

1 JOINT HEARING BEFORE THE NEW YORK STATE
2 SENATE STANDING COMMITTEE ON RACING, GAMING & WAGERING

3 PUBLIC HEARING:

4 TO DEVELOP POTENTIAL LEGISLATION TO ENHANCE THE
5 RACING INDUSTRY IN NEW YORK STATE

6
7 Ontario County Safety Training Facility
8 Rooms 2 and 3
9 2914 County Road 48
10 Canandaigua, New York

11
12 September 6, 2011
13 11:00 a.m. to 2:00 p.m.

14 PRESIDING:

15
16 Senator John J. Bonacic
17 Chairman

18 PRESENT:

- 19 Senator Patrick M. Gallivan
- 20 Senator Joseph A. Griffo
- 21 Senator George D. Maziarz
- 22 Senator Michael F. Nozzolio

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1	SPEAKERS:	PAGE	QUESTIONS
2	Robert Odawi Porter President Seneca Nation of Indians	7	28
4	Michael D. Kane President & CEO Henry F. Wojtaszek General Counsel Western Regional Off-Track Betting Corp.	55	61
7	Jeffrey R. Gural Chairman Newmark Knight Frank; and Chairman, American Racing & Entertainment	66	84
10	Tracy Egan Executive Director Thoroughbred Breeding & Development Fund	107	130
12	Jeffrey Cannizzo Executive Director NYS Thoroughbred Breeders Assoc.	107	130
14	David Brown President Dennis Petrisak Vice President Finger Lakes Horsemen Benevolent & Protective Association	141	153
17	Nelson Acquilano Executive Director Council on Alcoholism & Addictions of the Finger Lakes	159	
20	David Young Problem Gambling Prevention Coordinator National Council of Alcoholism & Drug Dependence Rochester, NY, area	159	

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1 SENATOR BONACIC: I want to thank
2 Ontario County for allowing us the use of this
3 wonderful facility.

4 To my immediate right is Senator Nozzolio,
5 and to my immediate left is Senator Griffo. And you
6 all know Senator Gallivan, on the end.

7 I'm going to start with a couple preliminary
8 remarks.

9 It's our intent to have statewide hearings.
10 We're going to have three of them.

11 Today is the first hearing. We're going to
12 address, basically, two issues.

13 First of all: How to bring improvements and
14 efficiencies to the racing industry.

15 The second issue is, whether or not there is
16 an interest to do a constitutional amendment for
17 full-scale gaming in the state of New York. And, if
18 there is, where, geographically.

19 We're here to solicit testimony.

20 And, tomorrow, we're in Albany, with a joint
21 meeting with, Racing, and Judiciary.

22 And, Friday, we're in Mineola, in
23 Nassau County.

24 That's the purpose. We have several
25 speakers.

1 And, at this time, Senator Gallivan, is there
2 anything you'd like to say?

3 SENATOR GALLIVAN: No.

4 I would like to welcome the Committee into
5 the 59th District, and thank everybody for being
6 here.

7 Hopefully, it will be an informative day,
8 and, Mr. Chairman, you will learn some of the things
9 that you're looking for.

10 SENATOR BONACIC: Thank you.

11 Senator Nozzolio.

12 SENATOR NOZZOLIO: Thank you, Mr. Chairman.

13 And I want to echo Senator Gallivan's
14 comments, and thank you, as Chairman of the
15 Racing and Wagering Committee, for undertaking this
16 entire review, and bringing the review to
17 Ontario County.

18 We are in the shadow of the Finger Lakes
19 Racetrack. That is a multi-million-dollar employer
20 for our region. The track itself presents a
21 wonderful venue for horse racing. And that the
22 breeders, the horse farms, the stablemen, the
23 jockeys, the horsemen, are very much an important
24 component of our Finger Lakes economy.

25 And that, I know, Senator, you have been a

1 leader as this industry has received a number of
2 changes and challenges over the past few months.

3 That, I'm very pleased, though, that the
4 Finger Lakes Horsemen are here today, to present to
5 the Committee, for the record, the kinds of
6 legislative changes that are necessary to make this
7 industry competitive in New York State once again.

8 I fear that we are not competitive with other
9 states. And that I appreciate your leadership
10 Senator Bonacic, for bringing it, a forum, to
11 provide attention to this very important issue.

12 SENATOR BONACIC: Thank you,
13 Senator Nozzolio.

14 Senator Griffo.

15 SENATOR GRIFFO: Thank you, Mr. Chairman.

16 I want to also add my appreciation to you,
17 because, as a member of the Racing Wagering
18 Committee, I know that you have been very attentive
19 and very responsive to trying to deal with some of
20 the issues that are challenging the State of
21 New York. And we do have some significant issues
22 that are facing the racing industry, and it is very
23 important that we continue to, not only solicit
24 testimony, but to propose and take, in a pro-active
25 effort, to try to sustain and grow the industry.

1 Along with that, the issue of gaming in
2 New York State is very timely, in a sense that, we
3 now know that the Governor has an interest in this
4 subject, and has a position that he is formulating
5 on this. So, it is appropriate that this Committee,
6 and the members of this Committee, listen across the
7 state to various segments of, not only the industry,
8 but the population, to make a determination as to
9 how we should move forward.

10 I personally have a couple of bills in the
11 legislature that deals with the legalization of
12 gaming in New York State. And, so, I look forward
13 to listening today, and to asking some questions.

14 So, I want to thank, again, the Chairman and
15 Committee for coming across the state to gain
16 invaluable input by various groups and citizens.

17 So, thank you, Mr. Chairman.

18 SENATOR BONACIC: Thank you, Senator Griffo.

19 First of all, let me just, one other note
20 before we call our first witness.

21 We'll be taking oral testimony today, as well
22 as written testimony.

23 Anyone that would like to submit written
24 testimony subsequently to this hearing, or any
25 others, we will be accepting it up until

1 September 12th.

2 At this time, let me call our first witness.

3 That is: Robert Porter, who is president of
4 the Seneca Nation of Indians.

5 Welcome, Mr. Porter, and thank you for
6 coming.

7 ROBERT PORTER: Greetings, Senator Bonacic,
8 and members of the Committee, and other Senators,
9 Senator Gallivan.

10 I'm thankful that you are well, and I
11 appreciate the opportunity to be here with you this
12 morning.

13 I'm here today on behalf of the Seneca Nation
14 of Indians, and on behalf of those New Yorkers who
15 are employed by the Nation's enterprises, some of
16 whom have joined us today, to share with you our
17 perspective on the question of whether the
18 Constitution should be amended to permit
19 commercialized gambling in New York State.

20 A constitutional amendment allowing
21 commercial casino gambling in Western New York would
22 undermine the Seneca Nation's billion-dollar
23 investment in Western New York, and it would also
24 threaten the thousands of jobs we have created since
25 2002.

1 Please keep in mind the following, as I share
2 with you my testimony.

3 The Seneca people have lived up to our
4 promises, as expressed in the 2002 Class III gaming
5 compact.

6 We invested hundreds of millions of dollars
7 into getting up and running within a specific
8 time frame.

9 New York State, on the other hand, was not
10 required to spend a single nickel as part of that
11 agreement.

12 Are we now faced with a New York State
13 government breaking its side of that have promise?

14 Before I address these specific issues, I'd
15 like to share with you some relevant historical
16 information that will help to you fully understand
17 the Seneca Nation's key role in the modern
18 Western New York economy.

19 In 1794, the Seneca Nation, along with the
20 other nations of The Six Nations Haudenosaunee
21 Confederacy, signed a treaty with the newly
22 established United States of America, that
23 recognized the sovereignty of the Seneca Nation, and
24 established peace between our nations.

25 This treaty also recognized the

1 Seneca Nation's aboriginal title to what is now
2 known as "Western New York State," and promised that
3 we would be secure in the free use and enjoyment of
4 those lands.

5 This treaty is one of the earliest and most
6 significant treaties in American history, as it
7 unified our peoples in a military alliance that
8 proved critical to repelling the last British effort
9 to threaten the United States during the
10 War of 1812.

11 This treaty was signed right here in
12 Canandaigua; and, so, is especially significant that
13 the Committee is conducting its first hearing on the
14 subject of legalizing commercial gambling in the
15 state.

16 In the history of the Seneca and American
17 people, this is a sacred place; a place where solemn
18 commitments were made to respect and honor one
19 another, and to live together in peace.

20 While there have been many challenges in our
21 relationship during the last 216 years, our treaty
22 relationship with the United States has endured.

23 Most recently, the United States fulfilled
24 one of its obligations under the Canandaigua treaty,
25 by sending our share of \$4,500 worth of cloth that

1 is distributed annually to the Haudenosaunee people.
2 This annuity payment, although small by today's
3 standards, clearly demonstrates that our treaty
4 relationship is alive and well.

5 And I brought a small sample of it, just so
6 you could see it. It's very modest. But, every
7 year, it comes to us on the back of a big truck, and
8 it is distributed throughout The Six Nations,
9 ranging from, the Oneidas in Wisconsin, all the way
10 through to the territories in New York State.

11 And it is a symbol of this enduring
12 commitment made to us by the United States, that we
13 would be secure in the free use and enjoyment of our
14 lands, that our sovereignty would be respected, and
15 that we would, forever, make a commitment to live in
16 peace.

17 Unfortunately, many of the promises made to
18 us by the United States have either remained
19 unfulfilled or have been broken.

20 Most notably, the United States has
21 inconsistently protected our nation from the
22 predatory behavior of New York State and its
23 officials.

24 From the time the Canandaigua treaty was
25 signed, the Seneca Nation has confronted repeated

1 efforts by the State to take title and jurisdiction
2 over our lands, to impose taxation in our lands, and
3 to even take control of our children, and our
4 identity, as distinct indigenous people.

5 These threats have continued to the present
6 day.

7 Nearly 60 years ago, the State pressured us
8 into signing an illegal right-of-way agreement for
9 the New York State Thruway through our Cattaraugus
10 territory.

11 50 years ago, the State actively supported
12 the taking of 10,000 acres of our Allegheny
13 territory, by the United States, for the
14 Allegheny Reservoir and Kinzua Dam.

15 35 years ago, the State induced us into
16 allowing the Southern Tier Expressway to cross our
17 Allegheny territory, with promises that, to this
18 day, have not been satisfied.

19 Despite this long history of predatory
20 behavior, the Nation and the State came together in
21 2002 to enter into a Class III gaming compact that
22 recognized the Nation's exclusive right to offer
23 slot machines in Western New York.

24 While, recently, a disagreement has emerged,
25 that I will address later in my testimony, the fact

1 remains that the Nation and the State have created
2 thousands of jobs, and billions in economic benefit
3 for our two governments and people of Western
4 New York, through Indian gaming.

5 The question I have for the Committee is
6 this: Will New York State head down the same old
7 path of telling lies to Indians and breaking our
8 agreements, by allowing commercial gambling in
9 Western New York, in violation of our 2002 Class III
10 gaming compact?

11 The Seneca Nation is the largest of the
12 six indigenous nations that comprise The Six Nations
13 Haudenosaunee Confederacy. We have a rich history
14 that extends back hundreds of years, with origins in
15 this very location.

16 According to oral history, our birthplace
17 is -- as a people, is at Ganondagan, just down the
18 road, in Victor, which, ironically is now controlled
19 by New York State as a designated historic site.

20 Our ancestors formed a powerful union with
21 the other indigenous nations in what is now
22 Upstate New York and Southern Ontario.

23 We became known as "The keepers of the
24 Western Door," and our influence extended as far
25 south as Ohio and Western Pennsylvania.

1 Following the American Revolutionary War, we
2 lost most of our aboriginal lands in a
3 land-for-peace deal to secure the title to the lands
4 that we now occupy.

5 Most of our 8,000 citizens live on or near
6 our Allegheny and Cattaraugus territories in
7 Western New York. Combined with our Oil Spring,
8 Buffalo Creek, and Niagara Falls territories, we own
9 and retain full jurisdiction over 50,000 acres of
10 territory.

11 The loss of most of our lands 200 years ago
12 changed life significantly for the Seneca people.
13 Foremost, the loss of our lands constituted a loss
14 of our national wealth, and we began period of
15 chronic poverty and underdevelopment that has only
16 recently begun to subside.

17 The Seneca Nation's economic revitalization
18 began in the 1970s, based upon economic support
19 from the United States in the form of, healthcare,
20 and job-training assistance.

21 Later in the decade, a tobacco trade emerged,
22 as a few Seneca entrepreneurs and the Nation
23 government began selling tax-free cigarettes to
24 non-Indians in our territory.

25 It is important to note, that, based upon the

1 Canandaigua treaty, and the treaty of Buffalo Creek
2 of 1842, the Seneca Nation and the Seneca people
3 have always been immune from State taxes. It is
4 only when New York State began to heavily tax
5 cigarette sales that the business opportunity was
6 created.

7 Over the years, the tobacco trade has allowed
8 for the Nation government, and many Seneca people,
9 to start businesses and generated much-needed
10 revenue for the services that we provide for our
11 people. This would not have happened if the State
12 had not raised its cigarette taxes to what is now
13 the highest rate in the United States.

14 While the tobacco trade has been lucrative,
15 the most recent economic success for the Nation has
16 been through gaming.

17 In the early 1980s, the Nation commenced
18 high-stakes bingo operations, which later expanded
19 to include electronic gaming.

20 On January 1, 2003, the Nation opened our
21 Class III gaming casino in Niagara Falls, and we
22 have been growing ever since.

23 Today, the Seneca economy generates a little
24 over \$1 billion annually, employing approximately
25 6,000 people, including thousands of non-Indians in

1 New York, Pennsylvania, and Canada, who work at our
2 gaming businesses, our tobacco businesses, and in
3 our government.

4 Our economy has both public and
5 entrepreneurial sectors, making the Seneca Nation
6 the fifth largest employer in Western New York.

7 The Seneca Gaming Corporation has some
8 3,600 employees, most of whom are non-Indians. And
9 the Nation's government has 1,300 employees.

10 The Seneca Gaming Corporation generated
11 \$95.4 million in payroll over the last year, plus
12 \$30 million in taxes, insurance, and benefits.

13 The Seneca Gaming Corporation spent a total
14 of \$166 million with nearly 1,400 vendors during the
15 August 2010 to July 2011 time period.

16 Our construction projects over the last
17 nine years, which includes casino construction and
18 public works projects, total approximately
19 \$900 million.

20 As Seneca Nation leaders, we will do
21 everything that we can to fight the erosion of our
22 treaty rights, and to protect the Seneca economy and
23 its positive impact on the regional and state
24 economy. But, the numbers made clear that our fight
25 for economic sovereignty is also a fight that

1 protects the livelihoods of thousands of
2 non-Indians, their families, their businesses, and
3 their communities throughout our region.

4 I can say with confidence, that no other
5 organization or government during last ten years has
6 made an economic contribution to Western New York
7 like the Seneca Nation.

8 Because of its relevance to the question
9 before the Committee, I'd like to share with you
10 some specific information about our Class III gaming
11 operations.

12 Pursuant to the 2002 compact with the State,
13 the Nation owns and operates three Class III
14 casinos:

15 In Niagara County, known as the
16 "Seneca Niagara Casino and Hotel," on our
17 Niagara Falls territory;

18 In Cattaraugus County, known as the
19 "Seneca Allegheny Casino and Hotel," on our
20 Allegheny territory in Salamanca;

21 And, in Erie County, known as the
22 "Seneca Buffalo Creek Casino," on our Buffalo Creek
23 territory.

24 I should also note:

25 That, Class III gaming is defined as a matter

1 of federal law, under the Indian Gaming Regulatory
2 Act;

3 That, Class I gaming is referred to as,
4 traditional gaming under the exclusive jurisdiction
5 of the Indian Nation involved;

6 Class II gaming is, bingo, and related games,
7 that is under the jurisdiction of the tribal
8 government;

9 And, then, Class III gaming is, casino-style;
10 particularly, slot machines, for which a compact is
11 required, as a matter of federal law.

12 The 2002 agreement that we entered into
13 provides that an exchange for the exclusive right to
14 offer slot machines in our region, which is the area
15 west of State Route 14 near Seneca Lake, we will pay
16 the state 25 percent of the net drop on those
17 machines.

18 There's a copy of the compact that you have
19 with you, and I just wanted to draw your attention
20 to the diagram that highlights the degree of
21 exclusivity that we retain under the gaming compact.

22 Now, its important to keep in mind -- and we
23 did not refer this into written testimony -- that
24 federal law, under the Indian Gaming Regulatory Act,
25 prohibits any taxes, charges, or fees by the State

1 on any Indian gaming activities. It's expressed
2 prohibition under federal law.

3 And over the years, what evolved, was this
4 notion that a state could receive an economic
5 benefit from Class III gaming, if, in fact, it was
6 offering something of value to the Indian Nation.

7 And, so, this notion of exclusivity arises
8 from the concept that, the Indian Nations
9 involved -- in our case, the Seneca Nation -- is
10 purchasing from the State an exclusive right to
11 offer gaming machines.

12 And it's driven by this federal-law
13 requirement that New York State simply couldn't
14 just, you know, tax the gaming activity, or take a
15 piece of the action. It has to be an exchange of
16 value in order for the State, under federal law, to
17 receive any economic benefit from Indian gaming.

18 So, the line was drawn.

19 And I was not in those negotiations, and so I
20 don't know exactly why it was drawn, but it's a very
21 convenient line; that, State Route 14 runs, north to
22 south, in a fairly straight line. And, it provides
23 a clear geographic area upon which the Nation is
24 able to conduct Class III gaming; in particular, the
25 offering of slot machines.

1 And in exchange for that, the State of
2 New York receives now, under the compact, a
3 scheduled 25 percent of the net drop. The
4 "net drop" being, frankly, monies paid off the top,
5 before expenses, from the amount that's gambled by
6 those playing those machines.

7 So, it's a very significant benefit.

8 And under the compact you'll see, it started
9 off at 18 percent. And I think, after 4 years, it
10 went to 22 percent. And now we're in the
11 25 percent range.

12 But that is the reason for the exclusivity;
13 is that, it's an exchange of value between the State
14 and the Nation, that we are purchasing, in effect,
15 the exclusive right to offer slot machines in the
16 exclusivity zone.

17 Let me be clear on this next point, because
18 it's a critical one.

19 The 2002 agreement required the Seneca Nation
20 to invest hundreds of millions of dollars to get up
21 and running within a specific time frame.

22 And the last time frame on that was in, I
23 believe, December of 2005, when we needed to have
24 the Buffalo facility up and running.

25 The Nation took all of the risk.

1 Our people took all of the risk for this
2 business investment, and the State really took none.

3 The initial gaming facility in Niagara Falls,
4 where Senator Maziarz knows full well, was an
5 abandoned convention center. And the State
6 transferred that to the Nation for one dollar.

7 And, within 100 days, we were able to get our
8 Class III gaming casino up and running, all on our
9 backs, in terms of the dollars invested.

10 Under the State's law, that 25 percent of
11 monies that are coming in to the state are then
12 distributed to host communities.

13 25 percent of the 25 percent is distributed
14 to the host communities, to mitigate the impacts
15 associated with casino operations.

16 To date, the Nation has paid New York State
17 and local municipalities \$475.2 million, in exchange
18 for this exclusive right to offer slot machines.

19 And an additional \$310 million is currently
20 being held in escrow, as a result of a dispute that
21 has emerged. And I'll turn to that now.

22 It's important to keep in mind that the 2002
23 compact reflects a union of two historic
24 adversaries, and that disagreements and disputes
25 over minor issues are inevitable, as is true in any

1 business relationship. So, too, are agreements.
2 And the Compact has been amended over the years, to
3 reflect the addition of new games that have emerged.

4 Two significant disputes, however, have
5 arisen, and serve as the basis for the Nation
6 currently withholding significant amounts of monies
7 otherwise due to the State.

8 The first relates to reimbursements of monies
9 invoiced for state police and State Waging and
10 Wagering Board expenses at the Niagara Falls
11 facilities.

12 As a general matter, the Nation reimburses
13 the State for its regulatory expenses, as required
14 under the compact, including the salaries of the
15 State personnel who are assigned for casino-related
16 work.

17 Since gaming commenced at Niagara Falls, the
18 state police have ostensibly provided
19 law enforcement services at that facility, and the
20 Nation has been billed for these expenses.

21 Almost from the beginning, however, the
22 Nation, through our regulatory arm, the
23 Seneca Gaming Authority, confirmed unsupported and
24 exorbitant charges by the state police that were
25 invoiced to the Nation. Because these charges were

1 not defensible, and because the state police has
2 refused to provide any explanation, the Nation has
3 denied paying these charges for years.

4 To a much lesser extent, we have also
5 disputed charges assessed by the State Racing and
6 Wagering Division.

7 The current unpaid balance of state
8 police-assessed charges is approximately
9 \$48 million.

10 At the end of the Paterson Administration,
11 some progress was made in resolving this outstanding
12 dispute. Currently, we've been in discussion with
13 representatives of Governor Cuomo, and we believe
14 that we are on productive path that may lead to the
15 resolution of this dispute in the near future.

16 The second major dispute involves the
17 Nation's assertion that the State has grossly
18 violated the exclusivity requirement of the
19 2002 compact.

20 In 2008, two events occurred that
21 precipitated the current dispute over the Nation's
22 exclusive rights to offer slot machines in
23 Western New York.

24 First, the Nation discovered that an illegal
25 slot-machine game, called "Moxie Mania," was being

1 offered in various taverns in our exclusivity zone.

2 And, second, the three racinos in our
3 exclusivity zone, Hamburg, Batavia, and
4 Finger Lakes, were renamed as "casinos" offering
5 slot machines.

6 The compact is very clear, that a breach of
7 exclusivity by the State completely relieves the
8 Nation of its exclusivity payment to the State, from
9 the time of the breach into the future.

10 In this way, the compact creates a strict
11 liability scheme, of sorts. The Nation does not
12 have to improve -- does not have to prove intent or
13 damages; only that the State violated the compact,
14 or allowed the compact to be violated by others.

15 Once the breach was discovered, the Nation
16 held back the semi-annual exclusivity payment due at
17 the end of June 2009.

18 The State did not respond.

19 The Nation then held back the next
20 semi-annual payment in December of 2009.

21 And, again, the State did not respond.

22 In January of 2010, the Nation sent a letter
23 to Governor Paterson, informing the State of its
24 breach, expressing our legal reasoning why the
25 Nation's exclusivity payment obligation was

1 breached, and asking for a meeting to discuss the
2 issue.

3 Again, the State did not respond.

4 The Nation again held back the semi-annual
5 payment in June of 2010. And in August of 2010, the
6 Nation Council formally suspended all future
7 payments.

8 Only then did the State respond.

9 We received an audacious response from
10 Governor Paterson's counsel, accusing the Nation of
11 violating the compact in retaliation for the State's
12 efforts to impose taxation on cigarettes, and
13 demanding immediate payment from us.

14 While there was very limited effort at the
15 end of the Paterson Administration to address our
16 concerns about exclusivity, there was no meaningful
17 dialogue to resolve this issue.

18 We recently met with representatives of
19 Governor Cuomo, including Lieutenant Governor Duffy;
20 director of State Operations, Howard Glaser; and
21 chief counsel, Mylan Denerstein.

22 While there are many issues that are
23 outstanding between the Nation and the State, it is
24 our hope that we will be able to resolve this
25 dispute, and others, in the near future.

1 It should come, then, as no surprise that the
2 Seneca Nation is opposed to the expansion of
3 commercial gambling in New York where our interests
4 our affected.

5 In our view, authorizing commercial casinos
6 in Western New York would represent yet another
7 injustice by the State to violate its written
8 agreements with our Nation.

9 In 2002, we were promised slot machine
10 exclusivity, and we used that exclusivity to invest
11 \$1 billion in New York. We made those investments,
12 borrowing and spending hundreds of millions of
13 dollars, employing thousands of construction workers
14 and hiring thousands of new employees.

15 The future remains just as bright as the
16 past.

17 Most recently, the Seneca Gaming Corporation
18 announced plans to conduct a 53 -- to construct a
19 \$53 million addition to the hotel at the
20 Seneca Allegheny Casino and Hotel.

21 Plans are also in the works right now for
22 designing our Buffalo Creek Casino, and commencing
23 construction next year.

24 Will the 2002 Class III gaming compact become
25 just another of the State's broken promises to the

1 Seneca Nation?

2 Amending the State Constitution to allow
3 commercial casino gambling in Western New York will
4 not improve the Western New York economy. In fact,
5 it will undermine the Seneca Nation's important
6 economic contribution to the region, and jeopardize
7 the investment plans currently underway.

8 We believe that Indian gaming can, and
9 should, play an important role in gaming expansion
10 in the state, if that is what is desired.

11 Recently, the United States Department of the
12 Interior lifted restrictions on the ability of
13 Indian nations and tribes to have lands taken into
14 trust for gaming purposes.

15 We believe that great things that the Nation
16 and the State have done in Western New York can
17 replicated in the Catskills region.

18 We have reestablished our
19 Catskills Development Committee, and begun the
20 search for a development partner.

21 We've also met with local officials, and
22 reaffirmed that our previously negotiated local
23 mitigation agreement remains in effect.

24 I believe, with the proper focus, that Indian
25 gaming can come to the Catskills much sooner than

1 passage of statewide referendum authorizing
2 commercial gambling.

3 On behalf of the nearly 14,000 citizens and
4 employees of the Seneca Nation of Indians, and the
5 Seneca Gaming Corporation, I want to thank you for
6 conducting this important hearing, and for inviting
7 the Nation to testify on our economic development
8 and job partnership and accomplishments
9 in Western New York.

10 Our record is clear: When Seneca treaties,
11 agreements, and sovereignty are respected, all will
12 benefit.

13 We hope to continue our economic and
14 job-development efforts in Western New York, and
15 beyond, and look forward to continuing our dialogue
16 with you on this important issue.

17 [Speaks in native language.]

18 Thank you for your time, and I would be glad
19 to take any questions.

20 SENATOR BONACIC: Okay, thank you,
21 Mr. Porter.

22 We've been joined by Senator Maziarz.

23 Welcome, George.

24 SENATOR MAZIARZ: Thank you, Mr. Chairman.
25

1 SENATOR BONACIC: I have a couple of
2 questions I'd like to ask you.

3 When I look at this map, can you tell me, the
4 acreage?

5 You referred to 50,000 acres as that of your
6 reservation, but, is that reflect 50,000 acres, or a
7 different geographical area?

8 ROBERT PORTER: Well, it once was all ours,
9 of course, but, not currently.

10 I don't have the exact acreage, but, our
11 territory is certainly much smaller than the
12 entirety of Western New York State.

13 SENATOR BONACIC: No, but the exclusivity
14 that you referred to, outlined in white, if you
15 don't know today, could you --

16 ROBERT PORTER: Sure.

17 SENATOR BONACIC: -- inform our Committee of
18 what you claim is the total geographical area?

19 ROBERT PORTER: Yes.

20 SENATOR BONACIC: Okay.

21 My second question is: Are you presently
22 negotiating with anyone in particular in the
23 Governor's Office, on these ongoing disputes?

24 You referred to a meeting, couple weeks ago,
25 or couple months ago.

1 ROBERT PORTER: Uh-huh.

2 SENATOR BONACIC: Is there ongoing
3 discussions?

4 ROBERT PORTER: Yes.

5 SENATOR BONACIC: Okay.

6 ROBERT PORTER: We have had a delegation, led
7 by the Lieutenant Governor and the director of
8 State Operations, I believe had -- well, several
9 meetings, at various levels of delegation.

10 SENATOR BONACIC: And you do have a desire to
11 expand casino gaming in the Catskill region?

12 ROBERT PORTER: Yes.

13 SENATOR BONACIC: And is it conceivable, as
14 part of the negotiations with the Governor's Office,
15 that your presence in the Catskills, with the
16 Governor's blessing, might be tied in to resolving
17 all these other disputes that you referred to?

18 ROBERT PORTER: Well, there is a long arm's
19 list of disputes between the Nation and the State.

20 And what we have found over the years, that
21 if the parties can focus their attention on the
22 challenge that exists right in front of us -- and we
23 believe that the gaming issues are all related, in
24 many ways -- that it is possible to make progress,
25 and to resolve the disputes.

1 One of the unintended consequences, of
2 course, of our dispute with the State's behavior
3 under the compact, is that the local governments
4 have been adversely affected.

5 Salamanca, Niagara Falls, you know, Buffalo,
6 we have great relationships with the local
7 governments. And I think the local governments and
8 the local communities have seen the benefits, in
9 terms of the job creation, and the opportunities
10 that exist, surrounding our gaming facilities.

11 And it is unfortunate, you know, that it has
12 taken this long, as I mentioned in my testimony,
13 over two years, really, to get any kind of
14 meaningful response from the Governor's Office, to
15 address these concerns.

16 We are active, and we are willing, to resolve
17 the disputes, in part, for our own interests, of
18 course, but also for the benefit of the local
19 communities that are being deprived of what is,
20 otherwise, their entitled receipts of the
21 exclusivity funds.

22 SENATOR BONACIC: And my last question:
23 Obviously, you wouldn't be embracing a
24 constitutional amendment for gaming throughout the
25 state.

1 Would that, your opinion, change, if the area
2 of exclusivity, as the legislation was proposed, was
3 omitted? Would that change your view?

4 ROBERT PORTER: It certainly would affect our
5 view on this.

6 One of the things about our territory and or
7 gaming facilities, is that, our patrons, and our
8 economic impact, don't necessarily limit themselves
9 to just our small territories. Where our patrons
10 come from extend into Canada, extends into
11 Pennsylvania, extends into Ohio.

12 And I think, to the extent that State policy
13 emerges on commercial gambling in a way that does
14 not affect our core business, and our rights under
15 the compact, I think that definitely alters our
16 outlook on what happens in New York State.

17 SENATOR BONACIC: Thank you, Mr. Porter.

18 Any other senators have a question?

19 Senator Griffo?

20 SENATOR GRIFFO: Thank you, Mr. President. I
21 appreciate that.

22 Based on what you said, do you find a
23 scenario where you think we can accomplish and
24 achieve a mutually beneficial and successful
25 approach to gaming with the nations, as well as, if

1 the State of New York were to be involved in this,
2 mindful of the exclusivity that the Chairman just
3 said?

4 Is there a way to do that?

5 ROBERT PORTER: It would seem theoretically
6 possible.

7 In addition, I think, to our Nation, of
8 course, the Oneida Nation and the Mohawk --
9 Saint Regis Mohawk Tribe also have Class III game
10 can facilities. I don't know offhand what kind of
11 exclusivity commitments were made under those
12 compacts. But, it would seem to me that the State
13 clearly needs to address its willingness to engage
14 in a full-throated breach of previous agreements,
15 you know, as it moves forward with gaming.

16 And assuming that's not the intent, and that
17 the goal is to honor existing agreements, then it's
18 a matter of, where, if at all, you seek to see an
19 expansion of other gaming.

20 SENATOR GRIFFO: As we look at what you can
21 really sustain; if you look at states where you've
22 had legalized gaming, and where there have been some
23 successes or failures, you can learn from those
24 experiences.

25 ROBERT PORTER: Sure.

1 SENATOR GRIFFO: What do you envision, as
2 somebody who's been involved in the industry, would
3 be a successful number?

4 Obviously, we don't want to dot the landscape
5 across the state.

6 ROBERT PORTER: Right.

7 SENATOR GRIFFO: So, what do you think would
8 be a formula to have success, if we were to look at
9 this, between some type of marriage between
10 Native American facilities and, potentially, other
11 facilities?

12 ROBERT PORTER: Quite honestly, I don't think
13 I can give you a great answer on that, because so
14 much of it is, not just an economic question, but a
15 quality-of-life question.

16 I mean, there are certainly places in the
17 United States where you can go, and there is gaming
18 on every street corner, you know.

19 And I think that, to the extent that, you
20 know, you fold in the lottery, which is, of course,
21 State gaming, which already exists on street
22 corners, and then you augment that with additional
23 gaming, whether it be at the racinos, or whether it
24 be Indian casinos, I think it's a matter of just
25 public-policy choice, you know, that you, as

1 leaders, have to address.

2 Clearly, we have focused on, in part, because
3 it has had a history of attraction as a vacation
4 destination.

5 The Catskills; the Catskills, obviously, have
6 seen better days, in terms of a tourist destination.

7 And, I don't think too long ago, people were
8 saying that about Niagara Falls, you know, as a
9 place where there had been a longstanding tourism
10 path already established.

11 Why can't, and why shouldn't, casinos be
12 augmenting the historic tourism experience.

13 Catskills, I think, are a natural. We have
14 looked at this in the past. And wasn't -- if it
15 weren't for the federal government's thwarting of
16 the effort for a couple of years, we would have
17 continued to move forward.

18 I tend to think, given the landscape right
19 now, that the path is clearest and easiest through
20 Indian gaming.

21 I've studied these issues over the years. I
22 know that it's not something that everyone is
23 supportive of, but, in terms of the legal
24 infrastructure and mechanisms, it seems to me now,
25 the path is much clearer than it's ever been.

1 SENATOR GRIFFO: And the last question,
2 Mr. Chairman, I would ask, is: When you talk about
3 that path then, using Indian gaming, and how do you
4 approach cooperation amongst the various tribes,
5 too? -- because, obviously a number of you may all
6 have a very similar interest in a particular region.

7 Now, how would you accomplish cooperation in
8 that regard too?

9 ROBERT PORTER: Well, we do have historic
10 challenges, in terms of how we even get around the
11 block, with each other. And, I don't really know.

12 But, other than through dialogue, and
13 discussion, you know, we see, under exclusivity
14 zone, it's not the whole state, you know, so there's
15 plenty for others.

16 And I think, it's not even just the Indian
17 nations, in terms of how we get along. I think even
18 the racino operators, there are certain
19 opportunities that exist, potentially, for us to
20 partner with them.

21 You know, that, no one's really given much
22 thought to it, but, if you want to have Indian
23 Country in Saratoga, you know, we could probably
24 help do you that. And we could work with the racino
25 operator there, no differently than what we're

1 proposing in the Catskills.

2 I mean, I don't want to be too flip about it,
3 but, I mean, the idea of moving land into trust is a
4 concept that has a lot of legal challenges to it,
5 but it's really based upon an opportunity that could
6 exist for all.

7 And if the State wants to pursue
8 commercialized State gambling throughout the entire
9 state, you know, that's certainly an issue we will
10 be concerned about, as it relates to our interests.
11 But, if you wanted to move forward more quickly, we
12 think that Indian gaming, in the Catskills in
13 particular, you know, is the best path forward.

14 And, we think other Indian nations, there's
15 three licenses there. We're not seeking to get all
16 of them. There would be opportunity for others.

17 SENATOR BONACIC: Senator Nozzolio?

18 SENATOR NOZZOLIO: Thank you, Mr. Chairman.

19 Thank you, President Porter --

20 ROBERT PORTER: Thank you, Senator.

21 SENATOR NOZZOLIO: -- for your very detailed
22 and helpful testimony; that, the issues are many.

23 I, in the interest of time, just want to
24 focus on the exclusivity issue.

25 ROBERT PORTER: Sure.

1 SENATOR NOZZOLIO: That, it's clear that it's
2 part of the laws of 2002. Appreciate you
3 delineating the territory. And the map is, I think,
4 graphically explanatory, in terms of what that
5 exclusivity means.

6 Are there any other Indian gaming enterprises
7 in New York that share that type of exclusivity
8 agreement, to your knowledge?

9 ROBERT PORTER: I do believe that the Mohawk
10 compact has some defined exclusivity zone, as does
11 the Oneida compact.

12 I don't know what they are. I'm not as
13 familiar with those agreements.

14 But, it is a very common reality in any
15 situation in which the state gets a share of some of
16 the revenues.

17 Now, it may be the case, in the Oneida
18 situation -- and I would leave that to the Oneidas
19 to speak for themselves -- but because their compact
20 does not have a provision for any payments to the
21 State, maybe it doesn't define exclusivity in the
22 same way.

23 But, everywhere else in the United States,
24 because the law is very clear that states cannot tax
25 or otherwise burden the economic activity directly,

1 it's only through this exchange of benefits, that .
2 the state has the right to offer an exclusive
3 franchise for slot machines.

4 We receive that. And in exchange, we've paid
5 for it, under the compact.

6 SENATOR NOZZOLIO: What is the -- based on
7 your concerns with the breach of the exclusivity
8 clauses, as stated in law, what has been the outcome
9 of withholding those funds, in terms of, how much,
10 President Porter, to the extent, what type of
11 dollars are now rationalized in dispute?

12 ROBERT PORTER: Currently, the outstanding
13 disputed amount is \$310 million. And it has,
14 obviously, been growing since the summer of 2009.

15 And I think, after the first payment that was
16 withheld, which was about \$55 million, which, you
17 know, to me, was a lot of money, we might have
18 gotten a call from someone in the State, but, never
19 did.

20 SENATOR NOZZOLIO: I think that's the most
21 shocking of your testimony; that the
22 Administration's prior had no interaction
23 whatsoever, based on this discussion.

24 There were no meetings held?

25 ROBERT PORTER: No. We never had any

1 meetings. In fact, it took eight months, after we
2 formally communicated our legal position to the
3 Paterson Administration, before we even got a
4 response.

5 SENATOR NOZZOLIO: What is the definition of
6 "exclusivity," in terms of your view, stated by the
7 statute?

8 You're an attorney -- for the record, you're
9 an attorney, you're a law professor at my
10 alma mater, and now the president of the Nation.

11 I appreciate your insights into, what types
12 of definitions are we talking about, when you use
13 the word "exclusivity"?

14 ROBERT PORTER: Well, obviously, it doesn't
15 mean exclusive of all gaming, because, otherwise,
16 there would be no lottery, and there would be no
17 racinos.

18 Under the compact that was entered into, I
19 believe it was the year prior, in 2001, the
20 Legislature had authorized VLTs to be offered at
21 the racetracks, the horse tracks. But, they weren't
22 up and running yet.

23 And, so, when our compact was being
24 negotiated, the definition of "gaming devices,"
25 under the compact, has two subdefinitions.

1 You know, one is the slot machine.

2 And the other is, the Video Lottery Terminal.
3 You know, the other gaming devices that are referred
4 to.

5 And, so, there was an acknowledged hole, if
6 you will, in the definition, to allow for the VLTs
7 to be offered at the racetracks.

8 But, really not much else defines under this.
9 And that's the dispute.

10 And from our perspective, if a business
11 changes its name, from racino, to casino, that
12 offers slot machines, one of two things is
13 happening: Either they're offering slot machines,
14 in which case, those businesses are violating our
15 compact, and the State has allowed that to happen,
16 because we have the exclusive right for slot
17 machines; or, those businesses are cheating their
18 customers, because they're not really slot machines.
19 They're VLTs, or some other device.

20 You know, so, one of two things is happening
21 in our exclusivity zone. And we have put forth, you
22 know, arguments, and positions, but we've not had
23 any meaningful discussion with the administration,
24 past and present, you know, on this.

25 And we may, in the very near future, do that.

1 But, right now, it is subject to, obviously, a very
2 sizable economic dispute.

3 And keep in mind, from what I said in our
4 testimony, the Nation's legal position would be,
5 that once the State violates the compact, it's -- we
6 are absolved of those payments, going forward,
7 forever.

8 And, so, thus, while anything in a legal
9 dispute has two sides to it, we, obviously, are
10 interested in trying to resolve the dispute in a way
11 that secures our economic position, and we think,
12 the position of Western New Yorkers and the State as
13 a whole.

14 SENATOR NOZZOLIO: Thank you very much.

15 Thank you, Mr. Chairman.

16 SENATOR BONACIC: Senator Maziarz?

17 SENATOR MAZIARZ: Thank you very much,
18 Mr. Chairman.

19 And, thank you, President Porter, for being
20 here.

21 ROBERT PORTER: Thank you, Senator.

22 SENATOR MAZIARZ: Just a couple of questions.

23 How many -- I'm obviously most concerned
24 about the Niagara Falls operation of the
25 Seneca Casino.

1 Do you know, offhand, the number of employees
2 that you have at the Niagara Falls Casino?

3 ROBERT PORTER: It's about 2,700.

4 SENATOR MAZIARZ: And I suspect that -- and,
5 just, I think I know the answer to this, but, just
6 for the benefit of my colleagues here: They have a
7 wage-and-benefit package that includes health
8 insurance and --

9 ROBERT PORTER: Oh, sure.

10 As you can see, Senator, there are quite a
11 few of our employees --

12 SENATOR MAZIARZ: I see.

13 ROBERT PORTER: -- who are here, and they
14 look pretty healthy.

15 [Laughter.]

16 ROBERT PORTER: And, we're glad for that.

17 SENATOR MAZIARZ: Which ones are yours, now?

18 [Laughter.]

19 SENATOR MAZIARZ: And, in Buffalo?

20 ROBERT PORTER: Buffalo, the number is less
21 than 100 right now, because it's a temporary
22 facility.

23 And, in Allegheny, it's about 1,100.

24 SENATOR MAZIARZ: Okay. Just -- but my
25 second question has to do with the exclusivity zone;

1 and, specifically, the racinos at Hamburg, Batavia,
2 and the Finger Lakes.

3 Do you have any idea, has the Nation done any
4 studies as to what you think the impact is? How
5 much business do you think is drawn off?

6 ROBERT PORTER: Sure, yeah. And I think it's
7 a natural consequence of being in a somewhat
8 competitive environment.

9 Our business tracks what happens at those
10 facilities. We also track what has been the injury,
11 you know, as a result of the rebadging of those
12 facilities.

13 They have expanded, somewhat, in terms of
14 their infrastructure. And, obviously, it's a
15 competing gaming venue, you know, for patrons.

16 So, as best as we can, you know, we do keep
17 track of what is happening there.

18 SENATOR MAZIARZ: Any idea, like, what
19 percentage you think it impacts you negatively?

20 ROBERT PORTER: Well, mainly, because these
21 are somewhat in a negotiated framework with the
22 State. I don't want to get too deep into, what we
23 know, and don't know, about what's happening.

24 But it is clear, from what we've been able to
25 discern so far, that millions of dollars, every

1 year, are being lost to the racinos. And it has
2 mainly occurred, you know, as they have grown. And
3 you can see the growth of those businesses.

4 And we're actually in the process of getting
5 even more detailed, you know, information about how
6 that has actually occurred, because we think that
7 that's part of the negotiation, is to really
8 highlight that this has not been a meaningless
9 event, you know, these expansion of the racinos.

10 SENATOR MAZIARZ: You mentioned that you may
11 be willing, or may be interested, in doing something
12 in the Catskill nation, along with the other
13 interests that are down there already.

14 I assume talking you're talking about the
15 racetracks.

16 Would you be interested in partnering at all
17 with those racinos within the exclusivity zone, as
18 part of some sort of a settlement with the State?

19 ROBERT PORTER: Uhm, I don't want to get too
20 far ahead of what the settlement might look like.

21 It's part of the problem that we're dealing
22 with, which is, that we've spent a lot of money so
23 far to build what we've got.

24 We just refinanced \$500 million worth of
25 debt. And, that's based on a time horizon, in terms

1 of paying it off.

2 You know, I think it's an interesting
3 concept. It's not one that I had thought of. You
4 know, I certainly was thinking of it, more outside
5 of our exclusivity zone.

6 But I think, in terms of having meaningful
7 dialogue, you know, it's -- I'm always one to want
8 to try to talk through problems first, if we can.

9 SENATOR MAZIARZ: The second-to-the-last
10 point that I wanted to make, was about the payments
11 to the locals.

12 This is something that's very important to
13 myself, to our colleague Senator Grisanti, I know,
14 particularly in the city of Niagara Falls.

15 And I think it should be noted, that the
16 Seneca Nation has now, through two administrations,
17 the Paterson Administration, and the Cuomo
18 Administration -- now, you've gotten a little
19 further along with the current Administration -- has
20 offered to make those payments to the localities.

21 I'm more familiar, again, with the
22 Niagara Falls than I am with the Buffalo or the
23 Salamanca one, but I know that they impact, not just
24 the city of Niagara Falls, but, also, Niagara Falls
25 hospital, Niagara Falls school district, and other

1 localities.

2 I think it should be -- it's important to
3 know, particularly for my colleagues, that the
4 Seneca Nation has offered to -- in fact, one time,
5 we even held press conference, when you made that
6 offer to pay the localities their money, upfront, as
7 long as you received a credit from the State on the
8 other end.

9 And I know those negotiations are ongoing
10 with the second Administration.

11 The last thing, again, I want to get back to,
12 about your reference to the Catskills, and willing
13 to do some partnerships there: What about, again,
14 back to the exclusivity zone, the city of Rochester,
15 or anything, would you have any interest there at
16 all?

17 ROBERT PORTER: Oh, sure we do. Yeah.

18 I mean, I think it's a matter of --
19 certainly, it's a market that's available to us.
20 We've had very preliminary conversations with the
21 public officials in that area. It's certainly an
22 opportunity.

23 And we're largely rooted in working with the
24 local governments. You know, I don't think we're in
25 any position to be telling anybody what we want to

1 do. It's more, partnership. And these partnerships
2 are rooted in very strong element of local control.

3 Local communities are the ones that end up
4 supporting the facilities, in terms of
5 infrastructure.

6 And, frankly, I don't want our Nation to be
7 in a situation where we're at odds, you know, over
8 significant issues with local communities, mainly
9 because it's been, too positive, too strong, in the
10 places that we are currently.

11 Rochester is a great opportunity for us.
12 It's something that, if it opens up, that would be
13 fantastic; more jobs, more opportunity.

14 And I think our businesses made clear, we're
15 not just shuffling dollars around locally. We bring
16 money in from other -- well, from other countries:
17 Canada. Pennsylvania, and other states.

18 And I think, as destination, I think there's
19 just a lot of growth to anticipate in the future.

20 SENATOR MAZIARZ: Thank you, Mr. Chairman.

21 SENATOR BONACIC: Mr. Porter, just one other
22 thought.

23 ROBERT PORTER: Uh-huh?

24 SENATOR BONACIC: In all of the principals
25 that have an interest in expanding into the Catskill

1 area, they talk of a resort destination. Not
2 building just a gaming facility, but a resort with
3 all of the amenities.

4 So my question to you, is, number one: If
5 such an opportunity would be presented to the
6 Senecas, do you have the financing?

7 And, would it include in your plan, to do
8 resort, and not just a gaming facility?

9 ROBERT PORTER: Everything, Senator, that has
10 been in our consciousness of entering the Catskills
11 for a gaming opportunity is rooted in a resort
12 destination. We know how to do that.

13 Our gaming corporation, staff, and
14 executives, many of whom are here, do a fantastic
15 job at creating destination experiences for people.

16 And that is exactly what we're hoping to do
17 in the Catskills.

18 SENATOR BONACIC: Okay, thank you.

19 Anyone else?

20 Senator Griffo.

21 SENATOR GRIFFO: Just want to add on
22 something that you mentioned again, because I'm,
23 again, concerned about proliferation; what is the
24 true formula for success.

25 And you talked about quality of life and

1 economics.

2 But, you just talked about, given an
3 opportunity in Rochester, that would be great.

4 But, again, doesn't that become, that you
5 just begin to dot the landscape: Niagara Falls,
6 Buffalo, Rochester, Syracuse, Albany?

7 I mean, is that what we -- is that the
8 vision?

9 I mean, because the idea here is, you're
10 talking about attracting from various other states,
11 and countries, potentially. But, if you begin to
12 just dot the landscape with casinos, I don't see how
13 that can be successful, or in anyone's best
14 interest.

15 ROBERT PORTER: At the end of the day --
16 Senator, I'll reiterate -- it's not my choice, it's
17 yours, you know, and I think, in terms of you being
18 state officials.

19 I can tell you that, economically, Rochester
20 is a viable opportunity for Class III gaming for our
21 Nation.

22 Whether it's something that the community of
23 Rochester and the State of New York want, that's a
24 second question. And that's not within my ability,
25 or my Nation's ability, to decide.

1 It becomes much easier because it is within
2 our exclusivity zone. You know, and we have the
3 same mechanism for acquiring land and restricted fee
4 status. We haven't talked about that much today.

5 But, we had the ability in Buffalo and
6 Niagara Falls, to be able to acquire land fairly
7 quickly, to allow those facilities to grow.

8 That could also be true in Rochester.

9 Catskills are different, you know, because it
10 is a feat-of-trust concept. It would take more
11 time.

12 But, how much gaming, where gaming should go,
13 that's, I guess, the purpose of the hearing.

14 And, I'm glad to have had the opportunity to
15 share our thoughts and ideas about this, as you
16 contemplate what the future is going to look like.

17 SENATOR BONACIC: I -- just react to
18 Senator Griffo, we're concerned with saturation of
19 product, if a constitutional amendment moves
20 forward. And that's the challenges that will be
21 facing this Committee, the Legislature, and the
22 Governor, when they frame legislation.

23 But, to your point, saturation of product.

24 Senator Gallivan.

25 SENATOR GALLIVAN: Well, thank you, Chairman.

1 Thank you for your testimony, Mr. President.
2 And I want welcome you, again, to the eastern-most
3 part of the 59th Senate District. The western-most
4 part, of course, being your territory --

5 ROBERT PORTER: Correct.

6 SENATOR GALLIVAN: -- out near Gowanda.

7 A couple of quick questions.

8 You talked briefly -- you testified, and
9 answered a couple of questions about your employees.

10 Could you just talk a little bit about the
11 demographic of the employee? Where they come from,
12 who they are; part-time, full-time.

13 ROBERT PORTER: Sure.

14 Our employees come from throughout
15 Western New York, and Canada, and Pennsylvania.
16 Because our facilities extend, from Niagara Falls,
17 to Buffalo, to Salamanca, you know, these are
18 employees who come from a wide geographic area.
19 Many of them, of course, you know, live in small
20 communities. Some of them live in the cities.

21 And the full-time employment, almost 4,000
22 just in the gaming jobs, have the kind of benefits,
23 and I think, the kind of opportunities, that, you
24 know, no one really questioned, in terms of quality
25 employment.

1 We have a significant number of non-Indians.
2 You know, our nation has 8,000 people who live on --
3 who are citizens of our nation. About 6,000 of them
4 live on or near our territories in Western New York.

5 We're at the point, frankly, where every
6 able-bodied and interested Seneca who wants to work
7 has a job, in terms of, our various businesses,
8 including our gaming businesses.

9 When we talk about expansions of gaming, in
10 many cases, we're really talking about the
11 expansions of gaming jobs for non-Indians, because
12 those are the new workers who are going to be coming
13 into our business.

14 So, we'll be expanding our hotel at
15 Allegheny, 53 jobs. Mostly likely, those will be
16 mostly non-Indians who are employed in our
17 businesses.

18 And while there have been controversy over
19 this, in terms of where the dollars go, we've tried
20 to make it very clear to people, through economic
21 studies, that when the Seneca Nation receives money
22 coming into our gaming businesses, that money is
23 almost immediately, you know, spent back into the
24 local economy.

25 You know, we're not a national corporation

1 that has shareholders scattered all over the place,
2 taking dividends. You know, our Nation spends
3 locally, we hire locally. We bring in contractors,
4 we bring in vendors. We are people, to the extent
5 we receive economic benefit, all spend locally.

6 And, in fact, in many ways, I know there's a
7 lot of talk over the years about how much Albany
8 gets.

9 Well, Albany gets its cut, if things are
10 working properly, off the top. But, everything else
11 really comes backs to Western New York. And we've
12 tried to make it very clear.

13 And I think the leadership, and the people of
14 Western New York, see it every day, about what our
15 dollars can do to support the regional economy.

16 SENATOR GALLIVAN: Last year, you dealt with,
17 approximately -- if I remember the number correctly,
18 approximately 1,400 different vendors?

19 ROBERT PORTER: Yes.

20 SENATOR GALLIVAN: What's the demographic of
21 the vendors?

22 ROBERT PORTER: The vendors range from the
23 you know, construction, you know, folks who are
24 building things, to folks who are selling us
25 toilet paper, and food, and other services that we

1 need.

2 So, it's a multi-pronged extended business,
3 you know, that when you look at what it takes to
4 sustain, you know, a business of this size, you
5 certainly can't do it alone, you know, and it
6 requires these contractual relationships.

7 You know, a new relationship just emerged in
8 Niagara Falls, where there's going to be a new
9 culinary institute, where we are going to be, in
10 effect, investing, you know, in an opportunity, an
11 educational opportunity, for Senecas and
12 non-Senecas.

13 Well, it's a good business, to have fresh
14 baked goods, you know. And, so, it's something that
15 will be just across the street.

16 It's an example of how we have taken our
17 dollars, for both economic self-interested purposes,
18 it's our business, but also for the benefit of the
19 local community, being able to do something that
20 will be an educational stimulus, as well as, you
21 know, who can disagree with the fresh croissant, you
22 know.

23 So, that's -- that's what we're hoping to
24 have for our patrons, and keep 'em coming.

25 SENATOR GALLIVAN: Thank you.

1 ROBERT PORTER: Thank you, Senator.

2 SENATOR BONACIC: I think -- thank you very
3 much, Mr. Porter.

4 ROBERT PORTER: Thank you very much, Senator.

5 SENATOR BONACIC: Our second speaker is:
6 Michael Kane, the president and CEO of
7 Western Regional Off-Track Betting Corporation.

8 MICHAEL KANE: Hi, everyone. It's nice to
9 see you again.

10 This is Henry Wojtaszek, who's our general
11 counsel at Western.

12 SENATOR BONACIC: Yes.

13 MICHAEL KANE: Hopefully, it's all right if
14 he sits at the table as well, Senator?

15 SENATOR BONACIC: Sure, he can.

16 MICHAEL KANE: I think, at the moment,
17 written testimony is being distributed.

18 SENATOR BONACIC: Thank you for being here.

19 MICHAEL KANE: We thank you for the
20 invitation, very much, sir.

21 And it's interesting, the smallest racino in
22 the state just follows the biggest casino operator
23 in the state.

24 And then we have Mr. Gural coming up before
25 us. I think we're the comic relief in between.

1 If it's all right with you, Senator, we
2 weren't going to read the entire written testimony.

3 SENATOR BONACIC: It would make us all happy.

4 MICHAEL KANE: I thought so.

5 Basically, it's testimony that also covers
6 two of our sister off-track betting corporations:
7 Suffolk, and Capital. And it provides, we think,
8 pretty concise answers to the sample questions that
9 were sent out a couple of weeks ago, and addresses
10 all those issues that were brought up, to the
11 effect, OTBs.

12 There is one thing that's not in that
13 testimony, that I would like to mention.

14 One of the impetuses, and a lot of the
15 conversation, regarding OTBs, has been consolidation
16 of efforts, shared Internet, shared telephone; that
17 type of thing; shared tote system.

18 And those have all been discussed. And I can
19 give you positive and negatives on all those.

20 But one thing I think we should point out,
21 that there are significant things that all the
22 OTBs do cooperate on.

23 One is extremely significant, and has been
24 ongoing: The OTBs negotiate as a group, with all
25 out-of-state tracks regarding simulcast contracts.

1 This allows us to leverage a handle of all
2 five of the existing corporations. And, it allows
3 us to, essentially, contract at a much, much lower
4 rate than New York State tracks, or any one of the
5 OTBs, could singularly.

6 And, so, there is a level of cooperation that
7 we -- in fact, we have conference calls at least
8 three times a month, to go over existing contracts
9 as they come up.

10 And I think if you were to research, for
11 example, what a racetrack ATW pays in simulcast fees
12 to an out-of-state track, as compared to what OTBs
13 pay for that same right to carry the signal, the
14 differences are dramatic. And it is a substantial
15 cost-savings to the OTBs; and, therefore, one way
16 we generate revenues for member municipalities,
17 counties, and in our case, the cities of Rochester
18 and Buffalo.

19 That said, Mr. Chairman, if I may, I would
20 like to point out, that Western OTB is significantly
21 unique among, not only OTBs in the state, but also
22 amongst the -- as Professor Porter said, the racinos
23 within the state.

24 We are, obviously, the smallest of the
25 racinos. We have 607 video gaming machines. And I

1 don't want to take exception to the term "slots,"
2 but, a rose is a rose by any name.

3 These are video gaming machines, they're not
4 slot machines, when we come up to the exclusivity
5 discussion.

6 But, based on our uniqueness, we have,
7 probably -- I mean, our position, we have opinions
8 on both sides. We can see both the tracks'
9 positions and OTB positions as we look at issues
10 that face the entire industry.

11 And, unlike the other tracks, due to the fact
12 that we're a public-benefit corporation, any profits
13 we generate go right back into our member
14 municipalities; again, those 15 counties and the
15 2 cities of which I spoke earlier.

16 Because of that, everything we get, we don't
17 make profit that doesn't go into our municipalities.

18 And, also, we're very unique amongst
19 off-track betting corporations in New York State,
20 based on our ownership of Batavia Downs Casino.

21 I'm a member of the board of directors of the
22 "USTA," United States Trotting Association; and,
23 also, a director for Harness Tracks of America.

24 No other OTB official in the history of the
25 state has held directorships in both of those

1 organizations. And that gives us rather a unique
2 opportunity to, not only provide input within the
3 harness racing industry, but also to keep a finger
4 on the pulse of how the industry is conducting
5 itself, and the issues related to it.

6 Now, that said, we are also a member of the
7 New York Gaming Association. We joined the
8 Association approximately two months ago. We were
9 the last to join.

10 We are fully supportive of all the efforts of
11 the Association regarding a constitutional
12 amendment. We think it is fully appropriate in our
13 area.

14 I'm going to read this, if I may.

15 As a member of the New York Gaming
16 Association, we support legislation that would allow
17 full casino-style gaming at existing tracks with
18 video lottery gaming licenses.

19 This is actually not an expansion of gaming.
20 It simply provides the tools for existing locations
21 to better compete with our Native American and
22 out-of-state gambling centers, which will -- we will
23 provide additional revenues for all present
24 beneficiaries of video gaming in New York.

25 And we all know who those are.

1 We will also lead to significant financial
2 investments in the operations, lending to increased
3 revenues for New York State.

4 We are current with all our payments to the
5 State of New York.

6 Also, substantial job creation.

7 We are presently looking -- we are presently
8 ready to embark on a \$23 million expansion at
9 Batavia Downs Casino.

10 Essentially, those who are familiar with our
11 facility, we built it upstairs. We want to move it
12 downstairs. And with the assistance of the lottery,
13 I think we're going to be able to do that.

14 But, we've already committed, we feel,
15 probably 2 1/2 times that further investment, should
16 casino-style gaming be allowed at Batavia Downs
17 Casino.

18 We also feel, our research has told us, that
19 this will bring on, approximately, 135 additional
20 full-time employees to our facility. 65 additional
21 indirect jobs would be created. And that's beyond
22 those that will be created by our soon-to-be
23 completed expansion.

24 The economic development we expect, and
25 revenue generated, as opposed to gaming expansion,

1 would limit the locations.

2 I mean, we're talking, the proposal that
3 NYGA's going to put before you, Senator, limits the
4 number of casino locations to, essentially, the
5 existing locations, with Aqueduct included, of
6 course, presently operating in New York State.

7 And, that seems to answer the "glut" issue,
8 or the over -- the worry about too many casinos in
9 the state.

10 We're looking at areas that already have
11 gaming. It's just, the type of gaming would be
12 extended, and, sincerely, generate significant job
13 creation and additional revenues for the State of
14 New York, which we think are very important.

15 And that's the business we've been in: in the
16 casino business, since 2005; and, obviously, in the
17 OTB business since 1975.

18 I really have nothing else to add, unless --
19 Henry, do you have anything you'd like to?

20 But, other than that, Senator, any questions,
21 we'd be more than happy to answer.

22 SENATOR BONACIC: I have no questions of
23 Mr. Kane.

24 Anyone else?

25 Okay -- yes, Senator Gallivan.

1 SENATOR GALLIVAN: Could you explain; you .
2 talked about the profits of municipalities?

3 MICHAEL KANE: Uh-huh.

4 SENATOR GALLIVAN: I'm not quite sure how
5 that arrangement works.

6 MICHAEL KANE: Well, it's twofold --

7 SENATOR GALLIVAN: Can you talk about that a
8 little bit?

9 MICHAEL KANE: Certainly, Senator.

10 It's twofold.

11 First of all: We generate, what's called,
12 "surcharge revenues" from winning wagers, and also
13 from exotic wagers.

14 Those monies are divided up amongst our
15 member counties, whether we make a profit or not.
16 They're solely based on handle and type of bet that
17 we take. All the OTBs in the state function
18 similarly.

19 For example: Last year, we distributed
20 approximately \$2.1 million to our local
21 municipalities. Obviously, the larger communities
22 receive a larger share. Those distributions are
23 based on a formula that encompasses, population, and
24 source of wager.

25 Then, also, any revenues that we -- any

1 profits that we generate from any of our operations,
2 be it, live racing, OTB, or our Batavia Downs
3 Casino, they're also shared amongst all the
4 municipalities.

5 So, essentially, what happens, every month,
6 each community gets a surcharge check from us,
7 similar to what the other OTBs provide.

8 And, every quarter, we're required to submit
9 payment of any profits we made in that quarter. And
10 we retain no reserve funds, other than a
11 capital-acquisition fund, that's, essentially,
12 1 percent of winning --

13 SENATOR GALLIVAN: When you say
14 "municipalities," you mean, the counties?

15 MICHAEL KANE: Yes. 15 counties and --

16 SENATOR GALLIVAN: City, towns, or
17 villages --

18 MICHAEL KANE: -- well, it goes to the
19 15 counties, and the cities of Rochester and
20 Buffalo, which are, by statute, large enough to have
21 a separate representation.

22 SENATOR GALLIVAN: Is that similar to
23 those -- is it a similar arrangement in Capital and
24 Sussex also?

25 MICHAEL KANE: Yes.

1 SENATOR GALLIVAN: Okay, thank you.

2 MICHAEL KANE: You're very welcome, sir.

3 SENATOR BONACIC: Okay, Senator Griffo.

4 SENATOR GRIFFO: Mr. Kane, just quickly:

5 Listening to you, and then, of course, a review of
6 your testimony, there are great challenges that are
7 facing the racing industry, and OTB being a part of
8 that.

9 Is it my understanding, then, from what
10 you're saying, and what I -- as I said, read very
11 quickly, that you don't believe that we could find a
12 different way, or an alternative, to look at how we
13 handle off-track betting? That, you have rejected
14 the possibility of a complete consolidation, or the
15 possibility of an entire new entity, looking at this
16 element of the industry?

17 MICHAEL KANE: Well, looking from our
18 personal point of view, from Western, we're so
19 different than any of the other OTBs, I think any
20 effort of consolidation which includes us, because,
21 essentially, we're a -- as Professor Porter said, a
22 casino, as well as an off-track betting corporation.

23 And we feel, and we are, continue to provide
24 profits and revenues to our member municipalities.
25 We think that's very important.

1 I think the testimony -- the written
2 testimony shows, that, we believe that off-track
3 betting operations are regional in nature.

4 And, based on that regionalization, that the
5 thoughts of consolidation providing significant
6 savings? I think New York State found that, in
7 their short period of time in operating New York
8 City OTB, that unless there are legislative changes,
9 that type of OTB model would be unsuccessful.

10 But, as you see, we're changing the model
11 ourselves. We're getting away from fully staffed
12 branches, going to, what we call, "Easy Bet"
13 locations.

14 We now have, I think, sixteen, which are,
15 essentially -- there's a betting terminal in a
16 tavern or a restaurant; which, it doesn't provide
17 jobs, but it does provide additional revenues for
18 the off-track betting corporations.

19 And, we are a significant economic engine
20 for, particularly, Genesee County, and the areas in
21 which we serve. \$15 million of goods and services
22 purchased just in the last year alone.

23 SENATOR GRIFFO: Thank you.

24 MICHAEL KANE: Thank you, Senator.

25 SENATOR BONACIC: Mr. Kane, I'm just curious:

1 I see that a lot of your comments were Capital OTB
2 and Suffolk OTB?

3 MICHAEL KANE: Uh-huh.

4 SENATOR BONACIC: Did they ask you to submit
5 this report?

6 MICHAEL KANE: Yes.

7 Actually, this was written by our friends at
8 Wilson Elsner, on behalf of all three of us, so you
9 understand.

10 And, so, there are references to Capital,
11 Suffolk, and ourselves, within the testimony, sir.

12 SENATOR BONACIC: Thank you very much,
13 Mr. Kane.

14 MICHAEL KANE: Thank you, Senator.

15 SENATOR MAZIARZ: Is Nassau represented by
16 this?

17 MICHAEL KANE: No, sir.

18 SENATOR BONACIC: Our next speaker is:
19 Jeff Gural, chairman of Newmark Knight &
20 Frank [sic].

21 Thank you for coming.

22 JEFFREY GURAL: My pleasure.

23 And thank you for inviting me. And, the
24 other Senators, for taking the time to hear about
25 this issue, which is important, I think, to

1 everyone.

2 And, I want to make it clear, also, that,
3 while I'm a member of the New York Gaming
4 Association, I'm really speaking on my own opinions.
5 A lot of issues relating to racing, we really
6 haven't formulated an opinion on. So, this is my
7 take on things.

8 And for those of you who don't know -- I know
9 Senator Griffo quite well -- I'm chairman of
10 American Racing and Entertainment. And, we own two
11 harness tracks in Upstate New York: Vernon Downs, in
12 Vernon, New York; and, Tioga Downs, located in
13 Nichols, New York.

14 And in addition to harness racing, both
15 tracks have approximately 750 VLTs. And Vernon
16 has a hotel as well.

17 Together, those two tracks employ about
18 600 people. And since we opened five years ago, we
19 have contributed almost \$200 million to education.

20 As a little background: I became interested
21 in harness racing in the late 1950s, since I lived
22 on Long Island near Roosevelt Raceway, and began
23 going there with my friends, as a teenager.

24 Back then, horse racing was very popular. I
25 can remember, on several occasions, having

1 difficulty finding my car in the parking lot because
2 it was so crowded.

3 I continued to go to Roosevelt Raceway in
4 Yonkers; and, occasionally, Belmont, for the
5 thoroughbreds; and, eventually, The Meadowlands,
6 when that track opened in 1976.

7 In the early '70s, along with some other
8 friends, I bought my first standardbred horse. And
9 over the last 40 years, I've owned hundreds of
10 horses.

11 I can't say it was a financial success, but
12 I've gotten many thrills, and met many interesting
13 people, during that period.

14 In the late 1980s, I bought a farm in
15 Dutchess County, for the purpose of raising
16 standardbred horses and selling the yearlings at
17 public auction. That farm has now grown to over
18 130 acres.

19 And, five years ago, I bought another farm
20 near Tioga Downs, in Pennsylvania, to take advantage
21 of the Pennsylvania breeding program.

22 So, together, I own, approximately,
23 45 broodmares; 25 yearlings, which would be sold
24 this fall; and 25 winglings.

25 I also own part of 15 two- and

1 three-year-olds that are currently racing. And that
2 operation employs 15 people, and has 230 acres of
3 farmland as part of it.

4 In 2005, I purchased, with partners,
5 Tioga Downs and Vernon Downs, both out of
6 bankruptcy.

7 We opened both facilities in 2006. And we
8 have recently -- recently expanded the hotel at
9 Vernon in order to attract convention-type business
10 as well.

11 We hope to build a hotel and convention
12 facility at Tioga as well.

13 Unfortunately, the decision to purchase both
14 tracks out of bankruptcy proved to be a financial
15 disaster, as a result of the high tax rate, when we
16 originally opened, and our inability to compete with
17 Turning Stone, which is a full Indian casino, with
18 real slots and table games, and pays no taxes of any
19 kind to anybody.

20 Having said that, we were able to get the tax
21 rate lowered. And, recently, the Governor agreed to
22 eliminate the tax on free-play.

23 As a result of these changes, our business is
24 now profitable; however, based on our total
25 investment, it would not be considered a financial

1 success.

2 The good news for the State is, that the
3 changes that were made in the tax rate have actually
4 increased revenue for education, because it enabled
5 us to spend more money on marketing, which is a key
6 to driving revenue, and allowing us to compete with
7 Indian casinos, as well as casinos in Pennsylvania,
8 New York, and Connecticut. And New Jersey, I'm
9 sorry.

10 I'm sure I was invited here, mainly, to talk
11 about racing, so that will be my focus.

12 I believe both harness racing and
13 thoroughbred racing are at a crossroads, as the
14 continued businesses as usual, without changing the
15 business model, will almost certainly lead to the
16 demise of both sports; harness racing sooner than
17 thoroughbred racing, but both industries have the
18 same problem, which is, an aging fan base, and an
19 inability to attract new and younger customers to
20 the sport.

21 A recent study by McKinsey & Company
22 presented to the Jockey Club, made it clear, that,
23 without a new growth strategy, racing handle and
24 attendance will continue to decline, and our fan
25 base will continue to shrink.

1 According to their research: Approximately
2 2 percent of our fans die each year; 5 percent of
3 our fans stop following the sport; and only
4 3 percent of our fans are new to the sport.

5 I believe the only way to reverse this --
6 that trend, is to spend more money on drug testing,
7 as we clearly have an integrity problem, and more
8 money on marketing, especially to young people, in
9 an effort to make going to the track a fun
10 experience.

11 This model works at the thoroughbred track in
12 Saratoga, which, because of its short meet and its
13 appeal to locals and tourists, is probably the
14 best-attended meet in the country.

15 We have seen a similar effect at Keeneland in
16 Kentucky, and Delmar in California, both of which
17 have relatively short meets, and are considered the
18 number one thing to do when in the area.

19 Year-round racing, however, has proven much
20 less successful. And this also applies at Aqueduct,
21 which races during the winter months, with much
22 lower on-track attendance than Saratoga.

23 The other problem we have, is that we have no
24 stars, as our best horses are typically retired as
25 soon as possible because of their value in the

1 breeding shed. And, as a result, our fans develop
2 no allegiance to our star horses.

3 Last year, when Zenyatta raced at four,
4 because she was a mare, she attracted a huge fan
5 base; a story on "60 Minutes," and was in every
6 major newspaper.

7 I've tried to address this issue by changing
8 the conditions for stakes races at Tioga and Vernon;
9 and The Meadowlands, where I'm in the process of
10 signing a long-term lease.

11 These conditions will force our best
12 3-year-olds to race an additional year at four, as
13 their off-spring will be ineligible to race at the
14 three tracks I control unless the stallion is
15 5 years old or older.

16 Several other tracks are considering a
17 similar change, which I think will address the
18 problem in standardbreds, but I doubt if the
19 thoroughbreds will follow suit, which, in my
20 opinion, will make it difficult for them to market
21 their product.

22 The other suggestion that I strongly
23 recommend, is that the Legislature mandate that a
24 portion of the slots revenue, which is currently
25 going to boost purses, be used for drug testing and

1 marketing.

2 If we took 1 percent of the slots money and
3 used it for drug testing, it would provide
4 Dr. Maylin and his lab in Morrisville with an
5 additional \$1 1/2 million, which I believe would
6 give him the resources to catch the chemists that
7 have infiltrated our sport.

8 Taking an additional 5 percent from the slots
9 would provide approximately \$7 1/2 million for
10 marketing, which, based on my experience at Vernon
11 and Tioga, would help bring young people to the
12 track.

13 This would still leave \$140 million for
14 purses for the standardbred and thoroughbred
15 industry, which I think anyone would agree is more
16 than enough to make the purses substantial.

17 At The Meadowlands in New Jersey, the
18 Governor has decided that horse racing should not be
19 subsidized, so both industries are struggling, and
20 the breeding industry is practically non-existent in
21 New Jersey without a subsidy.

22 I believe standardbreds are down to
23 five stallions.

24 I assume the horsemen will disagree, and
25 claim that the track owners should use their own

1 money for marketing.

2 Unfortunately, the reality is, that racing
3 revenues are a tiny portion of the total revenues at
4 racinos.

5 For example: At Tioga, it's 2 percent. At
6 Vernon, it's 5 or 6 percent.

7 And, obviously, in a capitalistic society,
8 where track owners are trying to be as profitable as
9 possible, it makes no sense to divert marketing
10 money from the casino to racing, as you get far more
11 bang for your buck by using the money to market the
12 casino.

13 This actually helps the horseman because they
14 are getting approximately 10 percent of the casino
15 revenues for purses.

16 The legislature has already done something
17 similar, by mandating that 10 percent of our VGM
18 revenues must go to marketing, and 4 percent must go
19 to capital improvements.

20 So, we already have laws which, basically,
21 take money from the VGM, and provide that -- how
22 it's allocated.

23 We are forced to spend -- and I'm not against
24 it, it's a good idea. I helped write the law, as
25 Joe knows. -- so, we're obligated, that, 10 percent

1 of the VGM revenues must be spent on marketing. If
2 we don't spend it, we lose that money. And,
3 4 percent must go to capital improvements, that
4 would help the lottery.

5 So, when Batavia talks about a \$27 million
6 capital improvement, and I guess,
7 Buffalo Fairgrounds just spent, I don't know what
8 they spent, it's because we have an obligation to
9 spend that money on capital improvements.

10 Which, as Joe knows, we just renovated the
11 hotel at Vernon. It came out beautiful. And it's
12 helped our business.

13 It is my opinion that if people in the
14 industry today want to see horse racing survive long
15 time -- term, they're going to have to take the
16 money out of their own pockets to solve the
17 integrity problem, and take responsibility for
18 marketing.

19 At Vernon and Tioga, I spent a great deal of
20 money marketing, but only because of my love of the
21 sport, and the fact that I own two breeding farms.

22 If that were not the case, it would make much
23 less sense. Although, at Tioga, where we have
24 integrated the racing and casino, you could argue
25 that we do see a benefit from increasing attendance

1 for racing.

2 Unfortunately, Tioga is the only track in the
3 state that was built from scratch, and as a result,
4 we were able to completely integrate both the racing
5 and the casino.

6 All the other facilities were renovations of
7 existing racetracks. And, obviously, they weren't
8 built from scratch, so that there's much less
9 integration. Even at Vernon, it's totally not
10 integrated, which is discouraging, but that's the
11 way it is.

12 Unfortunately, I think, without these
13 changes, both the support of harness racing and
14 thoroughbred racing will have -- has a -- have a dim
15 long-term future, as we will continue to see our
16 older customers disappear.

17 In the your letter inviting me to speak, you
18 also listed several subjects that you wanted me to
19 discuss, and I will focus the remainder of my
20 testimony on the questions that you raised.

21 Before discussing the OTB issue, in the
22 interest of full disclosure, as part of my deal to
23 lease The Meadowlands, I'm also opening a new OTB
24 facility in Bayonne, New Jersey, right over the
25 Bayonne Bridge.

1 Personally, for the success of that project,
2 I would prefer to see New York City OTB never
3 reopen, so that I can attract customers from
4 Staten Island and -- to Bayonne, and Manhattan to
5 The Meadowlands.

6 So, personally, I would like to see
7 New York City OTB never reopen.

8 Having said that, I'll try to be objective,
9 and keep in mind, wearing my New York State hat, I
10 do believe the Legislature should allow the
11 racetracks in the -- the racetracks in the state to
12 reopen New York City OTB with a completely different
13 business model.

14 Every borough should have one or two large
15 OTBs, with a restaurant, sports bar, et cetera.
16 And, allow -- also allow Easy Bet Terminals in bars
17 and restaurants, similar to what has been done on
18 Long Island and Upstate New York by Capital,
19 Western, and Nassau, and Suffolk, OTB.

20 I think that NYRA should to be the lead
21 agency in this effort, but should include all of the
22 other tracks in the state, as partners, more or
23 less, along the lines that we had originally agreed
24 to when we tried to rescue New York City OTB.

25 As far as forcing consolidation of all

1 OTBs, I think certain functions should be
2 consolidated, like tote systems, Internet and phone
3 wagering. But, marketing, real estate, and other
4 administrative functions should probably stay the
5 way they are.

6 On the subject of expanding our current
7 facilities to include casino gaming, including table
8 games, poker, and possibly bingo, I think that will
9 have a very positive impact on the horse-breeding
10 and racing industry.

11 Table games and poker bring a much younger
12 customer base, and that is the same customer we are
13 trying to attract to racing.

14 If you go to Vernon, you'll see one customer
15 base. If you go to Turning Stone, which is
16 five miles away, you see a completely different
17 customer base: college kids, young people.

18 And I think, if we're able to get them into
19 our facilities by having table games, there's a
20 better chance that we can interest them in racing.
21 At least they know, that, when the races are over,
22 they can go to the casino and play the kind of games
23 they enjoy.

24 That would -- and would make it, as I said,
25 much easier for us to attract young people to

1 racing. If we don't attract young people,
2 mathematically, you don't have to be a genius to
3 figure out, ultimately, we're going to be in big
4 trouble.

5 I would expect that adding casino gaming
6 would also increase slots revenue. And the racing
7 industry receives approximately 10 percent, so they
8 would see a benefit there as well.

9 I believe a constitutional amendment should
10 include a component, whereas the net funds generated
11 go to the vote -- generated should go to the voters,
12 know exactly where this money is going to be used,
13 rather than just have it go into the general fund,
14 which everybody -- it seems to me, that the voters
15 are much more willing to allow expansion of gaming
16 when they know the money's going to be used for
17 something that's important, like education.

18 And I think, as it's has been said, once
19 Aqueduct opened, we'll be giving -- the racinos in
20 the state will be giving over a billion dollars to
21 education next year. And that's a lot of money.

22 I also think it is important to limit the
23 expansion of gaming to the existing racinos, as, by
24 looking at a map, they are fairly well distributed
25 throughout the state.

1 Allowing the existing racinos to add
2 table games would be a major job creator, as these
3 type of games require two or three people at a time
4 to run.

5 As to the question of whether horse racing is
6 a growing sport, I think I've addressed that
7 previously, as the current business model clearly
8 does not work.

9 I do not believe the OTB should be authorized
10 to accumulate millions of dollars of cash, as that
11 money should be returned to the local communities
12 where the money is generated from, as we heard
13 prior.

14 I do not believe additional taxation of
15 racing purses is warranted, other than my previous
16 comment relating to using a portion of the slots
17 money for drug testing and marketing.

18 I do not believe that State Racing and
19 Wagering Board members should be paid on a per-diem
20 basis, as I believe the current system of annual
21 salaries is appropriate.

22 I would expect that the economic impact on
23 thoroughbred racing, with the opening of Aqueduct,
24 will be positive, as it will enable NYRA to operate
25 in the black, and allow their purse structure to

1 keep them as the number one thoroughbred operation
2 in country.

3 Without this, it makes it difficult for them
4 to compete with other states that have a large
5 subsidy from slots or casinos.

6 On the other hand, it will probably have a
7 negative impact on purses at Yonkers, as one would
8 expect that some of the Yonkers customers will
9 patronize Aqueduct, and shift some of that business.
10 But, I think we all expect that.

11 As for the issue of regulating out-of-state
12 ADWs, it would seem that this should be studied
13 further, but some form of regulation, and possibly
14 taxation, should be considered.

15 As far as the issue raised earlier about the
16 exclusivity, none of us think that we have slot
17 machines.

18 I don't consider that we have slots. We have
19 VLTs. It's against the law for us to have slot
20 machines.

21 We changed the name, to casinos, from
22 racinos, simply as a marketing effort, because I
23 don't think anyone knows what a "racino" is.

24 So, clearly, we're partners with the State.
25 60 to 70 percent of our revenue goes to the State.

1 We know the State is struggling. And it would seem
2 kind foolish not to try to get people to come to our
3 facilities.

4 And that's the only reason we changed.

5 But, it's illegal for us to have slot
6 machines. And I would hope that -- that, maybe, let
7 the courts decide whether or not these Western
8 tracks have slot machines.

9 I don't think they do. I think they have
10 VLTs. And, hopefully, they're not in violation of
11 the compact.

12 You know, in conclusion: I think the focus
13 of government today has to be job creation. And
14 adding table games at my two tracks would allow me
15 to compete with Turning Stone and Pocono Downs, and
16 add hundreds of jobs, and keep money that is
17 currently being spent outside New York within our
18 borders.

19 It's all about jobs.

20 As we have seen, you know, it's, just, all
21 about jobs. We're really hurting, especially
22 Upstate.

23 Joe knows this, and those of you who are
24 Upstate, where I am. You know, because, coming from
25 New York City, New York City's doing fine. But when

1 you go Upstate, boy, it's a different story.

2 In Sullivan County, where I spent some of the
3 best years of my life, it's real depressing up
4 there.

5 So, I think this is something, that, for
6 better or for worse -- and, frankly, I'd be
7 shocked -- I know there's going to be some testimony
8 later from people who have a moral objection to
9 gambling, and I understand that. But, in a perfect
10 world, maybe there'd be no gambling. But, there's
11 gambling all around. We're surrounded by gambling.
12 And, people like to gamble.

13 And we give a lot back, up at Tioga and
14 Vernon. Joe knows this.

15 We had a concert earlier this year -- he was
16 there -- where, we gave all of the proceeds of the
17 concert to the local food bank. We raised \$60,000.

18 And we're -- I'd be shocked if you could find
19 ten people in Tioga County who think it's a bad idea
20 that I built that place. "Ten."

21 And I don't know anyone who thinks it's a bad
22 idea. And I'm constantly thanked by the people
23 there.

24 And I say: Do you come here often?

25 "I love it. I lose money, but I love it.

1 Thank you very much. I love coming here. It's a
2 lot of fun."

3 We have promotions all the time.

4 We had a concert Thursday, that we had,
5 three, four thousand people. We charged 20 bucks.
6 Half our customers are comp.

7 So, you know, in conclusion: I'd just like
8 to thank you for inviting me to speak. And I would
9 be happy to answer questions or follow-up that
10 anyone has relating to the industry.

11 As you may have surmised, I have invested
12 heavily in this industry, and would like to see it
13 make the necessary changes that will ensure its
14 long-term future.

15 Thank you.

16 SENATOR BONANCI: I want to thank you for
17 your testimony.

18 I have a couple questions.

19 Since you've been at Vernon Downs, have you
20 ever heard any discussions of the issue of
21 exclusivity with the Oneidas, at all?

22 JEFFFREY GURAL: No.

23 SENATOR BONANCI: Okay.

24 My second question: You know, I have spoken
25 to many racing people, that have come and testified,

1 and have spoken to me, but they never put an
2 exclamation point on the integrity and drug testing
3 as much as you've talked about it.

4 Now, are your remarks based on your
5 experience of your two tracks, or do you think this
6 is something that's widespread in the state of
7 New York?

8 JEFFFREY GURAL: I think the perception,
9 clearly, is that it's widespread.

10 I own -- what I do, the easiest thing for me
11 to do, because drug testing is tough, because these
12 guys are ahead of the -- you know, why would you put
13 a drug into a horse if you know they're going to
14 test for it, and the horse is going to come out
15 positive?

16 So, these guys, it's just like the Olympics.
17 You know, you have bicycle racing. They try to stay
18 ahead of the testers.

19 And what I do is, I use my right of
20 exclusivity, to not allow people with bad
21 reputations to race on my two tracks.

22 And, at Tioga, we do some additional testing,
23 in addition to the State.

24 But, it's clearly a problem.

25 I think if you went into a racetrack today

1 and asked our biggest customers if they think it's a
2 problem, they would tell you, definitely a problem.

3 And, I think it's an easily solve problem.
4 We just don't spend enough money on it.

5 And, if we're going to have \$150 million
6 available to us from the slots, it would seem, take
7 1 percent of it, and use it to -- we have the best
8 lab in the country, and the best expert. Dr. Maylin
9 is considered the expert on drug testing.

10 And taking \$1 1/2 million would enable him to
11 hire, probably, five or six more people, buy the
12 equipment, and send a message to these guys, that,
13 we're going to try to catch them.

14 Because, when I talked to Dr. Maylin, he
15 says, "If I had more money, I think I could catch
16 them."

17 And that's my answer.

18 SENATOR BONANCI: And is that unique to
19 harness, thoroughbred, or both, in terms of the
20 integrity of horse racing and the use of drugs?

21 In your opinion.

22 JEFFFREY GURAL: It probably exists in both.

23 I know much more about the harness racing,
24 but, I think that, you know, it's a crazy business.
25 Any trainer who's successful, the assumption is,

1 he's using drugs.

2 I don't know why anybody would want to be a
3 trainer today, because it's one of the few
4 businesses, where, if you're successful, the
5 perception is, you must be doing something illegal.

6 So, it's a real problem, and I think
7 everybody knows that there's not enough money being
8 spent to tackle it.

9 SENATOR BONANCI: Okay.

10 And my last question is: Your conclusions
11 about the integrity of racing come from
12 conversations with owners of other tracks throughout
13 the state of New York, or just based on your
14 experience on your two tracks?

15 JEFFFREY GURAL: I mean, I've been -- owned
16 horses for 40 years. So, when you see a horse
17 claimed by a certain trainer, and run off and win,
18 you know, by ten lengths, a week later, it makes you
19 think.

20 There's not a lot you can do to a horse, in a
21 week, to make them, you know, that much faster.

22 And we've had trainers in the sport who have
23 been able to consistently claim horses, or take over
24 horses when a owner decides to give them to, what we
25 call, "a drug trainer." It's almost a -- it should

1 be in the dictionary, I guess.

2 And you'll hear -- it's almost embarrassing,
3 because you'll hear the announcer say, "First-time,"
4 somebody; which is the code word for, first-time
5 that it's going to a trainer who's probably going to
6 make this horse go a little bit faster.

7 SENATOR BONANCI: Okay. I don't mean to keep
8 on this subject, but you've tickled my answers that
9 this is something that's worthy to look into more
10 deeply.

11 In terms of, if there were more money in this
12 area, tell me, specifically, how we could eliminate
13 the drug testing in horse racing.

14 JEFFFREY GURAL: Well, truthfully --

15 SENATOR BONANCI: Take us through it.

16 JEFFFREY GURAL: -- the hardest thing to do
17 is to catch them through drug testing.

18 The easier way, would be for the state police
19 to have resources available, to try to catch these
20 guys, because, clearly, there's some pattern.

21 There's a FedEx truck that pulls up every
22 Monday with a package from Mexico.

23 You know, that makes no sense whatsoever.

24 Why would -- or, you know, in my real estate
25 business, when we have problems, we can put a camera

1 in the ceiling, that's the size of a pencil. And,
2 lo and behold, within a week or two, if the pattern
3 persists, we'll catch the guy who's breaking into
4 our buildings, or breaking into a tenant.

5 So, I just think that it's not -- it's not an
6 area where -- it's understandable, that the state
7 government, that there's not a clamoring from the
8 taxpayers, to have, you know, clean up racing.

9 It's a small industry. And I think that, if
10 we were able to take money that we're currently
11 using for purses, a small amount, and maybe give
12 Maylin -- he's the guy you should talk to, because
13 he'll -- he's an expert, and he'll tell you.

14 And, also, maybe give some money to the state
15 police, and have a small group dedicated. It would
16 send a message, if they knew that the state police
17 were involved.

18 Or, the other problem we have is, when
19 they're caught, there's no penalty. The penalty
20 typically is, okay, six months' suspension.

21 Then the guy appeals it; goes to court. By
22 the time they get around to actually making a
23 decision, it's three years later, and he's been
24 training horses for three years.

25 Then, they're so disgusted, that they make

1 some deal: Okay, we'll suspend you for six months.

2 And he says: I'll do it as long as it can be
3 over the winter.

4 He goes to Florida. And, he takes his horses
5 to Florida, goes to a farm, and trains his horses on
6 a farm. Puts somebody else down as the trainer.

7 So, there's almost no penalties.

8 If somebody knew they could go to jail for
9 drugging horses, believe me, it would eliminate a
10 lot of it.

11 And that's -- anybody will tell you that;
12 that the penalties are -- I know we've heard that
13 with the Dutrow issue, where it was raised, that --
14 and -- and, you know, someone's had 80 suspensions,
15 or something, and still training horses at the NYRA
16 tracks.

17 SENATOR BONANCI: Okay, thank you very much,
18 Mr. Gural.

19 Senator Griffo.

20 SENATOR GRIFFO: Jeff, thank you.

21 Just to follow up on what Senator Bonacic
22 said: As we know, you've seen professional sports,
23 obviously, deal with the drug issue.

24 So, what you're basically suggesting, if I
25 understand you, is the same approach should be being

1 taken here with our racing industry, as you see,
2 whether it's in the NFL or major league baseball.
3 And that's not what we're doing now.

4 And your suggestion is, that we approach it
5 similarly?

6 JEFFFREY GURAL: Absolutely.

7 We've seen the Olympics, and that. They just
8 spend more money. They've just allocated the
9 resources to catch these guys.

10 And, absolutely.

11 Same -- same -- and you would think, that it
12 would be almost more important, because people are
13 betting on these horses. And, we're transmitting
14 this stuff through, over state lines. So, people
15 are betting on our races all over the country, in
16 some cases all over the world.

17 So, it's important.

18 SENATOR GRIFFO: The next thing is -- that I
19 would ask you is: When you look at the industry,
20 it's ailing. And in the report that you talked
21 about; the Jockey Club study, talks about racing's
22 shrinking share of the gambling and spectator
23 audience, and the gambling dollar.

24 Do you think, if you looked at racing right
25 now, the way it's being done -- we've heard from

1 OTB; we know there are issues with NYRA -- should we
2 be looking at a -- developing a whole new and
3 different structure and approach, maybe, to, how
4 it's organized, and monitored?

5 Is that an option that should be considered,
6 and reviewed?

7 JEFFFREY GURAL: It has to be considered,
8 because the current -- you know, what's the
9 definition of, "insanity," is doing the same thing
10 over and over again.

11 All you have to do is go to -- you know, look
12 at the statistics that the Jockey Club puts out, or
13 that the Racing and Wagering puts out.

14 I think we all recognize, without slot
15 machines, there would be no harness tracks in
16 New York State. So, they've saved the harness
17 industry, totally.

18 I think, you know, we have this year-round
19 racing.

20 It's -- Saratoga is -- the difference is,
21 like, when -- I go to Saratoga for a week, every
22 year. And I tell people, "I'm going to Saratoga."

23 And they say: Oh, Saratoga, that's great.
24 It's a lot of fun.

25 If I told someone I was going to Aqueduct, in

1 December, they would say, "Gee, I don't know if I
2 want Jeff managing. He might pull things."

3 You know, I mean, it's the "in" thing to do,
4 to go to Saratoga.

5 It's not the "in" thing to do. It used to be
6 the "in" thing.

7 When I was a kid, it used to be the "in"
8 thing to go to the track. That was it.

9 If I said to people, on a Saturday, "Let's go
10 to the track," I would need two tables at
11 Roosevelt Raceway.

12 If I had a horse racing, I would need two
13 tables at Roosevelt Raceway, the number of people
14 that wanted to go with me to Roosevelt Raceway.

15 Today, I have one friend left that will go
16 with me to the track, if I have a horse running at
17 The Meadowlands, or Yonkers, or someplace.

18 So, clearly, we need a new model. And, you
19 don't have to be a genius. Go look.

20 Our customer base are older. And, like me,
21 I'm older.

22 And, I think, you know, even though everybody
23 talks about the great success of the
24 standardbred-breeding program, if you look, in 2004,
25 they bred 800 more mares, before we had VLTs, than

1 they do now, than they did last year with VLTs.

2 That's shocking.

3 So, the number of mares being bred in
4 New York has actually declined by a third.

5 So I think what's going to happen, Joe, is,
6 there are not going to be enough horses to race at
7 these tracks, ultimately, which is going to be a
8 good thing. It's going to shrink the number of
9 race days.

10 But, right now, the horsemen, they want to
11 race their horses. And I understand that. But, our
12 customers have voted with their feet, on this
13 year-round racing, and, you know, they've gone to
14 other forms of entertainment.

15 And, I think we've got to come up with a new
16 plan, which everybody agrees with. I don't think
17 it's -- I'm not, you know, the first one to say
18 that. But, I think you guys have an opportunity,
19 since you're -- you've taken the interest. It's
20 really the first time I've been asked, in
21 five years, by a committee like this for my opinion.

22 I think you have an opportunity, because I
23 think we're going to address, the table-games issue,
24 I think we should address the OTB issue, and I think
25 we should address the integrity, and, how to make

1 horse racing a viable business; because, I don't
2 think the taxpayers want to support a business
3 that's -- you know, has no fan interest. That's
4 silly.

5 SENATOR GRIFFO: And the last question, on
6 the concern that we've expressed here on saturation,
7 when you look at gaming, and you've had a couple of
8 ideas that you've suggested; and, mindful of the
9 exclusivity that exists in some of the compacts: Do
10 you foresee -- and you talked about different target
11 audiences in certain cases -- but, if some
12 facilities we're allowed to expand, do you foresee
13 how you would be able to complement one another; as
14 opposed to, cause a problem, if -- relative to
15 survivability, with Native American facilities, as
16 well as, at racinos, or if certain racinos are
17 identified, for gaming-table games?

18 JEFFFREY GURAL: Well, I think, with the way
19 the racinos are currently located, we really don't
20 currently compete very much with each other.
21 Possibly, Buffalo and Batavia compete/overlap a
22 little bit.

23 But, by and large, the way we have it now,
24 you know, we all have -- if you drew a circle of
25 50 miles around each of our tracks, because that's

1 the market.

2 Our customer base is 50 miles. We're --
3 we're -- you know, now, at Aqueduct, it may be
4 different, because Genting is a world-class gaming
5 organization. And, my guess is, they're going to
6 build something spectacular there.

7 But, you know, the rest of us have built
8 regular, you know, racinos.

9 And, so, I think that, if you look at the
10 model of, Vernon versus Turning Stone, as you know,
11 I've -- you know, it was a horrible mistake buying
12 Vernon and reopening it. I've lost \$50 million.
13 I'll never get it back. It's just, my own
14 stupidity. I have no one to blame but myself.

15 Although, frankly, I honestly thought Spitzer
16 would shut them down, because it's an illegal
17 casino. But, he didn't.

18 So, there's no way we can compete with Indian
19 casinos.

20 If there are Indian casinos within a 50-mile
21 radius of our facilities, we're in trouble.

22 They pay either, nothing, like Turning Stone
23 pays; or, when -- or they would pay 25 percent. But
24 they don't pay it anymore, because they believe they
25 don't have to pay it.

1 And in talking to John Sabini recently, he
2 said, there's some new Indian casinos that are
3 opening that are completely illegal, and not even
4 being regulated by anyone, that are outside the --
5 the only -- Indian Nation.

6 So, it's a real dangerous thing.

7 But, you know, the Indian casinos pay
8 25 percent, and nothing on table games. And most of
9 us pay, you know, 60 percent. And we would be
10 willing to pay, roughly, 15 percent on table games.

11 So, to -- I think we've got a good setup. I
12 think -- I think that we could easily -- we have --
13 there are nine facilities. And I think, if they all
14 had table games, and I guess, ultimately, something
15 will happen on Long Island, with the Shinnecocks, I
16 think we'd be covering -- blanketing the state, and
17 maximizing revenues for the State, because we pay a
18 much higher tax rate than the Indians. But, as long
19 as they're willing to pay the 25 percent, I think we
20 could live with that.

21 At Turning Stone, it's a problem. They pay
22 nothing, and, it's hard to compete.

23 SENATOR BONANCI: Senator Nozzolio.

24 SENATOR NOZZOLIO: Thank you, Mr. Chairman.

25 Thank you, Mr. Gural.

1 First, congratulations on, as you call it,
2 your stupidity, for rehabilitating Vernon, and
3 establishing Tioga. Your investment in New York is
4 important, and we appreciate that.

5 A couple of things, though, I -- you
6 mentioned in your testimony, I need to challenge.

7 And the first is, the issue of the commitment
8 of more funding, particularly from the -- and I
9 don't know if you said it had to be earmarked from
10 racino revenue, for the drug-testing issue.

11 It's really, your comments, whether they're
12 accurate or not, are really an indictment of the
13 Racing and Wagering Commission, and the chairman of
14 which you mentioned, John Sabini.

15 If the testing is not being done adequately
16 and aggressively, is not that an indictment of them,
17 as opposed to other enterprise?

18 JEFFREY GURAL: No, because John is doing
19 the best he can with the resources that are being
20 made available.

21 I don't know for a fact, but I'll bet you,
22 they've been reducing the amount of money that they
23 give him for drug testing, every year.

24 So --

25 SENATOR NOZZOLIO: The question that I

1 have --

2 JEFFFREY GURAL: So, it's not fair to blame
3 him.

4 Give him the money, and he'll solve the
5 problem.

6 SENATOR NOZZOLIO: -- well, if it was a
7 financial issue, I think that certainly should be
8 addressed. And it's one that we will put on the
9 laundry list of this review.

10 And I guess I want it to be clarified,
11 though, that, racinos were established, and that
12 element of gaming was established, not to help,
13 necessarily, any enterprise, but to promote the
14 horse racing industry in New York State.

15 And, to me, right now, we are faced, at a
16 very critical juncture, that the horse racing
17 industry -- and your -- you have a multi-state
18 view -- that, it's my view, that we are not
19 competing with other states, appropriately,
20 adequately. New York is not presenting enough
21 incentives to our horsemen, our trainers, our -- the
22 infrastructure established around racing.

23 And what's happening is, the racing industry
24 is voting with its feet, and leaving the state.

25 And I know you -- that our concern, is that,

1 originally, racinos were established to enhance the
2 horse racing and development in New York.

3 Clearly, that is not happening, and to the
4 degree that we need it to happen.

5 Adding additional regulation, more money for
6 testing, I can put that aside for discussion on
7 another day.

8 Adding more focus on marketing, I think
9 that's an important component: marketing the product
10 that's out there. And that's, the obligation, and
11 the role, of the tracks.

12 And, to have a different share of that
13 revenue, to let the private sector engage in it, I
14 think makes sense, and could be aggressively
15 supported.

16 The issue, though, of the percentage for
17 those who develop the horses, how do you come down
18 on that issue?

19 JEFFREY GURAL: I think the breeders are
20 struggling.

21 I'm a breeder, and it's not profitable.

22 And I know a lot of small breeders in
23 New York, on the thoroughbred side, have gone out of
24 business.

25 I will tell you, that, in the standardbred

1 business, New York is considered very successful,
2 from the standpoint of an improved product.

3 Yonkers has great purses, first-class
4 drivers, a first-class product.

5 Even Tioga, we have -- Tioga and Vernon, we
6 have -- at Tioga, next Saturday, I have the first
7 leg of the Triple Crown, in pacing: The Cane Pace.

8 We have a major stake -- we have a major --
9 this year, at Tioga, I had the winner of
10 The Hambletonian, and the winner in
11 The Meadowland's, pace. Both race at Tioga Downs.

12 So, I -- we're doing well.

13 Aqueduct, and NYRA, the thoroughbred horsemen
14 will be fine once these slot revenue kicks in.

15 They've suffered, because of the fact that
16 it's taken longer than we had hoped to get Aqueduct
17 open, up and running.

18 But, I think that the thoroughbred horsemen
19 will be okay.

20 The thoroughbred breeders, it's a real
21 difficult -- it's real difficult, because the costs
22 of raising a horse just keep going up and up.

23 And, the same problem; the number of people
24 who want to buy these horses, they're aged like me.
25 You know what I mean?

1 My kids have no interest in it. So -- and
2 most of my -- most of the people I know in the
3 business that breed horses, we started going, like I
4 said, when -- to Roosevelt, 40, 50 years ago, in the
5 heyday.

6 And, we need to get young people in, as fans,
7 and then, hopefully, they would buy yearlings.

8 That's what we need. And that would help the
9 breeders.

10 Because, the reality is, when you buy a young
11 horse, the odds are, it's not going to be a
12 champion.

13 SENATOR NOZZOLIO: And, Mr. Gural, that's
14 my -- we share that concern.

15 And I look at what's happening to New York.
16 It's not a universal situation, in that, people are
17 leaving New York to go to other states. And it
18 appears that, in large part, the reason for that, is
19 that there's a greater commitment to purse
20 development in those other states.

21 JEFFFREY GURAL: Well, Pennsylvania gives
22 much more money to the breeders than New York does.
23 That's a decision that the government there made.

24 So, if you're a breeder -- as I said, I have
25 a farm in Tioga, but it's in Pennsylvania, simply

1 because, to take advantage of the breeding program.
2 They have a great program.

3 I got a check last year for, like,
4 sixty, seventy thousand dollars.

5 Like -- like, you know, I had a horse that
6 won, like, \$200,000 in Pennsylvania. And I got,
7 like, 60,000, as the breeder, which is phenomenal.

8 Whereas, in New York, I would have
9 probably -- I got ten -- I had a horse in New York
10 that won more money; that won 300,000. I got \$5,000
11 back.

12 So, clearly, if you -- I didn't address that
13 issue, but it's something that we should certainly
14 look at, helping the breeders, because, in New York,
15 the breeders are struggling.

16 SENATOR NOZZOLIO: And --

17 JEFFFREY GURAL: And that could be -- that
18 could be diverted, some money, to help the breeders.

19 SENATOR NOZZOLIO: And the breeders, the
20 horsemen, that was the whole reason to establish
21 these racinos in the first place.

22 JEFFFREY GURAL: Right.

23 SENATOR NOZZOLIO: That it wasn't the other
24 way around.

25 It was, the public decided that this was

1 going to be a commitment, yes, to help education,
2 but, also, to help the job development that is
3 commensurate with this.

4 And, again, I want to congratulate you on
5 your job development, and your commitment to
6 New York jobs. You've done a great deal to help the
7 Upstate economy.

8 And for that, you are to be thanked,
9 aggressively, and appreciatively.

10 But, as we look forward, I want to see the
11 focus more on, how we change the formula to help,
12 all horsemen, all breeders, in New York State, as
13 opposed to having them take their operations to
14 other states.

15 JEFFFREY GURAL: Well, again, you know, we
16 could do that.

17 I still think it comes down to, we've got to
18 get young people back as, fans, and potential horse
19 buyers. And people, you know, we've got a market.

20 I have people -- Tioga, Vernon, I get a lot
21 of people. But, they come, because it's fun. They
22 don't bet a lot, because they don't know how to read
23 the program.

24 I've probably done a bad job.

25 But, again, when your revenue is so -- it's

1 2 percent at Tioga.

2 So, you know, how much should I kill myself
3 to, you know, get that revenue up?

4 I just like having people in the grandstand.

5 Sunday, we filled the grandstand, because we
6 had a thing, a promotion, where we dropped
7 golf balls out of a balloon, and you could have won
8 a million dollars.

9 The place was packed.

10 And it was the first Sunday we ever did over
11 \$3 million of business. And it was directly because
12 of this horse racing promotion, because Tioga
13 integrates the racing.

14 I'm going to try it at Vernon next year, it
15 was so successful.

16 But, it's, you know, the horsemen have to be
17 willing to make some changes. I think you'll see,
18 I'm not sure they are. I think they like it just
19 the way it is. They look at it, and say, "Hey, the
20 purses are great," because, they are.

21 I mean, the purses at Yonkers are phenomenal.
22 And the purses at the other tracks are good.

23 And I think they're being shortsighted.

24 You have to invest money in your -- if you
25 don't believe in yourself, then the Legislature

1 should turn their back on you, because, if you're
2 not willing to invest for -- on your own, for your
3 own success.

4 And the young people; we have a lot of young
5 people. Grooms, drivers, they have no future if we
6 don't get this figured out.

7 SENATOR NOZZOLIO: Well, thank you very much
8 for your insights.

9 SENATOR MAZIARZ: Did anybody win the
10 million?

11 JEFFFREY GURAL: Fortunately, no.

12 [Laughter.]

13 JEFFFREY GURAL: We had insurance, but you
14 want to know something?

15 The fifth -- we gave -- the closest to the
16 hole, won \$5,000.

17 We gave out about \$10,000.

18 The fifth-closest to the hole would have won
19 the \$1 million. That's how close. And it was only,
20 like, three or four inches away from the --

21 SENATOR MAZIARZ: You dropped them out of a
22 balloon?

23 JEFFFREY GURAL: We didn't. We were supposed
24 to, but, if you remember what the weather was like.

25 But, we ended up dropping them out of a

1 forklift that went up about 40 feet. So, we ended
2 up dropping them out of that.

3 But, we had the balloon there. He just
4 wouldn't go up.

5 SENATOR NOZZOLIO: (inaudible) job
6 (inaudible) defend us.

7 SENATOR MAZIARZ: It was, where all the trial
8 lawyers in the stand, waiting for the golf balls --

9 SENATOR BONANCI: Jeff, it looks like a trial
10 lawyer's dream, those golf balls hitting somebody.

11 Jeff, thank you very much.

12 JEFFFREY GURAL: Thanks, guys.

13 SENATOR BONANCI: I'm going to just take a
14 five-minute adjournment, to stretch your legs. And
15 we'll start immediately at five to one.

16 [A recess was taken.]

17 [The hearing resumed.]

18 SENATOR BONANCI: Can I have your attention,
19 please?

20 We would like to resume the public hearing.

21 Our next speaker is: Tracy Egan, the
22 executive director of the Thoroughbred Breeding and
23 Development Fund; and, Jeffrey Cannizzo, executive
24 director, New York State Thoroughbred Breeders
25 Association.

1 Welcome, and thank you for being here.

2 You may not have to say anything after
3 Jeff Gural spoke.

4 [Laughter.]

5 TRACY EGAN: I don't know. Jeff -- this
6 Jeff, almost jumped out of his chair a few times.

7 So, while I speak, Jeff can calm down.

8 And, I thank you for inviting me.

9 I've been on the job for about 16 months, and
10 I hope that I've have made some changes there, that
11 will benefit our breeders all across the state.

12 I'm trying to restrict my answers to your
13 questions, to questions that relate to the
14 Breeding Fund, and that I know something about.

15 Question 1: On behalf of the Fund, and the
16 thousands of people that it serves, I'm happy to see
17 the Legislature is looking into opening up betting
18 sites in New York City. The closure of
19 New York City OTB hurt the state's breeders
20 significantly, and continues to affect our programs,
21 because it has traditionally supplied more than a
22 third of the Fund's revenue. 36 percent, in the
23 most recent year.

24 It was our single largest source of income.
25 And the Fund and its stakeholder need that source of

1 revenue replaced by betting kiosks, betting
2 machines, or parlors in New York City.

3 There is a gambling audience for our sport
4 that hasn't yet turned to phone or on-line wagering,
5 and the State needs them to come back to a regulated
6 wagering venue.

7 Do you want me to review how the Fund has
8 been hurt by the bankruptcy? -- because I'm sure you
9 are all familiar with it.

10 UNIDENTIFIED SPEAKER: I think, for the
11 record, it would be very helpful.

12 TRACY EGAN: Okay.

13 In 2009, the Fund was owed \$2.1 million in
14 pre-petition money, which was never collected.

15 In 2008, the year before the bet-makers
16 stopped making timely payments to the Fund,
17 New York City OTB had paid us \$3.8 million.

18 Remember, this was more than a third of our
19 income, and the state's breeders took it on the
20 chin.

21 The Fund did not have enough money to pay
22 breeders all that they were owed in 2009. The Fund
23 was forced to change the Breeders' Awards programs.

24 It stopped paying awards to the fourth place,
25 which, by statute, we should. And still pays only

1 first through third.

2 It cut breeders' awards to second- and
3 third-place finishers in half.

4 It instituted a 30 percent withholding, which
5 is still in place, to make sure that the Fund had
6 sufficient revenue to pay all awards' earners
7 equally in case there was not enough money for the
8 entire year to pay full awards.

9 In 2010, the Fund did pay back 100 percent of
10 withholdings, plus it made a supplemental payment to
11 breeders in early 2011.

12 The Fund was forced to drop purse enrichment
13 for 2011. It did not anticipate having sufficient
14 revenue in 2011 to pay purse enrichment to the
15 Finger Lakes and NYRA.

16 While NYRA's upsurge in business has
17 benefited the Fund, because it pays us as if its new
18 phone and on-line customers are making their wagers
19 on the track, it has only made up for about a third
20 of what New York City OTB paid us.

21 Many farm owners in the state could not hold
22 on for a brighter day. As you can read in our
23 annual report for 2010, which is viewable on-line at
24 NYBreds.com, we note a decline in breeding farms,
25 from more than 430 a few years ago, to just 307.

1 The Mayor's bred reports indicate many
2 breeders were forced to cut back on production.

3 In 2008, 1,857 mares were bred.

4 By 2010, 519 fewer mares went to the breeding
5 shed, and that meant, just 1,338 mares were bred to
6 produce foals for 2011. And, of course, not every
7 mare will continue to produce a live foal.

8 These declines are red flags to all those who
9 care about agriculture and preservation of farmland
10 in our state.

11 These declines are red flags to all those who
12 care about the racing product in our state. We need
13 New York-breds to take their place in the starting
14 gates at the State's tracks, for the benefit of
15 handle, to create income for the State, and to help
16 reverse the decline in interest in horse racing, as
17 a sport, and as a gambling proposition.

18 In spite of the declines, by the way, I'd
19 like to point out, that New York-breds are shining
20 in the sales ring and on track.

21 Sheikh Mohammad of Darley purchased a
22 New York-bred at Saratoga for a half million
23 dollars.

24 A New York-bred brought the second highest
25 price at the most recent OBS yearling sale; \$100,000

1 for a son of Political Force, bred by
2 Carolyn Rae Swenson (ph.).

3 And the State's roster of Grade 1 winners
4 keeps growing.

5 I'd like to take this opportunity to
6 congratulate the breeders of the New York-bred,
7 2-year-old Weemissfrankie, who won the Grade 1 at
8 Belmont Debutant, on Saturday, in California.

9 She joins a growing list of New York-bred
10 horses that demonstrate that quality is becoming a
11 consistent hallmark of our product.

12 She's the daughter of the late-stallion
13 Sunriver, who stood at Empire Stud near Hudson,
14 New York.

15 And I believe that the Fund has given
16 consistent revenue sources that allows us to deliver
17 on promises we've advertised, we can produce more
18 Grade 1 New York-breds, such as Weemissfrankie,
19 Haynesfield, and, A Shin Forward, who notched his
20 Grade 1 victory in Japan.

21 At the board meeting in August, the members
22 adopted a budget revision. Largely based on the
23 fact that NYRA contributed so much more than we
24 expected, that we were able to make \$820,000
25 available for purse enrichment.

1 Purse enrichment was desperately needed by
2 the horsemen and -women at the Finger Lakes.

3 NYRA did not need the money, because of the
4 infusion of money from the former New York City OTB
5 customers, and because of their expected VLT money
6 that will be part of the revenue for this year.

7 Still, the Fund had to pay both entities,
8 because the statute dictates, that, if we pay one
9 track, we must pay the other.

10 So that is something you may want to address
11 as you consider making changes that could help the
12 racing product and New York breeders.

13 In this part of the state, especially, farms
14 are competing with boarding operations in
15 Pennsylvania.

16 In this part of the state, horsemen are
17 always keeping an eye on the purses being offered by
18 Penn National and Presque Isle Downs.

19 In all parts of the state, breeders are aware
20 that the New York program is the envy of every other
21 state, and those states would love to attract our
22 program participants to move over to their
23 state-backed programs.

24 The Fund is keenly aware that we serve
25 owners, breeders, and stallion owners in all parts

1 of New York State. We recognize that, in every
2 section of our state, people are struggling to stay
3 in business, and we want to help.

4 We appreciate that you are holding this
5 hearing, because you have the same goal: to help the
6 New York thoroughbred breeding and racing industry.

7 Question 6: Where is horse racing a growing
8 sport, and why?

9 This is the billion-dollar question.

10 It is thriving in Hong Kong, where more than
11 \$80 billion a year is wagered on horse racing.

12 My knowledge of racing in Hong Kong is
13 largely based on having heard Bill Nader, the
14 executive director of racing for the Hong Kong
15 Jockey Club, speak at a symposium at Belmont earlier
16 this year. It was a symposium on race-day
17 medication.

18 Also, I recently read a lengthy interview
19 with Mr. Nader in the "Pollock Report."

20 So, Hong Kong thrives because the government
21 there loves it. It pays nearly \$2 billion,
22 U.S.-dollars equivalent, annually, in taxes. It's
23 the largest single taxpayer in Hong Kong.

24 So, their government has an interest in a
25 healthy horse racing industry.

1 The fans love the on-track experience. From
2 food, to the racing plants themselves, at Sha Tin,
3 and Happy Valley, customers are more than satisfied.

4 Also, Nader stresses, and he can't stress
5 this enough: The consumers there, the bettors, have
6 absolute faith that the racing product is honest.

7 SENATOR BONANCI: Tracy, excuse me a minute.

8 TRACY EGAN: Yes?

9 SENATOR BONANCI: You gave us the questions
10 and answers, and we can read those.

11 TRACY EGAN: Yes.

12 SENATOR BONANCI: And we have specific
13 questions for you that are not addressed in here.

14 TRACY EGAN: I'd --

15 SENATOR BONANCI: And I know. I have two
16 other speakers.

17 TRACY EGAN: Sure.

18 SENATOR BONANCI: And the Senators have to be
19 out of here by 2:00.

20 TRACY EGAN: Okay.

21 SENATOR BONANCI: And that's not to be rude
22 to you, because, if there's anything else that you
23 want to highlight in that report, we'll listen.

24 But, to read what you already have given us --

25 TRACY EGAN: Sure, okay.

1 I -- well, it's kind of --

2 SENATOR BONANCI: -- if you would kind of
3 highlight.

4 TRACY EGAN: -- picking up on what Jeff
5 meant -- talked about, you know, getting a younger
6 generation of bettors, I think things, such as,
7 having the televised racing product, having
8 high-definition TV.

9 I mean, I didn't used to like watching golf
10 on TV. But, now, with high-def, you can tell if the
11 ball is going to go in the hole or not.

12 With high-definition TV -- and I believe
13 NYRA, this year, is considering having
14 high-definition TV at its racetrack, and putting
15 that on television.

16 For example: NBC Sports' "Versus," won't put
17 anything on their sports channel if it's not in high
18 definition.

19 So, the racing product has to catch up with
20 the times in that regard. Just having it televised,
21 I think, will open up the sport of horse racing to
22 many more people.

23 I think about, they had, uhm, 700,000 or so
24 viewers for the Alabama and the Travers on this
25 Versus network, NBC Sports.

1 And, I know I became interested in sports
2 racing, as a child, watching racing from Big A, with
3 my dad, on Saturday afternoons. It was racing from
4 Aqueduct.

5 That's very important.

6 The Jockey Club is going to reinstitute
7 something that had been out there a few years ago.
8 And the company was bought by another company, and
9 they stopped having a free-to-play site, where you
10 have an imaginary bank roll, and you can read the
11 racing form, and you can place wagers, and you can
12 learn how wagering works.

13 Because, when you're a newcomer to the game,
14 it's -- you don't really know, other than, win, bet,
15 and show. It's pretty easy to figure out.

16 But, what if you want to have an exacta or
17 quinella or triple or superfecta?

18 And these free-to-play sites will help get
19 you interested in the game.

20 And, some people, from that experience, will
21 decide: Ha, I would lose a lot of money. I'm never
22 going to do this.

23 And others may decide: I like this
24 puzzle-solving. I like knowing the percentage of
25 wins my trainer has, how the jockey does, and the

1 breeding pedigree of this horse.

2 And, that's a way to get people interested in
3 the game.

4 He mentioned poker, and how popular it is.

5 It was a dying sport. Casinos had -- had
6 considered it a place, where they had small rooms in
7 the back for the old codgers.

8 The game of poker was revised when they
9 started having a lap cam, in Britain, and they
10 started to televise the games.

11 It came over to America, through the
12 Learning Channel, then it grew to the
13 Discovery Channel, and now it's on ESPN -- one of
14 the ESPN channels -- because, that inside look, with
15 the lap cam, where you can see what people's card
16 are, brings you inside the game.

17 So, for example: A kind of a, helmet cam,
18 with a high-definition video, that could take you
19 inside the game, might also be a way to awaken
20 younger -- younger viewers.

21 I come from a background in television.

22 Younger -- a younger audience for the racing
23 game.

24 SENATOR BONANCI: Okay.

25 Jeff, do you want to jump in?

1 JEFFREY CANNIZZO: Yeah, sure.

2 SENATOR BONANCI: Because we all have a
3 series of questions about the breeding business.
4 So, why don't you jump in.

5 JEFFREY CANNIZZO: I -- you have a hand-out
6 here, which is just a few charts that I think will
7 help paint the picture a little bit, as well.

8 I'm the executive director of the
9 New York Breeders Association.

10 The difference between my organization and
11 Tracy's, is, I'm actually the trade association of
12 all the people that are breeders and make up this
13 state.

14 The Breeding Development Fund is a
15 public-benefit corporation that manages the awards'
16 system and registry.

17 So, that's the difference between the two of
18 us here.

19 It's pretty simple.

20 You were talking about economics. We've
21 talked about job growth.

22 And, I think that we're addressing questions
23 relevant to: How do we develop this business back
24 into what it was once, in the '50s and '60s?

25 And I think there are solutions for that, and

1 we briefed on them quickly. And, I have some
2 thoughts as well.

3 But, the breeding industry --
4 thoroughbred-breeding industry, you know, just the
5 equine industry here in the state, it's important to
6 know, that's the second largest agri-business for
7 New York. It generates about \$2 1/2 billion for the
8 State's GDP. There's 43,000 acres that make up
9 equine land across this state, and it's in
10 50 different counties.

11 So, it's a very unique industry, that's an
12 agri-business.

13 And the important part of horse racing, and
14 horses, is, we talked about the trickle-down effect,
15 I believe, with the casinos.

16 Well, the trickle-down effect in the horse
17 population is just the same, if not greater, because
18 we're -- again, we're talking about agri-business.

19 So, the person, that owns a horse, that
20 boards a horse, to someone who owns a farm, who buys
21 products and services for that farm, who goes to the
22 local grocery store to buy their food, to feed their
23 family; there's a significant trickle-down effect
24 that comes out of the equine community in the state.
25 And it's important to note.

1 Breeders supply this product that we're
2 talking about. You know, there would be no horse
3 racing if people weren't breeding horses.

4 Just, vice versa, there's no racing without
5 the horses that are there. Or the racetrack itself.

6 So, the product that we're talking about,
7 is -- comes from the breeders, and the people that
8 we're discussing.

9 Quickly, I want to talk about the economics
10 that are important here.

11 The last -- and we're -- you heard some --
12 Jeff Gural mention the comparison between
13 out-of-state and in-state, and, well, what's going
14 on?

15 What's the difference between: Why are
16 people are going to Pennsylvania? Why are people
17 going to Canada? Why are surrounding states
18 becoming lucrative, in terms of the thoroughbred
19 business?

20 It's pretty simple.

21 They all have alternative gaming supplying
22 the purse structures that are driving everyone into
23 racing there.

24 So, people race horses -- it's very simple
25 mechanics -- where the money is.

1 Horses follow money. Where the purse
2 structures are the best, that's where the horse
3 population is occupied.

4 Well, Pennsylvania has had VLTs and
5 alternative gaming for a significant number of
6 years. And over the course of those years, people
7 started to flood that state.

8 Canada, same exact equation; people started
9 to enter the Canadian market to breed and own
10 horses, and to race there.

11 Well, in New York State, on the harness
12 side -- and this is another major, major piece that
13 I want to distinguish.

14 There's a significant difference between the
15 harness industry and the thoroughbred industry.

16 And a lot of times, we talk about it, and we
17 might get them a little bit confused.

18 There's a significant divider between the
19 harness business and the thoroughbred business in
20 this state. And there's even a difference between
21 the racetracks themselves between those industries.

22 Now, the harness industry has had these
23 alternative games, VLTs, since the legislation was
24 put in place, and, a few years later, for almost a
25 decade.

1 The thoroughbred business, Finger Lakes has
2 had VLT machines, which has completely revitalized
3 the business there, for a handful of years.

4 Well, we've been waiting for Aqueduct to come
5 on-line since 2001. So, for ten years, it hasn't
6 happened, as we know.

7 And that's why it's going make a complete
8 change.

9 But the important point to mention, is, what
10 those ten years have done to the breeders and owners
11 in this state, is, it's completely drove them out.

12 So, we passed legislation. People entered
13 the New York market.

14 And, why? Well, there's going to be all this
15 new money in New York, to race here. I want to
16 build a business here.

17 So, we had a peak in 2004, in terms of
18 breeders, and horses that were bred here in the
19 state.

20 Since 2004, it's dropped over 40 percent.

21 Where are those 40 percent of those horses
22 gone? Outside state lines.

23 And, Jeff mentioned why it would be hard to
24 recover.

25 Well, the reason that the recovery time is

1 going take a while, is that you don't take your
2 horse and go breed it out back, and expect you're
3 going to have a foal on the ground that's gonna race
4 tomorrow. It's a three-year cycle.

5 So, make plans to breed it, develop the
6 horse, train the horse.

7 Half of those horses don't even make it to
8 the racetrack. And then it enters the grounds, and
9 races.

10 So there's a significant lag in determining
11 this business. And that's part of the problem, why
12 we're going to see it take a while to recover from
13 what's happened in the last ten years.

14 There's projections that we've lost about
15 4,000 jobs because of what's happened outside of the
16 state to in the state.

17 There's ratios that the
18 American Horse Council uses, that they can associate
19 four full-time positions with one brood mare in the
20 state.

21 Well, we've lost, roughly, 4,000 jobs, based
22 on the number of brood mares that have left the
23 state.

24 Quickly, I want to talk about some of the
25 things, well, how we build this back up.

1 And you mentioned, there's two focus groups
2 that make up the important piece of this sport.

3 "The customer." And when I mean "customer,"
4 it's not the guy that goes into -- onto the track,
5 takes his \$2, and buys a hotdog and a soda.

6 It's the guy, that's a customer, that takes
7 his \$2, puts it through the betting window, and
8 fuels this entire system that we're talking about.

9 So, it's the horse-player handicap. There's
10 a lot of terms used for it, but, the wagerer is the
11 number one customer of this sport. But, without
12 them, none of this exists.

13 The second part, "the owner-breeder."
14 Without people producing this product, there's no
15 correspondence between the two.

16 So, it's a simple business: Customer. The
17 product developer.

18 Our industry does the worst job at developing
19 both of them. And that's the problem that this
20 group, and everyone, needs to identify with the
21 sport:

22 How do we build the customer base? Not
23 necessarily the fan, people that are wagering.

24 And, how do we grow ownership, and attract
25 people back into New York, to buy farms, to put

1 money into the horses and build this agri-business?

2 Well, you know, to be specific to some of
3 those in your questions: You know, New York City
4 OTB, from the thoroughbred side, was a huge -- has
5 left a huge vacuum of people in the New York Metro
6 market, that were wagering on thoroughbred racing,
7 that don't anymore.

8 And what's happened is, is, NYRA's picked up,
9 roughly, 30 percent -- and you'll hear more this
10 week, Senator Bonacic, about the specifics of those
11 numbers -- of their business. But the remainder of
12 it, which, there's estimates of, it's about
13 \$1 million a day that's wagered, that's left the
14 state; that's being wagered outside of the state
15 lines on the same sport.

16 But those are New York Metro clients and
17 customers.

18 So, to make the short end of it is: There's
19 this desperate need to have some type of
20 off-track-wagering model in the New York City area,
21 because there's people that, and consumers that,
22 demand that there.

23 And what are they doing? They're leaving, or
24 they're betting through ADWs or Internet platforms
25 that allow them to do so.

1 So, in saying that, current legislation
2 permits NYRA to open up OTB outlets in the
3 New York Metro five boroughs.

4 One of the failures of this sport, is that,
5 back in 1971, when they created the legislation that
6 permitted OTBs to exist, they didn't know how it
7 would shape, they didn't know the way that it would
8 grow, they didn't know what effect it would have on
9 the racetrack.

10 Well, we have seen, over time, what is the
11 effect of that; how the effect has been on the
12 track. It's actually deteriorated from on-track
13 handle, and people going to the races.

14 But what it's also done is, it's created a
15 competition for that same \$2, that exists between a
16 retail outlet and the actual racetrack itself.

17 So, there's a unique opportunity now for the
18 State to get this equation right, and perhaps create
19 a single source of where someone could go wager.

20 And what I mean is, that, NYRA has the
21 ability to go open these outlets and be the face of
22 racing in New York Metro area, which I think is very
23 important.

24 Another other part that piggybacks off of
25 this, is that, we have -- at one point, we had

1 six different OTBs. Now we have five in the state
2 itself.

3 We had six different distribution channels,
4 six different television networks, six different
5 tote companies.

6 The point is, is that it's not easy for
7 somebody to go make a wager. You have to -- you
8 receive a lot of different brands out of this, and
9 there's no one centralized hub to be a brand for the
10 customer, so to speak.

11 What horse racing needs? It needs to be on
12 television, one channel, across the state, on cable,
13 and available in the face of the consumer.

14 That's what the customer wants. That's what
15 the next generation of people that are involved in
16 this.

17 And, right now, we don't have any of that.
18 We're the furthest thing from that.

19 You know, in talking about alternative
20 gaming, the impact of Aqueduct's Casino is going to
21 be huge on the thoroughbred business.

22 Why? We've been waiting for it for
23 ten years.

24 It should have, based on estimates, a
25 \$10 million effect on the breeding industry, on the

1 thoroughbred side, similar to what it's done on the
2 harness side, that you've talked -- you've heard
3 about.

4 The important part that's specific to your
5 question, "Should any constitutional amendment
6 include a component as to where the funds should
7 go?" you know, Senator Nozzolio, you talked about
8 why VLT legislation was put in place, and how it
9 was, essentially, going to affect the racing and
10 breeding industry.

11 I think it's important to remember, that, if
12 we do other sources of table games, we need to keep
13 that in mind, of what effect this is going to have
14 on the breeding and racing industry.

15 So, I think that similar rules should apply
16 if we open up the window to other games.

17 The purse; the taxation on purses: You know,
18 it was the Governor's motto for 2011: There was no
19 new taxes.

20 It's pretty simple.

21 Well, why would we want to go create one new
22 tax in this state, that's on New York State
23 residents, which are New York State taxpayers, the
24 owners of horses?

25 That makes no sense. The complete opposite

1 of what the Governor's motto was this year.

2 And it's pretty simple.

3 You know, there's other ways to find revenue
4 to support the Racing and Wagering Board, and the
5 other entities that govern our sport. We shouldn't
6 be looking to tax the people that we're looking to
7 lure back into the state.

8 Simple business, again.

9 Uhm --

10 SENATOR BONANCI: Are you ready now for a
11 question?

12 JEFFREY CANNIZZO: Sure, sure.

13 Go right ahead.

14 SENATOR BONANCI: I'm going to be quick with
15 you.

16 How does one get the title of "a breeder"?

17 Part owner? Does he have to -- does he have
18 to own a horse? A number of horses?

19 JEFFREY CANNIZZO: It's the person that owns,
20 the mother, or brood mare, and has a foal in this
21 state.

22 So, it's the person that actually owns the
23 mare at the time it gave birth to a foal.

24 SENATOR BONANCI: 100 percent owner?

25 JEFFREY CANNIZZO: It doesn't have to be, no.

1 SENATOR BONANCI: So, there could be
2 ten partners in a horse, they're all breeders?

3 JEFFREY CANNIZZO: That's correct.

4 SENATOR BONANCI: Okay.

5 Do you know how many breeders there are in
6 the state of New York?

7 JEFFREY CANNIZZO: There's several thousand.

8 We have, roughly, 3,000 brood mares in this
9 state, so that's an easy way to contrast how many
10 people are involved.

11 There's, roughly, 35,000 jobs that are
12 created from the equine community in the state.

13 SENATOR BONANCI: When Aqueduct comes
14 on-line, and we have available resources to help the
15 breeding industry, is there Board discretion in
16 terms of the Fund awards? Is it statutory, or is it
17 administrative, or is it a combination of both?

18 TRACY EGAN: That's really a question for
19 the Breeding Fund. The board of director will
20 decide, you know, whether they can reinstitute the
21 awards.

22 The awards that have been promised to people
23 who have foals on the ground now, had been, that
24 they would get 20 -- if your foal is sired by a
25 New York sire, if you finish first, second, or

1 third, you will get 20 percent-equivalent of what
2 that horse earned, first, second, or third.

3 But, there was not enough money, as our
4 income dipped from, like, \$15 million in, 2007, or
5 '8, down to just \$10 million in the last year.

6 There just wasn't enough money to fulfill the
7 promises made.

8 SENATOR BONANCI: But that was a Board
9 decision as opposed to a statutory decision?

10 TRACY EGAN: Yes.

11 SENATOR BONANCI: Okay.

12 My next question: You talked about a
13 distinction between customer and wager.

14 Do you have any statistics now, of the people
15 that participate at tracks, who's a customer, and
16 who's a wagerer?

17 JEFFREY CANNIZZO: NYRA has those numbers.

18 That's a question for --

19 SENATOR BONANCI: Okay, so that's a question
20 I ought to ask NYRA?

21 JEFFREY CANNIZZO: Yes.

22 SENATOR BONANCI: Okay.

23 And last, but not least: Allowing NYRA to
24 take over OTB in New York City, do you see any
25 negative repercussions to that, of them being in two

1 separate businesses that may be different than their
2 mission?

3 JEFFREY CANNIZZO: Well, I think the mission
4 should be one. That's probably part of the problem.

5 I mean, the mission is to drive handle
6 through the windows, which supports this whole
7 equation, which supports the state.

8 We talked about supporting municipalities and
9 State taxes? Well, there's, roughly, \$125 million
10 generated through the pari-mutuel tax every year,
11 for the State, which is the highest pari-mutuel tax
12 across the country.

13 So, New York State makes more on horse racing
14 than any other state in the country.

15 And -- but --

16 SENATOR BONANCI: But -- go ahead, Jeff.

17 JEFFREY CANNIZZO: -- but, I guess my -- the
18 point is, is that, that should to be goal: we need
19 to drive handle through the window.

20 SENATOR BONANCI: But, as I understand it
21 now, if I make a bet out-of-state, NYRA gets a piece
22 of that action.

23 And, if I make a bet to an OTB, they get a
24 much smaller piece of action than what NYRA would
25 have gotten from an out-of-state bet.

1 JEFFREY CANNIZZO: The customer does -- who
2 gets smaller?

3 SENATOR BONANCI: The horsemen, and the
4 breeders.

5 JEFFREY CANNIZZO: Yeah -- well -- but --
6 yes.

7 So, here's -- the difference is, for
8 specific -- and that's part of the problem with
9 this; is that the law is completely confusing.

10 SENATOR BONANCI: No, no --

11 JEFFREY CANNIZZO: And based on, where you
12 bet, and what time you bet, and what track you bet
13 at, or what OTB it is, the equations are all
14 different.

15 But, in terms of breeders, breeders only get
16 money -- and the easiest way to look at it -- is, if
17 someone that's placing that bet has their feet
18 stepped inside New York State lines.

19 SENATOR BONANCI: No, I understand that.

20 JEFFREY CANNIZZO: And --

21 SENATOR BONANCI: But having NYRA control an
22 OTB, they can, perhaps, make decisions on where that
23 bet should be, steered, or run through, and there's
24 different economic results to the breeder.

25 JEFFREY CANNIZZO: Well, no, because, if the

1 bet's taken through NYRA, we receive a standard
2 percentage of that. So, as long as NYRA controls
3 that wager, it doesn't matter if it's on
4 out-of-state, we're paid from it.

5 SENATOR BONANCI: All right, so what you're
6 saying to me is: If the bet comes through OTB, and
7 it's run by NYRA.

8 JEFFREY CANNIZZO: Uh-huh.

9 SENATOR BONANCI: And a bet comes through
10 out-of-state, which comes to NYRA --

11 JEFFREY CANNIZZO: Right.

12 SENATOR BONANCI: -- the breeders get the
13 exact same amount of money?

14 JEFFREY CANNIZZO: If the bet's taken inside
15 New York state, yes.

16 SENATOR BONANCI: No, no, but --

17 JEFFREY CANNIZZO: But you're -- well, that's
18 the point; is that, if they're wagering at an OTB
19 parlor in New York City, it's inside New York State.
20 So --

21 SENATOR BONANCI: No, but, outside the state.

22 JEFFREY CANNIZZO: That's when the breeders
23 don't get money.

24 SENATOR BONANCI: Right. So --

25 JEFFREY CANNIZZO: That's right.

1 And those are the ADWs that we're talking
2 about.

3 TRACY EGAN: If I understand what you're
4 asking, I think you're concerned, that, can they
5 kind of pool the bets, this way, and say: This came
6 and --

7 SENATOR BONANCI: I see a potential conflict
8 in allowing them to wear two hats. And I don't know
9 if it's -- because, when you spoke, in your remarks
10 initially, you seemed to indicate that that was a
11 favorable thing, because we have legislation in
12 place [snaps fingers] that we can do immediately.

13 JEFFREY CANNIZZO: That's right.

14 SENATOR BONANCI: And I'm not so sure that
15 it's a positive. I'm just saying --

16 JEFFREY CANNIZZO: Well, again, I mean, we
17 could introduce another third party, but we're going
18 to have the same problems that we already have, that
19 we had in New York.

20 It -- to me, it's the quickest resolution to
21 getting an off-track-wagering outlet in the Metro
22 area, because we're losing --

23 SENATOR BONANCI: I don't want it to create
24 other problems down the road.

25 JEFFREY CANNIZZO: Right -- I -- you're

1 right.

2 SENATOR BONANCI: You've been very good.

3 Anybody else who would like to speak, or have
4 questions?

5 SENATOR NOZZOLIO: I have a couple.

6 SENATOR BONANCI: Senator Nozzolio.

7 SENATOR NOZZOLIO: Mr. Chairman, thank you.

8 Ms. Egan, the additional funds, the infusion
9 of money, that you talked about at your August board
10 meeting, what was Finger Lakes proposed to get?
11 And, what did the statute impede them from getting?

12 TRACY EGAN: Well, NYRA, actually, didn't --
13 doesn't need the money, you know. And they
14 basically sent that message to me through one of our
15 board members, that they didn't need the money.

16 But, that doesn't mean I can't send them the
17 money, because the statute says, if I send money to
18 one track, I must send to the other. And that the
19 split has to be no worse than 60/40.

20 So, I could send 60 percent of the money,
21 which we're doing to Finger Lakes, and 40 percent,
22 the smaller portion, to NYRA.

23 SENATOR NOZZOLIO: How much was that?

24 TRACY EGAN: The total portion is 820,000.

25 SENATOR NOZZOLIO: 820,000.

1 And Finger Lakes was able to receive --

2 TRACY EGAN: They'll get 60 percent.

3 SENATOR NOZZOLIO: About 240 --

4 TRACY EGAN: 60 percent. So, over 400.

5 SENATOR NOZZOLIO: -- about 500,000. A
6 little less than 500,000.

7 TRACY EGAN: Can I borrow your calculator,
8 Jeff?

9 SENATOR NOZZOLIO: Well -- and that statute
10 sets forth an impediment or a guarantee?

11 TRACY EGAN: Right.

12 It's, like, even if NYRA tells me, "We don't
13 want the money," it violates the statute.

14 SENATOR NOZZOLIO: Thank you.

15 Jeff, your comments were very helpful. Both
16 of you.

17 Jeff, what's your reaction to that situation?

18 JEFFREY CANNIZZO: We're looking at putting
19 together some legislation, hopefully, which would
20 permit the Breeding Fund to distribute monies based
21 on the current situation at the time.

22 I mean, they shouldn't have to have rules as
23 to, well, you have to give 40 percent to NYRA, or
24 60 to Finger Lakes. It should be based on where the
25 demand is for those -- that revenue.

1 SENATOR NOZZOLIO: And taking that a step
2 further: As this legislation is developed, if one
3 New York City OTB model was established, and NYRA
4 was running that, how would we guarantee that the
5 Upstate tracks and Upstate horsemen would benefit
6 from that new model?

7 JEFFREY CANNIZZO: Well, the thing -- the
8 product itself is going to dictate who's wagering on
9 it. You know, if the consumer doesn't want to wager
10 on a certain racetrack, it's ultimately up to that
11 consumer.

12 What we need to do is, actually, market that
13 product.

14 So, for example: At that, New York City
15 off-track facility, sports book, call it, we want to
16 make sure the Finger Lakes Racetrack is displayed
17 prominently there.

18 We want to make sure that the New York
19 product comes first, maybe over some of the
20 out-of-state tracks that are being run.

21 SENATOR NOZZOLIO: The breeding trends in
22 New York State, to highlight it in your very helpful
23 testimony, leaving the state: why?

24 JEFFREY CANNIZZO: Purses, and Breeding Fund.
25 Two pieces.

1 So, the owner; when we're talking about a
2 purse that goes solely to the owner, which could
3 perhaps be a breeder, too.

4 So, if -- why would I take my horse and run
5 him for -- and I'm making numbers up -- \$15,000 at
6 Finger Lakes, when I can take the same exact horse,
7 run in the same exact race, maybe with fewer horses,
8 down at Presque Isle, which is in Erie,
9 Pennsylvania, for thirty, why would I not do is
10 that?

11 Because it's an hour -- I forget how long of
12 a way it is -- but, it's a couple hours away.
13 You're going to make the same trip, and you're going
14 to run against the same field. I'm going make a
15 business decision, and run against, for more money.

16 Second part of that, the Breeding Fund; so,
17 the breeder of those horses is going get paid almost
18 double for that Pennsylvania race.

19 SENATOR NOZZOLIO: Heard Mr. Gural's
20 comments, going to the cleaners in Pennsylvania.

21 JEFFREY CANNIZZO: Right.

22 I was surprised that he owns a farm in
23 Pennsylvania. I didn't know that.

24 He should buy another one in New York.

25 But, anyways, the -- there's more money on

1 the table in these other states that support the
2 industry.

3 And, right now -- well, for ten years, we've
4 seen, as you can see in the slides, downward trends.

5 SENATOR NOZZOLIO: Thank you both very much.

6 SENATOR BONANCI: Thank you both.

7 Okay, our next speaker is: David Brown, and
8 Dennis Petrisak.

9 David Brown is president, and Dennis is
10 vice president, of the Finger Lakes Horsemen
11 Benevolent & Protective Association.

12 Gentlemen, thank you for your patience.

13 DAVID BROWN: No, that's fine.

14 Senator, thank you very much for inviting us.

15 And it's good to see all of you here,
16 because, I think we feel a little lonely up here at
17 Finger Lakes. And, every once in a while, it's nice
18 to see you coming to us.

19 And, we do appreciate it. We really do.

20 On behalf of all the horsemen at
21 Finger Lakes, I appreciate it. And I know Dennis
22 does as well.

23 SENATOR BONANCI: Just before you continue,
24 it's never lonely in Albany, with the Finger Lakes,
25 because of Senator Nozzolio. He always talks about

1 the Finger Lakes, and the track.

2 DAVID BROWN: Yes, he does.

3 Over the years, he's been a very good friend
4 of Finger Lakes.

5 You have written testimony, and I'm not going
6 to belabor the testimony that we have already
7 submitted to you in writing.

8 I do want to talk about a couple of things.
9 And the nice thing about being later in the program,
10 it's usually going to be a little shorter.

11 And, second of all, I get to comment on those
12 who have preceded me.

13 Mr. Gural, I enjoyed thoroughly. I've heard
14 him speak on a number of cases. He's a thoughtful
15 man, and he comes up with some very interesting
16 ideas.

17 And the one that -- the two ideas that I
18 gleaned from his testimony, which is helpful to me
19 as well, is that we need to maintain the integrity
20 of the sport. And I think that is absolutely true.

21 Finger Lakes is a little different than NYRA,
22 and most of the trainers at Finger Lakes are also
23 owners. The people at -- you know, we don't have
24 the big owners at Finger Lakes, to speak of. Most
25 of the horses that run there are owner-trainers.

1 They're people that live in the community.
2 Their families grew up in the community. We have
3 generations of trainers there, that have followed
4 their fathers' or mothers' footsteps through the
5 Finger Lakes doors.

6 And, we consider it a family.

7 The people that run at Finger Lakes are not
8 like any other track in New York. They are local
9 people. They raise their own horses, they train
10 their own horses. And, they work harder than any
11 human beings I have ever been accustomed to be
12 around, in my lifetime. And they're the ones that
13 put on the show that we are all talking about here.

14 Unfortunately, when there are cuts made,
15 whether it's because New York City OTB closes, or
16 because the OTBs don't want to pay the statutory
17 percentage to the purse account, when our purse
18 account goes down, it directly affects these people,
19 and it directly affects jobs in this community.

20 Certainly, each of these stables are
21 businesses. They're small businesses. They have to
22 pay salaries to people that work there.

23 And a lot of people that work at Finger Lakes
24 Racetrack, and all racetracks, are people that
25 otherwise not be employable in the normal community.

1 These are people that love the animals, they
2 love the horses, and they don't make a lot of money.

3 We hear about the thoroughbred racing being
4 the "sport of kings."

5 We don't have any kings. We don't even have
6 any princes at Finger Lakes. We have a lot of
7 hard-working people that spend 12 hours a day taking
8 care of their horses. Take a lot pride in what they
9 do, and they don't make a lot of money at it.

10 If any of these people decided to go off and
11 do some other job, they'd probably make a lot more
12 money than they do as trainers at Finger Lakes.

13 So, every time a dollar is taken out of our
14 purse account, every time any amount of money is
15 taken out of our purse account, it directly affects
16 them the most.

17 Delaware North's a big corporation. They
18 make money. Its casino makes money.

19 We talked about the OTBs; their business
20 enterprises.

21 We talked about The Breeders Fund. We talked
22 about the breeders.

23 But, really, when it comes right down to it,
24 the people that are at the bottom of this pyramid,
25 and the people that are most affected by anything

1 you do, are these people that work so hard every
2 single day of their lives.

3 So, I'm here to advocate for them.

4 And Mr. Gural is absolutely correct, that we
5 need integrity in this business. But,
6 unfortunately -- or, fortunately, at Finger Lakes, I
7 don't think any of the trainers at Finger Lakes can
8 afford these exotic drugs, frankly.

9 I think there was always been a drug issue in
10 horse racing. But -- and I heard of one drug that
11 was \$1,800 for an injection, that some fancy chemist
12 came up with.

13 Well, I don't think anybody at Finger Lakes
14 has \$1,800 that they can spare for that injection.
15 Plus, that, they're not running for very much money,
16 so it wouldn't be worthwhile to do it in any event.

17 So, I don't -- I see that as, that we need
18 to -- I think there's more of a perception of a
19 problem than there is a problem, but I do think it
20 needs to be corrected; the perception needs to be
21 corrected. And anything, we, as horsemen, can do to
22 do that, we're certainly willing to do.

23 Secondly, Mr. Gural brought up a very
24 interesting point, on marketing. And I absolutely
25 agree with him.

1 The future of -- if there is a future -- the
2 horse racing in the state of New York is going to be
3 based on the younger generation.

4 If you walk into Finger Lakes on any day, you
5 will see that most of the people that are there are
6 50 and over. When that generation passes, I don't
7 know who's going to fill their -- fill those chairs
8 or bet on these horses.

9 And, so, I think that marketing should
10 definitely be directed at the younger generation.

11 We have a marketing committee with the HBPA.
12 We've suggested -- we have suggested several
13 marketing techniques to college students, and things
14 like that.

15 But I will tell you, frankly, Delaware North
16 isn't going to spend a lot of money on marketing for
17 a horse racing business that they don't make very
18 much money at, or no money, as the case may be.
19 They're going to spend their money, and they spend a
20 lot of it, on marketing for the casino.

21 If you drive by Finger Lakes, you're going to
22 see "Finger Lakes Casino." And, then, in really
23 small letters, if you've got really good eyes, it
24 says "and Racetrack."

25 And that's the whole -- and, that right

1 there, that demonstrates exactly what's happened at
2 Finger Lakes: Racing has become a side issue.
3 Racing has not been vested in the way it should be
4 invested in.

5 And I'm not blaming them, because they're a
6 business. They're a profit-making business.

7 But, they get 10 percent of VLT revenue that
8 they can put towards marketing for the casino. Not
9 racetrack. They can't use that for money -- that
10 money for racetrack.

11 That, should be changed.

12 They should be able to use some of that
13 VLT "10 percent" money, either, to help the purses
14 at Finger Lakes, or help the marketing at
15 Finger Lakes.

16 And I'm sure our horsemen will help in that
17 regard.

18 We've done everything, as an HBPA, we can do
19 to help these people.

20 We've set up a wholesale store on the
21 backside of Finger Lakes; that no other track in the
22 country has, is a wholesale. These people can get
23 wholesale feed.

24 And we've helped out in every possible way to
25 keep these very hard-working people in business, but

1 we're failing. We've given out more benevolence,
2 which we did -- this year than we have in any other
3 two years combined, just to keep people; just to pay
4 their rent, to help them pay their gas bill.

5 This is a group of people that are hurting
6 badly.

7 Our purse account has gone, from \$20 million
8 two or three years ago, to 16 million now.

9 Now, 4 million might not sound like a lot.
10 And this is a New York OTB gap, right there. That's
11 most of it. You can throw in Suffolk, you can throw
12 in a few other decreases, but, that's basically
13 where that \$4 million has gone.

14 \$4 million to the -- into a purse account,
15 for the people that I represent, is their profit
16 margin.

17 And this year, what's happened, because of
18 the fact that we have lost so much money in our
19 purse account, is, my horsemen are looking for
20 another place to run their horses.

21 They can go 2 1/2 hours down the road, and
22 run at Presque Isle for a purse that's twice as
23 much, sometimes more than twice as much, what we can
24 offer them at Finger Lakes.

25 And I don't blame them, because how else are

1 they going to make money? They certainly can't run
2 exclusively at Finger Lakes and make money. They're
3 going to lose money.

4 And, again, they're the owner, and breeder
5 sometimes, and also the trainer.

6 So, we're -- we have a mass exodus. I
7 average -- I'd say, we average about 40 Finger Lake
8 horses running at Presque Isle every week. It's
9 actually more than that. I underestimated that by
10 10 or 12.

11 We have trainers that have moved to
12 Presque Isle. We have people that have -- trainers
13 who have never had stalls in Pennsylvania before,
14 that now have stalls at Presque Isle, and have a
15 whole -- and have a string of horses down there
16 instead of running a Finger Lakes.

17 What's that's done is, it's decreased our
18 field size. So, now, we -- our field size is going
19 down, which then has the effect of decreasing our
20 betting handle.

21 So, everything that -- is done.

22 So, how do we correct this?

23 Well, we correct this by, somehow, increasing
24 our revenue stream.

25 We can't -- we can market better, with some

1 help from the VLT revenue.

2 We have contract negotiations come up, we're
3 going to ask for more VLT revenue from Finger Lakes.

4 But, you know something? The Finger Lakes
5 Racing Association, or Delaware North, they're -- we
6 are -- we have the lowest paid -- as far as
7 percentage of gaming revenue, lowest paid horsemen
8 in the country, with the exception of one track in
9 Iowa. Other than that, every single other
10 horsemen's association, that have gaming in the
11 state, get a much larger percentage than we do, by a
12 significant amount.

13 But that's also true of the vendor.

14 That's also true of Delaware North and
15 Finger Lakes. They don't get a percentage like most
16 of the vendors do in the other states, either.

17 So, that's a problem.

18 Now, am I saying, Well you better give it to
19 the horsemen, and not to education? Obviously,
20 you're not going to do that. But, we need to work
21 out something, some way, in which our purse account
22 can get a new revenue stream.

23 Now, does that mean we tax out-of-state
24 ADWs or betting platforms? Yeah, that would help
25 significantly.

1 Does that mean that we open up, or we allow
2 it to be opened, betting -- more betting parlors in
3 New York City? Sure. But, it can't NYRA, because
4 we don't get a cut of that.

5 So, all that money, sure, NYRA's doing fine.
6 They're returning the money that The Breeders' Fund
7 is giving them. They don't need it.

8 We need every penny.

9 Now, last year, we had 1.2 million from
10 The Breeders' Fund. This year we got 500,000.

11 We had to cancel 13 stakes races in order to
12 balance our purse account, because of that.

13 Now, I hope, with the opening, and I pray,
14 with the opening, of Aqueduct we will at least get
15 money through The Breeders' Fund. We're not go
16 benefit from that otherwise. But at least
17 The Breeders' Fund will have more money available to
18 them, so that they can give us more purse
19 enrichment, which will certainly help the
20 New York-bred program at Finger Lakes, for sure.
21 But, we're never going to be competitive with
22 Pennsylvania.

23 In fact, I think Presque Isle just upped
24 their purse another 20 percent. It's just too big a
25 pot for our horsemen to ignore, and, otherwise,

1 they're not going to stay in business. It's simple
2 as that.

3 So, that's basically it.

4 I think, the future of racing is, as
5 Mr. Gural said, is marketing. I think no money
6 spent on marketing, particularly for the racetrack,
7 on the racing side now.

8 I think, if some of that VLT marketing money
9 could be spent on the racetrack side, that that
10 would be extremely helpful.

11 Taking anything more from our purse account
12 would be a disaster for these people.

13 And, opening a casino, that doesn't supply
14 income to the track, in Rochester, New York, would
15 end racing at Finger Lakes, because, any
16 competition -- "any competition" -- with this VLT
17 system that we have now, where we -- about
18 55 percent of our purse account comes from that,
19 we -- if that decreases, we might as well just close
20 it up, move to Pennsylvania.

21 That's what I would do if I were a trainer
22 here.

23 So, basically, I don't want to -- I don't
24 want to be all negative here. There's a lot of good
25 things at Finger Lakes. You should visit it.

1 They're good people. They're hard-working
2 people.

3 You're all welcome. We'll try to treat you
4 as well as, as best as we.

5 But, we're in trouble. And, we truly are in
6 trouble.

7 SENATOR BONANCI: Mr. Brown, let me ask you:
8 Is any of that fallen business attributed to the
9 deepening recession? Or do you think it has -- you
10 know, do people have just less money to --
11 disposable income to spend?

12 DAVID BROWN: Well, certainly, some of it has
13 to do with the recession. And it's hurt our
14 horsemen, too. Costs have gone up, and the income
15 hasn't gone up.

16 But we don't see a big drop-off in our export
17 handle. We can maintain -- we maintain that pretty
18 well. Our VLT revenues have gone up, because of the
19 good job that, Chris Riegler, and everybody, has done
20 at Finger Lakes at marketing that casino.

21 I think they could -- I think, if they were
22 allowed to have a, bigger, more of a place where
23 people could go, you know, with a hotel and resort,
24 where -- with table games, I think that we would do
25 better, obviously. But, I am concerned that opening

1 up that Pandora's box, of opening up gambling with a
2 constitutional amendment that isn't very
3 restrictive, is going ultimately kill us.

4 And, that I can't -- I can't support that.

5 SENATOR BONANCI: Okay. Thank you,
6 Mr. Brown.

7 Anybody have any further questions?

8 SENATOR NOZZOLIO: I have a couple, yes.

9 SENATOR BONANCI: Senator Nozzolio.

10 SENATOR NOZZOLIO: Thank you, Mr. Chairman.

11 Thank you, David, and Dennis, for your input.

12 Focus, for the Committee's attention, more on
13 the horrendous losses that the horsemen, achieve, or
14 established, as a result of the New York City OTB
15 failure.

16 DAVID BROWN: Well, the statistics, I mean,
17 it's clear -- we know the exact amount.

18 We lost 3.5 million to our purse account in
19 past monies. And we're losing, approximately,
20 \$2,750,000 a year in revenues, each year.

21 SENATOR NOZZOLIO: And none of that is being
22 gained back. Although, NYRA itself, appears to have
23 actually prospered as a result of this.

24 DAVID BROWN: Yeah, NYRA, as much as we, at
25 Finger Lakes, are concerned about them, have done a

1 very good job of marketing. They have a
2 geographical advantage, obviously.

3 They're able to -- they were ready to pounce,
4 immediately, upon the New York City gaming dollar,
5 immediately after New York City OTB closed.

6 Unfortunately, we don't have that same
7 advantage. And it was -- it was close to 20 percent
8 of our purse account. And, it just disappeared.

9 SENATOR NOZZOLIO: Do you expect any growth
10 in the purse account, based on current formulas,
11 with expansions in the city of New York?

12 DAVID BROWN: If the expansion in the city of
13 New York provided for statutory payments, as all
14 OTBs make to the racetrack; and, therefore, to the
15 purse account, then that would be exceptionally
16 helpful.

17 If it's taken over by NYRA, where those
18 statutory payments are not required, it's not going
19 help us at all. It really won't.

20 And, I suppose, if they market Finger Lakes a
21 little better, and market the -- you know, and
22 market us on their screens a little better, we could
23 see a small increase on our own product.

24 But, people in New York City are more likely
25 to bet New York City racetracks than they are

1 Finger Lakes.

2 SENATOR NOZZOLIO: Dave, the issue of
3 Pennsylvania and Western New York, what is
4 Pennsylvania doing to enhance those purses?

5 And, is this a new phenomena, or is it
6 something that's been in existence?

7 DAVID BROWN: No. If you look across the
8 country, the horsemen get anywhere, from 12 to
9 19 percent of gaming revenue, whatever the gaming
10 revenue may come from; VLTs, or table games, or
11 whatever.

12 We get 8.75 percent.

13 I'm not sure where the "10 percent" came
14 from.

15 We get 8 -- statutorily, we get 8.75 percent.

16 We can negotiate a higher rate, and I suspect
17 we're going to be in the process of that pretty
18 soon. Or try to, anyway.

19 But, 8.75 percent is the lowest in the
20 country, with the exception, as I say, of one track
21 in Iowa, where the horsemen get less of the VLT
22 revenue. They get 8 percent.

23 SENATOR NOZZOLIO: Dave, and as I discussed
24 where Mr. Gural, I've had to discuss it with the
25 members of this Committee; when the current head

1 from the Lottery Commission came before the
2 Committee, and Senator Bonacic asked him a number of
3 questions, the question that was asked, that
4 surprised me, is to his lack of understanding, as to
5 what went first, the chicken or the egg? -- in
6 effect, why was the racinos establish in the first
7 place?

8 And, clearly, the legislative history was:
9 To enhance the horse racing industry in
10 New York State.

11 It appears that the Lottery Commission had
12 forgotten that.

13 I want to make sure that no one forgets it.

14 And, that, the sense, you, as going forward,
15 what policy changes would have to occur to better
16 reflect that original mission, through the racinos?

17 DAVID BROWN: Well, I'd love to tell you, I'd
18 like it to be statutorily mandated that we get
19 12 percent of the VLT revenue. I'd love to tell you
20 that, but, where's that going to come from?

21 Is it going to come from a vendor who isn't
22 paid what other vendors across the country are? Or,
23 is it going come from the State of New York's
24 education?

25 You know -- you know, that's the difficult

1 issue here. It's truly a difficult issue.

2 And you're right; OTBs were set up to
3 enhance the industry as well, to allow for betting
4 in a more local locale than having to come to the
5 track. That, has hurt us. OTBs ultimately hurt
6 us.

7 That's why we had the statutory payments,
8 because, OTBs took away from our on-track handle.

9 And the casino takes away from our on-track
10 handle.

11 You won't -- you can't imagine how many
12 bettors, that used to come in and spend two or
13 three hundred dollars a day, betting on horses, that
14 now spend, maybe, \$50 a day on the horses, and run
15 over to the casino and spend the other \$200.

16 And, so, it's like that old Pac-Man game; or,
17 it's like the little dog -- the little dog that you
18 brought home, and then it ate your furniture -- VLTs
19 have been a wonderful thing for us, but they've also
20 had the downside, too.

21 SENATOR NOZZOLIO: Well, thank you,
22 Mr. Chairman. I have no further questions, except
23 to say: That we need to continue to have your input
24 as these issues go forward in the next legislative
25 session.

1 Thank you for being her today.

2 DAVID BROWN: Thank you, Senators.

3 Thank you, Senator.

4 SENATOR BONANCI: Gentlemen, thank you very
5 much for being here.

6 Our last set of speakers are:

7 Nelson Acquilano, who is the executive director,
8 Council on Alcoholism and Addiction; and,
9 David Young, which is, Problem Gambling Prevention
10 Coordinator.

11 NELSON ACQUILANO: And, thank you, Senator.

12 And I will keep my remarks short, given the
13 time frame.

14 My name is Nelson Acquilano. I'm the
15 executive director of the Council on Alcoholism and
16 Addictions of the Finger Lakes.

17 We are a prevention and education and
18 information and referral agency that covers the
19 five-county Central Finger Lakes region.

20 I'm also on a number of community coalitions,
21 and serve on the board of directors for the
22 Council on Addictions of New York State.

23 And, currently serve as chairperson for the
24 New York State OASAS Advisory Council on Underaged
25 Drinking and Substance Abuse.

1 We have a terrible problem in New York. Our
2 families, our communities, are in great crisis.

3 Society has been slowly deteriorating, but
4 this is not an economic problem. No, New York has a
5 quality-of-life problem, and it is a real crisis for
6 families, for our neighborhoods, and for the whole
7 community, and it will only further decline if we
8 allow it.

9 In one recent year, we had over
10 517,000 crimes committed in New York State, both
11 violent and property crimes.

12 New York State has the highest rate of AIDS
13 in the country, and a high rate of other sexually
14 transmitted diseases.

15 We have 2 1/2 million adults who have serious
16 problems with alcohol, drugs, and gambling.

17 Divorce is running at about 50 percent.

18 Our mental health clinics, our shelters, and
19 social service organizations are straining at the
20 seams.

21 And we have many other risk factors that we
22 need to contend with: child abuse, academic
23 underachievement, and a higher-than-acceptable rate
24 for teen pregnancies.

25 Our jails are full, our schools are

1 faltering, and our families are failing.

2 Now, given this background, the introduction
3 of gambling in New York is contraindicated.

4 Given this background of community problems,
5 to allow a known environmental carcinogen, such as
6 gambling, into an otherwise delicately balanced
7 community, to take a powerful, a potent risk factor,
8 a known risk factor, and allow to it flourish within
9 the local community, or anywhere in New York, will
10 only further jeopardize the family unit, and healthy
11 community lifestyle we are trying to build and
12 maintain.

13 Gambling is one of the most destructive
14 dynamics that can be introduced into a community.
15 And when it is, it spreads like a cancer, like an
16 epidemic, leaving broken lives, broken families, and
17 broken communities in its wake.

18 All states that have legalized gambling have
19 found subsequent dramatic increases in the incidence
20 of compulsive gamblers, and, in crime, family
21 dysfunction, divorce, bankruptcy, and mental
22 illness; but, by then, it's too late.

23 Once legalized, communities cannot reverse
24 the trend and control the increase in the gambling
25 addiction and negative consequences.

1 Compulsive gambling leads to many thousands
2 of personal and family bankruptcies each year.

3 Gambling leads to lost homes, broken
4 families, lost savings accounts, lost college funds,
5 and to a dramatic increase in crime, including
6 embezzlement at business and industry.

7 It is strongly correlated with mental
8 illness, including anxiety disorders, depression,
9 nervous disorders, and suicide, and is associated
10 with a rise in alcohol and drug abuse.

11 Furthermore, problem gambling also seriously
12 affects the spouses, children, parents, and friends
13 of the problem gambler.

14 Some states have reported that divorce
15 tripled after the introduction of casinos. Others
16 reported an explosion in domestic violence.

17 The ultimate cost in broken families and
18 disintegrated communities from gambling never even
19 comes close to justifying it as a mean to raise
20 revenue.

21 Casino gambling is often promoted based upon
22 economic improvements, including more jobs for the
23 local community.

24 There is now ample evidence pointing to
25 exactly the opposite findings.

1 Professor Robert Goodman, in his study on
2 legalized gambling, showed significant declines for
3 selected area businesses. Gambling can remove
4 valuable resources, monies, from the community, and
5 can hurt small businesses in the overall economic
6 development strategy critical for community
7 sustainability and growth.

8 Other research shows that gambling is
9 indirectly subsidized by the taxpayers.

10 Field research throughout the nation
11 indicates that, for every dollar that gambling
12 contributes in taxes, it usually costs the taxpayers
13 at least \$3 -- and higher numbers have been
14 calculated -- because of major increases in the
15 welfare system, the mental health system, and the
16 criminal justice system.

17 Gambling is exploding across America, but
18 America is not ready for the consequences.

19 About 5 percent of gamblers are caught up in
20 an addiction every bit as powerful as drug
21 addiction.

22 For many of these individuals, their families
23 are destroyed, their jobs are lost, their children
24 are devastated, and they have lost all hope.

25 The National Council on Problem Gambling has

1 found this to be true. And, has also found that
2 pathological gamblers have a suicide rate 20 times
3 higher than non-gamblers.

4 The United States has had previous experience
5 with legalized gambling. With the proliferation of
6 gambling, however, people saw the negative effects,
7 and started a trend to prohibit gambling activities.
8 And, by 1910, there was virtually no legal gambling
9 in the United States. Gambling activities were not
10 just prohibited via state statutes -- excuse me --
11 and local ordinances, but more importantly, these
12 prohibitions were incorporated into most state
13 Constitutions, to make it virtually impossible for
14 future generations to legalize gambling activities.

15 Now, in New York State, we have a
16 constitutional law, not that prohibits us, but that
17 protects us, and our families, from the consequences
18 of gambling. But that law has been circumvented by
19 technicalities, and now stands to be changed fully
20 to accommodate the interests of the gambling
21 industry.

22 Our State Constitution also mandates the
23 Legislature to pass appropriate laws to prevent
24 offenses against any of the provisions of that
25 section.

1 I have pages of facts that I have submitted,
2 showing how much the poor gamble;

3 That, African-Americans and Hispanics have
4 higher rates of pathological gambling;

5 That, communities experience an increase in
6 crime;

7 And that, in this next decade, our youth will
8 face more problems with gambling than with drugs.

9 I also submitted one page of local residents,
10 for Senator Nozzolio and Senator Gallivan,
11 including, two suicides, an attempted suicide, a
12 number of embezzlements. And this is going on more
13 and more.

14 In Rochester, as David will speak to,
15 attendance at Gamblers Anonymous meetings has
16 tripled over the last year or so.

17 I also have included my analysis of the
18 research, in terms of an environmental impact study
19 showing the pros and cons of gambling.

20 Please review it. It is very enlightening.

21 All right, the National Commission on
22 Gambling recommended a moratorium on the expansion
23 of the gambling industry.

24 As a social worker, as an addictions
25 professional, as an advocate for the families that

1 suffer, as a parent, as a voter and a taxpayer, I
2 agree, and I strongly recommend, that all community
3 and governmental representatives actively reject,
4 both the growth and the public acceptance of
5 gambling throughout New York State.

6 If we could stop an epidemic, something that
7 would destroy 5 percent of our families, tens of
8 thousands of families, and this would probably
9 increase to 10 percent within one or
10 two generations, wouldn't we have an imperative, a
11 compelling moral and ethical responsibility, to
12 serve and protect our residents, especially those
13 who are most vulnerable?

14 For the health, safety, and welfare of our
15 families, our legislators, our leaders, should not
16 gamble with our futures.

17 Our families, our children, can't handle any
18 more dysfunction.

19 Thank you.

20 SENATOR BONANCI: Mr. Young, would you like
21 to speak?

22 DAVID YOUNG: Thank you.

23 Hello, Senators.

24 My name is David Young, and I've been working
25 for the past five years at the Problem Gambling

1 Prevention Coordinator for the National Council of
2 Alcoholism and Drug Dependence in the Rochester
3 area.

4 Thank you for the opportunity you're giving
5 me to speak today on the issues related to gaming
6 and gambling in New York State.

7 What I've -- what I have to share is a little
8 different than most of the other speakers today, but
9 it's equally as important.

10 It is an undeniable fact that gamblers will
11 eventually cross the line into compulsive or problem
12 gambling.

13 It's also true, that many changes to the
14 gaming operations or oversight will have an impact
15 on the extent of problem gambling in our state.

16 Despite the decisions made by policymakers,
17 the legislators, the effect of problem gambling will
18 remain the same: a negative impact upon the
19 communities of New York State.

20 We advocate for the treatment, services, for
21 problem gambling, compulsive gamblers, and
22 prevention and support services for their families.

23 We advocate for the problem gambler, and
24 their families, when necessary; call attention to
25 the areas of concern on recommended changes, to

1 serve and protect the public health and safety.

2 Any increase or expansion that gambling,
3 gaming, must include dedicated funding to respond
4 to, both, prevention, treating, a problem gambling
5 and compulsative gambling.

6 The scope of the problem: Pathological
7 gambling is a significant mental health problem in
8 New York, and across the United States.

9 The addiction is recognized by the
10 American Psychiatric Association, which is included
11 in the DSM.

12 The key reference to mental health field in
13 New York, an estimated 1 million New Yorkers are --
14 currently have a gambling problem, 20 percent
15 adolescents currently are at risk of developing a
16 gambling problem, 5 percent of adults over eighteen
17 have a gambling problem, according to the
18 OASAS Problem-Gambling Survey.

19 In, 2010-2011, the New York State-sponsored
20 gambling generated approximately 3.1 billion in
21 revenue for New York.

22 The projection for 2011-2012 year increases
23 the revenue to \$267 million in increases.

24 We know that increasing gambling or gaming
25 opportunities consequently increases costs to

1 society, social costs which include increased rates
2 of problems, or pathological gambling, problems for
3 New York State residents.

4 This encompasses addiction to mental health
5 problems, to bankruptcy, fraud, foreclosure,
6 suicide, domestic violence, divorce, embezzlement.

7 They say, every new slot machine or "VLT,"
8 video lottery terminal, at a casino will destroy one
9 job each year by taking money out of the consumer's
10 economy.

11 According to John Warren Kindt, business
12 professor at the University of Illinois, 4,000 slot
13 machines mean 40,000 lost jobs over a decade.

14 Each VLT or slot machine conservatively takes
15 \$100,000 a year, which the -- multiply that, affects
16 spending means. That means, that the 4,000 planned
17 slot machines will remove 1.2 billion from the
18 consumer economy each year.

19 Kindt predicted that the loss of 120 million
20 in sales tax, just for starters, to set against the
21 140 million in the county and city profits, not to
22 mention the heavy blow to our struggling economy.

23 There are years of academic research showing
24 that gambling destabilizes local economies.

25 The state's proposed gambling expansion will

1 only hurt our economy. Up to 90 percent of gambling
2 profits come from VLTs or slot machines, and slot
3 machines don't create jobs.

4 Costs to government goes up.

5 Gambling addiction rises, doubling with
6 casino-feeder markets.

7 Bankruptcy climbs, 18 to 42 percent higher
8 than in area around casinos.

9 The crime rate goes up about 10 percent a
10 year.

11 This means, costs to government; for every \$3
12 of -- costs to government, for every three -- for
13 every one gambling revenue.

14 Twenty years ago, Illinois, the increasing of
15 number of casinos were proposed as a solution for
16 their state budget problems.

17 Now, Illinois has -- and two other states
18 with large gambling industries, California and
19 Nevada, lead the nation in budget shortfalls.

20 I personally have countless stories of
21 devastation from people living with their -- in the
22 Rochester area, that include losing everything that
23 they have worked for all their lives, and now
24 finding themselves in position to work three or
25 four jobs, just to stay afloat, when they should be

1 enjoying their retirement.

2 I receive phone calls on a daily basis from
3 people seeking help for gambling addictions or for
4 GA meetings. Our family members -- or, family
5 members reaching out to find some help for their
6 loved ones who have a financial devastation for
7 their family.

8 I have just worked with a gentleman who
9 called, for help for his wife, who was in tears the
10 whole time I was talking to him.

11 And he said, he had no idea about the
12 gambling addiction, and how it worked. There was no
13 education out there, there was no information out
14 there, for him to get. He had no clue to where to
15 go for help for his wife; or who to turn to, or what
16 to do.

17 His wife had spent \$30,000 of their
18 retirement fund, going to Finger Lakes Casino, on
19 gambling.

20 She was lying about where she was going. She
21 was spending -- you know, saying, she was going to
22 store. Or, she was just going to be out for an
23 hour, and she was gone or four to five, six, hours.

24 He was just wondering; he was, like: How
25 come there is no resources or information or

1 services available, as there are -- as many as there
2 are for drugs and alcohol?

3 The families just need to have the
4 information. They need the education. They need
5 the prevention. They need the treatment. And, they
6 need to know that the State will provide that for
7 them.

8 Some thoughts regarding funding for community
9 prevention, education, and treatment services for
10 problem gamblers and their families:

11 Funding for compulsive gambling services can
12 be usually -- can be, and usually is, generated by
13 dedicating a portion of new revenues, or through
14 annual licensing fee. Responsible gambling programs
15 across the country, and throughout the industry,
16 virtually always include such funding and
17 provisions, which may be viewed as cost of doing
18 business.

19 New York State is the only state without
20 dedicated funding for gambling revenues for problem
21 gambling services.

22 We propose that 1 percent of gambling
23 revenue, \$15.5 million, be dedicated to that.

24 Thank you for the opportunity to give me a
25 chance to speak, and share our concerns about this.

1 SENATOR BONANCI: Any of you gentlemen have
2 any questions?

3 Thank you very much, gentlemen.

4 First of all, I'd like to thank all of the
5 speakers today. They were professional, and they
6 were enlightening.

7 They know more about their business than we
8 do. And, you educate us, so we may be more informed
9 to make the right decisions.

10 To my colleagues: Thank you for your
11 attention, and your attendance.

12 This meeting is now adjourned at five after
13 two. We started at eleven, on September 6th.

14 A safe trip home to everyone.

15 Thank you for being here.

16 (Whereupon, at 2:05 p.m., the
17 Senate Standing Committee on Racing, Gambling &
18 Wagering hearing concluded.)

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