

# NEW YORK STATE ASSEMBLY

Carl E. Heastie, Speaker

J. Gary Pretlow, Chair



## 2023 ANNUAL REPORT

COMMITTEE ON  
Racing and Wagering



THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

J. Gary Pretlow  
Assemblyman 89<sup>th</sup> District

CHAIR  
Racing & Wagering

COMMITTEES  
Codes  
Insurance  
Rules  
Ways & Means

Assembly Steering Committee

PLEASE REPLY TO:  
845 Legislative Office Building  
Albany, New York 12248

December 15, 2023

The Honorable Carl E. Heastie  
Speaker of the Assembly  
Room 932  
Legislative Office Building  
Albany, NY 12248

Dear Mr. Speaker:

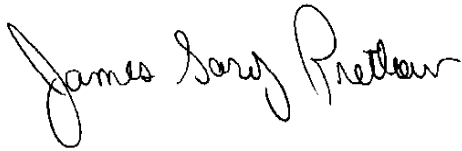
As Chairman of the Assembly Standing Committee on Racing and Wagering, I am pleased to submit to you the Committee's 2023 Annual Report. Each year, the Committee continues to make advances in the racing world, working to advance legislation aiming to improve horse racing and gaming activities in the state of New York. This included legislation which addressed charitable gaming, responsible gaming, the lottery, the horse racing industry, and casino gambling.

During the 2023 Legislative Session, the Committee reported several bills that would provide continued support to the horse racing, horse breeding, and gaming industries, including bills that would require mobile sports wagering licensees to comply with advertising restrictions and that would prohibit the Division of Lottery from confiscating, removing, or destroying lottery tickets prior to the conclusion of lottery games.

In addition, the Committee also advanced legislation to: expand sire stakes eligibility, extend certain payment procedures for the New York Thoroughbred Breeding and Development Fund, and to extend certain additional funding support for backstretch workers and their families. The Committee was also involved in significant legislation during the state budget process, including authorizing the funding for a renovation and redevelopment of Belmont Park, directing revenues received from the commercial casinos to the MTA, extending the provisions of law authorizing the use of capital acquisition fund monies for Catskill and Capital Off-Track Betting Corporations, as well as restructuring the Western Off-Track Betting Corporation Board.

I would like to take this opportunity to thank the members of the Assembly Standing Committee on Racing and Wagering for their input and support during the 2023 Legislative Session. I would also like to thank you, Mr. Speaker, for your continued support. The Committee members and I look forward to working with you during the upcoming 2024 Legislative Session to continue to strengthen New York State's great racing, wagering and gaming infrastructure.

Warm Personal Regards,

A handwritten signature in black ink that reads "James Gary Pretlow". The signature is written in a cursive, flowing style.

J. Gary Pretlow

*Chair, Committee on Racing and Wagering*

**2023 ANNUAL REPORT  
OF THE  
NEW YORK STATE ASSEMBLY  
STANDING COMMITTEE ON RACING AND WAGERING**

**J. Gary Pretlow, Chair**

**Committee Members**

**Majority**

Aileen Gunther  
Michaelle Solages  
Carrie Woerner  
Angelo Santabarbara  
Stacey Pheffer Amato  
Clyde Vanel  
Nader Sayegh

**Minority**

Jeffrey Gallahan  
Jarett Gandolfo  
Joseph M. Giglio

**Staff**

Sarah Klein, *Assistant Secretary for Program and Policy*  
Spiro Sokaris, *Analyst*  
Joann Butler, *Program and Counsel Secretary*  
Troy Mackey, *Committee Coordinator*

## Table of Contents

<b>I. JURISDICTION</b> .....	<b>5</b>
<b>II. 2023 LEGISLATIVE ACTION</b> .....	<b>6</b>
<b>A. State Lottery</b> .....	<b>6</b>
1. Confiscation of Lottery Tickets .....	6
<b>B. Class III Casino Gaming</b> .....	<b>6</b>
1. Tax on Gaming Revenues in Certain Regions.....	7
<b>C. Horse Racing and Breeding</b> .....	<b>7</b>
1. Payments to the New York State Thoroughbred Breeding and Development Fund.....	7
2. Payments to the New York Thoroughbred Horsemen’s Fund.....	8
3. Commission on Retired Racehorses.....	8
4. Sire Stakes Eligibility.....	8
<b>D. Responsible Gaming</b> .....	<b>9</b>
1. Advertisements for Gambling and Sports Betting.....	9
<b>III. PUBLIC HEARING ON THE IMPACT OF MOBILE SPORTS WAGERING ON THE NEW YORK STATE BUDGET</b> .....	<b>10</b>
<b>IV. STATE FISCAL YEAR 2023-24 ENACTED BUDGET</b> .....	<b>11</b>
<b>IV. OUTLOOK FOR 2024</b> .....	<b>12</b>
<b>APPENDIX A: 2023 SUMMARY SHEET</b> .....	<b>13</b>
<b>APPENDIX B: CHAPTERS OF 2023</b> .....	<b>14</b>
<b>APPENDIX C: ADDITIONAL BILLS REPORTED IN 2023</b> .....	<b>15</b>

## I. JURISDICTION

The New York State Assembly Standing Committee on Racing and Wagering has jurisdiction over legislation affecting all activities related to horse racing and various forms of gaming across New York State. Its purview includes the New York State Racing, Pari-Mutuel Wagering and Breeding Law, as well as portions of the New York State Tax Law and the New York State General Municipal Law.

The New York State Gaming Commission is responsible for regulating all aspects of racing and gaming activity within the State, including pari-mutuel wagering, Class III Indian Gaming, the New York Lottery, video lottery gaming, charitable gaming, commercial casino gambling, and interactive fantasy sports. The New York State Gaming Commission is comprised of four divisions:

- The *Division of Lottery* is responsible for the operation and administration of the New York Lottery for education, and for all aspects of promotional activities related to video lottery gaming.
- The *Charitable Gaming Division* is responsible for licensing charitable organizations and verifying the lawful disbursement of proceeds from games of chance such as bingo, bell jar tickets, Las Vegas nights and raffles.
- The *Gaming Division* is responsible for the appropriate administration, regulation and oversight of commercial casino gambling, video lottery gaming, and Indian gaming on tribal land as defined by lawful Tribal-State compacts established pursuant to the federal Indian Gaming Regulatory Act of 1988.
- The *Horse Racing and Pari-Mutuel Wagering Division* is responsible for the supervision, regulation and administration of all horse racing and pari-mutuel wagering activities.

## **II. 2023 LEGISLATIVE ACTION**

### **A. State Lottery**

The New York Lottery was enacted in the New York State Constitution in 1966 to generate increased aid to education for local school districts. The New York Lottery contributed \$2.6 billion in State Fiscal Year 2021-22 to help support primary and secondary education in New York State. The New York State lottery program continues to be the largest and most profitable in the United States, earning over \$76.9 billion to support education since its founding.

Along with traditional lottery games, such as scratch-off tickets and number drawings like *Mega Millions* and *Powerball*, the New York Lottery is also responsible for all aspects of promotional activities for the eight video lottery terminal facilities (also known as “racinos”) located at various racetracks across the State. These facilities offer casino-style gaming with winning outcomes transmitted by a central system administered by the New York State Gaming Commission. In addition to contributing a significant amount to State education funding, net proceeds from video lottery gaming also provide vital assistance to New York’s horse racing and breeding industries.

#### **1. Confiscation of Lottery Tickets**

A.3653 (Pretlow); Reported to Ways and Means

In an effort to prevent potential winning tickets from not being offered for sale to customers, this bill would prohibit the Division of Lottery from removing, confiscating or destroying from any vendor prior to such game’s expiration date.

### **B. Class III Casino Gaming**

Class III Casino gaming was authorized by an amendment to the New York State Constitution in 2013. Since its inception, casino gaming has expanded greatly across upstate New York. With the creation of 4 upstate commercial casinos, Rivers Casino in Schenectady, Del Lago Casino in Waterloo, Tioga Downs Casino and Raceway in Nichols, and Resorts World Catskills in Thompson, along with 3 additional casinos to be authorized and established in the greater New York City area starting in 2025 casino gaming has flourished within the state. In the years following the authorization of casino gaming, the gaming industry has grown in various ways. The concept of virtual gambling, wagering, and gaming has greatly evolved within the last few years, and mobile sports wagering has spread rapidly throughout the United States. Mobile Sports Wagering has risen to the forefront of conversations about the future of gaming in New York State, and discussions over the potential avenues in which to authorize mobile gambling have continued.

**1. Tax on Gaming Revenues in Certain Regions**

A.6144A (Pretlow)/S.4817A(Addabbo); Chapter 528 of the Laws of 2023

This law provides Tioga Downs Casino with a 30% slot tax rate, provided that Vernon Downs Casino Hotel maintains at least 70% of full-time employees (FTEs) from 2016. Tioga Downs will be required to provide a report to the Governor and Legislature detailing the use of the funds and employment goals.

The law further provides Vernon Downs with an additional vendor fee of up to 6.4% until 2027, provided that they maintain 70% of the FTE levels from 2016.

**C. Horse Racing and Breeding**

New York State is home to one of the leading horse racing programs in the nation. Each year, millions of dollars are wagered on races at the three largest Thoroughbred racetracks in the State, operated by the New York Racing Association, Inc. (NYRA); Aqueduct Racetrack in the South Ozone Park neighborhood of Queens; Saratoga Race Course in Saratoga Springs, which is the oldest horse racing venue in the United States and home of the prestigious Travers Stakes; and Belmont Park in Nassau County, host to the longest dirt track in North America as well as the third and final leg of the Triple Crown. Additionally, nestled in the State’s picturesque Finger Lakes region, New York’s fourth Thoroughbred track: Finger Lakes Gaming and Racetrack in Ontario County.

Across the State, there are also several Standardbred racetracks where patrons can view live harness (also known as “trotting”) races: Empire City Casino at Yonkers Raceway in Westchester County; Hamburg Gaming and Buffalo Raceway at the Fairgrounds in Erie County; Batavia Downs Gaming in Genesee County; Vernon Downs Casino and Hotel in Oneida County; Monticello Raceway in Sullivan County; Saratoga Casino and Raceway in Saratoga County; and Tioga Downs Casino and Raceway in Tioga County.

In addition to attending live race meetings, racing fans can place wagers remotely through any of the State’s five regional off-track betting corporations (OTBs) – Western, Capital, Catskill, Nassau or Suffolk. Because OTBs are public-benefit corporations, millions of dollars in wagering revenues have been distributed to aid local governments across the State since their inception in 1970. Both racetracks and OTBs feature simulcasting of races taking place in New York State as well as races taking place in other states and countries around the world.

**1. Payments to the New York State Thoroughbred Breeding and Development Fund**

A.3566 (Pretlow)/ S.2077(Addabbo); Chapter 514 of the Laws of 2023

The New York State Thoroughbred Breeding and Development Fund (“the Fund”) has experienced a significant reduction in the payments it receives from racetracks and regional off-track betting corporations, due to the decline in wagers placed on horse races over the past few years. This has been limiting its ability to make required investments in the State’s racing and breeding program.



For these reasons, Chapter 473 of 2010 authorized the Fund to collect its percentage of wagers on a quarterly basis instead of annually. The chapter also increased the maximum percentage of the Fund's revenues that could be used for: breeder awards, from 50 percent to 65 percent; publication and dissemination of information relating to the advancement and promotion of the breeding and raising of thoroughbreds in New York State and related agricultural pursuits, from five percent to six percent; and administration and management of the Fund, from four percent to five percent.

This law extends such provisions for an additional year, with a sunset date of October 28, 2024.

**2. Payments to the New York Thoroughbred Horsemen's Association**

A.3652 (Pretlow)/ S.2076 (Addabbo); Chapter 198 of the Laws of 2023.

This law extends the authorization for the New York Thoroughbred Horsemen's Association (NYTHA) to receive an additional one percent of all purses collected from race meetings held at racetracks operated by the New York Racing Association, Inc., for a total of two percent, for an additional year, until August 31, 2024. This money is used to provide additional benevolence to backstretch employees, including medical and health benefits, counseling and social services, and scholarship opportunities. NYTHA also earmarks funds for retired racehorses, equine health, safety and research.

**3. Commission on Retired Racehorses**

A.3517 (Pretlow); Reported to Codes

A continuing concern for the racing industry is how to best care for both standard and thoroughbred racehorses once they retire from their racing careers. For Thoroughbred racehorses, many only have a career span of 3-5 years. Therefore, it is important to find second careers or other safe and healthy avenues for horses once they have retired. This bill would establish the Commission on Retired Racehorses to study and make recommendations to the Legislature and Governor on how best to help these horses. The commission would also establish a database in order to monitor each retired racehorse in the State and their owners. The commission will consist of seven members: three appointed by the Governor, two appointed by the Temporary President of the Senate, and two appointed by the Speaker of the Assembly.

**4. Sire Stakes Eligibility**

A.3528 (Pretlow)/S.2779(Addabbo); Chapter 506 of the Laws of 2023

This law removes the requirement that a foal must be dropped from a mare bred in New York State in order to be eligible for the New York Sire Stakes. Going forward, any foal shall be eligible for the New York Sire Stakes if sired by a stallion owned by a resident of New York State or leased to a resident of New York State for longer than one year and standing for service within New York State at the time of the foal's conception.

## **D. Responsible Gaming**

Gambling addictions can occur in many different forms and affect many people. It is often referred to as a “hidden illness” because, unlike other addictions, there are no obvious physical signs or symptoms. With the recent expansion of gambling in New York State, it has now become more essential than ever to review and improve existing rules and regulations designed to address problem gambling in order to ensure consistency and determine the best ways to advance New York’s long-term commitment to promoting responsible gaming.

### **1. Advertisements for Gambling and Sports Betting**

A.1118 (Vanel)/S.1550(Comrie); Passed the Assembly

This bill would require the Gaming Commission to cooperate with addiction services and supports to post signs including information on the internet to assist people suffering from compulsive gambling and include that all advertisements clearly state a problem gambling hotline number. Included in this bill, mobile sports wagering licensees are inserted in the definition of “advertisement” in order to capture the newly implemented mobile sports wagering operators within the advertisement restrictions.

### **III. PUBLIC HEARING ON THE IMPACT OF MOBILE SPORTS WAGERING ON THE NEW YORK STATE BUDGET**

On January 31, 2023, the Assembly Committee on Racing and Wagering held a hearing to examine the overall economic impact of mobile sports wagering on the New York State Budget. Those testifying included various industry stakeholders such as the New York State Gaming Commission, the New York Council on Problem Gambling (NYCPG), the New York State Office of Addiction Services and Supports (OASAS), the New York State Office of Children and Family Services (OCFS), Fanduel Group Inc., the Spectrum Gaming Group, Light & Wonder, DraftKings Inc., and more. Those participating testified to the impacts of mobile sports wagering after its implementation on November 8, 2021.

#### **IV. STATE FISCAL YEAR 2023-2024 ENACTED BUDGET**

The State Fiscal Year (SFY) 2023-2024 Enacted Budget, with an allotted \$497,000,000 all funds appropriation for the Gaming Commission, included several significant additions and changes to New York State's racing, wagering, and gaming programs. Some of these laws include:

- extending the current pari-mutuel tax rates and provisions related to the simulcasting of out-of-state thoroughbred and harness races for one year;
- authorizing Catskill and Capital Off-Track Betting Corporations to utilize a percentage of the capital acquisition fund for the purposes of statutory obligations, payroll, and expenditures necessary to accept wagers for one year, requiring that both corporations submit an expenditure plan to the Gaming Commission for their approval;
- authorizing the direction of certain revenues from the three remaining casino licenses to the MTA;
- restructuring the Western Off-Track Betting Corporation Board.

The SFY 2023-2024 Enacted Budget also authorized the funding for a renovation and redevelopment project at Belmont Park, to be financed by the State and repaid by the New York Racing Association (NYRA). This project will be undertaken pursuant to a project labor agreement, requires MWBE goals, requires the Franchise Oversight Board to consult with NYSERDA on energy efficiencies, and ensures that all reasonable steps are taken to retain employees. Upon substantial completion of the project, the Aqueduct property will revert back to the State, and a local advisory board will be formed to assess bids and make recommendations to the Franchise Oversight Board, who will have to take a unanimous vote on the bid.

## **V. OUTLOOK FOR 2024**

During the 2024 Legislative Session, the Assembly Standing Committee on Racing and Wagering will continue to make progress towards developing and enacting legislation that strengthens all facets of New York State's racing, wagering, and gaming infrastructure.

The Committee will continue to remain steadfast in supporting legislation aimed to strengthen New York State's racing industry. It is important to protect not only racetrack employees, jockeys, and exercise riders, but also the thousands of Standardbred and Thoroughbred horses throughout the State. In 2024, equine safety will continue to be a priority for the Committee, along with addressing the ever present need for adequate aftercare practices and procedures for the industry's retired racehorse population.

Finally, the Committee will continue its dedication to supporting legislation that aims to enrich the State's racing, wagering, and gaming infrastructures by focusing on important issues such as sustaining charitable gaming for local organizations, promoting responsible gaming practices, maintaining transparency between the industry and those it serves, and enhancing revenues for education support for municipalities across the State.

**APPENDIX A**

**2023 Summary Sheet**

**Summary of Action on All Bills Referred to the  
New York State Assembly Standing Committee on Racing and Wagering**

<b>Final Action</b>	<b>Assembly Bills</b>	<b>Senate Bills</b>	<b>Total Bills</b>
<b>Bills Reported With or Without Amendment</b>			
To Floor; Not Returning to Committee (Favorable)	0	0	0
To Ways and Means	3	0	3
To Codes	1	0	1
To Rules	0	0	0
To Judiciary	0	0	0
<b>Total</b>	<b>4</b>	<b>0</b>	<b>4</b>
<b>Bills Having Committee Reference Changed</b>			
<b>Total</b>	<b>1</b>	<b>0</b>	<b>1</b>
<b>Senate Bills Substituted or Recalled</b>			
Substituted		0	0
Recalled		0	0
<b>Total</b>		<b>0</b>	<b>0</b>
<b>Bills Defeated in Committee</b>	0	0	0
<b>Bills Held for Consideration with a Roll-Call Vote</b>	0	0	0
<b>Bills Never Reported, Died in Committee</b>	66	7	73
<b>Bills Having Enacting Clauses Stricken</b>	0	0	0
<b>Motions to Discharge Lost</b>	0	0	0
<b>Total Bills in Committee</b>	<b>78</b>	<b>7</b>	<b>85</b>
<b>Total Number of Committee Meetings Held</b>	<b>3</b>		

## APPENDIX B

### Chapters of 2023

CHAPTER	ASSEMBLY BILL (SPONSOR)	SENATE BILL (SPONSOR)	DESCRIPTION
198	A.3652 (Pretlow)	S.2076 (Addabbo)	Extends the authorization for the New York Thoroughbred Horsemen's Association to receive an additional 1% of purses collected from race meetings held at tracks operated by the New York Racing Association, Inc., for one year.
506	A.3528 (Pretlow)	S.2779 (Addabbo)	Reduces the requirements that must be met for a foal to be eligible for the "New York sire stakes."
514	A.3566 (Pretlow)	S.2077 (Addabbo)	Extends payments to the New York State Thoroughbred Breeding and Development Fund for an additional one year.
528	A.6144A (Pretlow)	S.4817A (Addabbo)	Provides that Tioga Downs Casino would get a slot tax rate reduction to 30%.

## APPENDIX C

### Additional Bills Reported in 2023

<b>ASSEMBLY BILL (SPONSOR)</b>	<b>LAST ACTION</b>	<b>DESCRIPTION</b>
A.1118 (Vanel)	Passed Assembly	Would include mobile sports wagering licensees in the definition of “advertisement” in order to capture the new operators in the existing advertising restrictions.
A.3517 (Pretlow)	Reported to Codes	Would establish a Commission on Retired Racehorses to study and establish a database reflecting the ownership of retired racehorses in the state.
A.3653 (Pretlow)	Reported to Ways and Means	Would prohibit lottery retailers from confiscating, removing, or destroying lottery tickets prior to the conclusion of such game.