JOINT HEARING BEFORE THE NEW YORK STATE
SENATE STANDING COMMITTEES ON
INVESTIGATIONS AND GOVERNMENT OPERATIONS;
CIVIL SERVICE AND PENSIONS; AND,
RACING, GAMING, AND WAGERING

JOINT PUBLIC HEARING
ON STATE AGENCY CONSOLIDATION

TO EXAMINE THE IMPACT OF PROPOSED AGENCY CONSOLIDATIONS ON THE AFFECTED AGENCIES, DELIVERY OF SERVICES, THE STATE WORKFORCE, AFFECTED INDUSTRIES AND BUSINESSES, AND CITIZENS

Van Buren Hearing Room A, 2nd Floor
Legislative Office Building
Albany, New York

March 1, 2012
1:00 p.m. to 3:00 p.m.

PRESIDING:

Senator Carl L. Marcellino
Chairman
NYS Senate Standing Committee on Investigations and Government Operations

Senator John J. Bonacic
Chairman
NYS Senate Standing Committee on Racing, Gaming, and Wagering

Senator Martin J. Golden
Chairman
NYS Senate Standing Committee on Civil Service and Pensions

ALSO PRESENT:

Senator Diane J. Savino
NYS Senate Standing Committee on Civil Service and Pensions

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John Sabini Chairman NYS Racing and Wagering Board; NYS Thoroughbred Breeding and Development Fund; NYS Quarter Horse Breeding and Development Fund; NYS Agriculture and NYS Horse Breeding Development Fund (cka/ The Harness Fund)	5	16
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SENATOR MARCELLINO: Good afternoon.

I'm Senator Carl Marcellino. I chair the Senate Committee on Investigations, Government Operations.

And, I'm joined today by my colleague Senator Bonacic, who chairs the Committee on Racing, Gaming, and Wagering.

I do expect the possibility that the -- that Senator Golden will be joining us, who also chairs the Civil Service and Pensions Committee.

But, he is not here as yet, and we will start, in the interest of time, so we don't hold people up.

This hearing is designed to assist the Legislature in identifying and learning about concerns on the delivery of services, the State workforce, and the cost savings in the proposed merger of the Lottery Commission, and the Racing and Wagering, into the gaming -- to one overall gaming situation.

We want to make sure that we get all the information we possibly can. We want to make sure we know what's going on, with the impacts on the workforce, the impacts on revenue, what may come from this procedure.

We are looking at, in the future, the potential for an amendment -- a constitutional amendment on gaming.

We want to know if doing this merger now is a good thing. Maybe we should postpone it, maybe not.

I don't know.

We're asking these questions of our witnesses who are going to testify.

Hopefully, they can give us some insights so that the Committee can make recommendations as we move forward with the budget negotiations, and this procedure at all.

No decisions, obviously, have been made, and recommendations will come after the hearings, so that we can go forward and present them to the Senate and their Conference, so that we know what's going on, and our people can do what they have to do.

I'd like to open the hearing by bringing up the -- well, turning it over for a moment to Senator Bonacic for a few words, if you'd like to?

SENATOR BONACIC: No, I'll pass.

SENATOR MARCELLINO: Okay.

We did invite Commissioner Haight, from the Department of Civil Service, and, Gary Johnson, the

director of Government Offices on Employer Relations. Both declined to attend.

As I said before, this information will be very useful to the Senate as we go forward in our own budget preparation and our budget negotiations with the Governor and with the Assembly, on this issue, and several others.

So, I'd like to call up:

Gordon Medenica, director of the New York State Lottery;

And, John Sabini, chairman of the New York State Racing and Wagering Board; also, the New York State Thoroughbred Breeding and Development Fund, and the New York State Quarter Horse Breeding and Development Fund.

You got a lot of titles, John.

JOHN SABINI: You missed one.

SENATOR MARCELLINO: Did I miss one?

Well, you can fill in me.

JOHN SABINI: The Harness Fund, as well.

SENATOR MARCELLINO: Oh, my God!

Okay, whichever one of would you like to start, is -- it's up to you.

Feel free not to read your testimony, but to summarize it, because we already have it, and we can

read it.

If you would like to summarize it, that would be fine, and we can move on to questions.

Gordon, do you want to go?

GORDON MEDENICA: We can flip a coin.

JOHN SABINI: Go ahead.

SENATOR MARCELLINO: Okay, I'll pick.

Gordon.

GORDON MEDENICA: Thank you.

Good afternoon, Chairman Marcellino and Senator Bonacic, and members of the Committee.

My name is Gordon Medenica. I am the director of the New York Lottery.

And I appreciate the opportunity to be here today to talk about Governor Cuomo's proposed budget legislation to merge the Lottery, and Racing and Wagering Board, into a new gaming commission.

The New York Lottery is the largest and most successful in the country, last year generating over $7.8 billion in sales, and over $3 billion in profit.

By law, all of the Lottery's profit goes to aid to education. And last year's contribution represented 15 percent of total State aid to local school districts.

When it was created in 1967, the Lottery was organized as a State Lottery Commission within the Department of Taxation and Finance.

In 1973, the Lottery Commission was abolished, and the Lottery was placed in the newly created Racing and Wagering Board.

It was relaunched in 1976 as an independent division of the Department of Taxation and Finance.

Since then, the Lottery has enjoyed almost uninterrupted growth, especially in recent years, where we have produced record results for 12 consecutive years.

The Governor's proposal to create a New York State gaming commission would formalize the existing relationship between the Lottery and the Racing and Wagering Board.

Since 2001, the Lottery and the Racing and Wagering Board have worked closely together on the development, operation, and regulation of the nine video-lottery facilities.

Since 2006, the Lottery and the Racing and Wagering Board have both had our principal offices in the same building in downtown Schenectady.

The creation of gaming commission will combine into a single state agency the

responsibility for coordinated gaming policy and regulation.

Consolidation of the two agencies will make it easier to conduct policymaking and regulatory activities in the most efficient, transparent, and effective manner possible.

The new commission will have the power to identify any unnecessary redundancies, increase efficiencies, and administer the rigorous gaming regulatory program that the Governor believes is necessary in the twenty-first century.

As the Governor said in proposing the new gaming commission, "We must recognize that video gaming in New York competes, not only with the gaming activities in surrounding states and provinces, but also within our own state, where several of our nine video-lottery casinos operate in the same regions as five tribal casinos.

"A consolidated agency will be better able to meet the challenges presented an by ever-changing marketplace."

We don't foresee that the creation of a gaming commission will affect day-to-day operations of the traditional lottery.

For many years, we have coordinated with the

Governor's Office in the preparation and adoption of lottery regulations, and we expect to be able to be similarly efficient in coordinating our regulatory program with the new five-member commission.

We're accustomed to working with the Racing and Wagering Board, and we understand that the Lottery will only be responsible for our proportional share of the expenses of operating the new gaming commission.

The creation of a new gaming commission will have several impacts on the Lottery.

Most significantly, it will split the Lottery into its current two business lines, with traditional lottery separated from the video-casino business, each reporting to a new level of management and a commission.

This is necessary in order to create a new gaming division that would combine the Lottery's video-lottery casino business with the Racing and Wagering Board's regulation of tribal casinos.

And, if live table games were to be legalized in New York, this would provide the needed expanded regulatory structure to ensure proper control of live table games, and address the necessity of greater oversight requirements.

No state currently has a single agency that has overall responsibility for lottery, charitable gaming, casino gaming, and horse-racing operations and regulation, but the New York Lottery is accustomed to being an industry leader.

We're working forward to delivering the kind of comprehensive approach the Governor envisions in a first-of-its-kind state gaming commission.

We want to be ahead of the regulatory curve, and we believe that this innovative regulatory commission will make certain that New York is a leader in regulating gambling in the twenty-first century.

That concludes my prepared remarks.

Thank you for your time.

And, we'll answer questions after Chairman Sabini's remarks.

SENATOR MARCELLINO: John.

JOHN SABINI: Thank you.

Good afternoon, Chairman Marcellino, Chairman Bonacic, Chairman Golden, and former colleagues.

I'm John Sabini, chairman of the New York State Racing and Wagering Board, here to discuss the Governor's 2012-2013 executive budget proposal to

create a new New York State gaming commission.

The proposal also creates a New York State Office of Racing Development and Promotion that would oversee:

The New York State Thoroughbred Breeding and Development Fund;

The Agriculture and New York State Horse Breeding Development Fund, which is commonly known as "The Harness Fund";

And, the New York State Quarter Horse Breeding and Development Fund.

I offer these comments on this proposal as well; I am chairman of, both, the Harness and Thoroughbred funds, as was noted earlier.

As part of the Governor's budget and reform plan, the proposal to create a New York State gaming commission simply makes sense.

It would provide an overall coordination for gaming policy and regulation in a state that -- it just doesn't exist right now, and is needed, as gaming has expanded over the last few decades.

The current process simply must be reformed to enable the regulation of gaming to be conducted in an efficient, transparent, and effective manner possible.

There's no doubt that the consolidation, as proposed, into a single oversight body, with broad powers, would achieve those goals, and eliminate unnecessary regulatory redundancies, saving money, saving paperwork, and working better for the folks in districts like you represent.

The concept of gaming policy coordination is not new in New York.

In 1973, the Racing and Wagering Board was established to put the functions of the existing horse-racing commissions under one centralized authority.

The Lottery, at that time, was made a division of the Racing and Wagering Board.

Today, the current framework neglects the fact that gambling in New York doesn't exist in a vacuum. There's no doubt that each form of gaming certainly impacts other forms of gaming.

What happens in the Lottery affects horse racing. In fact, we have different agencies working in the same buildings at our racinos.

What happens at the tribal casinos affects charitable gaming.

The Racing and Wagering Board regulates the track personnel of the tracks, while the Lottery

regulates racino workers at the VLT facilities in the same buildings they're located.

It's simply time we recognized that, and established a regulatory body which meets the responsibilities for coordination of gaming policy in New York, moving forward in the twenty-first century.

Article 7 legislation put forward by the Governor takes a straightforward approach to merge the Racing and Wagering Board and the Division of the Lottery into a New York State gaming commission.

That commission would consist of five members that would oversee an entity consisting of five divisions, which include: horse racing and parimutuel wagering; charitable gaming; gaming, including video lottery and tribal gaming; traditional lottery; and law enforcement.

The Governor's proposal also continues the breedings' funds, but the Harness Fund will consist of five members, including: the commissioner of Agriculture and Markets, the Gaming Commission chair, and three other members of the gaming commission.

The State Thoroughbred Breeding and Development Fund would continue with 11 members;

6 outside members, plus the commissioner of Agriculture and Markets, the gaming commission chair, and three other members of the gaming commission.

Governor Cuomo's proposal provides that the staffs of both the breeding funds will be unified under a new state "Office of Racing Promotion and Development" inside the gaming commission.

The overall benefit of these changes would be better policy-development coordination.

However, the proposed -- under the proposed structure, we would anticipate being able to do a better and less-expensive job in promoting New York's world-class breeding.

We've estimated that shared responsibilities between the two entities, under the new "Office of Racing Promotion and Development," would provide efficient savings -- efficiency savings, which would potentially provide additional funds to the breeders, which is why those funds exist in the first place.

As for other savings, there will be some minimal savings attached to this proposal; though, that's not really the goal.

Gordon is, obviously, the expert in

lotteries.

Most lotteries in the United States operate under a commission format, unlike New York currently does. And that will now be the way Lottery will work under this new proposal.

There's no risk that additional and precious education funds would be utilized for the administration of the gaming commission.

The Lottery would pay its proportional share of the administration of the commission, which is, frankly, no different than the current situation of the Racing and Wagering Board, where tribal gaming and charitable gaming pay for their proportional costs of regulation right now.

We welcome your support of this proposal, which we believe will provide a smarter, more coordinated means to coordinate policy and regulate gaming.

I thank the Committee, and the various Committees, and the Chair, for the time to testify today.

And I think we're both ready for any questions.

SENATOR MARCELLINO: Okay.

We're joined by Senator Golden.

Senator, do you have any brief opening remarks?

SENATOR GOLDEN: No.

SENATOR MARCELLINO: Okay.

I would be remiss, Commissioner Gordon -- Mr. Medenica, if I didn't ask this question, because I get asked this question all the time. And I think you know where I'm going on this one.

When Lottery was first formed, it was formed to aid education.

Every one of my constituents, over the last 18 years, whenever I have a meeting, someone will stand up and say, "Does the lottery money go to education?"

I'm asking you: Does the lottery money go to fund education, and education only?

GORDON MEDENICA: Absolutely. 100 percent.

And I think in the package that I distributed to you, it includes the report we put out every year that shows the Lottery contributions, by school district, across the state.

As I mentioned in my remarks, the lottery now accounts for 15 percent of total state aid to local

school districts, and that is distributed, according to the same formula the general State aid is distributed to local school districts.

SENATOR MARCELLINO: As was mentioned in your testimony before --

Thank you for that clarification. Just want to make sure that that's on the record.

-- but there is concern that there isn't strong enough language, or language at all, in this proposal that would prevent the lottery money, for example, to go reinforce the racing end of it, which may not be in as good a shape, financially, as the Lottery is.

What protects, what prevents, money being used -- lottery money being used to support another division of this new merged commission?

GORDON MEDENICA: Well, again, the traditional lottery business is, by law, dedicated to education.

That does not change under this structure.

In the video-lottery casinos --

SENATOR MARCELLINO: But it might, though -- the money goes to the General Fund right now; right?

GORDON MEDENICA: Well, it's, actually, specifically dedicated to individual school

districts, from the Lottery --

SENATOR MARCELLINO: From the General Fund --

GORDON MEDENICA: -- through the State Education Department.

SENATOR MARCELLINO: All right, we're trying to -- what language prevents that money from, somehow, in any way, shape, or form, from being diverted to other than education?

GORDON MEDENICA: I think all existing lottery law continues under the new legislation for the new gaming commission.

SENATOR MARCELLINO: Okay.

GORDON MEDENICA: And we believe those protections are very strong, and very real.

SENATOR MARCELLINO: How would -- understanding that we have limited discretionary funds, most people don't have a lot of discretionary money, we have all kinds of gaming opportunities now, various ways, what would be the impact?

Would there -- could there be a negative impact on overall revenue by this merger?

GORDON MEDENICA: We think there will be no impact.

We think that the Lottery will retain its independence, to do what it has always done very

successfully.

And we think the strength of the gaming commission, is that, again, it coordinates all of the gaming policy that the State needs to coordinate, and has been a little disparate in the past.

SENATOR MARCELLINO: John, you have -- your end of it, your assurances, that you won't reach over there and try to take some money?

JOHN SABINI: Not only is there assurances of that, but you may remember, there were court cases about it, in which, when we were all served together, we had to resolve some of those disputes by passing legislation.

And, no, there's no intention here to take one penny of the money for anything other than what it was dedicated for; and that's, education.

SENATOR MARCELLINO: Thank you.

I see that the commission will have five divisions, from the proposal that's coming up, each with a director.

You have the Division of Lottery, which is the traditional lottery;

The Division of Charitable Gaming;

The Division of Gaming, which would be the

Indian gaming and the VLTs; --

Correct me if I'm wrong.

-- the Division of Horse Racing and Parimutuel Wagering;

And, the Division of Law Enforcement.

Do we need a division of law enforcement?

Because, it's my understanding, the division of law enforcement will not report to the head of this new commission. It will report directly to the State Police.

What do we need a law enforcement?

Don't we have the Inspector General?

Don't we have the Attorney General?

Don't we have a whole bunch of other agencies?

JOHN SABINI: There's a variety of reasons why it's a good idea.

First off, in the present situation, we have inspectors at the tribal casinos, 24 hours a day, 7 days a week, to look after the interests of the people in the state of New York who aren't necessarily part of the tribe, but are the consumer, your constituents.

And those people are people with law-enforcement backgrounds that we hire.

And it's a continual challenge to have the proper framework within the agency to make it a quasi-law-enforcement structure, from top to bottom.

In addition, in the gaming business, whether it be tribal, or in legal casinos, there are a myriad of law-enforcement tasks that are necessary, to make sure that there's an integrity, that there's not money laundering, that there are not other things going on that wouldn't be in the public's interests, but don't directly relate to the actual throwing of the dice or pulling of the handle.

And, so, law enforcement, in that case, would come in in an important way.

And even to -- under the current structure of the Racing and Wagering Board, we have investigators that go into a variety of the various things that we regulate:

To do adjudications;

To assist the various districts attorneys in the state on law-enforcement matters, whether it be people with their hand in the cookie jar at a VFW, or, someone who attempted to muddle with the conduct of a race.

So law enforcement would be a key component of this, to ensure that the integrity of the

operations were at the highest level.

And New York's always been a leader in that, and we want to continue to be.

We believe this is the best way to do it.

SENATOR MARCELLINO: I believe each of you touched on this, but perhaps we could, maybe some detail, a little more information on it, from both of you.

What kinds of efficiencies and cost saving are expected, or would result, from this combination?

(Senator Savino joins the hearing.)

JOHN SABINI: For example --

First of all, let me say hello to my former seat mate, Senator Savino --

SENATOR MARCELLINO: That's okay.

JOHN SABINI: -- who's joined us.

For example: There are personnel at, say, Aqueduct Racetrack today, who are working on the video-lottery side, who have a license from Lottery; but, also, by virtue of just the plant and equipment, need access to the back stretch of the racing side.

They have to be licensed by my agency right now.

This would provide an efficiency, so that one person wouldn't have to get two licenses from two different agencies. And it would be one place, where, it would be more efficient to license them, and also less costly to the businesses and the individuals.

SENATOR MARCELLINO: Would there be any additional fees assessed to the thoroughbred industry?

GORDON MEDENICA: No.

SENATOR MARCELLINO: No fees.

What's the expected impact on your workforce, respect to race horses?

GORDON MEDENICA: Well, we think there will be no change. We don't expect any layoffs. We think the day-to-day operations will be relatively unaffected.

And, so, we don't see this as a personnel-reduction opportunity.

It's really about coordinating the regulatory functions across all of the different gaming enterprises.

SENATOR MARCELLINO: Do you believe that, perhaps, this combining all of these entities into one commission would make the commission, perhaps,

too big?

JOHN SABINI: There's no anticipation there would be additional personnel.

It would just make it so that it would be, in effect, one place where policy could be coordinated, or integrity can be coordinated.

So there's no anticipation of either a smaller workforce or a larger workforce.

And, obviously, you know, things change over the course of time, but, the idea here is, to make it more efficient, and more user-friendly for folks around the state, that they know there's one place they can go.

I get questions sometimes about the lottery.

I'm sure their personnel get questions about racing when people are at a VLT facility.

And, it will make things a lot better.

SENATOR MARCELLINO: The -- I'm going to ask one more question, and I have others, but --

SENATOR BONACIC: I have questions, but, I'll catch up to you.

SENATOR MARCELLINO: That's okay, go ahead.

SENATOR BONACIC: Okay, now.

SENATOR SAVINO: No.

SENATOR MARCELLINO: Just push the button.

SENATOR BONACIC: Okay, we're on now.

We don't have the DeFrancisco clock now, where you have to be done in so many minutes.

My first question, I'd like to stay with this law-enforcement question that Senator Marcellino touched on.

How many law-enforcement officials now are working on our gaming activities in the state of New York?

An estimate, you don't have to be exact.

JOHN SABINI: We have approximately 50 employees at tribal casinos, the five tribal casinos run by the three nations in the state, that are on the gaming floor 24/7, so that people have a representative of the state government there, to ensure the integrity of what goes on.

And, in addition, we have, not necessarily law-enforcement personnel, but I have investigators at every racetrack, who do everything, from participate in -- I'll put it in the cleanest fashion I can -- preparing the drug testing of the horses, and ensuring that the drug-testing protocols are followed, so that, if we come to trial, that we don't have a situation like they had in Major League Baseball, where the test procedures were

compromised.

Those people aren't necessarily law-enforcement personnel, but they are people who have the title "investigator."

I have overall investigators who probe into things like charitable gaming around state, and aid district attorneys around the state in getting prosecutions, based on information that's brought to us by consumers.

So, law enforcement is definitely a component of what we do, but this will allow us to formalize it with a law-enforcement structure.

SENATOR BONACIC: How many investigators would you have in the category that you just described, other than the 50 that would be on, say, the casino floors?

JOHN SABINI: Charitable, right now, we have about half a dozen around the state.

And each racetrack, the term "investigator," as I say, is a broad one. It goes, from everyone who is on the back end of a horse, to people who actually investigate, in the detective sense, as you might -- as a layman might think of it.

And those would be, probably, up to -- between half a dozen to ten a track, depending on

the size of the track, whether it be harness track, or a world-class facility like we have at Saratoga or Belmont.

SENATOR BONACIC: And do you feel that it's sufficient now, the amount of personnel dedicated to law enforcement for your operation?

JOHN SABINI: We're doing the best we can, given the resources we have right now.

I think we do a pretty good job of it.

SENATOR BONACIC: And the fact that you have some law enforcement in the Native American casinos, is that by virtue of, the compact --

JOHN SABINI: Yes.

SENATOR BONACIC: -- gives you the right to be in there?

JOHN SABINI: Yes.

It requires us to be there.

SENATOR BONACIC: As to State Police personnel, do they supplement what you do?

And in the numbers you gave me, none of them are State Police personnel?

JOHN SABINI: That's correct. The State Police have a relationship in the compact as well, with tribal enforcement; as well as the -- at the Seneca Buffalo Creek facility, where the

Buffalo Police Department also has a presence.

SENATOR BONACIC: Do you have a sense of how many of our State Police officers and our Buffalo policemen are committed to gaming operations?

JOHN SABINI: You'd have to ask the State Police. I don't know.

I do know that they do things that would involve investigative -- that would investigate things, not only at the casino, but things that would relate to things perhaps outside the wall, that would affect neighboring communities; everything, from money laundering, to ancillary activities, that might have a bad effect.

So, it's hard to say, but you'd have to ask the State Police.

SENATOR BONACIC: So, John, if this gaming commission moves forward, they would have no jurisdiction over the State Police?

That would still be up to the Superintendent of Police, with respect to policy and investigations?

JOHN SABINI: This commission envisions a tighter coordination with the State Police.

SENATOR BONACIC: But not have jurisdiction?

JOHN SABINI: That's correct.

SENATOR BONACIC: Okay, thank you very much, John.

SENATOR MARCELLINO: In line with that, if I might just continue that trend, with the Lottery, is it true that the State Police were removed from the Division of the Lottery a few years ago, over concerns -- over the concerns of the Lottery?

GORDON MEDENICA: No. I think it was primarily done for budget reasons.

And the -- what we did, was, set up a different system, more similar to what John was describing, in terms of, having our own internal people stationed at the facilities.

At the same time, we required all of our facility operators, and they hadn't already, to hire private security guards.

So, for the most part, the on-site supervision is done by private security forces hired by the video-lottery casino operators, and then they coordinate with the local police jurisdictions when there is a requirement --

SENATOR MARCELLINO: So, they're Lottery employees, or employees of --

GORDON MEDENICA: No. They're employees of our vendors, our facility operators.

SENATOR MARCELLINO: Racino operators would have -- these would be their employees?

GORDON MEDENICA: Yes.

SENATOR MARCELLINO: Okay, so they -- are there currently any State Police in Lottery-regulated gaming facilities?

GORDON MEDENICA: No. Not unless they're called in for a specific incident, but, they're not stationed there.

SENATOR MARCELLINO: John?

JOHN SABINI: Let me just augment that.

All Racing and Wagering Board investigators and all State Police personnel that deal with the tribal casinos, as a result of the compacts with the three nations, those expenses are paid by the three nations.

SENATOR MARCELLINO: Chairman...

(motioning to Senator Golden)

SENATOR GOLDEN: Thank you, Mr. Chairman.

To the gentlemen: Good afternoon.

The -- this is a pretty large undertaking.

What is the proposed budget for this?

The -- what is -- what are we looking at in actual numbers and bodies?

GORDON MEDENICA: In terms of the budget

that's been submitted this round, I think it's, pretty much, business as usual.

So, I don't think it anticipates yet, the -- any additional expenses or cost savings from the new commission.

SENATOR GOLDEN: So there's no budget prepared for this new approach of this commission?

GORDON MEDENICA: I would defer to the Division of Budget on that.

SENATOR GOLDEN: And the law enforcement, the Division of Lottery, presently, doesn't have -- what is the law enforcement again, at the Division of Lottery?

How much is the law enforcement at the Division of Lottery?

GORDON MEDENICA: In the Division of Lottery, in our video-lottery facilities, the security forces are paid for by the vendors themselves.

We have a certain amount of internal auditors, and people like that. That's, probably, 12 or 13 people that are stationed in the facilities all the time.

SENATOR GOLDEN: So, if the money -- and we're creating this new division of law enforcement, obviously, it would be broken down amongst the

number of locations?

The number of places, and the number of employees, would be broken into that division of law enforcement?

GORDON MEDENICA: I think if the current operations of the video-lottery facilities continue as they are today, that would not be necessary.

And, again, these people are not law-enforcement people.

These are people who check on the machines and the integrity of the software.

And, to the extent that there is a law-enforcement or a criminal act that needs to be investigated, local law enforcement is brought in by the security force.

SENATOR GOLDEN: The -- I would presume that there's background checks done on all these, and fingerprint operations --

GORDON MEDENICA: Absolutely.

SENATOR GOLDEN: -- on every one of these individuals?

GORDON MEDENICA: Yes.

SENATOR GOLDEN: Same with the division of law enforcement, since I don't have the budget book in front of me: Could you -- what would be

allocated to that division?

GORDON MEDENICA: I don't have that number for you. I'm sorry.

SENATOR GOLDEN: Can you get that number to the Chairman, please?

GORDON MEDENICA: Sure. Absolutely.

SENATOR GOLDEN: And, then, if you could also get the number of how that would be paid for? Okay?

GORDON MEDENICA: Absolutely.

SENATOR GOLDEN: We'd like to understand how this new division of law enforcement would be paid for. I think it would be very important that we see that.

The -- I know I'm going to go off on this, and we don't have to stay too long on this.

What is going on with the Division of Gaming when it goes to the Indian gaming?

We're -- I guess we're losing 100 million -- how much money are we losing with the tribes, presently?

JOHN SABINI: When you say "losing to the tribes" --

SENATOR GOLDEN: The money not coming forward to the State.

JOHN SABINI: Well, as a result of the

compacts that have been executed with the three tribes, in some cases, we don't -- with each tribe, they have a separate agreement. We don't know exactly what they take in.

We get a portion of slot revenue from the Seneca tribe and the St. Regis Mohawk tribe.

But, in terms of their actual gaming revenues, and -- and, then, they share some of that revenue, also, with localities.

There is no doubt that they are successful operations.

There is concern, and debate, as to, if moving forward with commercial casinos, if other entities would take from that, or grow a larger -- in a larger pie, I think that remains to be seen.

SENATOR GOLDEN: Is -- this new gaming commission, does it allow to you audit into the Indian gaming facilities?

JOHN SABINI: We would have no further powers beyond the compact that was executed and approved, so that -- we get to audit slot revenue now at two of the -- with two of the tribes.

SENATOR GOLDEN: And the money from the compact coming forward?

JOHN SABINI: Again, the compacts would be

unaffected by this.

SENATOR GOLDEN: So --

JOHN SABINI: Unless they were reopened, or, there was breach of the compact, and that would go to an arbitration of some sort, and --

SENATOR GOLDEN: So what is the Division of Gaming get this past year from the gaming -- Indian gaming?

JOHN SABINI: We are, right now, in negotiations to get funds with various parts of the executive division, to release the funds from the tribes, so, I don't have an answer right now.

SENATOR GOLDEN: Would this gaming commission give you any more power --

JOHN SABINI: I think it would allow a better coordination of what we do at the --

SENATOR GOLDEN: But it wouldn't change the compact that's present --

JOHN SABINI: Not change -- the intention is not to change the compact. That would be a separate issue.

SENATOR GOLDEN: This is a pretty large venture. We'd need some numbers, obviously. And I know some of them are available, some of them aren't.

If you could, we'd like to see them.

If you could get them to the Commissioner, I'd appreciate it.

OTB, it's missing here.

Where -- what are we doing with OTB?

JOHN SABINI: If you're referring to New York City OTB, there's currently no franchise, and -- in New York City.

The other regional OTBs continue to exist.

SENATOR GOLDEN: Now, they're not going to be in this New York State gaming commission?

JOHN SABINI: We would continue to regulate every off-track betting entity and every parimutuel entity in the state.

SENATOR GOLDEN: I know, but where are they in this gaming commission?

JOHN SABINI: They'd be part of the parimutuel division of the gaming commission.

SENATOR GOLDEN: And, then, what do you see for the future for the rest of the OTBs, since the franchises are close to New York City?

JOHN SABINI: Well, that's a separate issue than this bill, frankly.

And, certainly, one that the Legislature and the Governor, more than -- we're more than happy to

listen to your suggestions.

We're just the regulator. We're not the policymaker on that.

SENATOR GOLDEN: There's a lot of pieces off the table that we need to put together to make this puzzle work.

JOHN SABINI: Right.

Understand, Senator Golden, we are the regulator.

We audit the OTBs, we ensure that the people working there are above-board, and, that there's not -- that the public interest is maintained.

We don't actually market them, or --

SENATOR GOLDEN: Nor should you.

JOHN SABINI: -- or license them.

SENATOR GOLDEN: Nor should you.

JOHN SABINI: Nor should we, right.

SENATOR GOLDEN: But, I mean, there's other things you should do, but that's not one of them.

JOHN SABINI: To award the franch- -- the awarding of a franchise for an OTB is between the Executive and Legislature, and the locality, frankly; not with either the Racing or Wagering Board, as it's currently listed -- or, I'm sorry --

as it's currently formed, or the new commission.

SENATOR GOLDEN: But under the new commission, OTB would be involved in that, because you regulate OTBs; so, therefore, you would regulate them, under this new commission.

Correct?

JOHN SABINI: Right.

SENATOR GOLDEN: But you don't have any plans yet for New York, and what the rest of the OTBs are going to do, and where we're going with --

JOHN SABINI: I'm sorry, I couldn't hear question.

SENATOR GOLDEN: We don't have any plans of what's happening for New York City OTB, and how that plays out in this --

JOHN SABINI: Again, we would be the regulator, not the awarder of the franchise.

SENATOR GOLDEN: Again, I heard you, clear.

The -- but, if you could, we'd like to know more about that.

Thank you.

SENATOR MARCELLINO: Senator Savino?

SENATOR SAVINO: No. Thank you.

SENATOR MARCELLINO: Okay.

Just a couple more.

The New York Breeding and Racing Program distributes, what I'm told, about $40 million per year, in the form of incentives: breeder awards, stallion awards --

You got to talk to me about stallion awards one day.

-- owner awards, and purse money for New York-bred horses.

Are there any concerns that this merger will affect that funding source and distribution?

JOHN SABINI: No. There's no intention to do that whatsoever.

And, as a matter of fact, it should enhance the distribution of those funds, because, as they exist now, those funds are in offices separate and apart from the Racing and Wagering Board: one located in Saratoga Springs, one located here in Albany.

And, yet, it would bring all of the -- the two funds into a framework where we can make it more of an economic-development engine, to ensure that jobs go to the areas in the state needed most, many of our rural counties, because horse racing is an important industry in New York.

Obviously, the mural behind you shows that,

and it's been here for years.

Horse racing in New York is a very prominent and important industry.

And if you don't think New York's doing well now, ask the folks in Kentucky, 'cause they're all crying.

We're doing very well with our breeding industry, thanks in large part to a lot of what -- the monies that have been generated from our Video-Lottery Terminal program.

So, what this would do, is allow -- there'd be one entity within the new gaming commission, to help grow those jobs, and to, frankly, eliminate overlapping rents, overlapping staffing, and bring more money to the breeders, which is what those funds were put there in the -- for, in the first place.

SENATOR MARCELLINO: So, we're not concerned that this would disrupt, in any way, or any potential -- or, potentially cause a decline in any funding for these awards?

JOHN SABINI: Under the current law, we believe it would enhance funding to breeders around the state.

SENATOR BONACIC: Just a quick question.

SENATOR MARCELLINO: Go ahead.

SENATOR BONACIC: John, just one final question: As a former senator, and very familiar with the racing industry, and watching OTB, do you have an opinion where you would like to see OTB go?

By that I mean, that I think this is what Senator Golden was getting at: You happened to take the Fifth Amendment, because you said you're a regulator; you're not a policy guy.

But, do you have an opinion --

And I'm not trying to make you feel uncomfortable.

-- whether consolidation should occur?

Should we be moving in, into the New York City market?

And, if you had an opinion, could you share it with us?

JOHN SABINI: Well, I do --

SENATOR BONACIC: Knowing you're a regulator.

JOHN SABINI: I do have an opinion on the overall way to make things more efficient.

And that's -- I'm not talking out of school. There was a task force on future of off-track betting, which my staff provided technical assistance to, and helped write that report.

And we believe, that if the Legislature and the Governor, and common wisdom, want to continue to have regional OTBs exist, that there are ways to make them more efficient, by sharing services, combining platforms, combining Internet platforms, so that you can actually deliver more money to the localities, which is what OTBs were supposed to do.

So, I offer no opinion, frankly, on whether or not they should all merge or not; but, rather, that there are ways to make it more efficient so they can do their jobs better.

I don't think that there's a need; and the task force very clearly said, there's not a need for each regional OTB to have completely separate setups of phone, Internet, wagering, television shows.

There are ways to get efficiencies by the bulk, and they can deliver more money.

And, certainly, with the closing of New York City OTB, and the problems we're seeing in Suffolk, we believe that the trend is, that the handwriting's on the wall. Efficiencies can be achieved by doing what, you know, reasonable people would think were pretty easy.

SENATOR BONACIC: Thank you, John.

JOHN SABINI: Thank you.

SENATOR MARCELLINO: Senator Golden.

SENATOR GOLDEN: Thank you, John, for pointing that out.

I think the -- I'm going to go a step further.

I think that reasonable people should probably decide that New York City and OTBs -- which I'll really start a fury, here in this room -- should be bidded out to a Request For Proposal, and that we shouldn't be in the game of running OTBs in the state of New York; that it should be done by a private entity. A private-public partnership.

So, I'll go a step further.

I'm sure I'll hear from people tomorrow, on that.

The $380 million, the licensing fee from Resorts World, where does that -- is that in the 2010-11 numbers?

Where is that?

How does that play --

GORDON MEDENICA: No. It was in the 2010-11.

The total aid to education from the video-lottery facilities that year, was $927 million, of which, $380 was in that number.

SENATOR GOLDEN: So we would have taken a

loss this year if we didn't have that 380 million from Resorts World.

GORDON MEDENICA: It won't be a loss. It'll be less money that we make from the casinos --

SENATOR GOLDEN: But you would have been a loss over 2009-2010?

GORDON MEDENICA: I'm sorry?

SENATOR GOLDEN: It would have been a loss over 2009-2010 numbers?

GORDON MEDENICA: No. We've had increasing numbers every year.

SENATOR GOLDEN: But if you didn't have the $380 million going into the 2010-11 numbers, how would the --

GORDON MEDENICA: Not coming into the '11-'12 numbers.

SENATOR GOLDEN: You have them in the '10-'12 numbers -- the '10-'11 -- no, I'm sorry.

They're in the '10 -- they're in the -- no, they wouldn't be in the '10 -- '11-'12 numbers, you're saying?

GORDON MEDENICA: Well, the 380 came in, in the '9-'10 numbers.

The '10-'11 -- no, I'm sorry.

In the '10-'11 numbers, "the hole," if you

will, it will be in this fiscal year, the '11-'12.

SENATOR GOLDEN: Okay, but I'm -- well, what I'm saying is correct, then.

It would have been -- you would have had a loss in 2010-11 if you didn't have the $380 million to put in to it, over 2009-2010, even though you're saying that you're moving "the hole" to 2011-12.

You would have had a hole if you didn't have the $380 million for 2010-11; correct?

GORDON MEDENICA: In the video-lottery --

SENATOR GOLDEN: Yes.

GORDON MEDENICA: -- segment?

I believe that was due to a change in legislation, that changed the splits that the vendors received.

I'd have to look at my numbers on that.

SENATOR GOLDEN: If you had $7.8 billion in 2009, and you have $7.8 billion in 2010-11, if you didn't have the $380 million --

GORDON MEDENICA: Oh, the 380 doesn't show in the revenue number.

SENATOR GOLDEN: It doesn't show in the revenue at all?

GORDON MEDENICA: No. It's strictly in the profit line.

SENATOR GOLDEN: So it's, down here -- so, down here, it's $2.67 million, is the 2009 numbers.

'10 numbers --

SENATOR MARCELLINO: He's looking at your chart in your testimony.

SENATOR GOLDEN: -- at 3.5 billion profit numbers in 2010 and '11.

SENATOR MARCELLINO: He's looking at your --

SENATOR GOLDEN: So if you take the $380 million from the $305 billion, you would have had a loss of over 2009-2010.

GORDON MEDENICA: Uh, if I can --

SENATOR MARCELLINO: It's in your --

SENATOR SAVINO: It's on your chart.

Here.

GORDON MEDENICA: Because you're including traditional lottery. That's the confusion.

If you look on the back page, you'll see the difference on, video lottery versus traditional lottery.

SENATOR GOLDEN: But in overall numbers, if you didn't have that $380 million, you would have had a loss over 2009-10.

Correct?

GORDON MEDENICA: I don't believe that's

correct.

I think we had an increase in --

SENATOR GOLDEN: Take the $380 million from your profit of 305, and what number do you come up with?

GORDON MEDENICA: Okay.

SENATOR MARCELLINO: Don't beat him to death.

SENATOR GOLDEN: Nevermind. I've made my point.

I believe that you take a loss --

GORDON MEDENICA: No, I don't think we ever had a decline in the business, if that's what you're suggesting.

Aid to education from the video-gaming business, in '9-'10, was 493 million.

SENATOR GOLDEN: I understand that.

Thank you very much.

SENATOR MARCELLINO: Okay.

SENATOR GOLDEN: All right?

Thank you.

SENATOR MARCELLINO: So it's the testimony of both of you, that there will be no need for layoffs, no need for cuts in employee positions --

GORDON MEDENICA: That's right.

SENATOR MARCELLINO: -- as a result of this

merger?

This merger will not cause that, from your perspective?

GORDON MEDENICA: That's right.

SENATOR MARCELLINO: So let me go back to the beginning.

Where's the savings?

Is there a savings, financially, money-wise?

Or are we talking about just, simply, operating efficiencies?

JOHN SABINI: I think we'll certainly achieve savings at the breeding funds.

That will absolutely happen.

And that will result in more money going to breeders, which is what those funds were set up to --

SENATOR MARCELLINO: And that will continue the supply of new horses, and people coming into the state --

JOHN SABINI: Yes.

SENATOR MARCELLINO: -- with more competition, and so forth? Better purses?

JOHN SABINI: Which is happening right now.

And in addition, we believe there will be savings, frankly, to some of the licensees, both

individuals and corporations, that deal with us, because there will be a less of a need for them to have overlapping licenses.

But, again, this effort is designed to be revenue-neutral, but management improvement.

SENATOR MARCELLINO: What's that?

Are you talking about -- revenue-neutral, but management --

JOHN SABINI: Well, actually --

SENATOR MARCELLINO: -- which is based --

JOHN SABINI: -- well, hopefully, it will be -- you know, as we go down the pike, we'll have improved revenues as a result of other gaming opportunities that you and Executive may come up with.

SENATOR MARCELLINO: Okay, thank you very much, fellas.

JOHN SABINI: Thank you.

SENATOR MARCELLINO: Appreciate your testimony.

GORDON MEDENICA: If I can just add notes, since I've had a chance to calculate this in my mind --

SENATOR MARCELLINO: We are --

JOHN SABINI: -- the video-lottery profit was

493 in '9-'10.

In '10-'11, excluding the 380, it was 525.

So, we had an increase.

SENATOR GOLDEN: Thank you.

JOHN SABINI: Thank you.

SENATOR MARCELLINO: Thank you very much, guys. Appreciate your testimony.

Thanks for coming.

Next up to is, Brian Curran, counsel for the Public Employees Federation.

BRIAN CURRAN: Thank you, Senator, for giving us the opportunity to speak today.

I'm Brian Curran, the legislative director, and counsel, of the Public Employees Federation.

We represent many of the professional employees who work in a variety of the agencies that are affected by the Governor's proposals for consolidation.

I've given you a detailed written testimony, and I'm not going to read it all. I'll summarize some of the key points.

Given the discussions so far, that I couldn't help but mention, that, as some of you may recall, a couple of years ago, a group of our members at the Division of Housing here in Albany, pooled their

money and bought some lottery tickets, and managed to hit a $60 million jackpot.

And, I just wanted to point out, that, contrary to some of the reports in the newspapers, those are actually the only unionized civil servants who have become millionaires by working for the State.

While we're happy that that happened, I do have to point out that, generally speaking, you know, working for state or local government is not a path to riches.

And the people that we represent try to do their best for the public, and are not, you know, looking to bilk the taxpayers in any way.

Let's talk a little bit about the specifics in the Governor's proposals.

We are opposed to the Governor's proposal to merge the Office of Employee Relations with the Department of Civil Service because those two agencies really have completely different functions.

GOER is really the Governor's bargaining arm.

You know, their job is to negotiate contracts, and to adjust grievances, with -- in the labor-relations area.

Civil Service Department is supposed to be a compliance and regulatory body, whose job is to make sure everybody is treated fairly and according to the rules.

And they are, by definition, supposed to have a degree of independence, and not be directly under the arm of the advocacy branch of the Governor's Office.

And, so, we really think that it's incompatible to have those two agencies merge together.

The proposal, in this regard, I think -- we think is -- has to be read in the context of other proposals in the Governor's budget regarding Civil Service. It would make a number of changes in the Civil Service law, to an S6255, Part M, most of which are designed to create opportunities to evade the traditional merit-fitness system, to allow the appointment of people at the discretion of managers, even in cases where those people were not the highest scorers on an exam; not the most qualified.

There are even some scenarios in that language, where you could appoint someone to a permanent civil-service position without ever having taken an exam.

And that's contrary to the basic principles on which that system works.

And, you know, we think those things are contrary to getting the best people to work for the public, but, you can also understand, from the point of view of the career civil servant, why that sort of thing is extremely frustrating.

If somebody plays by the rules -- they, you know, get their required education, they take the exam, they pass the exam, they score in the top three -- they're waiting for their opportunity to get promoted, then, all of a sudden, the rules change, your opportunity to get a promotion is gone.

So, we really have to oppose that type of thing.

We also have a concern about a general trend that we see in a number of the Governor's proposals, that involve the shifting of work from state agencies staffed by professional civil servants, to public authorities or other off-budget entities which are outside the normal process of legislation, budgeting, and, you know, the Civil Service and Disclosure Procedures that exist in state government.

One of those was added in the 21-day

Amendments language, which would give the Dormitory Authority extremely broad authority to build, construct, lease, finance, and do all sorts of other things with facilities, for any state agency and any public authority in the state.

And this is -- is unprecedented, in terms of what the Dormitory Authority's been authorized to do in the past, which has been on a project-by-project basis.

They, basically, are giving them blanket authority to finance any project for any agency.

And our primary concern about that is, we represent workers in the State's Office of General Services who do design construction work for a variety of state agencies.

If, you know, any department in this state needs a facility built or renovated, OGS does that work, and does it competently.

So this proposal's an odd one, because it's -- the opposite of consolidation is duplication.

The Dormitory Authority is being authorized to do things that there's already a state agency to do.

And it's not at all clear why it's necessary

to have such a broad authorization for the Dorm Authority.

The other one that is of a similar sort of nature, is the proposal to move the Belleayre Ski Center from DEC to the Olympic Regional Development Authority.

This, again, is a shift of a state-agency operation to a public authority whose base of operations is 200 miles away from where the ski center is located.

We do represent some of those employees, and we have some concerns about the way that proposal is structured.

But our basic objection is to the whole idea of moving things out of state government into public authorities, which is really the opposite of where we should be going, policy wise.

I do want to be clear, that we are not opposed to the idea of consolidations for the purpose of improving efficiency.

And for that reason, we did not oppose some of the consolidations that were done last year, and we don't oppose the other consolidations that are proposed in the Governor's merged state-agency bill this year.

On the issue of racing and wagering and lottery, we are not opposed to that idea of consolidation.

We do have an objection to one item that's actually not in that bill, but in a different bill, oddly enough.

In the Transportation Economic Development, Article 7, bill, Part Y, there is a proposal to change the status of some starters and judges in racing and wagering, currently State employed, and would become contracted out. Basically, become private employers of the track, under this proposal.

And that would affect some of our members.

We object to that.

We think they should be -- continued as State employees. These are seasonal employees. They're, you know, a little bit of an unusual status that is different than the traditional permanent civil-service jobs.

But, it is an issue that's, as I say, odd, in the sense that it's placed in a different bill.

The broad picture thing that we'd like to get across is, again, this concern about: What are we looking at in consolidations? What are we failing to looking at?

We really think that the biggest opportunities for savings in consolidations would be -- come from looking at the whole area of public authorities; that there are, literally, hundreds of these things out there that have grown without a lot of oversight.

There is somewhat greater oversight as a result of some of the reform bills that have been passed in the last few years, but, there's still a lot that can be done.

And, our advocacy is, basically, that you could make more efficient by merging many of these public authorities back into state agencies.

The Governor actually advocated for that when he was running for election; however, we haven't seen much action on that agenda since he was elected.

If you want any confirmation of that, you know, there is an opportunity to save money by doing this.

One of the things that we've done, is to compare the personnel costs of public authorities to those of state agencies.

And our data shows, that, on the average, public-authority employees get paid 25 percent more

than state employees do in comparable agencies.

Now, of course, there are always differences in the makeup of the workforce, the geographic areas, and so on, but, nonetheless, there is a pattern there.

And we've put the data in our testimony. You can take a look at it.

We've given some specific examples, but if you want any confirmation of this:

A couple of days ago, in the "New York Post," there was an article that talked about the fact that there's 1,252 employees in state government who make more than the Governor does.

When you actually read the article, you find out that most of them are not, in fact, employees of the state government.

And I'll read you a quote from the Governor's press spokesman.

It says, "Cuomo spokesman John Vllasto noted that virtually all of those pulling in more than the Governor are at authorities and agencies the Governor doesn't control, including SUNY."

Now, leave aside the fact that the Governor does, in fact, control most of those authorities, because he appoints their boards, as he does the

SUNY board of trustees.

What we have here, is the Governor's own spokesman saying exactly what we're saying, which is: That a lot of the really high-paid people are in the public authorities.

And that's an area that needs a lot of examination.

And that's one of the real concerns we have about the Governor's SAGE Commission, which is supposed to be looking at promoting efficiency in state government.

What we've seen from them so far, primarily seems to focus on how to reduce personnel and state agencies, and we've seen very little focus on the whole issue of public authorities.

And some of this is, I think, a natural tendency of our budgeting process, because, since these things are off-budget, they tend to get ignored because we only focus on the issues across when we're doing the budget every year.

So, everybody's looking at the budget: How do you save General Fund money?

There are opportunities to cut costs, but because these things don't appear in the regular budget, they tend to get ignored. And it's an area

that really needs a lot more attention.

One other point that I wanted to raise, that's, again, not directly in the bill that proposes to merge state agencies, but which we have some real concerns about, as I'm sure many legislators do, which is: That the Governor's appropriation language, allowing the unlimited interchange of funds from one program to another, one agency to another, and even the public authorities, is, in a way, that the kind of mega-merger of all times, in the sense, that if that language is adopted, it means that we don't really have to have these discussions anymore, about whether we should merge agencies or not, because, the day after the budget's adopted, the Governor can simply merge the agencies by moving the money.

You know, like it or not, in state government, while money may not control everything, it does control 90 percent of everything.

And if you shift the funds from one place to the other, you're essentially merging those agencies.

And that language would give the Governor that power without any legislative oversight.

So, it's something that we think is a real

concern that needs to be addressed.

Let me just stop at that point, and say, that, you know: Overall, we are supportive of the idea of doing things to make things more efficient.

We do think that there's areas that need more attention in that regard.

And, that the best place to look, in terms of streamlining for efficiency, would be to curb the public authorities.

Thank you.

SENATOR MARCELLINO: Any questions?

SENATOR SAVINO: Yes.

SENATOR MARCELLINO: Senator.

SENATOR SAVINO: Thank you, Senator Marcellino.

Thank you for your testimony.

I just want to make a point, in that, this is the second time that I have heard testimony from PEF, with respect to the merger of Civil Service and GOER.

And for the record, I think it should be noted that, three weeks ago, at the Workforce budget hearing, this issue came up on day one.

Bob Megna testified, on behalf of the Administration. And neither the head of

Civil Service or Governor's Office of Employee Relations who present in the room, were authorized to answer any questions.

So, we're here today, again, looking at it from this perspective.

I agree with your concern, though, that these two divisions should not be merged together, for the political reasons that you put forward.

And I think it's not lost on those of us, and we realize that this could be a problem.

And, we want to protect civil-service opportunities for all the people that we represent.

This is not the way to do it.

So, I just wanted to say that, for the record.

Thank you.

BRIAN CURRAN: Thank you.

SENATOR MARCELLINO: Thank you.

Anybody else?

I'd --

SENATOR GOLDEN: I -- okay.

SENATOR MARCELLINO: Oh, go ahead. I'm sorry.

Senator, go ahead.

SENATOR GOLDEN: No, I just wanted to --

again, I share some concerns as well.

I understand consolidation, I understand how it works. It's something that does give benefits to the Administration, and benefits to the State.

In this particular case, I'm not sure, and I have some issues. And I'm really trying to understand the operational impact of the open promotion list.

How would that, if a police officer, that was a sergeant -- I'm just going to use a police officer, even though it's not one of your employees. But, I'm just going to use that as a "for instance."

If a sergeant was in a, say, Newark, or in California, and -- or -- and moved to New York, and he filled the requirements of being a sergeant in a other town, or state, and he fits the description in this particular state, he or she would be allowed to take that test, and he or she could pass that test, and would pass some of the civil-service people behind him or her.

Is that possible?

BRIAN CURRAN: There's a couple of variations on that theme.

I mean, the traditional path: Somebody comes in in the entry level position, let's say it's a

patrolman, or whatever, and then, after they serve some time in that grade, they have -- they, you know, meet the experience requirements necessary to take the promotional exam.

So, that's the traditional path that most of our members follow, as do most other unionized civil servants.

There is already the possibility that an agency can simultaneously give an open competitive exam, and a promotional exam, for the same job.

So, the opportunity to -- you know, to give somebody who's outside the current workforce, but has right experience and education, the opportunity to take the exam and qualify.

But under the current rules, the incumbent person who's in -- already in the workforce, that list would have to be called from first before they went to the outside list.

So you could -- you already have the ability for somebody in the situation you're describing: Comes from out of state, he's got the right qualifications, he can take the open competitive exam for that title.

But, if there's somebody on the promotional list who's in the workforce, they would get first

crack. That's, basically, the current rule.

And that's what we would prefer, the rule to stay, because, you know, those people have been in the workforce; they, you know, put their time in, they're waiting for the opportunity.

And, allowing you to go outside, jumping over those people -- you know, it's -- you know, this -- here's the way I look at this:

I've been in management roles. I've hired and fired people.

I understand, from a point of view of a manager, you would like the ability to pick just the person you want, you know, whichever one you think is the best for the job.

And on each individual case, that's an understandable motivation.

But when you step back and you look at something the size of state government, with 180,000 employees, you have to look at the overall big picture. And, there, you've got to think about system-wide fairness to everybody.

When you create a system where long-term incumbent employees feel like they're being jumped over, then you undermine the long-term morale of a fairness feeling in the workforce.

And, so, while you might feel like you got a better person in this one individual case, you've created nine other disgruntled employees in the course of it.

SENATOR GOLDEN: And that was the whole reason for civil service in the first place.

BRIAN CURRAN: Yeah.

SENATOR SAVINO: Uh-huh.

BRIAN CURRAN: Well, one of the reasons.

SENATOR BONACIC: Right.

But, I do understand we need to do some changes. And, hopefully, we can get to some changes in the future, but, they've got to be a balanced change --

BRIAN CURRAN: Yeah.

SENATOR GOLDEN: -- and we're looking to get there. And, hopefully, we can some day.

Thank you.

SENATOR SAVINO: I do have one follow-up question.

So, since the Administration has failed to provide us with an explanation as to how merging an independent Civil Service Commission and the Department of Civil Service, which is supposed to be apolitical in protecting the interests of the

public, with a purely political division, which is the Office of Employee Relations, which is to negotiate with the -- their job is to negotiate with the unions, have they actually sat down and discussed, with your institution, or with any of the other unions, what it would mean to merge two organizations that are, basically, at -- are polar opposites?

BRIAN CURRAN: They certainly have not sat down with us.

I don't know that they've sat down with anybody, on this issue.

SENATOR SAVINO: So, there's been no discussion as how it would change labor relations, how it would change the administration of the Civil Service merit system?

None, whatsoever?

BRIAN CURRAN: No.

And it would be hard to do that, since they've never made a permanent appointment as the head of the Civil Service Commission. So, there's not really anybody, you know, permanently in charge over there.

There's Acting Commissioner, and --

SENATOR SAVINO: Right, since Nancy Grant --

Grone [ph.] -- left.

BRIAN CURRAN: Yeah, it's over a year now, and that position's been vacant.

SENATOR SAVINO: Uh-huh.

BRIAN CURRAN: So, it's kind of a distressing situation.

I mean, the ultimate underlying, at the farthest edge of this, the real issue, is this: That there are times the Department of Civil Service has to say no to people appointed by the Governor, because they want to do something that's against the rules, it's against the law.

And they have to tell them "no."

That's their job; is that, if somebody's trying to do something that's not allowed by the law, they have to tell them: Sorry, you got to follow the rules.

And that's very hard to do when you're part of an agency, where the boss is telling you, "I want it done."

SENATOR GOLDEN: One of the other roles of state Civil Service, is to oversee localities.

Is that not true?

BRIAN CURRAN: Ah, yeah, at least to some degree.

I mean, the localities have their own Civil Service commissions, but, the State has authority, and appeal sense, over them.

SENATOR SAVINO: So -- so there's no -- so there's another question, as to how that would affect the localities. How it would affect the city of New York. How it would affect, Nassau, and Suffolk County, or Orange County, or any other county, who have -- who may be looking to make changes to their civil-service system.

Who would protect the interests of the public in those counties if State Civil Service Department becomes purely politicized?

BRIAN CURRAN: Yeah, and it potentially changes the focus of the agency.

SENATOR SAVINO: Uh-huh.

Thank you.

SENATOR MARCELLINO: Let me just ask one question -- two questions, actually, but they should be brief.

Do you have any details on predicted staff positions that would be eliminated by the mergers we're talking about here, with gaming, and, whatever?

BRIAN CURRAN: Well, we don't have any

indication at this point, that the Racing and Wagering, and Lottery, merger would cause an employee impact.

The only thing that we have identified there, is this issue about the privatization of the starters and judges, which I think, if I remember -- I don't have data in front of me -- I think it's 17 positions that would be potentially -- they're not being eliminated -- they're being eliminated as State employees, but would be, presumably, then transferred over to the private [unintelligible] operators --

SENATOR MARCELLINO: If you could get that info to the Committee, we would appreciate it --

BRIAN CURRAN: Sure.

SENATOR MARCELLINO: -- as quickly as you can.

Do you have any concerns with the proposal to allow the president of Civil Service Commission to assist in collective-bargaining negotiations?

BRIAN CURRAN: Well, yeah, we do. I mean, it's related to that same issue of the merger of the two agencies.

I mean, obviously, the -- the -- you know, the Governor's Office has ability to call on the

Civil Service Commission for advice, and so on, but we really don't think it's appropriate for them to be in the middle of collective bargaining.

SENATOR MARCELLINO: Thank you very much.

BRIAN CURRAN: Thank you.

SENATOR MARCELLINO: Next person is, Don Kelly, deputy director of Contract Administration/Research for the CSEA.

DONALD KELLY: Good afternoon, Senators.

SENATOR MARCELLINO: Good afternoon.

Would you identify the gentleman with you, please.

DONALD KELLY: John -- go ahead.

JOHN BEAUMONT [ph.]: John Beaumont [ph.], legislative representative for CSEA.

SENATOR MARCELLINO: Thank you.

DONALD KELLY: Again, good afternoon.

Are we ready?

SENATOR MARCELLINO: You're on.

DONALD KELLY: Okay, thanks.

I am Don Kelly. I am the director of -- deputy director for contract administration for CSEA. I head up the research department.

And I'm here, not only on behalf of Danny Donohue, the president of CSEA, but also

the -- over 300,000 public- and private-sector employees that we represent, who are, in addition to being New York State citizens, we are all taxpayers.

Okay?

We all live in school districts. We pay our taxes, our property taxes. We are taxpayers.

We also provide very essential services to the state of New York, and to the citizens of the state of New York.

So, when we looked at the state budget, we saw where these changes would affect our members, positively or negatively.

And I'm here today to discuss with you some of those concerns that we have with respect, specifically to some of the agency-merger proposals, as well as the Civil Service and GOER merger, and some of the civil-service changes that are proposed.

We -- as I say, we provide -- our members, provide essential services that affect and maintain the quality of life within New York State.

Over the last -- well, since 2008, there's been over 16,000 position reductions within the state workforce.

And you've seen the articles, I'm sure, about some of the facilities that are being understaffed,

with respect to trying to deal with Division of Youth individuals, as well as in some of the mental hygiene and mental -- in the Office of -- "OPWDD"; Office of People with Disabilities [sic].

Our members, over the past year, have -- over the past several years, have actually endured some sacrifices. Some significant sacrifices.

We concluded negotiations this past summer that saw pay freezes for the next couple of years; increased health-insurance contributions; permanent health-insurance contribution increases; furloughs.

So, we have tried to do our part to try to reduce the cost to government.

In exchange, the Governor has negotiated job-protection language, so, the -- our employment security issues were addressed, at least at the table, is what we thought.

Well, this budget seems to undo some of that, or a lot of that, and puts into question whether or not the language that is to appear in the contract is really worth the words.

SENATOR MARCELLINO: When you're talking about, "relates to the merger," we're not here to renegotiate a contract.

DONALD KELLY: Absolutely.

SENATOR MARCELLINO: But we're just talking about -- if we could focus on the proposed merger of the departments that are in question, and the agencies, so that we can -- because I notice you have 10 pages of testimony, which is --

DONALD KELLY: Oh, well --

SENATOR MARCELLINO: -- but we'll read that.

DONALD KELLY: Okay, okay.

SENATOR MARCELLINO: But if you can just summarize it, and focus on the topic at hand, I'd appreciate that.

DONALD KELLY: The issue that I was trying to raise, is that, we already paid our dues, so to speak, in this process.

Part of our major concerns about these mergers, is there's a lack of information that's available to folks to make your decisions.

And that's essential for anybody that is supposed to look at details, to make a decision. You need the details in order to make that intelligent decision. You can't do that in a vacuum.

The Legislature -- if the Legislature agrees to pursue such mergers or consolidations, CSEA urges that strong job-protection language be include in

any such legislation, so those employees -- those public employees who are currently providing these services have some job security, and don't have to worry about their jobs being privatized.

CSEA members work across the state for the purpose of serving the general public, and businesses, I might add, that operate in New York State. And that purpose has not gone away, and, quite frankly, it never will.

CSEA recommends, again, that before any agreement is made to go forward with mergers or consolidations, that the Legislature insist on an appropriate study to be conducted, that analyzes the functions that are going to be provided, as well as any guarantees that mergers will not adversely affect the delivery of those services by a reduction of force or privatization.

There must also be a detailed business plan before any of these state-agency mergers happen, to assure that the state services are maintained at the highest standards possible, which are currently being provided by public employees.

It's critical, that before any mergers or consolidations continue, we ensure that a detailed plan be presented for you, for your review and

input, before making your decision.

With respect to racing and wagering, we also have concerns about the starters and about the judges.

CSEA does represent many employees within the Racing and Wagering Board, and, the Division of Lottery.

We represent, in the Lottery, 312 positions; and, the Racing and Wagering Board, 189 positions.

Those are the positions that we represent.

Lottery, 177 of them are filled; and, in the Racing and Wagering Board, 93 are currently filled.

We represent --

SENATOR MARCELLINO: Could you go back one second?

What's the total number in racing and wagering?

You've got 312 positions in the Lottery you represent.

DONALD KELLY: Correct.

SENATOR MARCELLINO: Of that, 177 are filled.

DONALD KELLY: Right.

SENATOR MARCELLINO: Racing and wagering, what was the total?

DONALD KELLY: It was 189.

SENATOR MARCELLINO: 189.

DONALD KELLY: And 93 are filled.

SENATOR MARCELLINO: 93 filled.

DONALD KELLY: And that's just CSEA.

SENATOR MARCELLINO: Thank you.

DONALD KELLY: In Lottery, we represent marketing representatives, clerical employees, and investigators.

In racing and wagering, our members are inspectors, investigators, paddock judges, racing judges, as well as some clericals.

We just want to make sure, that before these mergers happen -- and, again, we're not opposing the mergers, as long as it's well thought out, and there's a plan, and that these positions aren't farmed out to some private entity.

CSEA has received no details on how the board's role, to ensure that parimutuel operations, charitable-gaming activities, and other gaming facilities, that operate under New York State statute, would be better served under a merger with the Division of Lottery.

There's just no information out there.

With respect to all of these mergers, CSEA has -- our members out there in the fields, we

talked to the labor representatives from those agencies. They have no details.

They claim that the Governor's Office has not consulted them, and they don't know, really, what's going to happen.

This is all a top-down type of change, and the details are lacking, for a better -- for lack of a better word.

With respect to the Department of Civil Service and the Governor's Office of Employee Relations merger -- proposed merger, CSEA has many concerns regarding this.

The State Commission is required to uphold provisions of New York State Civil Service law, as well as the New York State Constitution, with respect to merit and fitness.

The Commission must function on an independent basis to ensure that political influence is minimized, with respect to operations and decisions.

The Department of Civil Service is the administrative arm of the Commission, and is charged with providing human-resource management services to the state and local governments, and the Department assists state agencies with personnel recruitment

and placement services, administers tests, oversees job classifications, and administers benefits.

The State Civil Service Department also provides assistance to local governments across the state, with respect to civil-service matters, including classification issues.

The Governor's Office of Employee Relations, by name, it's the Governor's Office of Employee Relations, on the other hand, is directly connected to the Second Floor, and assists the Governor in his labor relations with the State and the employees, including the Executive branch, collective-bargaining negotiations with the public employee unions.

I sat at the negotiating table. I saw the director of GOER seated, and, said very few words during negotiations.

The Governor had his people at the table to do the negotiations.

The concern is, that if these two entities merge, that there will be undue influence from the Second Floor into the whole process of civil service, and, labor relations.

It's already in labor relations. We want to keep a separation away from civil service.

We're very concerned, that if the merger happens, the Governor's Office will surely overstep its authority, and inject undue influence in the daily operations, as well as policy decisions that are rendered.

CSEA believes that, by merging the two entities into a single department, there will be a perceived, if not a real, conflict of interest, when -- which will restrict the ability of the employees of the Civil Service Department to function freely and effectively.

It's very telling, that those two -- the heads of both of those entities are not here today for this hearing.

CSEA believes a merger will not achieve an intended goal of achieving efficiencies and reduce redundancies, because there's little or no redundancies between these two entities, besides, perhaps, the consolidation of office space. That's the only thing that would be achieved.

CSEA also opposes the Governor's proposed amendments of the Civil Service law, as Mr. Curran had indicated earlier.

The intent of the proposal is to expand local and State appointing authority, flexibility, and

filling positions by appointment and transfer.

And, we believe that these proposals will open the door to appointments based on who you know, as opposed to what you know.

"Merit and Fitness" clause of the State Constitution assures that only most qualified employees are hired for government jobs through competitive examinations.

This prevents a system of filling public-sector jobs through political patronage.

Now, although that's not the intended goal here, we're just concerned that that might happen, should this merger occur.

With respect to the merger of Belleayre Ski Resort and the Office -- the organization -- ORDA, we believe that Belleayre is doing quite well as it is.

Since 1995, where it had 70,000 skiers and snowboarders, today, that number has increased to 175,000. And, today, probably most of those people are on the slopes as we speak.

We believe that an investment of $5 million in Belleayre could increase the capacity to over 225,000 users, in that area.

It doesn't make much sense to have a -- an

organization located in the Adirondack Mountains, 200 miles to the north, to be operating this ski resort in the Catskill Mountains.

They do have a common interest; however, Belleayre Ski Resort is not at the Olympic level of ski resorts.

We also question the merger on the basis of the fact that ORDA has not been in the most -- the best fiscal condition over the last few years. And, we wonder whether the merger of these two ski resort -- or, ORDA and the ski resort would actually make the state more money, or cause the state more harm.

When discussing all of these mergers, Governor Cuomo likes to use sound bites, and talk about efficiency and streamlining of services.

If "efficiency" simply means layoffs, and more cuts to public services provided by public employees, the Legislature has to reexamine these Executive proposals very, very carefully.

Efficiencies should not be made at the expense of transparency, and appropriate checks and balances, and realistic and necessary safeguards to public dollars.

Unless you have a formal detailed outline in

how the state agency will function, you are just agreeing to plans without any assurance of the outcomes.

Looking at the pros and cons of specific proposals offered by the Executive branch in making intelligent and informed decisions, and resisting the pressure to fold to political pressure, is an important and essential function that is granted to this legislative body in order to serve in the public's best interests.

CSEA will always fight for the public employees who we represent, who, again, are taxpayers who you also represent.

And hopefully, together, we will be able to make the state better, but let's do it intelligently.

SENATOR MARCELLINO: I hear what you're saying.

You heard me ask the testifiers, Mr. Sabini and Mr. Medenica, that -- would there be any layoffs that they foresee? Would there be any staff adjustments?

Both answered in the negative; that they see no change in staffing, numbers or otherwise.

Am I right -- am I quoting you correctly?

GORDON MEDENICA: Yes, sir.

SENATOR MARCELLINO: All right.

So that, hopefully, that goes forward.

Do you have any information to the contrary of that?

DONALD KELLY: The only thing that I can reference, is what Mr. Curran had indicated: That there was a -- in the 30-day Amendments, there was indication that the starters and the judges would be -- could be privatized.

SENATOR MARCELLINO: Could be.

DONALD KELLY: Could be.

SENATOR MARCELLINO: Okay. If you could --

DONALD KELLY: Without the details, we don't know what's going to happen.

And I'd love to take them on their word for it, and I'll take their word back, but I'm hoping that we're not unpleasantly surprised.

SENATOR MARCELLINO: It's my understanding from staff, that that was not in his original proposal, but there's some language change.

We're going to have staff look at what you're saying, just to see what we can confirm, and get on with that, so that we'll try to put it all together.

Of the 312 positions in the Lottery, you say

177 are filled.

189 positions, 93 are filled, in racing and wagering.

Those positions that are not filled, are they not funded, or are they just lines that are not funded?

Because they're funding for these positions, should you need to fill them at any time.

DONALD KELLY: I believe they're funded.

I'm not sure.

I'm not sure.

These are seasonal positions.

SENATOR MARCELLINO: Seasonal positions.

Okay, that's different.

Okay.

And if you have any details -- I'm not going to ask you to give it to us now because the time is getting late -- but, if you have any details that you can provide this Committee on predicted impacts on staff positions that might be eliminated, contrary to what you've heard here in testimony --

DONALD KELLY: Okay.

SENATOR MARCELLINO: -- we'd appreciate that, so that we will, you know, get that, put that in the record, because our purpose now, is to collect data,

information.

We'll be preparing recommendations as we go forward, as soon as we get the transcript of this hearing. And we'll make recommendations to our Conference going forward with the budget, but it would help us if you can get it as soon as possible.

DONALD KELLY: Yes, sir.

SENATOR MARCELLINO: Thank you very much for your testimony. Appreciate you coming down.

Unless you've --

DONALD KELLY: Thank you so much.

SENATOR MARCELLINO: Okay, thank you.

Next speaker will be, Charlie Hayward, president and CEO of the New York Racing Association, Inc.

Mr. Hayward.

(Senator Savino exits the hearing room.)

SENATOR MARCELLINO: And, again, summary is good. Reading is never good.

CHARLES HAYWARD: What's that, sir?

SENATOR MARCELLINO: Summarizing testimony is good, since we probably have it already. We can read it too.

Or do we have yours?

CHARLES HAYWARD: I have very brief

handwritten remarks, so if you'd like me to write them, I'd be happy to do that.

SENATOR MARCELLINO: No, that's okay. We'll be able to look at the transcript.

Thank you.

CHARLES HAYWARD: Chairman Marcellino, Senator Bonacic, good to see you again. Senator Golden.

I'm Charlie Hayward, president of the New York Racing Association.

I'm here to speak briefly --

SENATOR MARCELLINO: Bless you.

CHARLES HAYWARD: -- in favor of the New York's proposed New York State gaming commission.

I think its intent is to consolidate, what I would characterize as, fragmented gaming regulation here in the state.

For example: On the Lottery side, the Lottery manages their print product Quick Draw, which is one of their electronic products in the VLTs.

State Racing and Wagering manages the harness racing, thoroughbred racing, off-track betting, charitable games, and Indian gaming. And of this,

obviously, the possible expansion of full-blown casinos as well.

I do believe that there's a need for consolidation, and it certainly could create more efficiency.

I'll give you one very simple example that we're going to read about later this spring.

On Easter Sunday and on Palm Sunday, at Aqueduct Racetrack, there will be no horses running around the track, because, under the Racing law, you can't race or place a bet in the state on those two days.

However, right next door, in the same building, you'll have the very successful resort's casino VLT facility, which will be going great guns.

And it just seems to me, that that's, frankly, a little bit of embarrassment, and really unnecessary.

And the good thing is, that's one thing that this bill will take care of.

I'm going to speak just specifically to some concerns that I have, or things that are important to us, that I hope will be appropriately addressed.

Perhaps one of the biggest thing that the Racing and Wagering Board does for us, is conduct

our drug-testing program.

Last year, they tested over 82,000 samples.

We have one of the best, you know, blood-testing and urine-testing facilities in the country. It's a very critical component of our thoroughbred-racing integrity.

And we have one of the best people in the company, Dr. George Maylin, who's one of the leading experts in equine drug testing and pharmacology, and runs the lab.

However, in addition to testing, it's equally important that we fund the ability to test new drugs, because the chemists are always out there. Whether you're talking about human athletes or equine athletes, there's always a concern to maintain a level playing field.

In addition to the regulatory aspects, I do hope that this Commission will be able to move as decisively as the Racing and Wagering Board has done in times of crisis.

And, let me give you two examples.

When New York City OTB declared bankruptcy in 2009, subsequent to their filing, when there would be pre-petition debt, they, for whatever reason, chose not to make some of the payments on the

post-petition debt, which they were supposed to be doing under the bankruptcy law.

And, the Racing and Wagering Board stepped in, and ordered them to put those payments into escrow, even if they weren't going to pay cash.

The good news was, when New York City did finally go bankrupt, they owed us $28 million. But because of the good work of the State Racing and Wagering Board, we got at least $8 million of that back, and we took a write-off for 20 million.

Similarly, right after the OTB did close, we had had a situation in the state, where none of the harness tracks and their account-wagering platforms, the OTBs or NYRA, could video stream NYRA races because of our ability to not sort out a deal.

So, in-state residents could video stream, and watch and bet on out-of-state races, but not on New York races.

So Chairman Sabini convened a meeting with all the OTBS, with the harness tracks, with the thoroughbred tracks, and we worked out a comprehensive agreement.

And the truth is, that, from the date of that agreement, to one year later, our Internet wagering activity increased, from $30 million to $85 million.

Finally, in this legislation, as was mentioned earlier, it creates a related office of "Racing Development and Promotion," which would consolidate all the breeding funds.

And, the Thoroughbred Breeding Fund is very important to the thoroughbred-racing industry.

The good news is, it's funded by the racetracks, it's funded by the OTBs, and now by the VLTs.

And it pays breeder awards; incentivizes breeders for horses that win races.

In 2011, that fund was -- paid out 10.5 million;

2012, it's going to be 17 million;

And in 2013, it's projected to be 20 million.

The New York Breeders Awards are creating demand for New York breds in the marketplace, which is sparking a renaissance in the state breeding industry.

Breeders from out of state are once again sending their mares to New York, quality stallions have moved to the state, and several large commercial breeding farms have reopened.

All of this has the wide-ranging positive impact of creating and sustaining agricultural jobs

across New York State.

So, again, it sounds, in hearing Chairman Sabini's testimony, that his view is, that the fund is going to be more efficient.

I'm really pleased to hear that.

But I just wanted to mention that it's, obviously, something very important. And we're at a key time, after a, sort of, nadir in the breeding business, and the closing of some farms, we've seen incredible activity over the last nine months, due in large part to the opening and success of the Resorts World Casino.

So that's my testimony.

I'd be happy to take any questions.

SENATOR MARCELLINO: Thank you very much.

Question: Do you -- by combining these agencies, do you feel that there might be -- or, that racing might be overlooked, and not be paid the attention it should be paid?

CHARLES HAYWARD: No. I think that -- you know, I think that a lot of the services, and so forth, that in the Racing and Waging Board, presumably, are going to be maintained.

I think there's a tremendous redundancy of licensing and oversight.

You know, Gordon Medenica, who's had the Lottery, sits on the Franchise Oversight Board, so he's very familiar with the issues of racing.

So I -- I just think, as you look across the state, and look at all the gaming activities that we have, and look at the competition we have, virtually, on all of our borders, I think it's important, from policy standpoint and an economic-development standpoint, to have this all regulated in one place.

And, you know, I think that thoroughbred racing is very important to the state.

A stat you may not know, but during the month of August, when there's probably about 25 racetracks running around the country, 33 percent of all the wagering activity in the entire country is bet on races at Saratoga.

So, you know, we're strong. We're hoping to get stronger.

And, you know, we think structure will serve us well, and will not be detrimental to racing.

SENATOR MARCELLINO: Do you see any changes in your operations as a result of this merger?

CHARLES HAYWARD: Only if there's further changes in regulatory rules.

So, I don't see those contemplated at the moment. And, we'll deal with those if they come down the path.

SENATOR MARCELLINO: Governor -- one last question from me: Governor Cuomo's recently stated that he supports a deal that would allow the operator of a casino at Aqueduct to expand, in exchange for the operator's commitment to build a convention center at the track.

Are you concerned about the long-term future of racing at Aqueduct if there's a convention center built there?

CHARLES HAYWARD: We have not engaged the Governor in those conversations.

We've talked briefly with Genting.

In viewing the plans, it does allow, and provide for, racing to continue at Aqueduct.

To be honest, going back to the late 1980s and early 1990s, there's been discussions about consolidation of racing at Aqueduct. From Aqueduct to Belmont, they're only 9 miles down the road.

So, I would hope, that, if that comes up as a consideration, it will be given, you know, proper review by all the parties. And we hope to be one of those parties.

SENATOR MARCELLINO: You see any long-term -- you mentioned the fact that Belmont is about 9 miles away from Aqueduct.

Is it sustainable?

Are two race tracks, as close together as they are, sustainable?

CHARLES HAYWARD: Yeah, they're very sustainable.

In fact, we learned an interesting thing, which is quite off the point, but I'll come back to the point.

When New York City OTB closed, when we raced at Aqueduct, we didn't keep Belmont open at all.

But when it closed, because Belmont is, literally, on the Nassau County-New York City line, we opened up a small simulcast building, which could be called an "OTB."

And, 14 months from the time that that opened, that is now the largest volume-handling OTB in the country.

So, and that's only 9 miles away from -- I mean, not in the country, I'm sorry -- in the state.

And that's only 9 miles away.

We run, at Aqueduct, from early November until the end of April; we run at Belmont, from

April to July; Saratoga, July to early September; and, Belmont, September to early November.

So, we have a year-around home at Belmont. We have some horses that stay year-round at Aqueduct.

So we think it's a very good circuit right now, so it -- I think it serves us well.

SENATOR MARCELLINO: Questions?

SENATOR BONACIC: Yeah, just a couple questions.

Mr. Hayward, it was very optimistic and encouraging to see the breeding fund, as you projected it out, going up.

Do you attribute that to Aqueduct, pretty much? Or --

CHARLES HAYWARD: It's interesting --

SENATOR BONACIC: -- [unintelligible] Aqueduct?

CHARLES HAYWARD: -- the -- there's no question that they -- the breeders get 1 percent of the VLT -- of the net win of the VLT. And that's probably calculated to be, in the first full year of operation, about $5 million.

So, when they're going, from ten-five to twenty, five of that's from that.

A good chunk of it, we've gone from, I think, $1.9 million, to, I think, $3 1/2 million, and that's attributable to the growth of our ADW business, the growth of our on-track business.

And I think the general health of the racing industry here in New York, which is, you know, finally turning around, is where those numbers are coming from.

But there's no question, you know, whatever that number is, 30 to 35 percent, is coming from the VLTs.

SENATOR BONACIC: I know that the State is in dispute with the Senecas, with the holding of money.

Is any of your projections part of that lump sum that's, still, they're holding in escrow?

CHARLES HAYWARD: My projections come directly from the executive director of New York Thoroughbred Breeders, so, I don't have --

SENATOR BONACIC: He would know.

CHARLES HAYWARD: -- the answer to that, but he would know.

SENATOR BONACIC: Are you seeing a proliferation, or growth, of horse farms?

I remember, when I came to Orange County in the '70s and '80s, it was spectacular, the amount

of horse farms we would see.

So, as you see -- as the stock of New York racing and breeding, in your optimism, as it's increasing, as you project three years out, are you seeing a resurgence of the purchase of horse farms in the state?

CHARLES HAYWARD: Yeah, if I could, let me just give you a little bit of history.

You go back to 2001, when the VLTs were authorized, there's was a tremendous amount of enthusiasm, and speculation, if you will, where people bought farms, built farms, and the foal crop grew as well.

I think the foal crop topped out, in 2005, when it became clear that the VLTs were not on the horizon.

The foal crop, at that point, topped out, I think, around twenty-five or twenty-six hundred New York foals.

From 2005, to the end of 2009, I think we lost almost 100 farms; from 400, down to 300.

At the height, it was 400 farms, $1.2 billion of economic activity, and 19,000 jobs.

Just within the last nine months, there's been a big Kentucky farm called "Vinery," that's --

that has leased two operations.

There's a farm that was just bought, just in the last couple of weeks, that had been closed about three years ago.

There's a number of people that are bringing stallions to New York, that had not before.

So, I think the -- in the foal crop, by the way, which went from that, I think, twenty-five or twenty-six hundred, this year was only seventeen hundred.

It will probably go -- it will drop a little bit more, but we expect it to start increasing rather dramatically.

So, uhm -- and, again, one more stat: The yearlings for New York-bred horses last year, on average, across the state, was -- or, across the country, for New York-breds, was up 46 percent.

And the yearlings, last year, were up, I think, 26 percent.

So, the resurgence is really -- is really just starting, after, you know, some years of frustrating, you know, waiting for the VLTs to get started.

SENATOR BONACIC: Well, that's encouraging.

My last question: You didn't talk about

purses at the tracks.

CHARLES HAYWARD: Yes.

SENATOR BONACIC: Is that increasing as a result of Aqueduct, and the improvement in the VLTs, as you see it?

CHARLES HAYWARD: Yeah, we just actually announced yesterday, and it was picked up in a number of the papers, our purse increases at Belmont, and Belmont -- for the Belmont Stakes' schedule; and Saratoga, for the Saratoga Stakes' schedule.

So, on average, the purses are going to go up, somewhere in the neighborhood of around 38 percent.

SENATOR BONACIC: Wow, that's great.

CHARLES HAYWARD: So, Saratoga will be number one in the country, as it was last year;

Belmont Spring will have second-highest purses in the country;

And, Belmont Fall will have the third highest.

SENATOR BONACIC: Would you say that the other tracks of -- the farm-team tracks are still -- would have an increase in purses too?

CHARLES HAYWARD: Gulf Stream Park just

announced a 15 percent purse increase, literally, in the same that we -- way, the day that we did yesterday.

Other jurisdictions are struggling.

Maryland's struggling. California's struggling;

And, New Jersey's having some issues, where the State thought that they had found someone to take Monmouth Park, and operate that for them, but, that deal fell through.

So, I would say that we're trending much stronger than a number of the other states.

And it was mentioned earlier, about Kentucky.

The people in Kentucky -- or, actually, the legislators, everyone thought they were going to take a bill, that would allow the people to vote on whether there's expanded gaming, or not.

And that bill did not get out of the senate in Kentucky; and, so, there will be no expanded gaming there.

And one of the reasons that hurts, is that all the states around them have gaming, and it's really hurt the racing business in Kentucky.

SENATOR BONACIC: But I was referring to tracks like Buffalo, Batavia, Monticello.

Are their purses going up too?

CHARLES HAYWARD: Yes.

SENATOR BONACIC: Okay.

CHARLES HAYWARD: Yes.

And they've had VLTs for four or five years longer than we have.

So, the harness racing, I don't know a lot about it, but just from what I read in the trades, and things, the harness racing has been reborn over the last four or five years.

SENATOR BONACIC: Thank you very much.

CHARLES HAYWARD: Certainly.

SENATOR MARCELLINO: Senator.

SENATOR GOLDEN: Thank you very much.

The -- have you heard anything about the combined -- combination, or combining, of the handles in this new proposal?

CHARLES HAYWARD: The annuals?

SENATOR GOLDEN: Yep.

CHARLES HAYWARD: No.

SENATOR GOLDEN: The handles.

SENATOR MARCELLINO: "Handles."

SENATOR GOLDEN: The handles from each track, from each operation.

Does the -- how many handles do we have here?

SENATOR BONACIC: Three tracks.

SENATOR GOLDEN: No, how many handles?

We have different handles from each track?

About 16 different handles at the end --

SENATOR BONACIC: Oh, I think we have nine.

A total of nine tracks.

CHARLES HAYWARD: Yeah, I think --

SENATOR MARCELLINO: You have to speak into the mic. Nobody can hear.

CHARLES HAYWARD: -- we have, it's, what -- seven horse tracks, and two thoroughbred tracks -- well, we have 3 -- 7 -- 11 tracks, I guess.

SENATOR GOLDEN: New Jersey has one handle.

We have a number of handles.

We have a handle from OTB. We have the handles from the tracks. We have the handles across the state.

Probably, about, 13 or 14 different handles that we go on?

SENATOR BONACIC: [Inaudible.]

CHARLES HAYWARD: Yeah, that's about right.

But New Jersey has three OTBs, and they have an account-wagering platform. They have two harness tracks, and one thoroughbred track.

SENATOR GOLDEN: And would we be better under

one handle; or leaving it the way it is, with the number of different handles that we have across the state?

CHARLES HAYWARD: Well, we have -- New Jersey has a consolidated tote, if that's what you're talking about.

We have one transactional capability in the state.

California does the same thing.

We have individual totes.

And I think it would be better to have one betting platform for the state, if that's what you're referring to.

SENATOR GOLDEN: Yeah, but you haven't heard that discussed in this new proposal?

CHARLES HAYWARD: I have not.

SENATOR GOLDEN: The -- obviously, you've been successful in the OTB business.

And, outside of Belmont, what does New York City OTB cost you, in its losses to you, this past year by not being in operation?

CHARLES HAYWARD: What's interesting, is, New York City OTB was 15 percent of our net revenue. And -- which was $23 million.

SENATOR GOLDEN: $23 million.

CHARLES HAYWARD: And we actually generated more handle last year without New York City OTB than we did with New York City OTB.

One of the reasons for that, is, an on-track bet is worth about three times to us what an off-track bet is.

And, bet through our phone wagering business and our Internet wagering business is up, is worth, similarly, three times what a New York City OTB.

So, we recouped, from our calculation, about 35 percent of the New York City OTB revenue, from where we can tell.

But that 35 percent, actually, that's the handle, the wagering activity. But the actual net revenue to us was slightly higher.

So even though we lost New York City OTB, because of the low rates of pay that we got from the OTBs, we've actually been able to have a slight increase in revenues.

SENATOR GOLDEN: Well, what happened if OTB was part of NYRA, in New York City?

CHARLES HAYWARD: Well, we have a plan: We would like to go back in the city, but we would not go back in the parlor business. We'd do it, like's being done in a lot of places around the country.

New Jersey has OTBs right now. They have three very good ones, all built fairly recently.

They're just putting a law, to allow off-track betting in restaurants and bars.

And I'm sure the first places they're going to be, are right outside of Staten Island, right outside of the Lincoln Tunnel, and right outside the GW Bridge.

So --

SENATOR GOLDEN: They'd be all over.

The -- but you'd be one of those interested in bidding if that went to a Request For Proposal, I presume?

CHARLES HAYWARD: We would be very interested in running off-track betting in New York, yes.

SENATOR GOLDEN: Thank you.

SENATOR MARCELLINO: Do you have a question?

Go ahead.

SENATOR BONACIC: Do you have an interest of going off-track operations in New York City?

CHARLES HAYWARD: Yes.

SENATOR BONACIC: And, have you -- are you advancing plans to do that?

I understand you have the authority to do it now.

CHARLES HAYWARD: Well, there's a law from 1993, which was called -- which was a "Telehit Theater" law.

And I think, the way it came about, was, when OTB was originally conceived, you weren't allowed to have any hospitality, or any food or beverage, in the OTB, I think, out of concern for the local restaurants and bars.

In '93, they said -- they created, what they called, a "teletheater," which would allow food and drinking, like a little simulcast center.

NYGRA was allowed to do as many of those as they could do, but it was subject to the approval of New York City OTB and the New York State Racing and Wagering Board, the mayor, and the City Council.

So, that was never going to happen.

It is still a possibility. We've had some preliminary discussions with the City.

We presented, at the Franchise Oversight Board meeting that we had about 10 days ago, a plan, where we would open up 10 restaurants and bars. And some of those -- most of those would be ones that we were already operating within New York City OTB. We would not go back under the parlor business.

And, by the end of the third year, we'd be

generating -- we average about 4 1/2 to 5 million -- we're projecting, in annual handle. That would mean about $10 million to NYRA in net income --

And these are very conservative numbers.

-- 7 million to purses, and 5.5 million to the State, in the form of various regulatory and statutory fees.

SENATOR BONACIC: Okay, just one other question: Would you have an interest, if we authorized -- reactivated any OTB, to bid on -- on starting one again in New York City?

Would you be interested in running an OTB in New York City?

CHARLES HAYWARD: Yeah, we think that -- I mean, if you go to Belmont -- if you go to the Belmont Cafe, we think it's the finest off-track facility in the state. And we think we've demonstrated that we could run that very well.

I don't think that the parlor model or the bricks-and-mortar model, with Internet wagering and phone wagering, really, is an obsolete model.

But, we would certainly be interested in --

SENATOR BONACIC: Okay, thank you again.

CHARLES HAYWARD: My pleasure.

SENATOR MARCELLINO: Thank you, Mr. Hayward.

We appreciate your testimony.

We thank those who came to testify before the Committee.

The Committee will review the testimony that was given today, written, and otherwise, and issue recommendations as we negotiate the budget.

Just want to advise, that the video for this hearing will be available on the Senate Investigations Committee website, which is:

NYsenate.gov/committee/InvestigationsAndGovernmentOperations.

I would just like to thank my Senator -- my colleagues, Senators Bonacic, Golden, and Savino.

And, for attending, and the witnesses, and the camera crew; and, the Committee staff, Debbie Peck Kellerher and Rob Parker, and those from central staff as well.

Thank you.

Committee is adjourned.

(Whereupon, at approximately 2:47 p.m., the joint committee public hearing, held before the New York State Senate Standing Committees on Investigations and Government Operations, Civil Service and Pensions, and, Racing, Gaming and Wagering, concluded.)