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Written Testimony by Catskill Off-Track-Betting Corporation

Submitted to the New York State Senate and Assembly Joint Legislative Budget Hearing

February 9, 2023

As the newly appointed President and CEO of the Catskill Off-Track-Betting Corporation, I am thankful for the opportunity to provide written testimony on behalf of the Corporation.

We write in opposition to the Executive Budget proposals contained in Part Z and Part AA of the Revenue Bill.

1. Enact Procedures for An Off-Track Betting Corporation to Terminate Operations (Part Z)

The Executive Budget proposes to terminate operations of Catskill OTB relying on an independent audit that found in part that future operations are unsustainable in the absence of VLTs or alternative sources of revenue. The Executive Budget's supporting memorandum justifies the termination of the Corporation on a flawed outlook, concluding no alternative revenue sources are possible.

The revenue sources of most other New York State OTBs exposes the fallacy of the conclusion reached by the Executive proposal. Nassau, Suffolk, and Western OTBs all benefit from non-racing VLT revenue. In fact, as recently as December 28, 2022, the Governor approved non-racing revenue for another OTB corporation by authorizing an additional 1,000 VLTs for Suffolk County OTB (*S.7685-B/A2210-C*). Undermining the Governor's justification further, there is active legislation before the NYS Legislature allowing alternative revenue through the granting of 1,100 VLTs to Catskill OTB (*A.3543*).

Alternative revenue sources are not limited to VLTs. There are several other potential sources of revenue or statutory amendments that can be approved by this or future Legislatures that would provide the Corporation a sustainable outlook. The Governor's proposal, however, deprives the Legislature from even considering ways in which operations can be updated and returned to profitability. In addition to premature termination, the Governor advances, in the same Budget Part, authorization for member counties to partner with other OTBs to serve customers. Clearly, the Governor recognizes the continuing need for these services, provided the need is not fulfilled by Catskill OTB.

Terminating a public benefit corporation that has been serving its customers, member counties and the racing industry for the last 50 years warrants serious consideration. The Governor ignores the findings of the audit used to justify the proposal to terminate, specifically the audit finding the fault lies with outdated laws governing the Corporation, not the mismanagement or operations of the Corporation. Consistent findings have been expressed by numerous studies over the last decade, including reports by the State Comptroller and the NYS commissioned gaming market study conducted by the Spectrum Gaming Group.

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In any event, the Governor's proposal is inappropriate for the budget process as there is no state fiscal impact associated with the continuation or termination of operations. Therefore, we request the same thoughtful legislative review and consideration be provided to Catskill OTB as has been afforded other New York State OTBs.

2. Extend Authorized Use of Capital Funds by a Certain Offtrack Betting Corporation for One Year (Part AA)

Capital investments by OTBs are rarely warranted in today's gaming market and in most instances result in a waste of money. The decision by Catskill OTB to reserve these funds has proven to be prudent money management, which has been supported by both the State Comptroller and the Spectrum Gaming Group. By any measure, utilization of these monies pursuant to antiquated statutory capital projects would not have provided a corresponding return on investment. That is why we were so pleased when the State, in FY 2022, finally provided long overdue operational flexibility by allowing limited access to our Capital Acquisition Fund (CAF). Prior to the change in law, the CAF account, which is funded exclusively by Catskill OTB revenue, was dedicated for use on capital projects and needlessly sitting idle.

Despite expert recommendations and commonsense, the following year, the Executive Budget proposed eliminating Catskill's authorization, while allowing another OTB continued access to their CAF account. Thankfully, the Legislature saw fit to restore Catskill's CAF access in the SFY 2022-2023 Enacted Budget. The Gaming Commission, however, has since acted in direct contradiction to the will of the Legislature by denying the Corporation access to its own funds, ignoring our repeated requests and the law.

That is why it is critical that Revenue, Part AA is amended by the Legislature to restore Catskill OTB's access to their money. Additionally, provided the Gaming Commission's refusal to allow the Corporation to use its own CAF monies for the statutory purposes enumerated by the Legislature, we request that the Gaming Commission approval for fund access be compulsory when eligible spending requests are submitted for approval.