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ON RACING**

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# **NEW YORK'S 2003 BUDGET AND ITS EFFECT ON RACING**

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## New York's Budget and Horse Racing

The legislature completed work on the Governor's budget on Monday by overriding the Governor's veto on revenue raising legislation, which in large measure enables New York City to raise its taxes. That legislation, Assembly Bill No. 8388, did contain some amendments, which affected the original bill (Assembly Bill No. 2106-B) that the legislature passed last week over the Governor's veto. Taken collectively, here's how the legislation affects horse racing.

### Video Lottery Terminals

1. The VLT law sunsets after 10 years of the first machine going into operation instead of the current provision under which they would expire on December 31, 2007.
2. VLT's can be open for no more than 16 consecutive hours per day, and may not be conducted after 2:00 AM. This replaces a provision under which VLT's could only be operated for 12 hours per day, and could not be open past 10:00 PM on most weekdays and until midnight on weekends, holidays, and the days preceding holidays.
3. The NYRA franchise is extended until 2013 if VLT's are in operation at Aqueduct before March 1, 2004. Currently, NYRA's franchise expires at the end of 2007.
4. The VLT facility must have a "physical layout and location that facilitates access to the horse racing track portion of such racing facility."
5. A temporary VLT facility can be in operation for no more 18 months.
6. The VLT split to the racing industry increases from 25% to 29%. The amount retained by the lottery decreases from 15% to 10%. The amount going to education increases from 60% to 61%.
7. The horsemen can make a deal with the racetrack lowering their share of the split of VLT revenue. The horsemen's share theoretically could be reduced to zero. An agreement lowering the horseman's share can only be in effect for five years. There is, however, nothing in the legislation, which says anything about a renewal of this reduction, and/or whether a new agreement reauthorizing a reduction in the horseman's share would be valid.
8. In the absence of a contract reducing the horsemen's share, these are the percentages of total VLT revenue that go to parties in racing:

Years 1-3	
Breeders	1.247%
Horsemen	7.511%
Tracks	20.242%

Years 4-5  
Breeders 1.247%  
Horsemen 7.743%  
Tracks 20.01%

Years 6-10  
Breeders 1.508%  
Horsemen 10.005%  
Tracks 17.487%

9. The breeders cannot bargain away their share of VLT proceeds. If the horsemen bargain away their share of the proceeds, they can get zero. The tracks can get a maximum of 27.757% in the first five years of operation, and 27.492% in years 6-10.
10. VLT's are not given to any of the OTB's.
11. The share to the State is the highest of any racino state, and the amount given to the tracks remains the lowest of any racino state.

### **Horse Racing Side**

1. In large measure the legislature accepted much of what was in the Governor's amended budget bill, which was Assembly Bill 2109-A.
2. There is a .39% fee added to every bet in New York State which will fund the Racing and Wagering Board.
3. The tracks are given the flexibility to alter their takeout rates. At NYRA, the takeout rate on straight wagers can be from 12% to 17%, on multiples from 14% to 21%, on exotics from 15% to 25%, and on super-exotics from 15% to 35%.
4. At Finger Lakes and at harness tracks, the takeout can range from 14% to 20% for straight wagers, 16% to 22% for multiple wagers, 20% to 30% for exotic wagers, and 20% to 36% for super-exotic bets. There is no indication as to how the capital construction fund at these tracks (which generally adds 1% to the takeout at these tracks) is affected by the flexible rates.
5. Flexible takeout rates cannot be changed more than once per calendar quarter and are effective on the first day of the calendar quarter. Also, it appears that a racetrack must change its entire range of bets (i.e. all exotics rather than singling out one of its exotic bets.) This is a fairly inflexible way of implementing flexible takeout.
6. Flexible takeout will likely result in a lower takeout at NYRA. The takeout may be higher at other tracks as these tracks pass on the added cost of the regulatory fee to the consumer.
7. There will no longer be minimums for telephone accounts. OTB's are given flexibility in determining which phone accounts will be subject to surcharge.
8. There will be unlimited out-of-state simulcasting. The only hitch here is for NBYRA and Finger Lakes, which are not currently authorized to take out-of-state harness racing.

9. The changes in the Governor's bill include a) an additional simulcast theater for Nassau OTB which has to be a minimum of 15 miles away from Belmont Park, b) some hold-harmless language to try to protect the harness tracks from evening thoroughbred simulcasts at OTB's, c) a continuation of the right of the Thoroughbred Capital Investment Fund to approve NYRA's capital investment projects, except for NYRA's VLT capital projects, d) a continuation of the right of the Racing and Wagering Board to supervise capital projects at the other racetracks, and e) some ability for the OTB's to offset payments to in-state racetracks in the event that that such racetracks reduce their takeout rates. The last change is designed to give the OTB's some protection in the event that NYRA elects to reduce its takeout rates.
10. The racing changes are in effect now; so we can soon expect to see full card unlimited simulcasting at all the OTB's. We also should expect to see NYRA making a major effort to increase its telephone account business.