE EXTENT, BUT ONLY TO THE EXTENT, THAT THE NEW YORK CITY OFF-TRACK BETTING CORPORATION'S WAGERING TERMINALS, EQUIPMENT AND SYSTEMS HAVE THE ABILITY TO ACCEPT AND PROCESS ACCOUNT WAGERING TRANSACTIONS, THE NEW YORK RACING NETWORK, INC.'S ACCOUNT HOLDERS MAY ALSO WAGER AT BRANCH OFFICES, SIMULCAST FACILITIES OR SIMULCAST THEATERS OPERATED BY THE NEW YORK CITY OFF-TRACK BETTING CORPORATION FROM THEIR ACCOUNTS AT THE NEW YORK RACING NETWORK, INC., IN WHICH EVENT ANY WAGER MADE AT BRANCH OFFICES, SIMULCAST FACILITIES OR SIMULCAST THEATERS OPERATED BY NEW YORK CITY OFF-TRACK BETTING CORPORATION BY AN ACCOUNT HOLDER OF THE NEW YORK RACING NETWORK, INC. USING THEIR ACCOUNT SHALL BE SUBJECT TO A FEE OF TWO PERCENT OF THE AMOUNT OF EACH ACCOUNT WAGERING TRANSACTION UP TO A MAXIMUM OF TEN DOLLARS PER TRANSACTION.

3. NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY, SUCH ACCOUNT WAGERING TRANSACTION DESCRIBED IN THIS SECTION SHALL NOT BE SUBJECT TO ANY SURCHARGE THAT OTHERWISE MAY BE REQUIRED TO BE CHARGED OR

COLLECTED ON WAGERS PLACED AT A NEW YORK CITY OFF-TRACK BETTING FACILITY.

4. ANY TRANSACTION FEE TO BE PAID TO THE NEW YORK CITY OFF-TRACK BETTING CORPORATION BY THE NEW YORK RACING NETWORK, INC. PURSUANT TO THIS SECTION SHALL BE PAID WITHIN THIRTY DAYS OF THE FINAL DAY OF THE MONTH IN WHICH SUCH TRANSACTION TAKES PLACE.

5. IF, DURING ANY FISCAL YEAR OF THE NEW YORK CITY OFF-TRACK BETTING CORPORATION, PAYMENTS TO THE CORPORATION FROM THE NEW YORK RACING NETWORK, INC. PURSUANT TO THIS SECTION REMAIN UNPAID FOR MORE THAN NINETY DAYS FROM THE DATE THEY ARE DUE, OR ON THREE SEPARATE OCCASIONS REMAIN UNPAID FOR MORE THAN THIRTY DAYS FROM THE DATE THEY ARE DUE, THEN THE CORPORATION CANNOT BE HELD IN DEFAULT FOR AS LONG AS THE NEW YORK RACING NETWORK, INC. REMAINS IN DEFAULT.

S 9. Subdivision 2 of section 606 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 115 of the laws of 2008, is amended to read as follows:

2. The corporation shall administer its personnel pursuant to the civil service law and the rules and regulations promulgated thereunder, [and classification and compensation schedules of the state department of civil service,] and all other applicable provisions of general laws relating to civil service administration. The corporation shall retain all personnel, payroll and associated employee records and shall ensure that the New York city employees' retirement system has access to such records for retirement purposes consistent with current records retention requirements.

S 10. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 608 to read as follows:

S 608. DISPLAY OF RACES. EXCEPT AS TO SIMULCAST SIGNALS OF SPECIAL INTEREST RACES, INCLUDING WITHOUT LIMITATION, TRIPLE CROWN AND BREEDERS CUP RACES, SIMULCAST SIGNALS WHICH ARE SHOWN IN BRANCH OFFICES, SIMULCAST FACILITIES OR SIMULCAST THEATERS OF RACE PROGRAMS RUN AT NEW YORK STATE THOROUGHBRED OR HARNESS TRACKS SHALL BE PROMINENTLY DISPLAYED ON THE LARGEST SCREENS AVAILABLE IN SUCH FACILITIES.

S 11. Section 610 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 115 of the laws of 2008, is amended to read as follows:

S 610. Moneys of corporation. 1. The monetary transactions of the corporation and the keeping of its books and accounts shall be under the supervision of the director of the division of the budget. The chair of the racing and wagering board may at any time request and shall be provided for review such books and accounts.

2. THE ANNUAL OPERATING BUDGETS FOR THE CORPORATION SHALL BE APPROVED BY THE BOARD OF THE CORPORATION, AND NO BUDGET SHALL BE APPROVED BY THE BOARD THAT IS NOT BALANCED PURSUANT TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, EXCEPT THAT WITH RESPECT TO THE CORPORATION'S OTHER POST-EMPLOYMENT BENEFITS LIABILITIES, A BALANCED BUDGET SHOULD GIVE EFFECT ONLY TO THE PROJECTED AGGREGATE ANNUAL CASH PAYMENT FOR OTHER POST-EMPLOYMENT BENEFITS LIABILITIES. MOREOVER, THE CORPORATION SHALL NOT IMPLEMENT A BUDGET APPROVED BY ITS BOARD UNTIL SUCH BUDGET IS DETERMINED TO BE BALANCED BY THE DIRECTOR OF THE NEW YORK STATE DIVISION OF THE BUDGET WHO SHALL NOT TAKE INTO ACCOUNT THE CORPORATION'S NON-CASH OTHER POST-EMPLOYMENT BENEFITS LIABILITIES IN MAKING SUCH DETERMINATION. IN THE EVENT THE BUDGET OF THE CORPORATION IS NOT DETERMINED TO BE BALANCED BY THE DIRECTOR OF THE BUDGET PRIOR TO THE START OF THE FISCAL YEAR OF THE CORPORATION, THE CORPORATION SHALL CONTINUE TO OPERATE UNDER THE SPENDING LEVELS CONTAINED IN THE BUDGET OF THE PRIOR YEAR UNTIL SUCH

TIME AS A NEW BUDGET IS DETERMINED TO BE BALANCED BY THE DIRECTOR OF THE BUDGET.

3. All moneys due the city pursuant to article five-A of this chapter shall be paid to the New York city comptroller.

[3.] 4. The state comptroller and his legally authorized representative are authorized to examine the accounts and books of the corporation, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing.

[4.] 5. The corporation shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the corporation or any moneys held in trust or otherwise for the payment of bonds in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section.

[5.] 6. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the corporation, and all banks and trust companies are authorized to give such security for such deposits.

S 12. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 610-a to read as follows:

S 610-A. REDUCTION IN PAYMENTS REQUIRED TO BE MADE TO IN-STATE TRACKS ON ACCOUNT OF ACCEPTANCE OF WAGERS ON RACES RUN AT OUT-OF-STATE TRACKS. 1. OTHER THAN PAYMENTS REQUIRED TO BE MADE DIRECTLY TO AN IN-STATE TRACK FOR THE TAKING OF WAGERS ON RACES RUN AT AN IN-STATE TRACK, AND NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER OR ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, THE NEW YORK CITY OFF-TRACK BETTING CORPORATION SHALL REDUCE ANY PAYMENTS REQUIRED TO BE MADE BY IT TO THE FRANCHISED CORPORATION OR TO ANY IN-STATE, BOARD-LICENSED, THOROUGHBRED RACING CORPORATION OR HARNESS RACING CORPORATION OR ASSOCIATION, ON ACCOUNT OF RETAINED COMMISSIONS FROM WAGERING ACCEPTED BY THE NEW YORK CITY OFF-TRACK BETTING CORPORATION ON RACES RUN AT TRACKS OUTSIDE OF NEW YORK STATE, INCLUDING WITHOUT LIMITATION SUCH PAYMENTS REQUIRED TO BE MADE PURSUANT TO SECTIONS FIVE HUNDRED TWENTY-SEVEN, ONE THOUSAND FOURTEEN, ONE THOUSAND FIFTEEN, ONE THOUSAND SIXTEEN AND ONE THOUSAND EIGHTEEN OF THIS CHAPTER. THE REDUCTIONS IN SUCH PAYMENTS SHALL BE AS FOLLOWS: FOR THE FIRST FISCAL YEAR OF THE CORPORATION IN WHICH THE EFFECTIVE DATE OF THIS SUBDIVISION OCCURS, SUCH PAYMENTS SHALL BE REDUCED BY FIFTY PERCENT; FOR THE FOLLOWING FISCAL YEAR, SUCH PAYMENTS SHALL BE REDUCED BY FORTY PERCENT; FOR THE THIRD FISCAL YEAR, SUCH PAYMENTS SHALL BE REDUCED BY THIRTY PERCENT; AND FOR EACH FISCAL YEAR THEREAFTER SUCH PAYMENTS SHALL BE REDUCED BY TWENTY PERCENT, PROVIDED, HOWEVER, THAT IF IN THE FOURTH FISCAL YEAR OR IN ANY FISCAL YEAR THEREAFTER THE ANNUAL TOTAL HANDLE OF THE NEW YORK CITY OFF-TRACK BETTING CORPORATION REACHES BETWEEN SIX HUNDRED MILLION AND SIX HUNDRED TWENTY MILLION DOLLARS, THEN THE REDUCTION IN SUCH PAYMENTS SHALL BE TEN PERCENT; PROVIDED, FURTHER, HOWEVER THAT IF IN THE FOURTH FISCAL YEAR OR ANY SUBSEQUENT FISCAL YEAR THE ANNUAL TOTAL HANDLE OF THE NEW YORK CITY OFF-TRACK BETTING CORPORATION EXCEEDS SIX HUNDRED TWENTY MILLION DOLLARS, THEN THERE SHALL BE NO REDUCTION IN SUCH PAYMENTS.

2. ALL PAYMENTS REQUIRED TO BE MADE BY THE NEW YORK CITY OFF-TRACK BETTING CORPORATION PURSUANT TO SUBDIVISION ONE OF THIS SECTION, SHALL BE MADE BY THE CORPORATION WITHIN SIXTY DAYS FOLLOWING THE LAST DAY OF THE MONTH IN WHICH THE OBLIGATION FOR SUCH PAYMENT ACCRUED, WITH AN ADDITIONAL THIRTY DAY PERIOD IN WHICH THE CORPORATION MUST CURE A

DEFAULT IN THE MAKING OF SUCH PAYMENT, PROVIDED, HOWEVER, THAT IN ANY FISCAL YEAR OF THE NEW YORK CITY OFF-TRACK BETTING CORPORATION IN WHICH THE PAYMENT REDUCTIONS DESCRIBED IN SUBDIVISION ONE OF THIS SECTION ARE LESS THAN TWENTY PERCENT AS A RESULT OF THE CORPORATION'S TOTAL ANNUAL HANDLE EXCEEDING FIVE HUNDRED NINETY-NINE MILLION DOLLARS AND NINETY-NINE CENTS, THE PORTION OF SUCH PAYMENTS THAT ARE DEPENDENT UPON THE CORPORATION'S TOTAL ANNUAL HANDLE EXCEEDING SUCH AMOUNT SHALL BE PAID BY THE CORPORATION WITHIN THIRTY DAYS FOLLOWING THE END OF SUCH FISCAL YEAR, WITH AN ADDITIONAL THIRTY DAY PERIOD IN WHICH THE CORPORATION MUST CURE A DEFAULT IN MAKING OF ANY SUCH PAYMENTS.

3. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER OR ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, THE NEW YORK CITY OFF-TRACK BETTING CORPORATION SHALL CALCULATE THE STATUTORY PAYMENTS IT IS REQUIRED TO MAKE TO THE AGRICULTURAL AND NEW YORK STATE HORSE BREEDING DEVELOPMENT FUND BY USING THE SAME PERCENTAGE RATE USED TO CALCULATE THE STATUTORY PAYMENTS REQUIRED TO BE MADE BY IT TO THE NEW YORK STATE THOROUGHBRED BREEDING AND DEVELOPMENT FUND.

S 13. Section 613 of the racing, pari-mutuel wagering and breeding law is amended to read as follows:

S 613. Agreement of the state. The state does pledge to and agree with the holders of any and all bonds and notes of the corporation that the state will not authorize any officer or agency of government, other than the corporation, EXCEPT AS OTHERWISE PROVIDED FOR IN THIS ARTICLE, or any private person, to [conduct] OPERATE off-track betting in the city on horse races, nor in any manner limit or alter the rights hereby vested in the corporation to fulfill the terms of any agreements made with the said holders, or in any way impair the rights and remedies of such holders until the bonds and notes, together with the interest thereon, interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The corporation is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds or notes.

S 14. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 615 to read as follows:

S 615. AUTHORITY TO NEGOTIATE SIMULCAST SIGNALS FOR THIRD PARTIES. THE CORPORATION SHALL BE AUTHORIZED TO CONTRACT WITH THE FRANCHISED CORPORATION, A THOROUGHBRED RACING CORPORATION OR ANY HARNESS CORPORATION LICENSED BY THE BOARD TO NEGOTIATE ON SUCH ENTITIES' BEHALF WITH OUT-OF-STATE OR OUT-OF-COUNTRY RACETRACKS TO PROVIDE SIMULCAST SIGNALS TO SUCH ENTITIES.

S 15. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 617-a to read as follows:

S 617-A. REDUCTIONS IN PARI-MUTUEL TAX PAYMENTS. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS CHAPTER OR OF ANY OTHER LAW, RULE OR REGULATION, THE NEW YORK CITY OFF-TRACK BETTING CORPORATION SHALL REDUCE BY FIFTY PERCENT PAYMENTS DUE FOR PARI-MUTUEL TAXES TO THE STATE DEPARTMENT OF TAXATION AND FINANCE THAT WOULD OTHERWISE BE REQUIRED TO BE MADE PURSUANT TO THE PROVISIONS OF THIS CHAPTER, PROVIDED, HOWEVER, IN THE EVENT THAT THE ANNUAL TOTAL HANDLE OF NEW YORK CITY OFF-TRACK BETTING IN ANY FISCAL YEAR BEGINNING TWO FISCAL YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION IS: SIX HUNDRED MILLION DOLLARS OR GREATER BUT NOT MORE THAN SIX HUNDRED FIFTEEN MILLION DOLLARS, SUCH REDUCTION IN PARI-MUTUEL TAX PAYMENTS SHALL BE FORTY-TWO AND ONE-HALF PERCENT; GREATER THAN SIX HUNDRED FIFTEEN MILLION DOLLARS BUT NOT MORE THAN SIX HUNDRED TWENTY MILLION DOLLARS, SUCH REDUCTION IN PARI-MUTUEL TAX PAYMENTS SHALL BE

THIRTY-SEVEN AND ONE-HALF PERCENT; GREATER THAN SIX HUNDRED TWENTY MILLION DOLLARS BUT NOT MORE THAN SIX HUNDRED THIRTY MILLION DOLLARS, SUCH REDUCTION IN PARI-MUTUEL TAX PAYMENTS SHALL BE TWENTY-FIVE PERCENT; GREATER THAN SIX HUNDRED THIRTY MILLION DOLLARS BUT NOT MORE THAN SIX HUNDRED THIRTY-FIVE MILLION DOLLARS, SUCH REDUCTION IN PARI-MUTUEL TAX PAYMENTS SHALL BE SEVENTEEN AND ONE-HALF PERCENT; GREATER THAN SIX HUNDRED THIRTY-FIVE MILLION DOLLARS BUT NOT MORE THAN SIX HUNDRED FORTY MILLION DOLLARS, SUCH REDUCTION IN PARI-MUTUEL TAX PAYMENTS SHALL BE SEVEN AND ONE-HALF PERCENT; AND IN EXCESS OF SIX HUNDRED FORTY MILLION DOLLARS, THERE SHALL BE NO REDUCTION OF PARI-MUTUEL TAX PAYMENTS. THE NEW YORK CITY OFF-TRACK BETTING CORPORATION SHALL MAKE MONTHLY PAYMENTS OF PARI-MUTUEL TAX BASED UPON SUCH FIFTY PERCENT REDUCTION. WITHIN THIRTY DAYS OF THE END OF THE FISCAL YEAR OF THE CORPORATION, THE CORPORATION SHALL PAY THE REMAINDER OF ANY PARI-MUTUEL TAX THAT MAY BE DUE AS A RESULT OF A LOWER ALLOWABLE REDUCTION BASED UPON A CALCULATION OF ANNUAL HANDLE AT THE CLOSE OF NEW YORK CITY OFF-TRACK BETTING CORPORATION'S FISCAL YEAR.

S 16. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 623-a to read as follows:

S 623-A. FILING OF PETITIONS BY THE NEW YORK CITY OFF-TRACK BETTING CORPORATION. NOTWITHSTANDING ANY LAW, RULE, REGULATION OR EXECUTIVE ORDER TO THE CONTRARY, IT IS HEREBY DECLARED TO BE THE POLICY OF THE STATE OF NEW YORK THAT THE NEW YORK CITY OFF-TRACK BETTING CORPORATION SHALL NOT BE AUTHORIZED TO FILE ANY PETITION AFTER THE EFFECTIVE DATE OF THIS SECTION WITH ANY UNITED STATES DISTRICT COURT OR COURT OF BANKRUPTCY UNDER ANY PROVISION OF THE LAWS OF THE UNITED STATES FOR THE COMPOSITION OR ADJUSTMENT OF MUNICIPAL INDEBTEDNESS.

S 17. Section 624 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 115 of the laws of 2008, is amended to read as follows:

S 624. Termination of the corporation; ASSUMPTION OF MANAGEMENT OF THE CORPORATION. 1. The corporation and its corporate existence shall continue until terminated by law; provided, however, that no such law shall take effect so long as the corporation shall have bonds, notes or other obligations outstanding, INCLUDING BUT NOT LIMITED TO A LICENSE AND MANAGEMENT AGREEMENT AS PROVIDED FOR IN SUBDIVISION TWO OF THIS SECTION. Upon termination of the existence of the corporation all of its rights, property, assets and funds shall thereupon vest in and be possessed by the state.

2. SHOULD THE CORPORATION: (A) FAIL TO PAY ANY COMMISSIONS DUE TO THE IN-STATE RACE TRACKS WHICH SHALL BE DUE NOT LATER THAN SIXTY DAYS FROM THE LAST DAY OF THE MONTH IN WHICH SUCH COMMISSIONS ACCRUED, PLUS AN ADDITIONAL THIRTY DAY CURE PERIOD; OR (B) FAIL TO ACHIEVE POSITIVE EARNINGS BEFORE INTEREST, TAXES, DEPRECIATION AND AMORTIZATION IN ANY TWO CONSECUTIVE FISCAL YEARS; OR (C) FAIL TO HAVE A BALANCED BUDGET, AS DETERMINED BY THE DIRECTOR OF THE STATE BUDGET IN ACCORDANCE WITH SECTION SIX HUNDRED TEN OF THIS ARTICLE IN ANY FISCAL YEAR; THEN THE NEW YORK RACING NETWORK, INC. MAY ASSUME, PURSUANT TO A LICENSE AND MANAGEMENT AGREEMENT, THE LENGTH OF THE TERM OF WHICH SHALL BE SUBJECT TO THE APPROVAL OF THE RACING AND WAGERING BOARD, THE MANAGEMENT AND OPERATIONAL CONTROL OF THE BUSINESS ACTIVITIES OF THE CORPORATION. IN THE EVENT THAT THE NEW YORK RACING NETWORK, INC. AGREES TO ASSUME MANAGEMENT AND OPERATIONAL CONTROL OF THE CORPORATION, THE FRANCHISED CORPORATION AND THE HARNESS TRACK LOCATED IN WESTCHESTER COUNTY SHALL BE JOINTLY RESPONSIBLE FOR THE MANAGEMENT AND OPERATIONAL CONTROL OF THE BUSINESS ACTIVITIES OF THE CORPORATION ON BEHALF OF THE NEW YORK RACING NETWORK,

INC., PROVIDED, HOWEVER, THAT NEITHER SHALL DIRECTLY RECEIVE ADDITIONAL COMPENSATION FOR PROVIDING SUCH MANAGEMENT SERVICES. IN THE EVENT OF THE ASSUMPTION OF THE MANAGEMENT AND OPERATIONAL CONTROL OF THE CORPORATION BY THE NEW YORK RACING NETWORK, INC., PURSUANT TO THIS SECTION, THE CORPORATION WILL CONTINUE TO BE GOVERNED AND OWNED IN A FORM CONSISTENT WITH GOVERNANCE AND OWNERSHIP EXISTING AT THE TIME OF THE TRANSFER OF MANAGEMENT. ASSUMPTION BY NEW YORK RACING NETWORK, INC., OF THE MANAGEMENT AND OPERATIONAL CONTROL OF THE CORPORATION SHALL NOT ALTER THE TERMS AND CONDITIONS OF EMPLOYMENT OF THE WORKFORCE, AND ANY CURRENT COLLECTIVE BARGAINING AGREEMENTS WITH ITS EMPLOYEE ORGANIZATIONS SHALL REMAIN IN FULL FORCE AND EFFECT.

S 18. The racing, pari-mutuel wagering and breeding law is amended by adding a new article 6-A to read as follows:

ARTICLE 6-A
NEW YORK RACING NETWORK, INC.

SECTION 625. NEW YORK RACING NETWORK, INC.
626. DISTRIBUTION OF REVENUES.

S 625. NEW YORK RACING NETWORK, INC. NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, A CORPORATION WHICH SHALL BE NAMED THE NEW YORK RACING NETWORK, INC. SHALL BE INCORPORATED BY THE FRANCHISED CORPORATION, A THOROUGHBRED RACING CORPORATION AND ONE OR MORE HARNESS RACING CORPORATIONS WHICH ARE MEMBERS OF THE OFFICIAL COMMITTEE OF CREDITORS OF THE NEW YORK CITY OFF-TRACK BETTING CORPORATION UNDER CHAPTER NINE OF THE UNITED STATES BANKRUPTCY CODE PURSUANT TO EITHER THE BUSINESS CORPORATION LAW OR THE LIMITED LIABILITY COMPANY LAW. THE NEW YORK RACING NETWORK, INC. SHALL BE AUTHORIZED TO CONDUCT OFF-TRACK PARI-MUTUEL WAGERING UNDER THIS CHAPTER AND TO DISPLAY THE SIMULCAST OF HORSE RACES INCLUDING BUT NOT LIMITED TO THROUGH IN-HOME SIMULCAST AND VIDEO STREAMING OF RACES ON THE INTERNET ON WHICH PARI-MUTUEL BETTING SHALL BE PERMITTED SUBJECT TO ARTICLE TEN OF THIS CHAPTER. THE NEW YORK RACING NETWORK, INC. SHALL ISSUE SHARES TO THE FRANCHISED CORPORATION, A THOROUGHBRED RACING CORPORATION AND ONE OR MORE HARNESS RACING CORPORATIONS ON A PRO-RATA BASIS BASED ON THE AGGREGATE AMOUNT OF SUCH CORPORATION'S PRE-PETITION AND POST-PETITION CLAIMS IN A BANKRUPTCY PROCEEDING FILED BY THE NEW YORK CITY OFF-TRACK BETTING CORPORATION UNDER CHAPTER NINE OF THE BANKRUPTCY CODE IN THE SOUTHERN DISTRICT OF NEW YORK. THE NEW YORK RACING NETWORK, INC. SHALL BE AUTHORIZED TO APPLY FOR A SIMULCAST LICENSE PURSUANT TO SECTION ONE THOUSAND THREE OF THIS CHAPTER. UNLESS OTHERWISE SPECIFICALLY PROVIDED, THE NEW YORK RACING NETWORK, INC. SHALL BE SUBJECT TO ALL REQUIREMENTS OF LAW AND REGULATIONS APPLICABLE TO NEW YORK STATE PARI-MUTUEL BETTING OPERATORS, INCLUDING APPROVAL OF A PLAN OF OPERATION BY THE RACING AND WAGERING BOARD. THE SHARES OR MEMBERSHIP INTERESTS IN THE NEW YORK RACING NETWORK, INC. SHALL NOT BE TRANSFERRED TO PARTIES OTHER THAN THE ORIGINAL INCORPORATING INTERESTS WITHOUT THE PRIOR WRITTEN APPROVAL OF THE RACING AND WAGERING BOARD. THE SIMULCAST LICENSE FOR THE NEW YORK RACING NETWORK, INC. SHALL INCLUDE THE AUTHORIZATION TO SIMULCAST INTO RESIDENCES, HOMES OR OTHER AREAS THOROUGH EITHER A CABLE TELEVISION SIGNAL, VIDEO STREAMING USING THE INTERNET OR SIMILAR TECHNOLOGY FOR TRANSMISSION OF SUCH SIMULCAST SIGNAL WHICH ARE WITHIN THE CITY OF NEW YORK. NO AGREEMENT OR OTHER WRITTEN CONSENT WITH OR FROM NEW YORK CITY OFF-TRACK BETTING SHALL BE REQUIRED TO AUTHORIZE THE AFORESAID SIMULCASTING.

S 626. DISTRIBUTION OF REVENUES. NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY, THE NEW YORK RACING NETWORK, INC. SHALL DISTRIBUTE ALL SUMS DEPOSITED IN ANY PARI-MUTUEL POOL THROUGH THE NEW YORK RACING NETWORK, INC. TO THE HOLDERS OF WINNING TICKETS THEREIN, PROVIDING SUCH TICKETS ARE PRESENTED FOR PAYMENT PRIOR TO APRIL FIRST OF THE YEAR FOLLOWING THE YEAR OF THEIR PURCHASE. IN THE CASE OF TOTAL DEPOSITS IN POOLS RESULTING FROM REGULAR, MULTIPLE, EXOTIC OR SUPER EXOTIC BETS ON THE RACING PROGRAMS OF THE FRANCHISED CORPORATION, A THOROUGHBRED CORPORATION OR A HARNESS RACING CORPORATION WHICH ARE SHAREHOLDERS OF THE NEW YORK RACING NETWORK, INC., SUCH BETS SHALL BE TREATED AS POOLS FOR AN ON-TRACK BET AT SUCH ENTITY AS PROVIDED FOR IN THIS CHAPTER, EXCEPT THAT ONE PERCENT OF THE TOTAL TAKEOUT IN SUCH POOLS SHALL BE RETAINED BY THE NEW YORK RACING NETWORK, INC. AS A MANAGEMENT FEE. IN THE CASE OF TOTAL DEPOSITS IN POOLS RESULTING FROM REGULAR, MULTIPLE, EXOTIC OR SUPER EXOTIC BETS ON TRACKS LOCATED IN NEW YORK STATE WHICH ARE NOT SHAREHOLDERS IN NEW YORK RACING NETWORK, INC. OR ARE MADE ON OUT-OF-STATE OR OUT-OF-COUNTRY RACES SUCH BETS SHALL BE TREATED AS IF MADE AT A NEW YORK CITY OFF-TRACK BETTING FACILITY WITH RESPECT TO RETENTION OF TOTAL DEPOSITS IN THE POOL AND PAYMENTS THEREFROM.

S 19. Subdivisions 4-a and 5 of section 1012 of the racing, pari-mutuel wagering and breeding law, subdivision 4-a as amended by chapter 18 of the laws of 2008 and subdivision 5 as amended by section 11 of part C of chapter 134 of the laws of 2010, are amended to read as follows:

4-a. For the purposes of this section, "telephone betting accounts" and "telephone wagering" shall mean and include all those wagers which utilize any wired or wireless communications device, including but not limited to wireline telephones, wireless telephones, and the internet, to DISPLAY LIVE RACES AND SPECIAL EVENTS, AND, NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY, WITH RESPECT TO NEW YORK RACING NETWORK, INC., IF INTERNET WAGERING IS PROVIDED PURSUANT TO THIS SECTION, IT SHALL INCLUDE NEW YORK STATE TRACKS WHICH ARE CONDUCTING A RACE MEET AND A VIDEOSTREAM OF THEIR RACES SHALL BE MADE AVAILABLE UPON THEIR CONSENT, AND transmit the placement of wagers on races and special events offered by any regional off-track betting corporation, and any harness, thoroughbred, quarter horse racing association or corporation licensed or franchised to conduct pari-mutuel racing in New York state.

5. The provisions of this section shall [expire and be of no further force and effect after June thirtieth, two thousand eleven] NOT BE SUBJECT TO THE PROVISIONS OF SECTION ONE THOUSAND THREE OF THIS ARTICLE, HOWEVER, NO RACES OR SPECIAL EVENTS SHALL BE DISPLAYED WITHOUT THE EXPRESS CONSENT OF THE ORIGINATOR OF THE RACES OR SPECIAL EVENTS.

S 20. The racing, pari-mutuel wagering and breeding law is amended by adding a new section 1013-a to read as follows:

S 1013-A. SIMULCAST SIGNAL OF RACES. UPON THE EFFECTIVE DATE OF THIS SECTION AND THEREAFTER, THE SIMULCAST SIGNAL OF ALL RACES RUN AT THE TRACKS OPERATED BY THE FRANCHISED CORPORATION SHALL BE PROVIDED AT NO COST TO THE NEW YORK CITY OFF-TRACK BETTING CORPORATION FOR DISPLAY FOR WAGERING PURPOSES IN ITS SIMULCAST FACILITIES.

S 21. Paragraph h of subdivision 1 of section 1014 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

h. (1) Licensed harness tracks shall receive, EXCEPT FROM THE NEW YORK CITY OFF-TRACK BETTING CORPORATION, in lieu of any other payments on wagers placed at off-track betting facilities outside the special betting district on races conducted by an in-state thoroughbred racing

corporation, two and eight-tenths percent on regular and multiple bets during a regional meeting and one and nine-tenths percent of such bets if there is no regional meeting and four and eight-tenths percent on exotic bets on days on which there is a regional meeting and three and four-tenths percent of such bets if there is no regional meeting.

(2) (i) In addition, licensed harness tracks shall receive, EXCEPT FROM THE NEW YORK CITY OFF-TRACK BETTING CORPORATION, one and one-half per centum on total handle on races conducted at an out-of-state or out-of-country thoroughbred track provided such harness track is neither accepting wagers nor displaying the signal from an out-of-state track.

(ii) In those regions in which there is more than one licensed harness track, if no track is accepting wagers or displaying the live simulcast signal from the out-of-state track, the total sum shall be divided among the tracks in proportion to the ratio the wagers placed on races conducted by each track bears to the corporation's total in-region harness handle. If one or more tracks are accepting wagers or displaying the live simulcast signal, the total amount shall be divided among those tracks not accepting wagers or displaying the simulcast signal for an out-of-state track.

(3) The terms used in this section shall have the same applicability and meaning as interpreted and applied in sections five hundred twenty-three and five hundred twenty-seven of this chapter.

S 22. Clause (E) of subparagraph 5 and clause (F) of subparagraph 6 of paragraph b of subdivision 1 of section 1016 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, are amended to read as follows:

(E) On days when a franchised corporation is not conducting a race meeting and when a licensed harness track is neither accepting wagers nor displaying the signal from an in-state thoroughbred corporation or association or an out-of-state thoroughbred track:

(i) Such licensed regional harness track shall receive, EXCEPT FROM THE NEW YORK CITY OFF-TRACK BETTING CORPORATION, in lieu of any other payments on wagers placed at off-track betting facilities outside the special betting district on races conducted by an in-state thoroughbred racing corporation, two and eight-tenths percent on regular and multiple bets during a regional meeting and one and nine-tenths percent of such bets if there is no regional meeting and four and eight-tenths percent on exotic bets on days on which there is a regional meeting and three and four-tenths percent of such bets if there is no regional meeting.

(ii) Such licensed regional harness track shall receive, EXCEPT FROM THE NEW YORK CITY OFF-TRACK BETTING CORPORATION, one and one-half per centum on total regional handle on races conducted at out-of-state or out-of-country thoroughbred tracks.

(iii) In those regions in which there is more than one licensed regional harness track, if no track is accepting wagers or displaying the live simulcast signal from the out-of-state track, the total sum shall be divided among the tracks in proportion to the ratio the wagers placed on races conducted by each track bears to the corporation's total in-region harness handle. If one or more tracks are accepting wagers or displaying the live simulcast signal, the total amount shall be divided among those tracks not accepting wagers or displaying the simulcast signal for an out-of-state track or in-state thoroughbred corporation or association.

(F) On days when a franchised corporation is not conducting a race meeting and when a licensed harness track is neither accepting wagers

nor displaying the signal from an in-state thoroughbred corporation or association or an out-of-state thoroughbred track:

(i) Such licensed regional harness track shall receive, EXCEPT FROM THE NEW YORK CITY OFF-TRACK BETTING CORPORATION, in lieu of any other payments on wagers placed at off-track betting facilities outside the special betting district on races conducted by an in-state thoroughbred racing corporation, two and eight-tenths percent on regular and multiple bets during a regional meeting and one and nine-tenths percent of such bets if there is no regional meeting and four and eight-tenths percent on exotic bets on days on which there is a regional meeting and three and four-tenths percent of such bets if there is no regional meeting.

(ii) Such licensed regional harness track shall receive, EXCEPT FROM THE NEW YORK CITY OFF-TRACK BETTING CORPORATION, one and one-half per centum on total regional handle on races conducted at out-of-state or out-of-country thoroughbred tracks.

(iii) In those regions in which there is more than one licensed regional harness track, if no track is accepting wagers or displaying the live simulcast signal from the out-of-state track, the total sum shall be divided among the tracks in proportion to the ratio the wagers placed on races conducted by each track bears to the corporation's total in-region harness handle. If one or more tracks are accepting wagers or displaying the live simulcast signal, the total amount shall be divided among those tracks not accepting wagers or displaying the simulcast signal for an out-of-state track or in-state thoroughbred corporation.

S 23. Subdivision 2 of section 1017 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

2. a. Maintenance of effort. Any off-track betting corporation, OTHER THAN THE NEW YORK CITY OFF-TRACK BETTING CORPORATION, which engages in accepting wagers on the simulcasts of thoroughbred races from out-of-state or out-of-country as permitted under subdivision one of this section shall submit to the board, for its approval, a schedule of payments to be made in any year or portion thereof, that such off-track corporation engages in nighttime thoroughbred simulcasting. In order to be approved by the board, the payment schedule shall be identical to the actual payments and distributions of such payments to tracks and purses made by such off-track corporation pursuant to the provisions of section one thousand fifteen of this article during the year two thousand two, as derived from out-of-state harness races displayed after 6:00 P.M. If approved by the board, such scheduled payments shall be made from revenues derived from any simulcasting conducted pursuant to this section and section one thousand fifteen of this article.

b. Additional payments. During each calendar year, to the extent, and at such time in the event, that aggregate statewide wagering handle after 7Labor P.M. on out-of-state and out-of-country thoroughbred races, EXCLUDING THE AMOUNT OF SUCH HANDLE ATTRIBUTABLE TO THE NEW YORK CITY OFF-TRACK BETTING CORPORATION, exceeds [one hundred] THIRTY-FIVE million dollars, each off-track betting corporation, OTHER THAN THE NEW YORK CITY OFF-TRACK BETTING CORPORATION, conducting such simulcasting shall pay to its regional harness track or tracks, an amount equal to two percent of its proportionate share of such excess handle. In any region where there are two or more regional harness tracks, such two percent shall be divided between or among the tracks in a proportion equal to the proportion of handle on live harness races conducted at such tracks during the preceding calendar year. Fifty percent of the sum received by

each track pursuant to this paragraph shall be used exclusively for increasing purses, stakes and prizes at that regional harness track.

S 24. Clause (H) of subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law, as amended by section 6 of part K of chapter 57 of the laws of 2010, is amended to read as follows:

(H) notwithstanding clauses (A), (B), (C), (D), (E), (F) and (G) of this subparagraph, the track operator of a vendor track shall be eligible for a vendor's capital award of up to four percent of the total revenue wagered at the vendor track after payout for prizes pursuant to this chapter, which shall be used exclusively for capital project investments to improve the facilities of the vendor track which promote or encourage increased attendance at the video lottery gaming facility including, but not limited to hotels, other lodging facilities, entertainment facilities, retail facilities, dining facilities, events arenas, parking garages and other improvements that enhance facility amenities; provided that such capital investments shall be approved by the division, in consultation with the state racing and wagering board, and that such vendor track demonstrates that such capital expenditures will increase patronage at such vendor track's facilities and increase the amount of revenue generated to support state education programs. The annual amount of such vendor's capital awards that a vendor track shall be eligible to receive shall be limited to two million five hundred thousand dollars, except for Aqueduct racetrack, for which there shall be no vendor's capital awards. PROVIDED, HOWEVER, A VENDOR TRACK THAT RECEIVED A VENDOR FEE PURSUANT TO CLAUSE (F) OF THIS SUBPARAGRAPH AS OF JANUARY FIRST, TWO THOUSAND TEN SHALL ONLY BE ELIGIBLE TO RECEIVE A CAPITAL AWARD FOR APPROVED CAPITAL EXPENDITURES ON OR AFTER MAY FIRST, TWO THOUSAND TWELVE, IN AN AMOUNT NOT TO EXCEED ONE AND ONE-HALF PERCENT OF THE TOTAL REVENUE WAGERED AT SUCH TRACK AFTER PAYOUT FOR PRIZES. Except for tracks having less than one thousand one hundred video gaming machines, each track operator shall be required to co-invest an amount of capital expenditure equal to its cumulative vendor's capital award FOR ANY CAPITAL INVESTMENTS APPROVED BY THE DIVISION ON OR BEFORE OCTOBER THIRTY-FIRST, TWO THOUSAND TEN, AND NO CO-INVESTMENT SHALL BE REQUIRED FOR A CAPITAL AWARD FOR ANY CAPITAL INVESTMENTS APPROVED BY THE DIVISION ON OR AFTER NOVEMBER FIRST, TWO THOUSAND TEN. For all tracks, except for Aqueduct racetrack, the amount of any vendor's capital award that is not used during any one year period may be carried over into subsequent years ending before April first, two thousand thirteen. Any amount attributable to a capital expenditure approved prior to April first, two thousand thirteen and completed before April first, two thousand fifteen shall be eligible to receive the vendor's capital award. In the event that a vendor track's capital expenditures, approved by the division prior to April first, two thousand thirteen and completed prior to April first, two thousand fifteen, exceed the vendor track's cumulative capital award during the five year period ending April first, two thousand thirteen, the vendor shall continue to receive the capital award after April first, two thousand thirteen until such approved capital expenditures are paid to the vendor track subject to any required co-investment. In no event shall any vendor track that receives a vendor fee pursuant to clause [(F) or] (G) of this subparagraph be eligible for a vendor's capital award under this section. Any operator of a vendor track which has received a vendor's capital award, choosing to divest the capital improvement toward which the award was applied, prior to the full depreciation of the capital improvement in accordance with generally accepted accounting principles, shall reimburse the state in amounts

equal to the total of any such awards. Any capital award not approved for a capital expenditure at a video lottery gaming facility by April first, two thousand thirteen shall be deposited into the state lottery fund for education aid; and

S 25. Subparagraph (ii) of paragraph 1 of subdivision b of section 1612 of the tax law is amended by adding a new clause (I) to read as follows:

(I) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, SUBSIDIZED FREE PLAY CREDITS AUTHORIZED PURSUANT TO SUBDIVISION F OF SECTION SIXTEEN HUNDRED SEVENTEEN-A OF THIS ARTICLE SHALL NOT BE INCLUDED IN THE CALCULATION OF THE TOTAL AMOUNT WAGERED ON VIDEO LOTTERY GAMES, THE TOTAL AMOUNT WAGERED AFTER PAYOUT OF PRIZES, THE VENDOR FEES PAYABLE TO THE OPERATORS OF VIDEO LOTTERY FACILITIES, VENDOR'S CAPITAL AWARDS, VENDOR'S MARKETING ALLOWANCES, FEES PAYABLE TO THE DIVISION'S VIDEO LOTTERY GAMING EQUIPMENT CONTRACTORS, OR RACING SUPPORT PAYMENTS.

S 26. Section 1617-a of the tax law is amended by adding a new subdivision f to read as follows:

F. SUBSIDIZED FREE PLAY. 1. THE DIVISION MAY PROMULGATE RULES AND REGULATIONS OR ISSUE INSTRUCTIONS TO THE VIDEO LOTTERY FACILITY OPERATORS GOVERNING THE ADMINISTRATION AND OPERATION OF A PROGRAM OF SUBSIDIZED FREE PLAY CREDITS TO BE OFFERED TO PLAYERS OR PROSPECTIVE PLAYERS OF VIDEO LOTTERY GAMES FOR THE PURPOSE OF INCREASING REVENUES EARNED BY THE VIDEO LOTTERY PROGRAM FOR THE SUPPORT OF EDUCATION. FOR THE PURPOSES OF THIS SUBDIVISION, "SUBSIDIZED FREE PLAY CREDIT" MEANS A SPECIFIED DOLLAR AMOUNT THAT (I) MAY BE USED BY A PLAYER TO PLAY A VIDEO LOTTERY GAME WITHOUT PAYING ANY OTHER CONSIDERATION, AND (II) IS NOT USED IN THE CALCULATION OF TOTAL REVENUE WAGERED AFTER PAYOUT OF PRIZES AND THEREFORE SUBSIDIZES THE PROMOTION OF THE VIDEO LOTTERY PROGRAM.

2. FOR EACH VIDEO LOTTERY FACILITY, THE DIVISION SHALL AUTHORIZE THE USE OF SUBSIDIZED FREE PLAY CREDITS IF THE OPERATOR OF SUCH FACILITY SUBMITS A WRITTEN PLAN FOR THE USE OF SUBSIDIZED FREE PLAY CREDITS THAT THE DIVISION DETERMINES IS DESIGNED TO INCREASE THE AMOUNT OF REVENUE EARNED BY VIDEO LOTTERY GAMING AT SUCH FACILITY FOR THE SUPPORT OF EDUCATION.

3. FOR EACH VIDEO LOTTERY FACILITY, THE VALUE OF THE SUBSIDIZED FREE PLAY CREDITS AUTHORIZED FOR USE ANNUALLY BY THE OPERATOR PURSUANT TO THIS SUBDIVISION SHALL BE AN AMOUNT EQUAL TO SEVEN AND ONE-HALF PERCENT OF THE TOTAL AMOUNT WAGERED ON VIDEO LOTTERY GAMES AFTER PAYOUT OF PRIZES. PROVIDED, HOWEVER, THE VALUE OF THE SUBSIDIZED FREE PLAY CREDITS AUTHORIZED FOR USE ANNUALLY BY A VIDEO LOTTERY FACILITY OPERATOR AT A VENDOR TRACK THAT RECEIVES A VENDOR FEE PURSUANT TO CLAUSE (C) OR (F) OF SUBPARAGRAPH (II) OF PARAGRAPH 1 OF SUBDIVISION B OF SECTION SIXTEEN HUNDRED TWELVE OF THIS ARTICLE SHALL BE AN AMOUNT EQUAL TO TEN PERCENT OF THE TOTAL AMOUNT WAGERED ON VIDEO LOTTERY GAMES AFTER PAYOUT OF PRIZES. PROVIDED, FURTHER, THE VALUE OF THE SUBSIDIZED FREE PLAY CREDITS AUTHORIZED FOR USE ANNUALLY BY A VIDEO LOTTERY FACILITY OPERATOR AT A VENDOR TRACK THAT RECEIVES A VENDOR FEE PURSUANT TO CLAUSE (D) OR (E) OF SUBPARAGRAPH (II) OF PARAGRAPH 1 OF SUBDIVISION B OF SECTION SIXTEEN HUNDRED TWELVE OF THIS ARTICLE AND IS NOT WITHIN FIFTEEN MILES OF A NATIVE AMERICAN CLASS III GAMING FACILITY THAT OPERATED PRIOR TO JANUARY FIRST, TWO THOUSAND TEN, PURSUANT TO A COMPACT THAT INCLUDES EXCLUSIVITY PAYMENTS TO THE STATE SHALL BE AN AMOUNT EQUAL TO TEN PERCENT OF THE TOTAL AMOUNT WAGERED ON VIDEO LOTTERY GAMES AFTER PAYOUT OF PRIZES. A VIDEO LOTTERY FACILITY OPERATOR MAY USE AN AMOUNT OF SUBSIDIZED FREE PLAY CREDITS THAT IS LESS THAN THE TOTAL AUTHORIZED, AND THE DIVISION

SHALL ESTABLISH PROCEDURES TO ASSURE THAT SUBSIDIZED FREE PLAY CREDITS DO NOT EXCEED THE MAXIMUM AMOUNT ALLOWED PURSUANT TO THIS SUBDIVISION.

4. THE DIVISION, IN CONJUNCTION WITH THE DIRECTOR OF THE BUDGET, MAY SUSPEND UPON NINETY DAYS NOTICE THE USE OF SUBSIDIZED FREE PLAY CREDITS AUTHORIZED PURSUANT TO THIS SUBDIVISION WHENEVER THEY JOINTLY DETERMINE THAT THE USE OF SUBSIDIZED FREE PLAY CREDITS HAS RESULTED IN A YEAR OVER YEAR DECLINE IN THE AMOUNT OF REVENUE EARNED FOR THE SUPPORT OF EDUCATION IN THIS STATE BY VIDEO LOTTERY GAMING AT THE VIDEO LOTTERY FACILITY, AND SUCH USE MAY NOT BE RESUMED UNLESS THE OPERATOR OF SUCH FACILITY SUBMITS A NEW OR REVISED WRITTEN PLAN FOR THE USE OF SUBSIDIZED FREE PLAY CREDITS THAT THE DIVISION DETERMINES IS DESIGNED MORE EFFECTIVELY TO PRODUCE AN INCREASE IN THE AMOUNT OF REVENUE EARNED BY VIDEO LOTTERY GAMING AT SUCH FACILITY FOR THE SUPPORT OF EDUCATION.

5. THE DIVISION, IN CONJUNCTION WITH THE DIRECTOR OF THE BUDGET, MAY REVOKE THE AUTHORITY FOR A VENDOR TRACK TO USE SUBSIDIZED FREE PLAY CREDITS AUTHORIZED PURSUANT TO THIS SUBDIVISION UPON NINETY DAYS NOTICE WHENEVER THEY JOINTLY DETERMINE THAT THE OPERATOR OF A VIDEO LOTTERY FACILITY HAS VIOLATED THE RULES AND REGULATIONS ESTABLISHED OR ANY INSTRUCTIONS ISSUED BY THE DIVISION GOVERNING THE SUBSIDIZED FREE PLAY PROGRAM. THE DIVISION SHALL ESTABLISH CRITERIA TO REINSTATE SUBSIDIZED FREE PLAY AT A VENDOR TRACK FOLLOWING THE REVOCATION OF THE AUTHORITY TO USE SUBSIDIZED FREE PLAY CREDITS.

6. NOTHING IN THIS SUBDIVISION SHALL BE DEEMED TO PROHIBIT THE OPERATOR OF A VIDEO LOTTERY FACILITY FROM OFFERING NON-SUBSIDIZED FREE PLAY CREDITS TO PLAYERS OR PROSPECTIVE PLAYERS OF VIDEO LOTTERY GAMES WHEN THE VALUE OF SUCH FREE PLAY CREDITS IS INCLUDED IN THE CALCULATION OF THE TOTAL AMOUNT WAGERED ON VIDEO LOTTERY GAMES AND THE TOTAL AMOUNT WAGERED AFTER PAYOUT OF PRIZES, AND THE OPERATOR OF SUCH FACILITY PAYS THE DIVISION THE FULL AMOUNT DUE AS THE RESULT OF SUCH CALCULATIONS.

7. THE DIVISION MAY AMEND THE CONTRACT WITH THE PROVIDER OF THE CENTRAL COMPUTER SYSTEM THAT CONTROLS THE VIDEO LOTTERY NETWORK DURING THE TERM OF SUCH CONTRACT IN EFFECT ON THE EFFECTIVE DATE OF THIS SUBDIVISION TO PROVIDE ADDITIONAL CONSIDERATION TO SUCH PROVIDER IN AN AMOUNT DETERMINED BY THE DIVISION TO BE NECESSARY TO COMPENSATE FOR (I) PROCESSING SUBSIDIZED FREE PLAY TRANSACTIONS, AND (II) SYSTEM UPDATES AND MODIFICATIONS OTHERWISE NEEDED AS OF SUCH EFFECTIVE DATE.

S 27. Severability. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which the judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 28. This act shall take effect immediately; provided, however, that sections six, seventeen, twenty-four, twenty-five, and twenty-six of this act shall take effect on the same date as the New York city off-track betting corporation's confirmation of a plan of reorganization in the pending bankruptcy proceeding in the Southern District of New York; provided that the board of directors of the New York city off-track betting corporation shall notify the legislative bill drafting commission upon the occurrence of such confirmation of such plan of reorganization in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New

York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.