

2836

2013-2014 Regular Sessions

I N A S S E M B L Y

January 18, 2013

Introduced by M. of A. WRIGHT, CYMBROWITZ, MARKEY -- Multi-Sponsored by
-- M. of A. CURRAN, GOTTFRIED, LENTOL, PEOPLES-STOKES -- read once and
referred to the Committee on Racing and Wagering

AN ACT to amend the racing, pari-mutuel wagering and breeding law and
the tax law, in relation to funding for a sound basic education

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

1 Section 1. Legislative intent. The state of New York has an obligation
2 under its constitution to provide its children with a sound basic educa-
3 tion as recently and explicitly expressed in the Court of Appeals deci-
4 sion in CAMPAIGN FOR FISCAL EQUITY V. STATE. In order to comply with
5 such holding and constitutional duty, the legislature hereby finds that
6 new and continuing funding streams are necessary to meet such duty. The
7 legislature further finds that the existing and primary funding mech-
8 anism for education in this state, the real property tax, has histor-
9 ically been imposed by local governments and state support for education
10 should and is intended to rectify uneven revenue yields from that source
11 of revenue due to local prevailing market forces.

12 Supplementing the local property tax is necessary to assure that chil-
13 dren residing in areas of high need for educational services that also
14 have a small tax base can receive the same fiscal resources that more
15 fortunate areas of the state utilize to educate our children. Each child
16 is entitled to substantially similar resources. To achieve this end in a
17 manner that will not unnecessarily displace or reduce the support for
18 other vulnerable populations, the legislature hereby finds that licen-
19 sees of the newly created video lottery terminals, the division of the
20 lottery and other such beneficiaries will be receiving a substantial new
21 form of revenue due to recently enacted legislation and can absorb a
22 reduction in income from other sources at this time. The reductions and
23 transfers in this act will provide for a continuing and substantial

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

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1 revenue source for the state to partially fund its obligation to
2 adequately educate every child in this state.

3 S 2. The racing, pari-mutuel wagering and breeding law is amended by
4 adding a new section 912 to read as follows:

5 S 912. FUNDING FOR SOUND BASIC EDUCATION. 1. NOTWITHSTANDING ANY LAW,
6 REGULATION OR RULE TO THE CONTRARY, ANY PAYMENT UNDER ARTICLES FIVE AND
7 TEN OF THIS CHAPTER REQUIRED TO BE MADE BY AN OFF-TRACK BETTING CORPO-
8 RATION ESTABLISHED PURSUANT TO SECTIONS FIVE HUNDRED TWO AND SIX HUNDRED
9 THREE OF THIS CHAPTER TO A REGIONAL TRACK, OTHER THAN FEES OR COMPEN-
10 SATION ARISING FROM RACES CONDUCTED BY A REGIONAL TRACK, SHALL BE MADE
11 PURSUANT TO THE FOLLOWING SCHEDULE AFTER SUCH TRACK HAS BEEN LICENSED
12 AND IS CONDUCTING VIDEO LOTTERY GAMING PURSUANT TO SECTION SIXTEEN
13 HUNDRED SEVENTEEN-A OF THE TAX LAW:

14 A. TWENTY PER CENTUM OF THE SUM REQUIRED BY THE PROVISIONS OF ARTICLES
15 FIVE AND TEN OF THIS CHAPTER SHALL BE RETAINED BY THE OFF-TRACK BETTING
16 CORPORATION MAKING SUCH PAYMENT FOR ITS NECESSARY AND ORDINARY OPERATING
17 EXPENSES; AND

18 B. THE REMAINDER SHALL BE TRANSFERRED TO THE REGIONAL TRACK IN ACCORD-
19 ANCE WITH THE PROVISIONS OF ARTICLES FIVE AND TEN OF THIS CHAPTER AND OF
20 THE SUM RECEIVED BY SUCH TRACK, ONE-THIRD SHALL BE PROMPTLY TRANSFERRED
21 TO THE HORSEMEN'S PURSE ACCOUNT TO BE USED EXCLUSIVELY FOR PURSES
22 AWARDED IN RACES CONDUCTED BY SUCH TRACK AND THE REMAINING AMOUNT OF
23 SUCH SUM SHALL BE PROMPTLY TRANSFERRED TO THE STATE COMPTROLLER FOR
24 DEPOSIT IN THE SOUND BASIC EDUCATION FUND MAINTAINED BY SUCH COMP-
25 TROLLER.

26 2. ANY TRANSFER REQUIRED OF A REGIONAL TRACK PURSUANT TO SUBDIVISION
27 ONE OF THIS SECTION SHALL BE MADE WITHIN SEVEN BUSINESS DAYS OF RECEIPT
28 OF ANY SUM FROM AN OFF-TRACK BETTING CORPORATION AND ANY TRACK THAT
29 FAILS TO DO SO ON THREE OR MORE OCCASIONS WITHIN A YEAR OF THE FIRST
30 SUCH FAILURE, SHALL CONSTITUTE PRESUMPTIVE EVIDENCE OF ANY ELEMENT OF
31 INTENT IN A CRIME DEFINED UNDER ARTICLE ONE HUNDRED FIFTY-FIVE OF THE
32 PENAL LAW IN ANY PROSECUTION OF SUCH CRIME AGAINST THE CHIEF OPERATING
33 OFFICER AND/OR THE CHIEF FINANCIAL OFFICER OF SUCH TRACK.

34 S 3. Paragraph 2 of subdivision c of section 1612 of the tax law, as
35 amended by section 2 of part CC of chapter 61 of the laws of 2005, is
36 amended to read as follows:

37 2. Of the ten percent retained by the division for administrative
38 purposes, any amounts beyond that which are necessary for the operation
39 and administration of this pilot program shall be deposited in the
40 [lottery education account] SOUND BASIC EDUCATION FUND MAINTAINED BY THE
41 STATE COMPTROLLER.

42 S 4. Section 1614 of the tax law is amended by adding a new subdivi-
43 sion c to read as follows:

44 C. THE DIRECTOR SHALL PROVIDE WRITTEN NOTIFICATION TO THE DIRECTOR OF
45 THE BUDGET, THE CHAIRPERSON OF THE SENATE FINANCE COMMITTEE AND THE
46 CHAIRPERSON OF THE ASSEMBLY WAYS AND MEANS COMMITTEE ON A QUARTERLY
47 BASIS OF THE TOTAL AMOUNT MAINTAINED BY THE DIVISION AS UNCLAIMED OR
48 ABANDONED PRIZE MONEY UNDER THIS SECTION, AND SET FORTH THE JUSTIFICA-
49 TION FOR THE RETENTION OF ANY SUM BY THE DIVISION IN EXCESS OF FIFTY
50 MILLION FOR ANY PURPOSE OTHER THAN THE TRANSFER OF SUCH EXCESS TO THE
51 SOUND BASIC EDUCATION FUND MAINTAINED BY THE STATE COMPTROLLER ON OR
52 BEFORE THE THIRTIETH DAY AFTER THE COMMENCEMENT OF THE FOLLOWING FISCAL
53 YEAR. UNLESS SUCH JUSTIFICATION FOR RETENTION BY THE DIVISION IS
54 ACCEPTED IN WRITING BY ALL THREE RECIPIENTS OF SUCH NOTICE AS PROVIDED
55 IN THIS SUBDIVISION, TRANSFER OF THE EXCESS TO SUCH FUND SHALL OCCUR NO

1 LATER THAN THE THIRTIETH DAY AFTER THE COMMENCEMENT OF THE NEXT NEW
2 FISCAL YEAR.
3 S 5. This act shall take effect on the thirtieth of September next
4 succeeding the date on which it shall have become a law.