

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

4 JOINT PUBLIC HEARING
5 ON STATE AGENCY CONSOLIDATION

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

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

11 March 1, 2012
12 1:00 p.m. to 3:00 p.m.

13
14 PRESIDING:

14 Senator Carl L. Marcellino
15 Chairman
16 NYS Senate Standing Committee on Investigations and
17 Government Operations

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

19 Senator Martin J. Golden
20 Chairman
21 NYS Senate Standing Committee on Civil Service and
22 Pensions

22 ALSO PRESENT:

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

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5	New York State Lottery		
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7	John Sabini	5	16
8	Chairman		
9	NYS Racing and Wagering Board;		
10	NYS Thoroughbred Breeding and		
11	Development Fund;		
12	NYS Quarter Horse Breeding and		
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1 SENATOR MARCELLINO: Good afternoon.

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

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

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

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

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

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

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

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

6 I don't know.

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

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

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

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

22 SENATOR BONACIC: No, I'll pass.

23 SENATOR MARCELLINO: Okay.

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

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

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

8 So, I'd like to call up:

9 Gordon Medenica, director of the New York
10 State Lottery;

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

16 You got a lot of titles, John.

17 JOHN SABINI: You missed one.

18 SENATOR MARCELLINO: Did I miss one?

19 Well, you can fill in me.

20 JOHN SABINI: The Harness Fund, as well.

21 SENATOR MARCELLINO: Oh, my God!

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

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

1 read it.

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

4 Gordon, do you want to go?

5 GORDON MEDENICA: We can flip a coin.

6 JOHN SABINI: Go ahead.

7 SENATOR MARCELLINO: Okay, I'll pick.

8 Gordon.

9 GORDON MEDENICA: Thank you.

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

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

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

18 The New York Lottery is the largest and most
19 successful in the country, last year generating over
20 \$7.8 billion in sales, and over \$3 billion in
21 profit.

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

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

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

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

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

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

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

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

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

1 responsibility for coordinated gaming policy and
2 regulation.

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

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

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

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

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

25 For many years, we have coordinated with the

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

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

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

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

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

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

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

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

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

14 That concludes my prepared remarks.

15 Thank you for your time.

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

18 SENATOR MARCELLINO: John.

19 JOHN SABINI: Thank you.

20 Good afternoon, Chairman Marcellino,
21 Chairman Bonacic, Chairman Golden, and former
22 colleagues.

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

1 create a new New York State gaming commission.

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

5 The New York State Thoroughbred Breeding and
6 Development Fund;

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

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

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

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

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

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

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

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

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

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

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

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

22 What happens at the tribal casinos affects
23 charitable gaming.

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

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

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

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

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

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

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

1 6 outside members, plus the commissioner of
2 Agriculture and Markets, the gaming commission
3 chair, and three other members of the gaming
4 commission.

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

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

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

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

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

25 Gordon is, obviously, the expert in

1 lotteries.

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

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

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

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

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

22 And I think we're both ready for any
23 questions.
24
25

1 SENATOR MARCELLINO: Okay.

2 We're joined by Senator Golden.

3 Senator, do you have any brief opening
4 remarks?

5 SENATOR GOLDEN: No.

6 SENATOR MARCELLINO: Okay.

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

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

13 Every one of my constituents, over the last
14 18 years, whenever I have a meeting, someone will
15 stand up and say, "Does the lottery money go to
16 education?"

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

19 GORDON MEDENICA: Absolutely. 100 percent.

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

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

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

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

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

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

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

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

20 That does not change under this structure.

21 In the video-lottery casinos --

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

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

1 districts, from the Lottery --

2 SENATOR MARCELLINO: From the General Fund --

3 GORDON MEDENICA: -- through the
4 State Education Department.

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

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

12 SENATOR MARCELLINO: Okay.

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

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

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

22 GORDON MEDENICA: We think there will be no
23 impact.

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

1 successfully.

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

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

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

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

18 SENATOR MARCELLINO: Thank you.

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

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

24 The Division of Charitable Gaming;

25 The Division of Gaming, which would be the

1 Indian gaming and the VLTs; --

2 Correct me if I'm wrong.

3 -- the Division of Horse Racing and
4 Parimutuel Wagering;

5 And, the Division of Law Enforcement.

6 Do we need a division of law enforcement?

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

11 What do we need a law enforcement?

12 Don't we have the Inspector General?

13 Don't we have the Attorney General?

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

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

18 First off, in the present situation, we have
19 inspectors at the tribal casinos, 24 hours a day,
20 7 days a week, to look after the interests of the
21 people in the state of New York who aren't
22 necessarily part of the tribe, but are the consumer,
23 your constituents.

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

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

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

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

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

18 To do adjudications;

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

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

1 operations were at the highest level.

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

4 We believe this is the best way to do it.

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

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

12 (Senator Savino joins the hearing.)

13 JOHN SABINI: For example --

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

16 SENATOR MARCELLINO: That's okay.

17 JOHN SABINI: -- who's joined us.

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

24 They have to be licensed by my agency right
25 now.

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

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

10 GORDON MEDENICA: No.

11 SENATOR MARCELLINO: No fees.

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

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

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

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

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

1 too big?

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

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

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

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

14 I get questions sometimes about the lottery.

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

17 And, it will make things a lot better.

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

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

22 SENATOR MARCELLINO: That's okay, go ahead.

23 SENATOR BONACIC: Okay, now.

24 SENATOR SAVINO: No.

25 SENATOR MARCELLINO: Just push the button.

1 SENATOR BONACIC: Okay, we're on now.

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

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

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

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

11 JOHN SABINI: We have approximately
12 50 employees at tribal casinos, the five tribal
13 casinos run by the three nations in the state, that
14 are on the gaming floor 24/7, so that people have a
15 representative of the state government there, to
16 ensure the integrity of what goes on.

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

1 compromised.

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

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

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

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

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

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

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

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

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

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

9 I think we do a pretty good job of it.

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

13 JOHN SABINI: Yes.

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

16 JOHN SABINI: Yes.

17 It requires us to be there.

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

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

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

1 Buffalo Police Department also has a presence.

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

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

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

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

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

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

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

24 SENATOR BONACIC: But not have jurisdiction?

25 JOHN SABINI: That's correct.

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

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

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

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

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

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

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

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

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

3 GORDON MEDENICA: Yes.

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

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

10 SENATOR MARCELLINO: John?

11 JOHN SABINI: Let me just augment that.

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

17 SENATOR MARCELLINO: Chairman...

18 (motioning to Senator Golden)

19 SENATOR GOLDEN: Thank you, Mr. Chairman.

20 To the gentlemen: Good afternoon.

21 The -- this is a pretty large undertaking.

22 What is the proposed budget for this?

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

25 GORDON MEDENICA: In terms of the budget

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

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

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

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

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

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

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

19 We have a certain amount of internal
20 auditors, and people like that. That's, probably,
21 12 or 13 people that are stationed in the facilities
22 all the time.

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

1 number of locations?

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

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

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

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

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

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

19 GORDON MEDENICA: Absolutely.

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

22 GORDON MEDENICA: Yes.

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

1 allocated to that division?

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

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

6 GORDON MEDENICA: Sure. Absolutely.

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

9 GORDON MEDENICA: Absolutely.

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

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

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

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

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

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

25 JOHN SABINI: Well, as a result of the

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

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

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

10 There is no doubt that they are successful
11 operations.

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

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

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

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

25 JOHN SABINI: Again, the compacts would be

1 unaffected by this.

2 SENATOR GOLDEN: So --

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

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

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

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

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

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

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

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

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

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

4 OTB, it's missing here.

5 Where -- what are we doing with OTB?

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

9 The other regional OTBs continue to exist.

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

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

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

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

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

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

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

1 listen to your suggestions.

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

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

7 JOHN SABINI: Right.

8 Understand, Senator Golden, we are the
9 regulator.

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

14 We don't actually market them, or --

15 SENATOR GOLDEN: Nor should you.

16 JOHN SABINI: -- or license them.

17 SENATOR GOLDEN: Nor should you.

18 JOHN SABINI: Nor should we, right.

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

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

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

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

6 Correct?

7 JOHN SABINI: Right.

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

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

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

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

18 SENATOR GOLDEN: Again, I heard you, clear.

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

21 Thank you.

22 SENATOR MARCELLINO: Senator Savino?

23 SENATOR SAVINO: No. Thank you.

24 SENATOR MARCELLINO: Okay.

25 Just a couple more.

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

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

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

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

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

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

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

25 Obviously, the mural behind you shows that,

1 and it's been here for years.

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

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

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

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

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

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

25 SENATOR BONACIC: Just a quick question.

1 SENATOR MARCELLINO: Go ahead.

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

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

10 But, do you have an opinion --

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

13 -- whether consolidation should occur?

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

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

18 JOHN SABINI: Well, I do --

19 SENATOR BONACIC: Knowing you're a regulator.

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

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

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

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

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

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

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

24 SENATOR BONACIC: Thank you, John.

25 JOHN SABINI: Thank you.

1 SENATOR MARCELLINO: Senator Golden.

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

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

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

13 So, I'll go a step further.

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

16 The \$380 million, the licensing fee from
17 Resorts World, where does that -- is that in the
18 2010-11 numbers?

19 Where is that?

20 How does that play --

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

22 The total aid to education from the
23 video-lottery facilities that year, was
24 \$927 million, of which, \$380 was in that number.

25 SENATOR GOLDEN: So we would have taken a

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

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

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

7 GORDON MEDENICA: I'm sorry?

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

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

12 SENATOR GOLDEN: But if you didn't have the
13 \$380 million going into the 2010-11 numbers, how
14 would the --

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

17 SENATOR GOLDEN: You have them in the
18 '10-'12 numbers -- the '10-'11 -- no, I'm sorry.

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

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

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

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

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

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

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

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

10 GORDON MEDENICA: In the video-lottery --

11 SENATOR GOLDEN: Yes.

12 GORDON MEDENICA: -- segment?

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

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

17 SENATOR GOLDEN: If you had \$7.8 billion in
18 2009, and you have \$7.8 billion in 2010-11, if you
19 didn't have the \$380 million --

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

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

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

1 SENATOR GOLDEN: So it's, down here -- so,
2 down here, it's \$2.67 million, is the 2009 numbers.
3 '10 numbers --

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

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

8 SENATOR MARCELLINO: He's looking at your --

9 SENATOR GOLDEN: So if you take the
10 \$380 million from the \$305 billion, you would have
11 had a loss of over 2009-2010.

12 GORDON MEDENICA: Uh, if I can --

13 SENATOR MARCELLINO: It's in your --

14 SENATOR SAVINO: It's on your chart.

15 Here.

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

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

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

24 Correct?

25 GORDON MEDENICA: I don't believe that's

1 correct.

2 I think we had an increase in --

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

6 GORDON MEDENICA: Okay.

7 SENATOR MARCELLINO: Don't beat him to death.

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

10 I believe that you take a loss --

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

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

16 SENATOR GOLDEN: I understand that.

17 Thank you very much.

18 SENATOR MARCELLINO: Okay.

19 SENATOR GOLDEN: All right?

20 Thank you.

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

24 GORDON MEDENICA: That's right.

25 SENATOR MARCELLINO: -- as a result of this

1 merger?

2 This merger will not cause that, from your
3 perspective?

4 GORDON MEDENICA: That's right.

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

7 Where's the savings?

8 Is there a savings, financially, money-wise?

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

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

13 That will absolutely happen.

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

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

20 JOHN SABINI: Yes.

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

23 JOHN SABINI: Which is happening right now.

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

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

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

6 SENATOR MARCELLINO: What's that?

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

9 JOHN SABINI: Well, actually --

10 SENATOR MARCELLINO: -- which is based --

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

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

18 JOHN SABINI: Thank you.

19 SENATOR MARCELLINO: Appreciate your
20 testimony.

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

24 SENATOR MARCELLINO: We are --

25 JOHN SABINI: -- the video-lottery profit was

1 493 in '9-'10.

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

3 So, we had an increase.

4 SENATOR GOLDEN: Thank you.

5 JOHN SABINI: Thank you.

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

8 Thanks for coming.

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

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

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

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

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

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

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

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

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

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

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

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

22 GOER is really the Governor's bargaining arm.

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

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

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

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

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

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

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

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

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

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

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

25 One of those was added in the 21-day

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

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

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

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

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

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

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

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

1 to have such a broad authorization for the
2 Dorm Authority.

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

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

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

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

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

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

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

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

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

13 And that would affect some of our members.

14 We object to that.

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

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

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

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

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

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

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

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

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

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

1 than state employees do in comparable agencies.

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

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

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

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

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

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

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

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

1 SUNY board of trustees.

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

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

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

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

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

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

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

1 that really needs a lot more attention.

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

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

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

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

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

1 concern that needs to be addressed.

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

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

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

10 Thank you.

11 SENATOR MARCELLINO: Any questions?

12 SENATOR SAVINO: Yes.

13 SENATOR MARCELLINO: Senator.

14 SENATOR SAVINO: Thank you,
15 Senator Marcellino.

16 Thank you for your testimony.

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

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

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

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

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

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

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

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

13 This is not the way to do it.

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

16 Thank you.

17 BRIAN CURRAN: Thank you.

18 SENATOR MARCELLINO: Thank you.

19 Anybody else?

20 I'd --

21 SENATOR GOLDEN: I -- okay.

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

24 Senator, go ahead.

25 SENATOR GOLDEN: No, I just wanted to --

1 again, I share some concerns as well.

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

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

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

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

21 Is that possible?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 But when you step back and you look at
18 something the size of state government, with
19 180,000 employees, you have to look at the overall
20 big picture. And, there, you've got to think about
21 system-wide fairness to everybody.

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

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

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

7 BRIAN CURRAN: Yeah.

8 SENATOR SAVINO: Uh-huh.

9 BRIAN CURRAN: Well, one of the reasons.

10 SENATOR BONACIC: Right.

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

15 BRIAN CURRAN: Yeah.

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

18 Thank you.

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

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

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

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

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

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

17 None, whatsoever?

18 BRIAN CURRAN: No.

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

24 There's Acting Commissioner, and --

25 SENATOR SAVINO: Right, since Nancy Grant --

1 Grone [ph.] -- left.

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

4 SENATOR SAVINO: Uh-huh.

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

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

13 And they have to tell them "no."

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

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

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

23 Is that not true?

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

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

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

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

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

16 SENATOR SAVINO: Uh-huh.

17 Thank you.

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

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

25 BRIAN CURRAN: Well, we don't have any

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

4 The only thing that we have identified there,
5 is this issue about the privatization of the
6 starters and judges, which I think, if I remember --
7 I don't have data in front of me -- I think it's
8 17 positions that would be potentially -- they're
9 not being eliminated -- they're being eliminated as
10 State employees, but would be, presumably, then
11 transferred over to the private [unintelligible]
12 operators --

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

15 BRIAN CURRAN: Sure.

16 SENATOR MARCELLINO: -- as quickly as you
17 can.

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

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

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

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

4 SENATOR MARCELLINO: Thank you very much.

5 BRIAN CURRAN: Thank you.

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

9 DONALD KELLY: Good afternoon, Senators.

10 SENATOR MARCELLINO: Good afternoon.

11 Would you identify the gentleman with you,
12 please.

13 DONALD KELLY: John -- go ahead.

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

16 SENATOR MARCELLINO: Thank you.

17 DONALD KELLY: Again, good afternoon.

18 Are we ready?

19 SENATOR MARCELLINO: You're on.

20 DONALD KELLY: Okay, thanks.

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

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

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

4 Okay?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 DONALD KELLY: Absolutely.

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

6 DONALD KELLY: Oh, well --

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

8 DONALD KELLY: Okay, okay.

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

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

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

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

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

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

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

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

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

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

1 input, before making your decision.

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

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

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

10 Those are the positions that we represent.

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

13 We represent --

14 SENATOR MARCELLINO: Could you go back one
15 second?

16 What's the total number in racing and
17 wagering?

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

20 DONALD KELLY: Correct.

21 SENATOR MARCELLINO: Of that, 177 are filled.

22 DONALD KELLY: Right.

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

25 DONALD KELLY: It was 189.

1 SENATOR MARCELLINO: 189.

2 DONALD KELLY: And 93 are filled.

3 SENATOR MARCELLINO: 93 filled.

4 DONALD KELLY: And that's just CSEA.

5 SENATOR MARCELLINO: Thank you.

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

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

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

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

23 There's just no information out there.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 filling positions by appointment and transfer.

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

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

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

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

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

18 Since 1995, where it had 70,000 skiers and
19 snowboarders, today, that number has increased to
20 175,000. And, today, probably most of those people
21 are on the slopes as we speak.

22 We believe that an investment of \$5 million
23 in Belleayre could increase the capacity to over
24 225,000 users, in that area.

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

1 organization located in the Adirondack Mountains,
2 200 miles to the north, to be operating this ski
3 resort in the Catskill Mountains.

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

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

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

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

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

25 Unless you have a formal detailed outline in

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

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

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

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

17 SENATOR MARCELLINO: I hear what you're
18 saying.

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

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

25 Am I right -- am I quoting you correctly?

1 GORDON MEDENICA: Yes, sir.

2 SENATOR MARCELLINO: All right.

3 So that, hopefully, that goes forward.

4 Do you have any information to the contrary
5 of that?

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

11 SENATOR MARCELLINO: Could be.

12 DONALD KELLY: Could be.

13 SENATOR MARCELLINO: Okay. If you could --

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

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

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

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

25 Of the 312 positions in the Lottery, you say

1 177 are filled.

2 189 positions, 93 are filled, in racing and
3 wagering.

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

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

9 DONALD KELLY: I believe they're funded.

10 I'm not sure.

11 I'm not sure.

12 These are seasonal positions.

13 SENATOR MARCELLINO: Seasonal positions.

14 Okay, that's different.

15 Okay.

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

22 DONALD KELLY: Okay.

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

1 information.

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

7 DONALD KELLY: Yes, sir.

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

10 Unless you've --

11 DONALD KELLY: Thank you so much.

12 SENATOR MARCELLINO: Okay, thank you.

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

16 Mr. Hayward.

17 (Senator Savino exits the hearing room.)

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

20 CHARLES HAYWARD: What's that, sir?

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

24 Or do we have yours?

25 CHARLES HAYWARD: I have very brief

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

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

5 Thank you.

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

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

11 I'm here to speak briefly --

12 SENATOR MARCELLINO: Bless you.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 our drug-testing program.

2 Last year, they tested over 82,000 samples.

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

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

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

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

21 And, let me give you two examples.

22 When New York City OTB declared bankruptcy in
23 2009, subsequent to their filing, when there would
24 be pre-petition debt, they, for whatever reason,
25 chose not to make some of the payments on the

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

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

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

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

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

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

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

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

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

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

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

12 In 2011, that fund was -- paid out
13 10.5 million;

14 2012, it's going to be 17 million;

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

16 The New York Breeders Awards are creating
17 demand for New York bred in the marketplace, which
18 is sparking a renaissance in the state breeding
19 industry.

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

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

1 across New York State.

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

5 I'm really pleased to hear that.

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

13 So that's my testimony.

14 I'd be happy to take any questions.

15 SENATOR MARCELLINO: Thank you very much.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 We've talked briefly with Genting.

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

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

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

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

4 Is it sustainable?

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

7 CHARLES HAYWARD: Yeah, they're very
8 sustainable.

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

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

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

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

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

23 And that's only 9 miles away.

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

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

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

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

8 SENATOR MARCELLINO: Questions?

9 SENATOR BONACIC: Yeah, just a couple
10 questions.

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

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

16 CHARLES HAYWARD: It's interesting --

17 SENATOR BONACIC: -- [unintelligible]
18 Aqueduct?

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

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

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

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

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

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

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

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

19 SENATOR BONACIC: He would know.

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

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

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

1 of horse farms we would see.

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

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

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

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

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

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

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

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

1 that has leased two operations.

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

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

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

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

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

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

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

24 SENATOR BONACIC: Well, that's encouraging.

25 My last question: You didn't talk about

1 purses at the tracks.

2 CHARLES HAYWARD: Yes.

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

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

12 So, on average, the purses are going to go
13 up, somewhere in the neighborhood of around
14 38 percent.

15 SENATOR BONACIC: Wow, that's great.

16 CHARLES HAYWARD: So, Saratoga will be
17 number one in the country, as it was last year;
18 Belmont Spring will have second-highest
19 purses in the country;

20 And, Belmont Fall will have the third
21 highest.

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

25 CHARLES HAYWARD: Gulf Stream Park just

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

4 Other jurisdictions are struggling.

5 Maryland's struggling. California's
6 struggling;

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

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

13 And it was mentioned earlier, about Kentucky.

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

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

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

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

1 Are their purses going up too?

2 CHARLES HAYWARD: Yes.

3 SENATOR BONACIC: Okay.

4 CHARLES HAYWARD: Yes.

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

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

11 SENATOR BONACIC: Thank you very much.

12 CHARLES HAYWARD: Certainly.

13 SENATOR MARCELLINO: Senator.

14 SENATOR GOLDEN: Thank you very much.

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

18 CHARLES HAYWARD: The annuals?

19 SENATOR GOLDEN: Yep.

20 CHARLES HAYWARD: No.

21 SENATOR GOLDEN: The handles.

22 SENATOR MARCELLINO: "Handles."

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

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

1 SENATOR BONACIC: Three tracks.

2 SENATOR GOLDEN: No, how many handles?

3 We have different handles from each track?

4 About 16 different handles at the end --

5 SENATOR BONACIC: Oh, I think we have nine.

6 A total of nine tracks.

7 CHARLES HAYWARD: Yeah, I think --

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

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

13 SENATOR GOLDEN: New Jersey has one handle.

14 We have a number of handles.

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

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

20 SENATOR BONACIC: [Inaudible.]

21 CHARLES HAYWARD: Yeah, that's about right.

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

25 SENATOR GOLDEN: And would we be better under

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

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

7 We have one transactional capability in the
8 state.

9 California does the same thing.

10 We have individual totes.

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

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

16 CHARLES HAYWARD: I have not.

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

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

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

25 SENATOR GOLDEN: \$23 million.

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

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

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

10 So, we recouped, from our calculation, about
11 35 percent of the New York City OTB revenue, from
12 where we can tell.

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

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

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

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

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

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

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

9 So --

10 SENATOR GOLDEN: They'd be all over.

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

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

16 SENATOR GOLDEN: Thank you.

17 SENATOR MARCELLINO: Do you have a question?

18 Go ahead.

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

21 CHARLES HAYWARD: Yes.

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

24 I understand you have the authority to do it
25 now.

1 CHARLES HAYWARD: Well, there's a law from
2 1993, which was called -- which was a
3 "Telehit Theater" law.

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

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

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

16 So, that was never going to happen.

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

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

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

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

4 And these are very conservative numbers.

5 -- 7 million to purses, and 5.5 million to
6 the State, in the form of various regulatory and
7 statutory fees.

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

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

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

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

22 But, we would certainly be interested in --

23 SENATOR BONACIC: Okay, thank you again.

24 CHARLES HAYWARD: My pleasure.

25 SENATOR MARCELLINO: Thank you, Mr. Hayward.

1 We appreciate your testimony.

2 We thank those who came to testify before the
3 Committee.

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

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

10 NYsenate.gov/committee/InvestigationsAndGover
11 nmentOperations.

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

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

18 Thank you.

19 Committee is adjourned.

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