

1895

2009-2010 Regular Sessions

I N   S E N A T E

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Introduced by Sens. KLEIN, DIAZ, HASSELL-THOMPSON, ONORATO, SAMPSON, SAVINO, SMITH -- read twice and ordered printed, and when printed to be committed to the Committee on Racing, Gaming and Wagering

AN ACT to amend the tax law and the state finance law, in relation to creating the "Play for the Cure" breast cancer education lottery to fund breast cancer education

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

1     Section 1. The tax law is amended by adding a new section 1621 to  
2     read as follows:  
3     S 1621. "PLAY FOR THE CURE" BREAST CANCER EDUCATION LOTTERY. A. THE  
4     DIVISION SHALL OFFER A SPECIAL "PLAY FOR THE CURE" BREAST CANCER EDUCA-  
5     TION INSTANT SCRATCH-OFF GAME FOR WHICH TICKETS SHALL BE SOLD THROUGHOUT  
6     THE STATE. SUCH GAME SHALL COMMENCE ON FEBRUARY FIFTEENTH, TWO THOUSAND  
7     NINE OR AS SOON THEREAFTER, IN THE DISCRETION OF THE DIRECTOR, AS IS  
8     REASONABLY PRACTICABLE, AND SHALL BE DISCONTINUED ON JUNE THIRTIETH, TWO  
9     THOUSAND FIFTEEN. THE OPERATION OF SUCH GAME SHALL BE GOVERNED BY THE  
10    PROVISIONS OF THIS ARTICLE AND ANY REGULATIONS ADOPTED BY THE DIVISION.  
11    IF THE PROVISIONS OF THIS SECTION ARE INCONSISTENT WITH ANY OTHER  
12    PROVISION OF LAW, THIS SECTION SHALL GOVERN.  
13    B. DURING ANY FISCAL YEAR OF THE STATE IN WHICH TICKETS ARE SOLD FOR  
14    SUCH GAME, THE DIVISION SHALL NOT DIMINISH UNREASONABLY THE EFFORTS  
15    DEVOTED TO MARKETING ANY OTHER INSTANT SCRATCH-OFF LOTTERY GAME.  
16    C. UPON APPLICATION, THE DIVISION SHALL LICENSE ANY AGENCY DESIGNATED  
17    BY THE CHIEF EXECUTIVE OFFICER OF THE CITY, TOWN, OR VILLAGE IN WHICH IT  
18    IS LOCATED AS AN AGENT TO SELL TICKETS IN SUCH GAME, PROVIDED, HOWEVER,  
19    THAT THE LOCATION OF ANY SUCH LICENSEE'S MARKETING OUTLETS SHALL BE  
20    SUBJECT TO THE DIRECTOR'S APPROVAL, WHICH SHALL NOT BE WITHHELD UNREA-  
21    SONABLY. THE DIVISION ALSO MAY LICENSE ANY PARTNERSHIP, CORPORATION OR  
22    OTHER BUSINESS ORGANIZATION MAINTAINING A PLACE OF BUSINESS WITHIN THE  
23    STATE AS AN AGENT TO SELL TICKETS IN SUCH GAME. NOTHING IN THIS ARTICLE

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

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1 SHALL PREVENT PERSONS FROM GIVING SUCH TICKETS AS PREMIUMS TO CUSTOMERS,  
2 EMPLOYEES OR OTHERS WITH WHOM THEY DEAL.

3 D. NO MORE THAN FIFTY PERCENT OF THE TOTAL AMOUNT FOR WHICH TICKETS  
4 HAVE BEEN SOLD FOR SUCH GAME SHALL BE PAYABLE AS LOTTERY PRIZES.

5 E. FIFTEEN PERCENT OF THE TOTAL AMOUNT FOR WHICH TICKETS HAVE BEEN  
6 SOLD FOR SUCH GAME SHALL BE RETAINED BY THE DIVISION FOR THE EXPENSES OF  
7 ADMINISTERING SUCH GAME, SUBJECT TO ADJUSTMENT AS PROVIDED FOR IN SUBDI-  
8 VISION H OF THIS SECTION. IN NO CASE SHALL THE EXPENSE OF ADMINISTERING  
9 SUCH GAME EXCEED FIFTEEN PERCENT OF SUCH TOTAL AMOUNT.

10 F. FROM APRIL THROUGH FEBRUARY OF EACH FISCAL YEAR ENDING PRIOR TO  
11 APRIL FIRST, TWO THOUSAND FIFTEEN, AND FROM APRIL THROUGH JUNE OF THE  
12 FISCAL YEAR COMMENCING APRIL FIRST, TWO THOUSAND FIFTEEN, THE DIVISION  
13 SHALL RETAIN TEN PERCENT OF THE TOTAL AMOUNT FOR WHICH TICKETS HAVE BEEN  
14 SOLD FOR SUCH GAME, AND THE RETAINED AMOUNT SHALL BE MADE AVAILABLE FOR  
15 PAYMENT INTO THE STATE LOTTERY FUND IF REQUIRED BY SUBDIVISION I OF THIS  
16 SECTION. UPON SATISFACTION OF ANY PAYMENT INTO THE STATE LOTTERY FUND  
17 REQUIRED BY SUBDIVISION I OF THIS SECTION, ANY BALANCE OF AMOUNTS  
18 RETAINED BY THE DIVISION PURSUANT TO THIS SUBDIVISION, PLUS ANY INTEREST  
19 ACCRUED THEREON, SHALL, AT THE END OF MARCH OF EACH FISCAL YEAR ENDING  
20 PRIOR TO APRIL FIRST, TWO THOUSAND FIFTEEN AND AT THE END OF JULY OF THE  
21 FISCAL YEAR COMMENCING APRIL FIRST, TWO THOUSAND FIFTEEN, BE DEPOSITED  
22 IN ACCORDANCE WITH SUBDIVISION TWO OF SECTION NINETY-SEVEN-YY OF THE  
23 STATE FINANCE LAW (THE BREAST CANCER RESEARCH AND EDUCATION FUND). IF  
24 NO SUCH PAYMENT IS REQUIRED BY SUBDIVISION I OF THIS SECTION, THEN THE  
25 TOTAL AMOUNT RETAINED PURSUANT TO THIS SUBDIVISION, PLUS ANY INTEREST  
26 ACCRUED THEREON, SHALL BE SO DEPOSITED.

27 G. THE AMOUNT REMAINING AFTER PROVISION FOR PRIZES, EXPENSES AND THE  
28 RETAINED AMOUNT REQUIRED BY SUBDIVISION F OF THIS SECTION SHALL BE  
29 DEPOSITED BY THE DIVISION IN ACCORDANCE WITH SUBDIVISION TWO OF SECTION  
30 NINETY-SEVEN-YY OF THE STATE FINANCE LAW AT LEAST ONCE DURING EACH  
31 MONTH.

32 H. ON OR BEFORE THE LAST BUSINESS DAY OF EACH FISCAL YEAR ENDING PRIOR  
33 TO APRIL FIRST, TWO THOUSAND FIFTEEN, AND ON OR BEFORE THE LAST DAY OF  
34 JUNE IN THE FISCAL YEAR COMMENCING APRIL FIRST, TWO THOUSAND FIFTEEN,  
35 THE DIVISION SHALL DETERMINE ALL EXPENSES ATTRIBUTABLE TO SUCH GAME  
36 DURING SUCH FISCAL YEAR OR PERIOD. IF THE AMOUNT SO DETERMINED IS LESS  
37 THAN FIFTEEN PERCENT OF THE AMOUNT FOR WHICH TICKETS WERE SOLD FOR SUCH  
38 GAME DURING SUCH FISCAL YEAR OR PERIOD, THE SUM EQUAL TO THE DIFFERENCE  
39 BETWEEN THE TWO AMOUNTS, PLUS ANY INTEREST ACCRUED THEREON, SHALL BE  
40 DEPOSITED IN ACCORDANCE WITH SUBDIVISION TWO OF SECTION NINETY-SEVEN-YY  
41 OF THE STATE FINANCE LAW.

42 I. (1) (A) ON OR BEFORE THE FIFTEENTH DAY OF THE FIRST FULL MONTH IN  
43 TWO THOUSAND TEN IN WHICH "PLAY FOR THE CURE" BREAST CANCER EDUCATION  
44 INSTANT SCRATCH-OFF LOTTERY TICKETS ARE FIRST SOLD, THE DIRECTOR SHALL  
45 CALCULATE THE GROSS AND NET REVENUES FROM SALES OF INSTANT SCRATCH-OFF  
46 LOTTERY TICKETS WITHIN THE STATE DURING THE PERIOD COMMENCING ON THE  
47 FIRST DAY OF THE CORRESPONDING MONTH IN TWO THOUSAND TEN AND ENDING ON  
48 THE LAST DAY OF FEBRUARY, TWO THOUSAND ELEVEN. TO EACH SUCH AMOUNT  
49 SHALL BE ADDED AN AMOUNT EQUAL TO FIVE PERCENT THEREOF, AND, FOR  
50 PURPOSES OF THIS SECTION, THE AMOUNTS THUS OBTAINED SHALL BE THE  
51 PROJECTED GROSS AND NET REVENUE TOTALS FOR THE PART-YEAR PERIOD ENDING  
52 ON THE LAST DAY OF FEBRUARY, TWO THOUSAND TWELVE.

53 (B) ON OR BEFORE THE FIFTEENTH DAY OF MARCH, TWO THOUSAND ELEVEN, THE  
54 DIRECTOR SHALL CALCULATE THE GROSS AND NET REVENUES FROM SALES OF  
55 INSTANT SCRATCH-OFF LOTTERY TICKETS WITHIN THE STATE DURING THE PRECED-  
56 ING TWELVE-MONTH PERIOD ENDING ON THE LAST DAY OF FEBRUARY, TWO THOUSAND

1 ELEVEN. TO EACH SUCH AMOUNT SHALL BE ADDED AN AMOUNT EQUAL TO FIVE  
2 PERCENT THEREOF, AND, FOR PURPOSES OF THIS SECTION, THE AMOUNTS THUS  
3 OBTAINED SHALL BE THE PROJECTED GROSS AND NET REVENUE TOTALS FOR THE  
4 TWELVE-MONTH PERIOD ENDING ON THE LAST DAY OF FEBRUARY, TWO THOUSAND  
5 TWELVE. FOR THE TWELVE-MONTH PERIOD ENDING ON THE LAST DAY OF FEBRUARY  
6 IN EACH YEAR THEREAFTER, THROUGH AND INCLUDING THE LAST DAY OF FEBRUARY  
7 IN THE YEAR TWO THOUSAND FOURTEEN, THE PROJECTED GROSS AND NET REVENUE  
8 TOTALS FOR EACH SUCH PERIOD SHALL BE THE AMOUNTS OBTAINED WHEN THE  
9 PROJECTED GROSS AND NET REVENUE TOTALS FOR THE IMMEDIATELY PRECEDING  
10 TWELVE-MONTH PERIOD ARE INCREASED BY AN AMOUNT EQUAL TO FIVE PERCENT  
11 THEREOF.

12 (2) (A) ON OR BEFORE THE FIFTEENTH DAY OF MARCH, TWO THOUSAND TWELVE,  
13 THE DIRECTOR SHALL CALCULATE THE ACTUAL GROSS REVENUE TOTAL FOR THE  
14 PRECEDING PART-YEAR PERIOD COMMENCING WITH THE FIRST FULL MONTH IN WHICH  
15 "PLAY FOR THE CURE" BREAST CANCER EDUCATION INSTANT SCRATCH-OFF LOTTERY  
16 TICKETS WERE SOLD AND ENDING ON THE LAST DAY OF FEBRUARY, TWO THOUSAND  
17 TWELVE FROM THE SALES OF INSTANT SCRATCH-OFF LOTTERY TICKETS WITHIN THE  
18 STATE, EXCLUDING SALES OF THE "PLAY FOR THE CURE" BREAST CANCER EDUCA-  
19 TION INSTANT SCRATCH-OFF GAME. IF THE ACTUAL GROSS REVENUE TOTAL SO  
20 CALCULATED IS LESS THAN THE PROJECTED GROSS REVENUE TOTAL FOR SUCH  
21 PART-YEAR PERIOD AND THE REASON FOR SUCH DIFFERENCE IS NOT THE ELIMI-  
22 NATION OF ALL OTHER INSTANT SCRATCH-OFF LOTTERY GAMES WITHIN THE STATE,  
23 THEN THE AMOUNT, IF ANY, BY WHICH THE PROJECTED NET REVENUE TOTAL FOR  
24 SUCH PART-YEAR PERIOD EXCEEDS THE ACTUAL NET REVENUE TOTAL FOR SUCH  
25 PART-YEAR PERIOD SHALL BE DETERMINED AND ALL MONEYS WHICH WOULD OTHER-  
26 WISE BE DEPOSITED IN ACCORDANCE WITH SUBDIVISION TWO OF SECTION NINETY-  
27 SEVEN-YY OF THE STATE FINANCE LAW SHALL BE PAID, INSTEAD, INTO THE STATE  
28 LOTTERY FUND UNTIL AN AMOUNT EQUAL TO THE EXCESS HAS BEEN SO TRANS-  
29 FERRED.

30 (B) ON OR BEFORE THE FIFTEENTH DAY OF MARCH, TWO THOUSAND THIRTEEN,  
31 AND ON OR BEFORE THE FIFTEENTH DAY OF MARCH IN EACH YEAR THEREAFTER,  
32 THROUGH AND INCLUDING THE FIFTEENTH DAY OF MARCH, TWO THOUSAND FIFTEEN,  
33 THE DIRECTOR SHALL CALCULATE THE ACTUAL GROSS REVENUE TOTAL FOR THE  
34 PRECEDING TWELVE-MONTH PERIOD ENDING ON THE LAST DAY OF FEBRUARY FROM  
35 THE SALES OF INSTANT SCRATCH-OFF LOTTERY TICKETS WITHIN THE STATE,  
36 EXCLUDING SALES OF THE "PLAY FOR THE CURE" BREAST CANCER EDUCATION  
37 INSTANT SCRATCH-OFF GAME. IF THE ACTUAL GROSS REVENUE TOTAL SO CALCU-  
38 LATED IS LESS THAN THE PROJECTED GROSS REVENUE TOTAL FOR SUCH  
39 TWELVE-MONTH PERIOD AND THE REASON FOR SUCH DIFFERENCE IS NOT THE ELIMI-  
40 NATION OF ALL OTHER INSTANT SCRATCH-OFF LOTTERY GAMES WITHIN THE STATE,  
41 THEN THE AMOUNT, IF ANY, BY WHICH THE PROJECTED NET REVENUE TOTAL FOR  
42 SUCH TWELVE-MONTH PERIOD EXCEEDS THE ACTUAL NET REVENUE TOTAL FOR SUCH  
43 TWELVE-MONTH PERIOD SHALL BE DETERMINED AND ALL MONEYS WHICH WOULD  
44 OTHERWISE BE DEPOSITED IN ACCORDANCE WITH SUBDIVISION TWO OF SECTION  
45 NINETY-SEVEN-YY OF THE STATE FINANCE LAW SHALL BE PAID, INSTEAD, INTO  
46 THE STATE LOTTERY FUND UNTIL AN AMOUNT EQUAL TO THE EXCESS HAS BEEN SO  
47 TRANSFERRED.

48 (C) ON OR BEFORE THE FIFTEENTH DAY OF JULY, TWO THOUSAND FIFTEEN, THE  
49 DIRECTOR SHALL CALCULATE THE ACTUAL GROSS REVENUE TOTAL FOR THE IMME-  
50 DIATELY PRECEDING FOUR-MONTH PERIOD ENDING ON JUNE THIRTIETH, TWO THOU-  
51 SAND FIFTEEN FROM SALES OF INSTANT SCRATCH-OFF LOTTERY TICKETS WITHIN  
52 THE CITY OF NEW YORK, EXCLUDING SALES OF THE "PLAY FOR THE CURE" BREAST  
53 CANCER EDUCATION INSTANT SCRATCH-OFF GAME. IF THE ACTUAL GROSS REVENUE  
54 TOTAL SO CALCULATED IS LESS THAN THIRTY-THREE AND ONE-THIRD PERCENT OF  
55 THE PROJECTED GROSS REVENUE TOTAL FOR THE TWELVE-MONTH PERIOD ENDING ON  
56 THE LAST DAY OF FEBRUARY IN THE YEAR TWO THOUSAND SIXTEEN, AND THE

1 REASON FOR SUCH DIFFERENCE IS NOT THE ELIMINATION OF ALL OTHER INSTANT  
2 SCRATCH-OFF LOTTERY GAMES WITHIN THE STATE, THEN THE AMOUNT, IF ANY, BY  
3 WHICH THIRTY-THREE AND ONE-THIRD PERCENT OF THE PROJECTED NET REVENUE  
4 TOTAL FOR SUCH TWELVE-MONTH PERIOD EXCEEDS THE ACTUAL NET REVENUE TOTAL  
5 FOR SUCH FOUR-MONTH PERIOD SHALL BE DETERMINED, AND THE AMOUNT OF SUCH  
6 EXCESS SHALL BE PAID INTO THE STATE LOTTERY FUND FROM ANY MONEYS AVAIL-  
7 ABLE FROM SALES OF THE "PLAY FOR THE CURE" BREAST CANCER EDUCATION  
8 INSTANT SCRATCH-OFF GAME WHICH HAVE NOT THERETOFORE BEEN DEPOSITED IN  
9 ACCORDANCE WITH SUBDIVISION TWO OF SECTION NINETY-SEVEN-YY OF THE STATE  
10 FINANCE LAW.

11 J. FOR PURPOSES OF THIS SECTION:

12 (1) "GROSS REVENUE" MEANS THE TOTAL AMOUNT FOR WHICH TICKETS HAVE BEEN  
13 SOLD.

14 (2) "NET REVENUE" MEANS THE TOTAL AMOUNT FOR WHICH TICKETS HAVE BEEN  
15 SOLD LESS THE SUM OF THE AMOUNT PAID OUT IN PRIZES AND THE ACTUAL ADMIN-  
16 ISTRATIVE EXPENSES OF THE DIVISION.

17 S 2. Subdivisions 2, 2-a and 3 of section 97-yy of the state finance  
18 law, subdivisions 2 and 2-a as amended by chapter 385 of the laws of  
19 2007 and subdivision 3 as added by chapter 279 of the laws of 1996, are  
20 amended to read as follows:

21 2. Such fund shall consist of all revenues received by the department  
22 of taxation and finance, pursuant to the provisions of section two  
23 hundred nine-D and section six hundred twenty-seven of the tax law, all  
24 moneys collected pursuant to section four hundred four-q of the vehicle  
25 and traffic law, as added by chapter five hundred twenty-eight of the  
26 laws of nineteen hundred ninety-nine, and all other moneys appropriated,  
27 credited, or transferred thereto from any other fund or source pursuant  
28 to law. MONIES DEPOSITED INTO THE FUND PURSUANT TO SECTION SIXTEEN  
29 HUNDRED TWENTY-ONE OF THE TAX LAW SHALL BE KEPT IN A SEPARATE ACCOUNT  
30 KNOWN AS THE "PLAY FOR THE CURE" BREAST CANCER EDUCATION ACCOUNT. For  
31 each state fiscal year, there shall be appropriated to the fund by the  
32 state, in addition to all other moneys required to be deposited into  
33 such fund, an amount equal to the amounts of monies collected and depos-  
34 ited into the fund pursuant to sections two hundred nine-D and six  
35 hundred twenty-seven of the tax law and section four hundred four-q of  
36 the vehicle and traffic law, as added by chapter five hundred twenty-  
37 eight of the laws of nineteen hundred ninety-nine, and the amounts of  
38 moneys received and deposited into the fund from grants, gifts and  
39 bequests during the preceding calendar year, as certified by the comp-  
40 troller. Nothing contained herein shall prevent the state from receiving  
41 grants, gifts or bequests for the purposes of the fund as defined in  
42 this section and depositing them into the fund according to law.

43 2-a. On or before the first day of February each year, the comptroller  
44 shall certify to the governor, temporary president of the senate, speak-  
45 er of the assembly, chair of the senate finance committee and chair of  
46 the assembly ways and means committee, the amount of money deposited in  
47 the breast cancer research and education fund during the preceding  
48 calendar year as the result of revenue derived pursuant to sections two  
49 hundred nine-D [and], six hundred twenty-seven, AND SIXTEEN HUNDRED  
50 TWENTY-ONE of the tax law and section four hundred four-q of the vehicle  
51 and traffic law, as added by chapter five hundred twenty-eight of the  
52 laws of nineteen hundred ninety-nine, and from grants, gifts and  
53 bequests.

54 3. Monies of the fund shall be expended only for breast cancer  
55 research and educational projects. As used in this section, "breast  
56 cancer research and education projects" means scientific research or

1 educational projects which, pursuant to section two thousand four  
2 hundred eleven of the public health law, are approved by the department  
3 of health, upon the recommendation of the health research science board.  
4 MONIES KEPT IN THE "PLAY FOR THE CURE" BREAST CANCER EDUCATION ACCOUNT  
5 SHALL BE EXPENDED ONLY FOR BREAST CANCER EDUCATIONAL PROJECTS.  
6 S 3. This act shall take effect immediately.