



New York State Assembly

Carl E. Heastie, Speaker

ANNUAL REPORT 2015

Committee on

Racing and Wagering

J. Gary Pretlow, Chairman



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

Chairman
Racing & Wagering

COMMITTEES

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Assembly Steering Committee

J. Gary Pretlow
Assemblyman 89th District

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

December 15, 2015

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

Dear Speaker Heastie:

As Chairman of the Assembly Standing Committee on Racing and Wagering, I am pleased to submit to you the Committee's 2015 Annual Report.

Several bills which were reported out of Committee in the 2015 Legislative Session were subsequently enacted into law. Among them was a provision that will continue to provide additional funding support for benevolent services for thoroughbred racetrack backstretch employees and their families. Other bills signed into law this year included: provisions to extend certain financial flexibilities for the New York Thoroughbred Breeding and Development Fund, and a bill to ensure that the Saratoga harness track maintains its status as a regional track, and a measure to increase revenues at racetracks statewide.

The Committee also advanced legislation which would have: enhanced consumer protection for purchasers of lottery tickets; established a task force on responsible gaming; included knowledge of problem gambling as a possible qualification for service on the New York State Gaming Commission; established a commission on retired racehorses; entitled a licensed horseman, driver or trainer to an administrative hearing before the Gaming Commission when they are ejected from or denied access to a harness meet; and allowed regional off-track betting corporations to use some capital acquisition funds annually for corporate purposes.

I want to take this opportunity to thank the members of the Committee for their input and support during the 2015 Legislative Session. I would also like to thank you, Speaker Heastie, for your strong leadership. The Committee members and I look forward to working with you during the 2016 Legislative Session to continually strengthen our state's racing and pari-mutuel wagering infrastructure.

Warm Personal Regards,

J. Gary Pretlow
Chairman
Assembly Racing and Wagering Committee

**2015 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON RACING AND WAGERING**

J. Gary Pretlow, Chairman

Committee Members

Majority

Margaret Markey
Aileen Gunther
Michael Miller
Phillip Goldfeder
Michaëlle C. Solages
Carrie Woerner
Angelo Santabarbara

Minority

Andrew Garbarino
James Tedisco
Peter Lawrence

STAFF

Jennifer Best, Assistant Secretary to Program and Policy
Deborah Beth Medows, Associate Counsel
Elizabeth Boody, Analyst
Kaitesi Rama-Munroe, Committee Clerk
Sarah Conklin, Executive Secretary

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I. INTRODUCTION

A. Committee Jurisdiction

New York State is home to one of the premier thoroughbred and harness racing programs in the nation. Each year, millions of dollars are wagered on races at the three largest thoroughbred racetracks in the state: Aqueduct Racetrack in the South Ozone Park neighborhood of Queens County; Saratoga Race Course in Saratoga Springs, the oldest 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 at one and one-half miles and, most notably, the third and final leg (also known as “the third jewel”) of thoroughbred racing’s highest honor, the Triple Crown. Last but not least, nestled in the state’s picturesque Finger Lakes region is New York’s fourth thoroughbred racetrack, Finger Lakes Gaming and Raceway. Across the state, there are seven harness racetrack-casinos (“racinos”) where patrons can view live harness (also known as “standardbred” or “trotting”) races and enjoy casino-style video lottery gaming: Empire City Yonkers Raceway in Westchester County; Buffalo Raceway in Erie County; Batavia Downs in Genesee County; Vernon Downs in Oneida County; Tioga Downs in Tioga County; Monticello Raceway in Sullivan County; and Saratoga Gaming and Raceway in Saratoga County.

In addition to attending live race meetings, racing fans may visit branches of any of the state’s five regional off-track betting corporations (OTBs): Western; Capital; Catskill; Nassau; or Suffolk, to view and wager on the state’s races or, via simulcast, races from other states and countries around the world. First authorized in the City of New York in 1970, OTBs are public-benefit corporations whose purpose is to generate revenue for the support of the localities within their geographical region. They also provide jobs for thousands of New Yorkers. Since the inception of OTBs, millions of dollars in wagering revenues have been distributed to the aid of local governments across the state.

Previously the New York State Racing and Wagering Board and the State Division of Lottery (DOL) were two separate entities. In the state fiscal year (SFY) 2012-13 budget these two agencies were combined into the New York State Gaming Commission, which took effect on February 1, 2013. This Commission is comprised of four divisions. The divisions are lottery, charitable gaming, gaming, and horse racing and pari-mutuel wagering.

- The Division of Lottery is responsible for the operation and administration of the state lottery for education except video lottery gaming. However, the lottery division is responsible for all aspects of promotional activities related to video lottery gaming as prescribed by the Tax Law.
- The Charitable Gaming Division is responsible for the supervision and administration of the games of chance licensing law, bingo licensing law, and bingo control law as prescribed in General Municipal Law and Executive Law.
- The Gaming Division is responsible for the appropriate administration, regulation, and oversight of Indian gaming as defined by tribal-state compacts pursuant to the Indian Regulatory Act. The gaming division is also responsible for the operation and administration of video lottery gaming as prescribed in the Tax Law.
- 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.

Lastly, with the November 2013 passage of the constitutional amendment to allow up to seven commercial casinos within New York State and the previous June 2013 passage of A.8101 (Pretlow)/S.5883(Bonacic), Chapter 174 of 2013, which outlined the process for licensure of such casinos, the Committee will now have legislative jurisdiction over any future commercial casinos that may be licensed. In December 2014, the Gaming Facility Location Board recommended that the Gaming Commission grant licenses to three facilities: Montreign Resort Casino in Sullivan County, Rivers Casino & Resort at Mohawk Harbor in Schenectady, and Lago Resort & Casino in Seneca County. In October 2015, the Gaming Facility Location Board recommended Tioga Downs Casino in Tioga County to apply to the Gaming Commission for a fourth license.

B. Summary of Actions

During the 2015 legislative session 69 bills were referred to the Assembly Standing Committee on Racing and Wagering. Of those 69 bills, 11 bills were reported favorably out of the committee and four were signed into law. Some of the bills that the Committee acted on include a bill to ensure the welfare of former racehorses through continuous tracking of New York-bred racehorses after they retire, a bill to entitle a licensed horseman, driver or trainer to a hearing when they are ejected from or denied access to a harness meet, a bill to give regional off-track betting corporations the flexibility to use some capital acquisition funds for corporate purposes, and a bill to allow racing on Palm Sunday.

II. 2015 LEGISLATIVE ACTION

A. Regulation of Racing and Wagering and Lottery

Qualifications for Members of the New York State Gaming Commission

A.878 (Cymbrowitz) / S.3278 (Sanders); Passed Assembly

As New York State continues to implement the constitutional amendment and authorizing statute to allow casino gambling, it is important to ensure that a member of the New York State Gaming Commission has experience in dealing with problem gambling. This bill would add significant experience in the prevention or treatment of problem gambling to the list of possible qualifications that the members of the Commission could have.

Legislative Task Force on Responsible Gaming

A.879 (Cymbrowitz) / S.3002 (Addabbo); Reported to Assembly Ways and Means Committee

This bill would establish the Legislative Task Force on Responsible Gaming. This task force would consist of 11 members who would be responsible for: identifying policies and programs that mitigate risks and consequences associated with problem gambling; recommending policies and procedures for the New York State Gaming Commission to ensure responsible gaming practices; recommending a structure for the enforcement of responsible gaming regulations such as penalties for violations; identifying methods to measure the effectiveness of implemented procedures; identifying and recommending provisions to ensure responsible gaming practices are included in the enabling legislation regarding casino gaming; and submitting a final report of findings and recommendations to the Governor, Speaker of the Assembly, and Temporary President of the Senate no later than February 1, 2016.

Returned Lottery Tickets

A.1287 (Pretlow) / No Same-As; Reported to Assembly Ways and Means Committee

Lottery tickets are bearer instruments. As such, the individual who presents a winning ticket for prize redemption is presumed to be the rightful owner. In efforts to protect those who play lottery games from unscrupulous acts of theft and any financial loss, ticket purchasers are urged by the Division of Lottery (DOL) to sign their tickets upon receipt to ensure that they alone will be eligible to claim any prizes. To further support these efforts, DOL has implemented an automated verification system which allows ticket holders to use the electronic ticket readers, now available at all lottery retail locations, to verify their tickets instead of surrendering them to an agent.

While the intent is for lottery players to use the automated systems, the Committee, in consideration of those individuals who may have no recourse but to submit their tickets to an agent for verification, advanced A.1287 (Pretlow), which would require lottery retail agents to return any previously purchased ticket to the customer who has submitted it for verification once verification has been completed, whether or not a prize has been won. This bill would ensure that an unscrupulous retail agent could not defraud a customer out of their winning ticket. This bill would also allow lottery customers to retain non-winning tickets, which may be used to offset tax liabilities from any future winnings.

Lottery Tickets for the Arts

A.3153 (Titone) / No Same-As; Reported to the Assembly Ways and Means Committee

Over the years, studies have shown, and continue to show, that arts education is an essential component of a well-balanced primary and secondary education curriculum. Exposure to these creative disciplines helps to develop individuality and creative expression in students. Unfortunately, during periods of economic difficulty, creative arts programs in public schools are among the first to be eliminated as a cost savings measure. A.3153 (Titone) would provide a dedicated revenue stream for these vulnerable programs by directing the Division of Lottery to produce an arts-themed, scratch-off lottery ticket and requiring that the proceeds from its sale be used exclusively for the support of elementary and secondary arts education.

B. Racing: Thoroughbred and Harness

Payments to the Thoroughbred Horsemen's Association

A.2132 (Pretlow) / S.1866 (Bonacic); Chapter 236 of the Laws of 2015

This chapter extended for one year the authorization for the New York Thoroughbred Horsemen's Association (NYTHA) to receive an additional 1% of the purse monies collected from race meetings held at New York Racing Association tracks. This money is used to provide additional benevolence to backstretch employees, including medical and health benefits, counseling and social services, scholarship opportunities and other programs to improve their lives. NYTHA also earmarks funds for racehorse retirement, equine health and safety and equine research. This authorization will expire after August 31, 2016.

Payments to the Thoroughbred Breeding and Development Fund

A.4925 (Pretlow) / S.3424 (Bonacic); Chapter 287 of the Laws of 2015

The New York State Thoroughbred Breeding and Development Fund ("the Fund"), established in 1973 by section 252 of the Racing Pari-mutuel Wagering and Breeding Law (Racing Law), is a public benefit corporation which serves as the regulatory body for the state's breeding and racing program, and whose purpose it is to reinvest a share of the monies wagered in the state to promote the breeding and raising of thoroughbred horses. In addition to a small percentage reserved for the administration and management of the Fund, the Racing Law authorizes the Fund to disburse its monies for awards to breeders of New York-breds finishing first, second, third and fourth in pari-mutuel races run in New York State; and for the publication and dissemination of information promoting the breeding and raising of NY-breds and other general agricultural pursuits.

In recent years, due to overall declines in handle, the Fund has experienced a significant reduction in the payments it received from racetracks and regional off-track betting corporations, which limit its ability to make the required investments in the state's breeding program. Chapter 473 of 2010 authorized the Fund to collect its percentage of wagers on a quarterly basis rather than annually. The chapter also increased the maximum percentage of the Fund's revenues that could be used for breeder awards from 50% to 65%, for promotion from 5% to 6%, and for administration and management from 4% to 5%.

Chapter 287 of the Laws of 2015 extends these provisions for an additional year, until October 28, 2016.

Ejection from Harness Meets

A.6246 (Pretlow) / S.5836 (Comrie); Passed Assembly

Currently, New York State racing licensees only have the right to a hearing when their license is refused or revoked. Licensees who are ejected from or denied access to a race meet, even those in good standing, have no recourse under the Racing Law. This bill would entitle a licensed horseman, driver or trainer to an administrative hearing with the New York State Gaming Commission when they are ejected from or denied access to a harness meet. Pending the final determination of that hearing, a licensee would be permitted to enter the grounds of a harness meet or participate in such a meet.

Saratoga Harness Track Regional Payments

A.6332 (Woerner) / S.4370 (Marchione); Chapter 300 of the Laws of 2015

Saratoga harness track is currently considered a regional racetrack and thus is entitled to regional payments from the Capital Region Off-Track Betting Corporation. However, Saratoga Harness Racing, Inc., hopes to reorganize its corporate structure, and in doing so, the Saratoga harness track would no longer be defined as a regional track under the Racing Law and could thus lose its payments from Capital Region OTB. This bill would ensure that the Saratoga harness track maintains its status as a regional track and continues to receive regional payments.

Palm Sunday Races

A.6946 (Pretlow) / S.4934 (Ranzenhofer); Chapter 443 of the Laws of 2015

Racing is currently prohibited on Palm Sunday, Easter Sunday and Christmas. This chapter allows racing on Palm Sunday, affording the public more recreational opportunities to enjoy the excitement and relaxation of horse racing. This chapter will also increase pari-mutuel revenue, which benefits the state, local governments, race tracks and horse owners.

Retired Racehorse Commission

A.7187-A (Pretlow) / No Same-As; Reported to the Assembly Codes Committee

According to data compiled by the Jockey Club, U.S. and Canadian horse breeders and owners register approximately 23,000 thoroughbreds each year nationwide, more than 1,400 of which are New York-breds. New York State is home to hundreds of breeding farms where millions of dollars are invested each year to continue supplying the horse racing industry with racehorses of the highest standard. Tragically, only a small percentage of the horses bred for racing will go on to be prize-winning horses and further, these animals will only race for an average of two to five years, a fraction of their lifespan. Those racehorses that are not fortunate enough to be retired by their owners to a reputable farm or retrained for a second occupation face potential neglect and sale at “kill auctions” for slaughter in Canada or Mexico.

Despite continued efforts by the industry and aftercare organizations to care for retired racehorses, there is no centralized mechanism for tracking racehorses upon retirement. In order to improve available data on retired racehorses, Assemblyman Pretlow introduced A.7187-A, which would establish a Commission on Retired Racehorses. This Commission on Retired Racehorses would consist of seven members who would be responsible for tracking retired New York-bred thoroughbred and standardbred racehorses and recommending strategies to ensure the well-being and prevent the abandonment or slaughter of such racehorses. In order to track retired racehorses, the Commission on Retired Racehorses would be required to work with the Gaming Commission to create a registry of information provided by owners and subsequent owners and compiled from existing registries. Resident owners would be required to report to the Commission on Retired Racehorses within 72 hours after purchasing a retired New York-bred thoroughbred or standardbred racehorse and after the death of such racehorse. Each reporting failure could result in a civil penalty up to \$500 to be assessed by the Gaming Commission. This bill would provide the state with invaluable, continuous data about retired thoroughbred and standardbred racehorses, the first step toward ensuring that these magnificent animals are not mistreated or sold to slaughter.

C. Off-Track Betting

Capital Acquisition Fund Flexibility

A.7441-A (Pretlow) / S.5421-A (Amedore); Vetoed, Memo 298

Regional off-track betting corporations (OTBs) are public benefit corporations created to support local governments by providing revenue streams. These revenue streams to local governments have dwindled over the years due to decreases in pari-mutuel betting. This decrease in betting and revenue has led OTBs to cut significant amounts of operating expenses and has forced reduction in employment. A.7441-A would help to offset these losses by giving OTBs the ability to use the capital acquisition funds that they already have.

This bill would allow all five OTBs – Capital, Catskill, Nassau, Suffolk and Western – to use up to \$500,000 of their respective capital acquisition funds once per year for any corporate purpose, provided that at least 10% of the amount used for corporate purposes is distributed to participating counties. Giving OTBs access to these funds would maintain jobs, preserve the existing revenue stream for local governments, and provide additional revenue to local governments.

D. State Fiscal Year 2015-16 Enacted Budget

State Fiscal Year 2015-16 Enacted Budget: Summary of Provisions

A.3009-B (Budget Bill) / S.2009-B (Budget Bill); Chapter 59 of the Laws of 2015

The enacted state fiscal year (SFY) 2015-16 budget extends for one year the deadlines to receive approval from the Gaming Commission for capital projects that are reimbursed through the video lottery gaming vendor's capital award program, as well as the deadlines to complete these capital projects. These capital projects improve facilities at vendor tracks, which in turn encourages increased attendance at the video lottery gaming facilities and affiliated lodging and entertainment facilities.

The enacted SFY 2015-16 budget extends for one year the current pari-mutuel tax rates and provisions authorizing out-of-state simulcasting of thoroughbred and harness races. Extending these provisions maintains the pari-mutuel betting and simulcasting structure that is currently in place in New York State.

The enacted SFY 2015-16 budget also expands the definition of video lottery gaming to include mixed games of chance and skill and to allow for elements of player interaction after a player receives an initial chance. This provision allows video lottery gaming facilities to offer lottery-only versions of games such as blackjack and three-card poker and is expected to increase aid to education by \$20 million in SFY 2015-16 and \$40 million annually thereafter.

The enacted SFY 2015-16 budget extends the New York Racing Association (NYRA) Reorganization Board's term for an additional year. Chapter 457 of 2012 temporarily changed the governing structure of NYRA – from a private, not-for-profit structure to a temporary board under public control – in order to ensure the viability and continuity of racing. The Reorganization Board became effective upon the appointment of a majority of public members, on October 18, 2012, and was originally scheduled to terminate three years from its creation. The SFY 2015-16 enacted budget extended the Board's term for a fourth year, until October 18, 2016. At that time, NYRA will be returned to private control in the form of a not-for-profit corporation. The Reorganization Board is required by law to propose recommendations to the governor and the state legislature representing a statutory plan for NYRA's prospective not-for-profit governing structure no less than 180 days prior to the Board's termination, or by April 21, 2016.

The budget increases the maximum amount deducted from owners' shares of purses for the New York Jockey Injury Compensation Fund (NYJICF) from 1% to 2% until April 1, 2017. The cost for NYJICF to provide workers' compensation insurance for jockeys, apprentice jockeys and exercise persons has increased drastically in 2015. This two-year increase will help to pay for the costs of workers' compensation insurance procured by NYJICF while new NYRA safety regulations help to improve track safety, and consequently decrease, the State Insurance Fund premium for NYJICF.

The enacted SFY 2015-16 budget extends the current vendor fee rate paid to Monticello Video Lottery Terminal facility for one year, until April 1, 2016.

Lastly, the enacted SFY 2015-16 budget requires that out-of-state account wagering providers who contract with in-state account wagering providers follow the same distributional policy with respect to retained commissions as other out-of-state account wagering providers. The law holds current contracts harmless.

III. PUBLIC HEARING

A. Daily Fantasy Sports Games in New York State

Albany, NY- December 8, 2015

The federal Unlawful Internet Gambling Enforcement Act of 2006 exempted certain skill-based fantasy or simulation sports games from unlawful internet gambling as long as they meet certain conditions. However, the New York State Attorney General recently deemed pay-to-play daily fantasy sports illegal gambling under New York State law and issued cease-and-desist orders to DraftKings and FanDuel demanding that the companies stop accepting wagers in New York.

The Attorney General's investigation also found that both companies use deceptive advertising, misrepresenting compliance on the part of the companies and misrepresenting the nature and the legality of daily fantasy sports games to consumers, in violation of New York State law.

On December 8, 2015, the Assembly Standing Committees on Racing and Wagering and Consumer Affairs and Protection held a public hearing to examine daily fantasy sports games in New York State and their impact on New York consumers and the state.

Oral testimony provided an overview of the daily fantasy sports industry and whether daily fantasy sports games constitute gambling under New York State law. The speakers also discussed how to ensure that consumers know their rights and have the ability to make informed choices when participating in these types of games, and the impact these games have on regulated gambling industries as well as the New York State Budget.

Witnesses who provided oral testimony included representatives of the Fantasy Sports Trade Association, daily fantasy sports companies DraftKings and FanDuel, the Standardbred Owners Association of New York, Western Regional Off-Track Betting Corporation and Batavia Downs Gaming, the Coalition Against Gambling in New York, the New York Council on Problem Gambling, Stop Predatory Gambling, and the gambling news and analysis organization Gambling Compliance.

The Committee will continue to monitor, discuss and review daily fantasy sports in the upcoming legislative session.

IV. OUTLOOK

During the 2016 Legislative Session, the Committee will continue to oversee legislation affecting the state's racing and pari-mutuel wagering network. As we move forward with the implementation of commercial casino gaming the Committee will monitor and assess the impact of gaming expansion on New York State and the racing industry. Among other issue areas the Committee will focus on are: the future of retired racehorses, jockey and horse health and safety, the transition of the governing structure of the New York Racing Association, Inc., and the continued research of ways to bolster participation and attendance at racing industry events at race tracks as well as off-track betting facilities.

APPENDIX A: 2015 SUMMARY SHEET

SUMMARY OF ACTION ON ALL BILLS
REFERRED TO THE COMMITTEE ON

RACING AND WAGERING

<u>FINAL ACTION</u>	<u>ASSEMBLY BILLS</u>	<u>SENATE BILLS</u>	<u>TOTAL BILLS</u>
BILLS REPORTED WITH OR WITHOUT AMENDMENT			
TO FLOOR; NOT RETURNING TO COMMITTEE (FAVORABLE)	1		1
TO WAYS AND MEANS	7		7
TO CODES	2		2
TO RULES	1		1
TO JUDICIARY	0		0
TOTAL	11		11
BILLS HAVING COMMITTEE REFERENCE CHANGED			
TO <u>Ways and Means</u> COMMITTEE	1		1
TOTAL	1		1
SENATE BILLS SUBSTITUTED OR RECALLED			
SUBSTITUTED		0	0
RECALLED		0	0
TOTAL		0	0
BILLS DEFEATED IN COMMITTEE	0	0	0
BILLS HELD FOR CONSIDERATION with a roll-call vote	0	0	0
BILLS NEVER REPORTED, DIED IN COMMITTEE	55	4	59
BILLS HAVING ENACTING CLAUSES STRICKEN	2	0	2
MOTIONS TO DISCHARGE LOST	0	0	0
TOTAL BILLS IN COMMITTEE	69	4	73
TOTAL NUMBER OF COMMITTEE MEETINGS HELD	6		

APPENDIX B: CHAPTERS OF 2015

BILL/SPONSOR	DESCRIPTION	ACTION
A.2132 Pretlow S.1866 Bonacic	Extends for one year, until August 31, 2016, the authorization for the New York Thoroughbred Horsemen’s Association to receive an additional 1% of purse monies collected from race meetings at Aqueduct, Saratoga, and Belmont racetracks.	Chapter 236
A.4925 Pretlow S.3424 Bonacic	Extends for one year, until October 28, 2016, provisions of law allowing the New York Thoroughbred Breeding and Development Fund to collect wagers on a quarterly basis and to spend more of their revenue on breeder awards, promotion and administration.	Chapter 287
A.6332 Woerner S.4370 Marchione	Ensures that Saratoga harness track maintains its status as a regional track and continues to receive regional payments.	Chapter 300
A.6946 Pretlow S.4934 Ranzenhofer	Permits racing on Palm Sunday.	Chapter 443

APPENDIX C: BILLS REPORTED IN 2015

BILL/SPONSOR	DESCRIPTION	ACTION
A.878 Cymbrowitz S.3278 Sanders	Would add experience in the prevention or treatment of problem gambling as a possible qualification for members of the New York State Gaming Commission.	Passed Assembly.
A.879 Cymbrowitz S.3002 Addabbo	Would establish the Legislative Task Force on Responsible Gaming.	Reported to Ways and Means Committee.
A.1287 Pretlow No Same As	Would require lottery sales agents to return previously purchased lottery tickets to customers who submit them for verification, after the verification process has been completed.	Reported to Ways and Means Committee.
A.3153 Titone No Same As	Would create an arts-themed scratch-off lottery ticket whose proceeds would be used exclusively for the support of elementary and secondary arts education.	Reported to Ways and Means Committee.
A.6246 Pretlow S.5836 Comrie	Would entitle a licensed horseman, driver or trainer to a hearing when they are ejected from or denied access to a harness meet.	Passed Assembly.
A.7187-A Pretlow No Same As	Would establish a Commission on Retired Racehorses.	Reported to Codes Committee.
A.7441-A Pretlow S.5421-A Amedore	Allows regional off-track betting corporations to use up to \$500,000 of their capital acquisition funds once per year for any corporate purpose.	Vetoed, Memo 298

END OF REPORT