

Senate Bill No. 115

(By Senator Stollings)

[Introduced February 13, 2013; referred to the Committee on
Government Organization; and then to the Committee on the
Judiciary.]

**FISCAL
NOTE**

A BILL to amend and reenact §19-23-2, §19-23-4, §19-23-6, §19-23-9,
§19-23-10, §19-23-12a, §19-23-12b, §19-23-12c, §19-23-13b and
§19-23-13c of the Code of West Virginia, 1931, as amended, all
relating to horse and dog racing generally; requiring
licensees to provide preferential treatment to certain
trainers; setting forth the criteria for receiving
preferential treatment; increasing the size of the West
Virginia Racing Commission by two members; setting forth
qualifications; authorizing the commission to adjudicate
certain disputes; authorizing the commission to approve or
reject certain racing associations' house rules; authorizing
the commission to regulate stall allocation criteria;
requiring thoroughbred licensees to pay three percent of paid
purses to the local Horseman's Benevolent and Protective

1 Association; requiring greyhound licensees to pay one percent
2 of paid purses to the local West Virginia Greyhound Owners and
3 Breeders Association; granting all greyhound owners and
4 breeders of certain greyhounds full voting membership in the
5 West Virginia Greyhound Owners and Breeders Association;
6 requiring dog racing associations to provide certain indoor
7 facilities and handicap access at racetracks; requiring ninety
8 percent of the deposits into the Greyhound Breeding
9 Development Fund each year be used to fund supplemental purse
10 awards, stakes races and training track facilities; requiring
11 ten percent of the deposits into the Greyhound Breeding
12 Development Fund each year be used to fund greyhound adoption
13 programs, including spaying and neutering; requiring the
14 commission to provide accounting statements to greyhound
15 owners; requiring the West Virginia Lottery Commission to
16 assist the Racing Commission in providing a detailed statement
17 of racetrack video lottery distributions into the West
18 Virginia Greyhound Breeding Development Fund; setting forth
19 the contents of those statements; providing that any year-end
20 balance in the Greyhound Breeding Development Fund be
21 distributed to owners and breeders of West Virginia whelped
22 greyhounds on a pro rata basis; requiring a monthly minimum of
23 \$22,000 be taken from the West Virginia Greyhound Breeding
24 Development Fund to fund stake races; establishing the values

1 of certain open stake races and juvenile stake races for
2 greyhounds; providing that up to three percent of payment
3 applications deposited in the West Virginia Greyhound Breeding
4 Development Fund be used for greyhound programs; permitting a
5 representative of a majority of the owners and breeders at the
6 dog racetrack to contract with legal wagering entities to
7 accept wagers on races; requiring dog racetrack licensees pay
8 six percent of the net simulcast income to the West Virginia
9 Greyhound Breeding Development Fund; requiring the dog racing
10 association to deposit three percent of the total wagering
11 handle on all imported simulcast race signals into track purse
12 accounts; requiring dog racetracks to pay seven and one-half
13 percent of the signal transmission fee into the West Virginia
14 Breeding Development Fund; permitting the full year-end
15 balance in breeders/raisers, sire owners and purse supplement
16 funds to revert into the Thoroughbred Development Fund for
17 distribution to racing associations and licensees instead of
18 first being used to fund certain races; providing for
19 additional horse races; providing that certain horse racing
20 wins will not be considered for certain open races
21 eligibility; authorizing an annual \$400,000 expenditure from
22 the West Virginia Racing Commission Racetrack Video Lottery
23 Account be used for purses in a newly created West Virginia
24 Greyhound Challenge Stakes Race; decreasing the amount of

1 certain funds available for capital improvements at dog
 2 racetracks; decreasing the amount of certain funds paid into
 3 the West Virginia Racing Commission-Special Account-West
 4 Virginia Greyhound Breeding Development Fund; using certain
 5 funds to fund the West Virginia Greyhound Challenge Stakes
 6 Race; decreasing the amount of certain funds available for
 7 capital improvements at horse racetracks; requiring certain
 8 funds be deposited into the West Virginia Racing Commission
 9 Special Account-Unredeemed Pari-Mutuel Tickets; authorizing
 10 rulemaking; and updating language.

11 *Be it enacted by the Legislature of West Virginia:*

12 That §19-23-2, §19-23-4, §19-23-6, §19-23-9, §19-23-10,
 13 §19-23-12a, §19-23-12b, §19-23-12c, §19-23-13b and §19-23-13c of
 14 the Code of West Virginia, 1931, as amended, be amended and
 15 reenacted, all to read as follows:

16 **ARTICLE 23. HORSE AND DOG RACING.**

17 **§19-23-2. Permits required for horse and dog racetrack positions;**
 18 **residency requirements for employees of licensees;**
 19 **preferences for trainers; requirements.**

20 (a) No person not required to be licensed under ~~the provisions~~
 21 ~~of~~ section one of this article ~~shall~~ may participate in or have
 22 anything to do with horse or dog racing for a purse or a horse or
 23 dog race meeting at any licensee's horse or dog racetrack, place or

1 enclosure, where the pari-mutuel system of wagering upon the
2 results of such horse or dog racing is permitted or conducted, as
3 a horse owner, dog owner, jockey, apprentice jockey, exercise boy,
4 kennel keeper, trainer, groom, plater, stable foreman, valet,
5 veterinarian, agent, clerk of the scales, starter, assistant
6 starter, timer, judge or pari-mutuel employee, or in any other
7 capacity specified in reasonable rules and regulations of the
8 Racing Commission unless such person possesses a permit therefor
9 from the West Virginia Racing Commission and complies with ~~the~~
10 ~~provisions of~~ this article and all reasonable rules and regulations
11 of such Racing Commission.

12 (b) At least eighty percent of the individuals employed by a
13 licensee at any horse or dog race meeting must be citizens and
14 residents of this state and must have been such citizens and
15 residents for at least one year. For the purpose of this
16 subsection, citizens and residents of this state shall be construed
17 to mean individuals who maintain a permanent place of residence in
18 this state, and have been bona fide residents and citizens of this
19 state for a period of one year immediately prior to the filing of
20 their applications for employment. ~~The provisions of~~ This
21 subsection ~~shall~~ does not apply to individuals engaged in the
22 construction of a horse or dog racetrack or in the equipping of
23 same, nor to racing officials designated by the Racing Commission
24 or racing officials designated by the executive officials of a

1 licensee.

2 (c) Licensees shall give preferential treatment to state
3 resident trainers, trainers with West Virginia accredited
4 thoroughbred horses and trainers who primarily race in West
5 Virginia.

6 (1) A licensee shall develop and implement objective stall
7 allocation criteria and provide a preference in stall allocation to
8 trainers:

9 (A) Who have a permanent residence in the state;

10 (B) Whose horse qualifies as an accredited West Virginia
11 thoroughbred horse; or

12 (C) Who makes a minimum of eighty percent of their starts in
13 West Virginia during the preceding twelve months.

14 (2) A licensee shall allocate a minimum of eighty percent of
15 the licensee's stalls to trainers who have permanent residences in
16 West Virginia or who train West Virginia accredited horses.

17 (3) A licensee shall give preference in stall allocations to
18 trainers that have made a minimum of eighty percent of his or her
19 starts in West Virginia during the preceding twelve months.

20 (4) A trainer who claims preferential treatment pursuant to
21 this subsection shall, within thirty days upon the licensee's
22 written request, provide the licensee with an affidavit stating the
23 trainer's residence and qualifications and the condition of each
24 horse for which the trainer requests a stall.

1 §19-23-4. West Virginia Racing Commission continued as a public
2 corporation; composition; terms; vacancies;
3 qualifications, expenses of members; principal
4 office; meetings; election of officers; quorum;
5 inspection of records; annual report.

6 (a) The "West Virginia Racing Commission," is continued in
7 existence as a public corporation and, as such, may contract and be
8 contracted with, plead and be impleaded, sue and be sued and have
9 and use a common seal.

10 (b) The Racing Commission shall consist of ~~three~~ five members,
11 not more than ~~two~~ three of whom shall belong to the same political
12 party, to be appointed by the Governor by and with the advice and
13 consent of the Senate. At least one member shall have a background
14 with a minimum of five years experience as an owner, trainer, or
15 breeder of thoroughbred race horses. At least one member shall
16 have a background with a minimum of five years experience as an
17 owner or breeder of greyhound dogs. The term of office for the
18 members of the Racing Commission is four years, and until their
19 successors have been appointed and have qualified, and members of
20 the Racing Commission may serve any number of successive terms.
21 The members of the Racing Commission in office on the effective
22 date of the amendment and reenactment of this section in ~~two~~
23 ~~thousand one~~ 2013 shall, unless removed by the Governor after the

1 effective date of this article, continue to serve until their terms
2 expire and until their successors have been appointed and have
3 qualified. Any vacancy in the office of a member of the Racing
4 Commission shall be filled by appointment by the Governor for the
5 unexpired term of the member whose office shall be vacant. No
6 person is eligible for appointment to or to serve upon the Racing
7 Commission:

8 (1) Unless he or she is an actual and bona fide resident of
9 this state, shall have resided in this state for a period of at
10 least five years next preceding his or her appointment, shall be a
11 qualified voter of this state and be not less than twenty-five
12 years of age;

13 (2) Who directly or indirectly, or in any capacity, owns or
14 has any interest, in any manner whatever, in any racetrack where
15 horse or dog race meetings may be held, including, but not limited
16 to, an interest as owner, lessor, lessee, stockholder or employee;

17 (3) While serving as a member of the Legislature or as an
18 elective officer of this state; or

19 (4) Who has been or shall be convicted of an offense which,
20 under the law of this state or any other state or of the United
21 States of America, constitutes a felony, or is a violation of
22 article four, chapter sixty-one of this code.

23 (c) Each member of the Racing Commission shall be reimbursed
24 for all reasonable and necessary expenses actually incurred in the

1 performance of his or her duties as a member of the Racing
2 Commission.

3 (d) The Racing Commission shall have its principal office at
4 the seat of government, and shall meet annually at its principal
5 office in the month of January, and at any other times and places
6 designated by its chairman. At the annual meeting the Racing
7 Commission shall elect from its membership a chairman and any other
8 officers that are desired. Other meetings of the Racing Commission
9 may be called by the chairman on such notice to the other members
10 prescribed by the Racing Commission.

11 (e) A majority of the members of the Racing Commission
12 constitute a quorum for the transaction of its business or the
13 exercise of any of its powers and authority. No person not a bona
14 fide member of the Racing Commission shall vote upon or participate
15 in the deliberations of the Racing Commission on any matter which
16 may come before it. All Racing Commission records, except as
17 otherwise provided by law, shall be open to public inspection
18 during regular office hours.

19 (f) As soon as possible after the close of each calendar year,
20 the Racing Commission shall submit to the Governor a report of the
21 transactions of the Racing Commission during the preceding calendar
22 year.

23 **§19-23-6. Powers and authority of Racing Commission.**

24 The Racing Commission has full jurisdiction over and shall

1 supervise all horse race meetings, all dog race meetings and all
2 persons involved in the holding or conducting of horse or dog race
3 meetings and, in this regard, it has plenary power and authority:

4 (1) To investigate applicants and determine the eligibility of
5 the applicants for a license or permit or construction permit under
6 ~~the provisions of~~ this article;

7 (2) To fix, from time to time, the annual fee to be paid to
8 the Racing Commission for any permit required under ~~the provisions~~
9 ~~of~~ section two of this article;

10 (3) To promulgate reasonable rules implementing and making
11 effective ~~the provisions of~~ this article and the powers and
12 authority conferred and the duties imposed upon the Racing
13 Commission under ~~the provisions of~~ this article, including, but not
14 limited to, reasonable rules under which all horse races, dog
15 races, horse race meetings and dog race meetings shall be held and
16 conducted, all of which reasonable rules shall be promulgated in
17 accordance with ~~the provisions of~~ article three, chapter
18 twenty-nine-a of this code except that the Racing Commission shall
19 promulgate separate rules, in accordance with article three,
20 chapter twenty-nine-a, pertaining to the kinds of legal combination
21 wagers which may be placed in connection with the pari-mutuel
22 system of wagering authorized by this article;

23 (4) To register colors and assumed names and to fix, from time
24 to time, the annual fee to be paid to the Racing Commission for any

1 such registration;

2 (5) To fix and regulate the minimum purse to be offered during
3 any horse or dog race meeting;

4 (6) To fix a minimum and a maximum number of horse races or
5 dog races to be held on any respective racing day;

6 (7) To enter the office, horse racetrack, dog racetrack,
7 kennel, facilities and other places of business of any licensee to
8 determine whether ~~the provisions of~~ this article and its reasonable
9 rules are being complied with, and for this purpose, the Racing
10 Commission, its executive director, representatives and employees
11 may visit, investigate and have free access to any such office,
12 horse racetrack, dog racetrack, kennel, facilities and other places
13 of business;

14 (8) To investigate alleged violations of ~~the provisions of~~
15 this article, its reasonable rules, orders and final decisions and
16 to take appropriate disciplinary action against any licensee or
17 permit holder or construction permit holder for a violation or
18 institute appropriate legal action for enforcement or take
19 disciplinary action and institute legal action;

20 (9) By reasonable rules, to authorize stewards, starters and
21 other racing officials to impose reasonable fines or other
22 sanctions upon a person connected with or involved in any horse or
23 dog racing or any horse or dog race meeting and to authorize
24 stewards to rule off the grounds of any horse or dog racetrack any

1 tout, bookmaker or other undesirable individual determined inimical
2 to the best interests of horse and dog racing or the pari-mutuel
3 system of wagering in connection therewith;

4 (10) To require at any time the removal of any racing official
5 or racing employee of any licensee for the violation of ~~any~~
6 ~~provision of~~ this article, any reasonable rule of the Racing
7 Commission or for any fraudulent practice;

8 (11) To acquire, establish, maintain and operate, or to
9 provide by contract for the maintenance and operation of, a testing
10 laboratory and related facilities for the purpose of conducting
11 saliva, urine and other tests on the horse or dog or horses or dogs
12 run or to be run in any horse or dog race meeting and to purchase
13 all equipment and supplies considered necessary or desirable in
14 connection with the acquisition, establishment, maintenance and
15 operation of any testing laboratory and related facilities and all
16 such tests;

17 (12) To hold up, in any disputed horse or dog race, the
18 payment of any purse pending a final determination of the results
19 thereof;

20 (13) To require each licensee to file an annual balance sheet
21 and profit and loss statement pertaining to the licensee's horse or
22 dog racing activities in this state together with a list of each
23 licensee's stockholders or other persons having any beneficial
24 interest in the horse or dog racing activities of the licensee;

1 (14) To issue subpoenas for the attendance of witnesses and
2 subpoenas duces tecum for the production of any books, records and
3 other pertinent documents and to administer oaths and affirmations
4 to such witnesses, whenever, in the judgment of the Racing
5 Commission, it is necessary to do so for the effective discharge of
6 ~~the provisions of~~ its duties under this article;

7 (15) To keep accurate and complete records of its proceedings
8 and to certify the same as may be appropriate;

9 (16) To take any other action that may be reasonable or
10 appropriate to effectuate ~~the provisions of~~ this article and its
11 reasonable rules;

12 (17) To provide breeders' awards, purse supplements and moneys
13 for capital improvements at racetracks in compliance with section
14 thirteen-b of this article; and

15 (18) To mediate on site, upon request of a party, all disputes
16 existing between the racetrack licensees located in this state and
17 representatives of a majority of the horse owners and trainers
18 licensed at the track which threaten to disrupt any scheduled
19 racing event or events. The Racing Commission shall, upon the
20 request of a party, mediate on site all disputes existing between
21 racetrack licensees and representatives of pari-mutuel clerks which
22 threaten to disrupt any scheduled racing event or events. When a
23 request for mediation is made, the commission shall designate from
24 among its members one person to act as mediator in each dispute

1 that arises. Each opposing party involved in any dispute shall
 2 negotiate in good faith with the goal of reaching a fair and mutual
 3 resolution. The mediator may issue recommendations designed to
 4 assist each side toward reaching a fair compromise. No owner or
 5 operator or any horse owner or trainer or any pari-mutuel clerk
 6 licensed at the track is required to abide by any recommendation
 7 made by any mediator acting pursuant to this subsection.

8 ~~The Racing Commission shall not interfere in the internal~~
 9 ~~business or internal affairs of any licensee.~~

10 (19) To adjudicate all disputes regarding any ejection or
 11 exclusion of an occupational permit holder in accordance with the
 12 Administrative Procedures Act as established by chapter
 13 twenty-nine-a of this code.

14 (20) To approve or reject all racing associations house rules
 15 relating to occupational permit holders after a period of public
 16 comment.

17 (21) To regulate objective stall allocation criteria for
 18 occupational permit holders, subject to other criteria or
 19 preferences in this article.

20 **§19-23-9. Pari-mutuel system of wagering authorized; licensee**
 21 **authorized to deduct commissions from pari-mutuel**
 22 **pools; retention of breakage; auditing; minors.**

23 (a) The pari-mutuel system of wagering upon the results of any
 24 horse or dog race at any horse or dog race meeting conducted or

1 held by any licensee is hereby authorized if, and only if, such
2 pari-mutuel wagering is conducted by the licensee within the
3 confines of the licensee's horse racetrack or dog racetrack and ~~the~~
4 ~~provisions of~~ section one, article ten, chapter sixty-one of this
5 code relating to gaming shall not apply to the pari-mutuel system
6 of wagering in manner and form as provided in this article at any
7 horse or dog race meeting within this state where horse or dog
8 racing is permitted for any purse by any licensee. A licensee
9 shall permit or conduct only the pari-mutuel system of wagering
10 within the confines of the licensee's racetrack at which any horse
11 or dog race meeting is conducted or held.

12 (b) A licensee is hereby expressly authorized to deduct a
13 commission from the pari-mutuel pools as follows:

14 (1) The commission deducted by any licensee from the
15 pari-mutuel pools on thoroughbred horse racing, except from
16 thoroughbred horse racing pari-mutuel pools involving what is known
17 as multiple betting in which the winning pari-mutuel ticket or
18 tickets are determined by a combination of two or more winning
19 horses, shall not exceed seventeen and one-fourth percent of the
20 total of the pari-mutuel pools for the day. Out of the commission
21 mentioned in this subdivision, the licensee: (i) Shall pay the
22 pari-mutuel pools tax provided in subsection (b), section ten of
23 this article; (ii) shall make a deposit into a special fund to be
24 established by the licensee and to be used for the payment of

1 regular purses offered for thoroughbred racing by the licensee,
2 which deposits out of pari-mutuel pools for each day during the
3 months of January, February, March, October, November and December
4 shall be seven and three hundred seventy-five one-thousandths
5 percent of the pari-mutuel pools and which, out of pari-mutuel
6 pools for each day during all other months, shall be six and eight
7 hundred seventy-five one-thousandths percent of the pari-mutuel
8 pools, which shall take effect beginning fiscal year one thousand
9 nine hundred ninety; (iii) shall pay one tenth of one percent of
10 the pari-mutuel pools into the General Fund of the county
11 commission of the county in which the racetrack is located, except
12 if within a municipality, then to the Municipal General Fund; and
13 (iv) Any licensee which has participated in the West Virginia
14 Thoroughbred Development Fund for a period of more than four
15 consecutive calendar years prior to December 31, 1992, shall make
16 a deposit into a special fund to be established by the Racing
17 Commission and to be used for the payment of breeders awards,
18 restrictive races and stakes purses as authorized by section
19 thirteen-b of this article, which deposits out of pari-mutuel pools
20 shall, from the effective date of this section, be two percent of
21 the pools. The remainder of the commission shall be retained by
22 the licensee.

23 Each licensee that permits or conducts pari-mutuel wagering at
24 the licensee's thoroughbred horse racetrack shall annually pay

1 \$500,000 from the special fund required by this section to be
2 established by the licensee for the payment of regular purses
3 offered for thoroughbred racing by the licensee into a special fund
4 established by the Racing Commission for transfer to a pension plan
5 established by the Racing Commission for all back stretch
6 personnel, including, but not limited to, exercise riders,
7 trainers, grooms and stable forepersons licensed by the Racing
8 Commission to participate in horse racing in this state and their
9 dependents.

10 Each thoroughbred racetrack licensee ~~is authorized to enter~~
11 ~~into an agreement with its local Horsemen's Benevolent and~~
12 ~~Protective Association under which an agreed upon percentage of up~~
13 ~~to two~~ shall pay an amount equal to three percent of purses
14 actually paid during the preceding month ~~may be paid~~ to the local
15 Horsemen's Benevolent and Protective Association from the special
16 fund required by this section for their respective medical trusts
17 for backstretch personnel and administrative fees.

18 Each greyhound racetrack licensee shall pay an amount equal to
19 one percent of purses actually paid during the preceding month to
20 the local West Virginia Greyhound Owners and Breeders Association
21 from the special fund required by this section for their
22 administrative fees.

23 All greyhound owners and breeders of West Virginia whelped
24 greyhounds accredited as such by the West Virginia Racing

1 Commission shall be given full voting membership in the West
2 Virginia Greyhound Owners and Breeders Association.

3 The commission deducted by any licensee from the pari-mutuel
4 pools on thoroughbred horse racing involving what is known as
5 multiple betting in which the winning pari-mutuel ticket or tickets
6 are determined by a combination of two winning horses shall not
7 exceed nineteen percent and by a combination of three or more
8 winning horses shall not exceed twenty-five percent of the total of
9 such pari-mutuel pools for the day. Out of the commission, as is
10 mentioned in this paragraph, the licensee: (i) Shall pay the
11 pari-mutuel pools tax provided in subsection (b), section ten of
12 this article; (ii) shall make a deposit into a special fund to be
13 established by the licensee and to be used for the payment of
14 regular purses offered for thoroughbred racing by the licensee,
15 which deposits out of pari-mutuel pools for each day during the
16 months of January, February, March, October, November and December,
17 for pools involving a combination of two winning horses shall be
18 eight and twenty-five one-hundredths percent and out of pari-mutuel
19 pools for each day during all other months shall be seven and
20 seventy-five one-hundredths percent of the pari-mutuel pools, and
21 involving a combination of three or more winning horses for the
22 months of January, February, March, October, November and December
23 the deposits out of the fund shall be eleven and twenty-five
24 one-hundredths percent of the pari-mutuel pools, and which, out of

1 pari-mutuel pools for each day during all other months, shall be
2 ten and seventy-five one-hundredths percent of the pari-mutuel
3 pools; (iii) shall pay one tenth of one percent of the pari-mutuel
4 pools into the General Fund of the county commission of the county
5 in which the racetrack is located, except if within a municipality,
6 then to the Municipal General Fund; and (iv) any licensee which has
7 participated in the West Virginia Thoroughbred Development Fund for
8 a period of more than four consecutive calendar years prior to
9 December 31, 1992, shall make a deposit into a special fund to be
10 established by the Racing Commission and to be used for the payment
11 of breeder awards, for restrictive races and stakes purses which
12 deposits out of pari-mutuel pools shall, from the effective date of
13 this section, be two percent of the pools. The remainder of the
14 commission shall be retained by the licensee.

15 The commission deducted by the licensee under this subdivision
16 may be reduced only by mutual agreement between the licensee and a
17 majority of the trainers and horse owners licensed by subsection
18 (a), section two of this article or their designated
19 representative. The reduction in licensee commissions may be for
20 a particular race, racing day or days or for a horse race meeting.
21 Fifty percent of the reduction shall be retained by the licensee
22 from the amounts required to be paid into the special fund
23 established by the licensee under ~~the provisions of~~ this
24 subdivision. The Racing Commission shall promulgate any reasonable

1 rules that are necessary to implement the foregoing provisions.

2 (2) The commission deducted by any licensee from the
3 pari-mutuel pools on harness racing shall not exceed seventeen and
4 one-half percent of the total of the pari-mutuel pools for the day.
5 Out of the commission the licensee shall pay the pari-mutuel pools
6 tax provided in subsection (c), section ten of this article and
7 shall pay one tenth of one percent into the General Fund of the
8 county commission of the county in which the racetrack is located,
9 except if within a municipality, then to the Municipal General
10 Fund. The remainder of the commission shall be retained by the
11 licensee.

12 (3) The commission deducted by any licensee from the
13 pari-mutuel pools on dog racing, except from dog racing pari-mutuel
14 pools involving what is known as multiple betting in which the
15 winning pari-mutuel ticket or tickets are determined by a
16 combination of two or more winning dogs, shall not exceed sixteen
17 and thirty one-hundredths percent of the total of all pari-mutuel
18 pools for the day. The commission deducted by any licensee from
19 the pari-mutuel pools on dog racing involving what is known as
20 multiple betting in which the winning pari-mutuel ticket or tickets
21 are determined by a combination of two winning dogs shall not
22 exceed nineteen percent, by a combination of three winning dogs
23 shall not exceed twenty percent and by a combination of four or
24 more winning dogs shall not exceed twenty-one percent of the total

1 of such pari-mutuel pools for the day. The foregoing commissions
2 are in effect for the fiscal years 1990 and 1991. Thereafter, the
3 commission shall be at the percentages in effect prior to the
4 effective date of this article unless the Legislature, after
5 review, determines otherwise. Out of the commissions, the licensee
6 shall pay the pari-mutuel pools tax provided in subsection (d),
7 section ten of this article and one tenth of one percent of such
8 pari-mutuel pools into the General Fund of the county commission of
9 the county in which the racetrack is located. In addition, out of
10 the commissions, if the racetrack is located within a municipality,
11 then the licensee shall also pay three tenths of one percent of the
12 pari-mutuel pools into the Municipal General Fund; or, if the
13 racetrack is located outside of a municipality, then the licensee
14 shall also pay three tenths of one percent of the pari-mutuel pools
15 into the State Road Fund for use by the Division of Highways in
16 accordance with ~~the provisions of~~ this subdivision. The remainder
17 of the commission shall be retained by the licensee.

18 For the purposes of this section, "municipality" means and
19 includes any Class I, Class II and Class III city and any Class IV
20 town or village incorporated as a municipal corporation under the
21 laws of this state prior to January 1, 1987.

22 Each dog racing licensee, when required by ~~the provisions of~~
23 this subdivision to pay a percentage of its commissions to the
24 state Road Fund for use by the Division of Highways, shall transmit

1 the required funds, in such manner and at such times as the Racing
2 Commission shall by procedural rule direct, to the State Treasurer
3 for deposit in the State Treasury to the credit of the Division of
4 Highways State Road Fund. All funds collected and received in the
5 state Road Fund pursuant to ~~the provisions of~~ this subdivision
6 shall be used by the Division of Highways in accordance with ~~the~~
7 ~~provisions of~~ article seventeen-a, chapter seventeen of this code
8 for the acquisition of right-of-way for, the construction of, the
9 reconstruction of and the improvement or repair of any interstate
10 or other highway, secondary road, bridge and toll road in the
11 state. If on July 1, 1989, any area encompassing a dog racetrack
12 has incorporated as a Class I, Class II or Class III city or as a
13 Class IV town or village, whereas such city, town or village was
14 not incorporated as such on January 1, 1987, then on and after July
15 1, 1989, any balances in the state Road Fund existing as a result
16 of payments made under ~~the provisions of~~ this subdivision may be
17 used by the state Road Fund for any purpose for which other moneys
18 in the fund may lawfully be used and in lieu of further payments to
19 the state Road Fund, the licensee of a racetrack which is located
20 in the municipality shall thereafter pay three tenths of one
21 percent of the pari-mutuel pools into the General Fund of the
22 municipality. If no incorporation occurs before July 1, 1989, then
23 payments to the state Road Fund shall thereafter continue as
24 provided under ~~the provisions of~~ this subdivision.

1 A dog racing licensee, before deducting the commissions
2 authorized by this subdivision, shall give written notification to
3 the Racing Commission not less than thirty days prior to any change
4 in the percentage rates for the commissions. The Racing Commission
5 shall prescribe blank forms for filing the notification. The
6 notification shall disclose the following: (A) The revised
7 commissions to be deducted from the pari-mutuel pools each day on
8 win, place and show betting and on different forms of multiple
9 bettings; (B) the dates to be included in the revised betting; and
10 (C) such other information as may be required by the Racing
11 Commission.

12 The licensee shall establish a special fund to be used only
13 for capital improvements or long-term debt amortization or both:
14 *Provided*, That any licensee, heretofore licensed for a period of
15 eight years prior to the effective date of the amendment made to
16 this section during the regular session of the Legislature held in
17 the year 1987, shall establish the special fund to be used only for
18 capital improvements or physical plant maintenance, or both, at the
19 licensee's licensed facility or at the licensee's commonly owned
20 racing facility located within this state. Deposits made into the
21 funds shall be in an amount equal to twenty-five percent of the
22 increased rate total over and above the applicable rate in effect
23 as of January 1, 1987, of the pari-mutuel pools for the day. Any
24 amount deposited into the funds must be expended or liability

1 therefor incurred within a period of two years from the date of
2 deposit. Any funds not expended shall be transferred immediately
3 into the State General Fund after expiration of the two-year
4 period.

5 The licensee shall make a deposit into a special fund
6 established by the licensee and used for payment of regular purses
7 offered for dog racing, which deposits out of the licensee's
8 commissions for each day shall be three and seventy-five
9 one-hundredths percent of the pari-mutuel pools.

10 The licensee shall further establish a special fund to be used
11 exclusively for marketing and promotion programs; the funds shall
12 be in an amount equal to five percent over and above the applicable
13 rates in effect as of January 1, 1987, of the total pari-mutuel
14 pools for the day.

15 The Racing Commission shall prepare and transmit annually to
16 the Governor and the Legislature a report of the activities of the
17 Racing Commission under this subdivision. The report shall include
18 a statement of: The amount of commissions retained by licensees;
19 the amount of taxes paid to the state; the amounts paid to
20 municipalities, counties and the Division of Highways Dog Racing
21 Fund; the amounts deposited by licensees into special funds for
22 capital improvements or long-term debt amortization and a certified
23 statement of the financial condition of any licensee depositing
24 into the fund; the amounts paid by licensees into special funds and

1 used for regular purses offered for dog racing; the amounts paid by
2 licensees into special funds and used for marketing and promotion
3 programs; and such other information as the Racing Commission may
4 consider appropriate for review.

5 (c) In addition to any commission, a licensee of horse race or
6 dog race meetings shall also be entitled to retain the legitimate
7 breakage, which shall be made and calculated to the dime, and from
8 the breakage, the licensee of a horse race meeting (excluding dog
9 race meetings), shall deposit daily fifty percent of the total of
10 the breakage retained by the licensee into the special fund created
11 pursuant to ~~the provisions of~~ subdivision (1), subsection (b) of
12 this section for the payment of regular purses.

13 (d) The director of audit, and any other Auditors employed by
14 the Racing Commission who are also certified public accountants or
15 experienced public accountants, shall have free access to the space
16 or enclosure where the pari-mutuel system of wagering is conducted
17 or calculated at any horse or dog race meeting for the purpose of
18 ascertaining whether or not the licensee is deducting and retaining
19 only a commission as provided in this section and is otherwise
20 complying with ~~the provisions of~~ this section. They shall also,
21 for the same purposes only, have full and free access to all
22 records and papers pertaining to the pari-mutuel system of wagering
23 and shall report to the Racing Commission in writing, under oath,
24 whether or not the licensee has deducted and retained any

1 commission in excess of that permitted under ~~the provisions of this~~
2 section or has otherwise failed to comply with ~~the provisions of~~
3 this section.

4 (e) No licensee shall permit or allow any individual under the
5 age of eighteen years to wager at any horse or dog racetrack,
6 knowing or having reason to believe that the individual is under
7 the age of eighteen years.

8 (f) Notwithstanding the ~~foregoing~~ provisions of subdivision
9 (1), subsection (b) of this section, to the contrary, a
10 thoroughbred licensee qualifying for and paying the alternate
11 reduced tax on pari-mutuel pools provided in section ten of this
12 article shall distribute the commission authorized to be deducted
13 by subdivision (1), subsection (b) of this section as follows: (i)
14 The licensee shall pay the alternate reduced tax provided in
15 section ten of this article; (ii) the licensee shall pay one tenth
16 of one percent of the pari-mutuel pools into the General Fund of
17 the county commission of the county in which the racetrack is
18 located, except if within a municipality, then to the Municipal
19 General Fund; (iii) the licensee shall pay one half of the
20 remainder of the commission into the special fund established by
21 the licensee and to be used for the payment of regular purses
22 offered for thoroughbred racing by the licensee; and (iv) the
23 licensee shall retain the amount remaining after making the
24 payments required in this subsection.

1 (g) Each kennel which provides or races dogs owned or leased
2 by others shall furnish to the commission a surety bond in an
3 amount to be determined by the commission to secure the payment to
4 the owners or lessees of the dogs the portion of any purse owed to
5 the owner or lessee.

6 (h) Each dog racing association shall provide an indoor
7 climate controlled viewing area for the wagering public that
8 provides an unrestricted view of the races from starting box to
9 include the entire racetrack. The viewing area must seat a minimum
10 of four hundred patrons and provide handicap access from seats to
11 the point of wagering.

12 **§19-23-10. Daily license tax; pari-mutuel pools tax; how taxes**
13 **paid; alternate tax; credits.**

14 (a) Any racing association conducting thoroughbred racing at
15 any horse racetrack in this state shall pay each day upon which
16 horse races are run a daily license tax of \$250. Any racing
17 association conducting harness racing at any horse racetrack in
18 this state shall pay each day upon which horse races are run a
19 daily license tax of \$150. Any racing association conducting dog
20 races shall pay each day upon which dog races are run a daily
21 license tax of \$150. In the event thoroughbred racing, harness
22 racing, dog racing, or any combination of the foregoing are
23 conducted on the same day at the same racetrack by the same racing
24 association, only one daily license tax in the amount of \$250 shall

1 be paid for that day. Any daily license tax shall not apply to any
2 local, county or state fair, horse show or agricultural or
3 livestock exposition at which horse racing is conducted for not
4 more than six days.

5 (b) Any racing association licensed by the Racing Commission
6 to conduct thoroughbred racing and permitting and conducting
7 pari-mutuel wagering under ~~the provisions of~~ this article shall, in
8 addition to the daily license tax set forth in subsection (a) of
9 this section, pay to the Racing Commission, from the commission
10 deducted each day by the licensee from the pari-mutuel pools on
11 thoroughbred racing a tax calculated on the total daily
12 contribution of all pari-mutuel pools conducted or made at any and
13 every thoroughbred race meeting of the licensee licensed under ~~the~~
14 ~~provisions of~~ this article. The tax, on the pari-mutuel pools
15 conducted or made each day during the months of January, February,
16 March, October, November and December, shall be calculated at four
17 tenths of one percent of the pool; and, on the pari-mutuel pools
18 conducted or made each day during all other months, shall be
19 calculated at one and four-tenths percent of the pool: *Provided,*
20 That out of the amount realized from the three tenths of one
21 percent decrease in the tax effective for fiscal year 1991 and
22 thereafter, which decrease correspondingly increases the amount of
23 commission retained by the licensee, the licensee shall annually
24 expend or dedicate: (i) One half of the realized amount for

1 capital improvements in its barn area at the track, subject to the
2 Racing Commission's prior approval of the plans for the
3 improvements; and (ii) the remaining one half of the realized
4 amount for capital improvements as the licensee may determine
5 appropriate at the track. The term "capital improvement" shall be
6 as defined by the Internal Revenue Code: *Provided, however,* That
7 any racing association operating a horse racetrack in this state
8 having an average daily pari-mutuel pool on horse racing of
9 \$280,000 or less per day for the race meetings of the preceding
10 calendar year shall, in lieu of payment of the pari-mutuel pool
11 tax, calculated as in this subsection, be permitted to conduct
12 pari-mutuel wagering at the horse racetrack on the basis of a daily
13 pari-mutuel pool tax fixed as follows: On the daily pari-mutuel
14 pool not exceeding \$300,000 the daily pari-mutuel pool tax shall be
15 \$1,000 plus the otherwise applicable percentage rate imposed by
16 this subsection of the daily pari-mutuel pool, if any, in excess of
17 \$300,000: *Provided further,* That upon the effective date of the
18 reduction of the daily pari-mutuel pool tax to \$1,000 from the
19 former \$2,000, the association or licensee shall daily deposit \$500
20 into the special fund for regular purses established by subdivision
21 (1), subsection (b), section nine of this article: *And provided*
22 *further,* That if an association or licensee qualifying for the
23 foregoing alternate tax conducts more than one racing performance,
24 each consisting of up to thirteen races in a calendar day, the

1 association or licensee shall pay both the daily license tax
2 imposed in subsection (a) of this section and the alternate tax in
3 this subsection for each performance: *And provided further,* That
4 a licensee qualifying for the foregoing alternate tax is excluded
5 from participation in the fund established by section thirteen-b of
6 this article: *And provided further,* That this exclusion shall not
7 apply to any thoroughbred racetrack at which the licensee has
8 participated in the West Virginia Thoroughbred Development Fund for
9 more than four consecutive years prior to December 31, 1992.

10 (c) Any racing association licensed by the Racing Commission
11 to conduct harness racing and permitting and conducting pari-mutuel
12 wagering under ~~the provisions of~~ this article shall, in addition to
13 the daily license tax required under subsection (a) of this
14 section, pay to the Racing Commission, from the commission deducted
15 each day by the licensee from the pari-mutuel pools on harness
16 racing, as a tax, three percent of the first \$100,000 wagered, or
17 any part thereof; four percent of the next \$150,000; and five and
18 three-fourths percent of all over that amount wagered each day in
19 all pari-mutuel pools conducted or made at any and every harness
20 race meeting of the licensee licensed under ~~the provisions of~~ this
21 article.

22 (d) Any racing association licensed by the Racing Commission
23 to conduct dog racing and permitting and conducting pari-mutuel
24 wagering under ~~the provisions of~~ this article shall, in addition to

1 the daily license tax required under subsection (a) of this
2 section, pay to the Racing Commission, from the commission deducted
3 each day by the licensee from the pari-mutuel pools on dog racing,
4 as a tax, four percent of the first \$50,000 or any part thereof of
5 the pari-mutuel pools, five percent of the next \$50,000 of the
6 pari-mutuel pools, six percent of the next \$100,000 of the
7 pari-mutuel pools, seven percent of the next \$150,000 of the
8 pari-mutuel pools, and eight percent of all over \$350,000 wagered
9 each day: *Provided*, That the licensee shall deduct daily from the
10 pari-mutuel tax an amount equal to one tenth of one percent of the
11 daily pari-mutuel pools in dog racing in fiscal year 1990; fifteen
12 hundredths of one percent in fiscal year 1991; two tenths of one
13 percent in fiscal year one 1992; one quarter of one percent in
14 fiscal year 1993; and three tenths of one percent in fiscal year
15 1994 and every fiscal year thereafter. The amounts deducted shall
16 be paid to the Racing Commission to be deposited by the Racing
17 Commission in a banking institution of its choice in a special
18 account to be known as "West Virginia Racing Commission-Special
19 Account-West Virginia Greyhound Breeding Development Fund". The
20 purpose of the fund is to promote better breeding, training track
21 facilities and racing of greyhounds in the state through awards and
22 purses to bona fide resident registered greyhound owners of
23 accredited West Virginia whelped greyhounds. In order to
24 participate and be eligible to receive an award or purse through

1 the fund, the registered greyhound owner must have an appropriate
2 license from the Racing Commission to race in West Virginia. The
3 registered greyhound dam at the time of breeding must be wholly or
4 solely owned or leased by a bona fide resident or residents of West
5 Virginia. The accredited West Virginia whelped greyhound must be
6 wholly or solely owned by a bona fide resident or residents of this
7 state. To qualify as a bona fide resident of West Virginia, a
8 registered greyhound owner may not claim residency in any other
9 state. A registered greyhound owner must prove bona fide residency
10 by providing to the commission personal income tax returns filed in
11 the State of West Virginia for the most recent tax year and the
12 three previous tax years, has real or personal property in this
13 state on which the owner has paid real or personal property taxes
14 during the most recent tax year and the previous three tax years
15 and an affidavit stating that the owner claims no other state of
16 residency. The Racing Commission shall maintain a registry for
17 West Virginia bred greyhounds. ~~The moneys shall be expended by the~~
18 ~~Racing Commission for purses for stake races, training track~~
19 ~~facilities, supplemental purse awards, administration, promotion~~
20 ~~and educational programs involving West Virginia whelped dogs,~~
21 ~~owned by residents of this state under rules promulgated by the~~
22 ~~Racing Commission.~~ Ninety percent of the deposits into the
23 Greyhound Breeding Development Fund each year shall be expended by
24 the Racing Commission for supplemental purse awards, stakes races

1 and training track facilities. Ten percent of the deposits into
2 the Greyhound Breeding Development Fund each year is authorized to
3 be expended by the Racing Commission for administration, promotion,
4 education and greyhound adoption programs to include spaying and
5 neutering of West Virginia whelped greyhounds. All expenditures
6 shall be for the West Virginia Greyhound Breeding Development
7 program involving West Virginia whelped Greyhounds owned by
8 residents of this state under rules promulgated by the Racing
9 Commission. The Racing Commission shall pay out of the Greyhound
10 Breeding Development Fund to each of the licensed dog racing tracks
11 the sum of \$75,000 for the fiscal year ending June 30, 1994. The
12 licensee shall deposit the sum into the special fund for regular
13 purses established under ~~the provisions of~~ section nine of this
14 article. The funds shall be expended solely for the purpose of
15 supplementing regular purses under rules promulgated by the Racing
16 Commission.

17 Supplemental purse awards will be distributed as follows:
18 Supplemental purses shall be paid directly to the registered
19 greyhound owner of an accredited greyhound.

20 The registered greyhound owner of accredited West Virginia
21 whelped greyhounds that earn points at any West Virginia meet will
22 receive a bonus award calculated at the end of each month as a
23 percentage of the fund dedicated to the owners as purse
24 supplements, which shall be a minimum of ~~fifty~~ seventy-five percent

1 of the total moneys deposited into the West Virginia Greyhound
2 Breeding Development Fund monthly.

3 The total amount of the fund available for the owners' awards
4 shall be distributed according to the ratio of points earned by an
5 accredited greyhound to the total amount earned in races by all
6 accredited West Virginia whelped greyhounds for that month as a
7 percentage of the funds dedicated to the owners' purse supplements.
8 The point value at all greyhound tracks shall be the same as
9 approved by the Racing Commission to be effective April 1, 2007.
10 ~~The West Virginia Greyhound Owners and Breeders Association shall~~
11 ~~submit a list of any additions or deletions to the registry of~~
12 ~~accredited West Virginia whelped greyhounds on the first of each~~
13 ~~month. The Racing Commission shall not require anyone to be a~~
14 ~~member of a particular association in order to participate in the~~
15 ~~West Virginia Greyhound Breeding Development Fund.~~

16 The registered greyhound owner of an accredited West Virginia
17 whelped greyhound shall file a purse distribution form with the
18 Racing Commission for a percentage of his or her dog's earnings to
19 be paid directly to the registered greyhound owner or owners of the
20 greyhound. Distribution shall be made on the fifteenth day of each
21 month for the preceding month's achievements.

22 In no event shall points earned at a meet held at a track
23 which did not make contributions to the West Virginia Greyhound
24 Breeding Development Fund out of the daily pool on the day the meet

1 was held qualify or count toward eligibility for supplemental purse
2 awards.

3 The West Virginia Racing Commission shall provide an
4 accounting statement of the West Virginia Greyhound Breeding
5 Development Fund to each registered greyhound owner that is a
6 current monthly supplemental purse award recipient. The accounting
7 statement applies to the current period of supplemental purse award
8 distribution. The accounting statement shall identify all deposits
9 into the fund by their source and code and reference, all
10 distributions from the fund by category, a reference to the
11 applicable West Virginia Code section and the balance of the fund
12 at the end of the current supplemental purse award distribution
13 period. Additionally, each recipient shall be furnished a
14 statement showing the calculation of his or her current individual
15 supplemental purse award distribution.

16 The West Virginia Lottery Commission shall assist the West
17 Virginia Racing Commission in providing a detailed statement of the
18 amount of racetrack video lottery distributions into the West
19 Virginia Greyhound Breeding Development Fund. The racetrack video
20 lottery accounting statement shall provide a reference to the West
21 Virginia Code section that applies to each accounting entry. The
22 racetrack video lottery accounting statement shall show total gross
23 terminal income by source and reference to the applicable West
24 Virginia Code section, each deduction from gross terminal income by

1 category and reference the applicable West Virginia Code section,
2 net terminal income by source and code reference, and the deposits
3 to the West Virginia Greyhound Breeding Development Fund by
4 calculation and reference the applicable West Virginia Code
5 section.

6 ~~Any balance in the purse supplement funds after all~~
7 ~~distributions have been made for the year revert to the general~~
8 ~~account of the fund for distribution in the following year: Any~~
9 ~~balance at the end of a fiscal year in the ninety percent of~~
10 ~~deposits into the Greyhound Breeding Development Fund expended for~~
11 ~~supplemental purse awards, stake races, and training track~~
12 ~~facilities, or in the ten percent of the deposits into the~~
13 ~~Greyhound Breeding Development Fund each year expended for~~
14 ~~administration, promotion, education, or adoption programs to~~
15 ~~include spaying and neutering of West Virginia whelped greyhounds,~~
16 ~~shall be promptly disbursed at the end of the fiscal year as year~~
17 ~~end distributions to owners and breeders of West Virginia whelped~~
18 ~~greyhounds on a pro rata basis to those owners and breeders having~~
19 ~~earned supplemental purse awards in that fiscal year: Provided,~~
20 That not more than \$2,000,000 from the balance in the purse
21 supplemental fund shall be used for the construction and
22 maintenance of two dog training track facilities if such be
23 approved by the Racing Commission: *Provided, however,* That not
24 more than \$1,000,000 may be allocated for the construction and

1 maintenance of each training track: *Provided further,* That both
2 training track facilities must be located in West Virginia. The
3 West Virginia Racing Commission shall be authorized to promulgate
4 rules governing dog training tracks: *And provided further,* That
5 the Racing Commission shall: (1) Provide a process in its rules for
6 competitive bidding of the construction or maintenance, or both, of
7 the training tracks; and (2) set standards to assure that only the
8 actual costs of construction and maintenance shall be paid out of
9 the foregoing fund.

10 In an effort to further promote the breeding of quality West
11 Virginia whelped greyhounds, a bonus purse supplement shall be
12 established in the amount of \$50,000 per annum, to be paid in equal
13 quarterly installments of \$12,500 per quarter using the same method
14 to calculate and distribute these funds as the regular supplemental
15 purse awards. This bonus purse supplement is for three years only,
16 commencing on July 1, 1993, and ending June 30, 1996. This money
17 would come from the current existing balance in the greyhound
18 development fund.

19 Each pari-mutuel greyhound track shall provide stakes races
20 for accredited West Virginia whelped greyhounds: *Provided,* That
21 each pari-mutuel track shall have one juvenile and one open stake
22 race annually. A minimum of \$22,000 shall be reserved from the
23 deposits each month into the West Virginia Greyhound Breeding
24 Development Fund to fund the stakes races required under this

1 section. The value of the two West Virginia Whelped Greyhound Open
2 Stakes Races shall be \$85,000 each. The value of the two West
3 Virginia Whelped Greyhound Juvenile Stakes Races shall be \$45,000
4 each. Each pari-mutuel dog track shall provide at least three
5 restricted races for accredited West Virginia whelped greyhounds
6 per race card: *Provided, however,* That sufficient dogs are
7 available. To assure breeders of accredited West Virginia whelped
8 greyhounds an opportunity to participate in the West Virginia
9 Greyhound Breeding Development Fund the West Virginia Racing
10 Commission by July 1, each year shall establish and announce the
11 minimum number of accredited West Virginia whelped greyhounds that
12 greyhound racing kennels at West Virginia dog tracks must have on
13 their racing active list during the calendar year following such
14 action. The minimum number may vary from dog track to dog track.
15 The minimum number shall be established after consultation with the
16 West Virginia Greyhound Owners and Breeders Association and kennel
17 owners and operators. Factors to be considered in establishing this
18 minimum number shall be the number of individually registered
19 accredited West Virginia whelped greyhounds whelped in the previous
20 two years. The number of all greyhounds seeking qualification at
21 each West Virginia dog track, the ratio of active running
22 greyhounds to housed number of greyhounds at each West Virginia dog
23 track, and the size and number of racing kennels at each West
24 Virginia dog track. Any greyhound racing kennel not having the

1 minimum number of accredited West Virginia whelped greyhounds
2 determined by the West Virginia Racing Commission on their active
3 list shall only be permitted to race the maximum allowable number
4 on the active list less the number of accredited West Virginia
5 whelped greyhounds below the established minimum number.
6 Consistent violations of this minimum requirement may be reviewed
7 by the Racing Commission and may constitute cause for denial or
8 revocation of a kennel's racing license. The Racing Commission
9 shall oversee and approve racing schedules and purse amounts.

10 Ten percent of the deposits into the Greyhound Breeding
11 Development Fund beginning July 1, 1993 and continuing each year
12 thereafter, shall be withheld by the Racing Commission and placed
13 in a special revenue account hereby created in the State Treasury
14 called the "administration, promotion and educational and capital
15 improvement account". The Racing Commission is authorized to
16 expend the moneys deposited in the administration, promotion and
17 educational and capital improvement account at such times and in
18 such amounts as the commission determines to be necessary for
19 purposes of administering and promoting the greyhound development
20 program: Provided, That the amount expended each fiscal year for
21 greyhound adoption programs to include spaying and neutering of
22 West Virginia whelped greyhounds shall be the amount of valid
23 payment applications up to three percent of deposits into the West
24 Virginia Greyhound Breeding Development Fund: Provided, That

1 however beginning with fiscal year 1995 and in each fiscal year
2 thereafter in which the commission anticipates spending any money
3 from the account, the commission shall submit to the executive
4 department during the budget preparation period prior to the
5 Legislature convening before that fiscal year for inclusion in the
6 executive budget document and budget bill, the recommended
7 expenditures, as well as requests of appropriations for the purpose
8 of administration, promotion and education. The commission shall
9 make an annual report to the Legislature on the status of the
10 administration, promotion and education account, including the
11 previous year's expenditures and projected expenditures for the
12 next year.

13 The Racing Commission, for the fiscal year 1994 only, may
14 expend up to \$35,000 from the West Virginia Greyhound Breeding
15 Development Fund to accomplish the purposes of this section without
16 strictly following the requirements in the previous paragraph.

17 (e) All daily license and pari-mutuel pools tax payments
18 required under ~~the provisions of~~ this section shall be made to the
19 Racing Commission or its agent after the last race of each day of
20 each horse or dog race meeting, and the pari-mutuel pools tax
21 payments shall be made from all contributions to all pari-mutuel
22 pools to each and every race of the day.

23 (f) Every association or licensee subject to ~~the provisions of~~
24 this article, including the changed provisions of sections nine and

1 ten of this article, shall annually submit to the Racing Commission
2 and the Legislature financial statements, including a balance
3 sheet, income statement, statement of change in financial position
4 and an audit of any electronic data system used for pari-mutuel
5 tickets and betting, prepared in accordance with generally accepted
6 auditing standards, as certified by an experienced public
7 accountant or a certified public accountant.

8 PART VI. PARI-MUTUEL SYSTEM OF WAGERING AUTHORIZED;

9 COMMISSIONS DEDUCTED FROM PARI-MUTUEL POOLS.

10 **§19-23-12a. Pari-mutuel wagering on interstate and intrastate**
11 **horse and dog racing.**

12 (1) Notwithstanding any other provisions of this code, a
13 racing association licensed in this state to conduct race meetings
14 may, with the consent of the Racing Commission and the written
15 approval of the authorized representative of a majority of the
16 owners and trainers who hold the permit required by section two of
17 this article at the horse racetrack, or the authorized
18 representative of a majority of the owners and breeders at the dog
19 racetrack, contract with any legal wagering entity in this or any
20 other state to accept wagers on any race or races conducted by such
21 legal wagering entity. Unless the wager becomes part of the host
22 licensee's pari-mutuel pool, such wagering shall be conducted
23 within the confines of such licensee's racetrack or at a hotel as
24 defined in section three, article six, chapter sixteen of this

1 code, controlled by such licensee and contiguous to the licensee's
2 property, subject to the following requirements:

3 (a) That such hotel contain at least one hundred rooms and be
4 in existence on the effective date of this section;

5 (b) That the licensee shall have invested at least \$1 million
6 in the hotel; and

7 (c) That such hotel is within one-half mile of the licensee's
8 racetrack surface.

9 (2) Such horse association shall retain a basic commission not
10 to exceed seventeen and twenty-five one-hundredths percent of all
11 money wagered, plus an additional amount equal to one and
12 seventy-five one-hundredths percent of the amount wagered each day
13 on all multiple wagers determined by a combination of two winning
14 horses, including, but not limited to, the daily double, quinella
15 and perfecta or plus an additional amount equal to seven and
16 seventy-five one-hundredths percent of the amount wagered each day
17 on all trifecta wagers or any other multiple wager which involves
18 a single betting interest on three or more horses. Breakage shall
19 be calculated and distributed in the manner provided by subsection
20 (c), section nine of this article.

21 (3) The commission deducted by any licensee from the
22 pari-mutuel pools on dog racing shall not exceed sixteen and
23 one-fourth percent of the total of such pari-mutuel pools for the
24 day.

1 (4) Out of the commission retained or deducted by a licensee
2 under ~~the provisions of~~ subsections (2) and (3) of this section,
3 the licensee shall pay one tenth of one percent into the General
4 Fund of the county commission of the county in which the racetrack
5 is located, except if within a municipality, then to such
6 municipality's general fund.

7 (5) The association shall pay each day a pari-mutuel pools tax
8 calculated under ~~the provisions of~~ section ten of this article.

9 (6) After deducting the county or municipal share provided ~~for~~
10 in subsection (4) of this section and the pari-mutuel pools tax
11 required by subsection (5) of this section, and the amount required
12 to be paid under the terms of the contract with the legal wagering
13 entity of this or another state and the cost of transmission, the
14 Horse Racing Association shall make a deposit equal to fifty
15 percent of the remainder into the purse fund established under ~~the~~
16 ~~provisions of subdivision (b), subsection (1)~~ subdivision (1),
17 subsection (b), section nine of this article.

18 (7) ~~All of the provisions of~~ The "Federal Interstate
19 Horseracing Act of 1978," ~~also known as~~ Public Law 95-515, section
20 3001-3007 of title 15, U.S. Code, shall be instructive as the
21 intent of this section.

22 (8) For the purposes of this section the words "legal wagering
23 entity" shall be limited to any person engaged in horse racing or
24 dog racing pursuant to a license or other permission granted by the

1 jurisdiction to receive telecasts and accept wagers on races
2 conducted by the legal wagering entity: *Provided*, That at those
3 thoroughbred racetracks the licensee, in applying for racing dates,
4 shall apply for not less than two hundred ten live racing dates for
5 each horse race meeting: *Provided, however*, That at those
6 thoroughbred racetracks that have participated in the West Virginia
7 Thoroughbred Development Fund for a period of more than four
8 consecutive calendar years prior to December 31, 1992, the licensee
9 may apply for not less than one hundred fifty-nine live racing
10 dates during the calendar year 1997. If, thereafter, for reasons
11 beyond the licensee's control, related to adverse weather
12 conditions, unforeseen casualty occurrences or a shortage of
13 thoroughbred horses eligible to compete for purses, the licensee
14 concludes that this number of racing days cannot be attained, the
15 licensee may file a request with the Racing Commission to reduce
16 the authorized live racing days. Upon receipt of the request the
17 Racing Commission shall within seventy-two hours of the receipt of
18 the request notify the licensee and the representative of a
19 majority of the owners and trainers at the requesting track and the
20 representative of the majority of the mutuel clerks at the
21 requesting track that such request has been received and that if no
22 objection to the request is received within ten days of the
23 notification the request will be approved: *Provided further*, That
24 the commission shall give consideration to whether there existed

1 available unscheduled potential live racing dates following the
2 adverse weather or casualty and prior to the end of the race
3 meeting which could be used as new live racing dates in order to
4 maintain the full live racing schedule previously approved by the
5 Racing Commission. If an objection is received by the commission
6 within the time limits, the commission shall, within thirty days of
7 receipt of such objection, set a hearing on the question of
8 reducing racing days, which hearing shall be conducted at a
9 convenient place in the county in which the requesting racetrack is
10 located. The commission shall hear from all parties concerned and,
11 based upon testimony and documentary evidence presented at the
12 hearing, shall determine the required number of live racing days:
13 *And provided further,* That the commission shall not reduce the
14 number of live racing days below one hundred eighty-five days for
15 a horse race meeting unless the licensee requesting such reduction
16 has: (i) Filed with the commission a current financial statement,
17 which shall be subject to independent audit; and (ii) met the
18 burden of proving that just cause exists for such requested
19 reduction in live racing days. The telecasts may be received and
20 wagers accepted at any location authorized by ~~the provisions of~~
21 section twelve-a of this article. The contract must receive the
22 approval of the representative of the majority of the owners and
23 trainers of horses or the owners and breeders of dogs who hold
24 permits required by section two of this article at the receiving

1 thoroughbred racetrack or the receiving dog racetrack.

2 (c) The commission may allow the licensee to commingle its
3 wagering pools with the wagering pools of the host racing
4 association. If the pools are commingled, the wagering at the
5 licensee's racetrack must be on tabulating equipment capable of
6 issuing pari-mutuel tickets and be electronically linked with the
7 equipment at the sending racetrack. Subject to the approval of the
8 commission, the types of betting, licensee commissions and
9 distribution of winnings on pari-mutuel pools of the sending
10 licensee racetrack are those in effect at the licensee racetrack.
11 Breakage for pari-mutuel pools on a televised racing day must be
12 calculated in accordance with the law or rules governing the
13 sending racetrack and must be distributed in a manner agreed to
14 between the licensee and the sending racetrack. For the televised
15 racing services it provides, the host racing association shall
16 receive a fee to be paid by the receiving licensee racetrack which
17 shall be in an amount to be agreed upon by the receiving licensee
18 racetrack and the host racing association.

19 (d) The commission may assign televised racing days at any
20 time. When a televised racing day is assigned, the commission
21 shall assign either a steward or an Auditor to preside over the
22 televised races at the licensee racetrack.

23 (e) (1) From the licensee commissions authorized by subsection
24 (c) of this section, the licensee shall pay one tenth of one

1 percent of each commission into the General Fund of the county, in
2 which the racetrack is located and at which the wagering occurred
3 and there is imposed and the licensee shall pay, for each televised
4 racing day on which the total pari-mutuel pool exceeds \$100,000,
5 the greater of either: (i) The total of the daily license tax and
6 the pari-mutuel pools tax required by section ten of this article;
7 or (ii) a daily license tax of \$1,250. For each televised racing
8 day on which the total pari-mutuel pool is \$100,000, the licensee
9 shall pay a daily license tax of \$500 plus an additional license
10 tax of \$100 for each \$10,000, or part thereof, that the pari-mutuel
11 pool exceeds \$50,000, but does not exceed \$100,000. The
12 calculation of the total pari-mutuel pool for purposes of this
13 subsection shall include only one half of all wagers placed at a
14 licensed racetrack in this state on televised races conducted at
15 another licensed racetrack within this state. Payments of the tax
16 imposed by this section are subject to the requirements of
17 subsection (e), section ten of this article.

18 (2) From the licensee commissions authorized by subsection (c)
19 of this section, after payments are made in accordance with ~~the~~
20 ~~provisions of~~ subdivision (1) of this subsection, the licensee
21 shall pay, for each televised racing day, one fourth of one percent
22 of the total pari-mutuel pools for and on behalf of all employees
23 of the licensed racing association by making a deposit into a
24 special fund to be established by the Racing Commission and to be

1 used for payments into the pension plan for all employees of the
2 licensed racing association.

3 (3) From the licensee commissions authorized by subsection (c)
4 of this section, after payments are made in accordance with ~~the~~
5 ~~provisions of~~ subdivisions (1) and (2) of this subsection,
6 thoroughbred licensees shall pay, one-half percent of net
7 simulcast income and for each televised racing day on or after July
8 1, 1997, an additional five and one-half percent of net simulcast
9 income into the West Virginia Thoroughbred Development Fund
10 established by the Racing Commission according to section
11 thirteen-b of this article: *Provided*, That no licensee qualifying
12 for the alternate tax provisions of subsection (b), section ten of
13 this article shall be required to make the payments unless the
14 licensee has participated in the West Virginia Thoroughbred
15 Development Fund for a period of more than four consecutive
16 calendar years prior to December 31, 1992. Dog racetrack licensees
17 shall pay six percent of net simulcast income to the West Virginia
18 Greyhound Breeding Development Fund established by subsection (d),
19 section ten of this article. For the purposes of this section, the
20 term "net simulcast income" means the total commission deducted
21 each day by the licensee from the pari-mutuel pools on simulcast
22 horse or dog races, less direct simulcast expenses, including, but
23 not limited to, the cost of simulcast signals, telecommunication
24 costs and decoder costs.

1 (f) After deducting the tax and other payments required by
2 subsection (e) of this section, the amount required to be paid
3 under the terms of the contract with the host racing association
4 and the cost of transmission, the horse racing association shall
5 make a deposit equal to fifty percent of the remainder into the
6 purse fund established under ~~the provisions of subdivision (1),~~
7 ~~subsection (b), section nine of this article. After deducting the~~
8 ~~tax and other payments required by subsection (e) of this section,~~
9 ~~dog racetracks shall pay an amount equal to two tenths of one~~
10 ~~percent of the daily simulcast pari-mutuel pool to the "West~~
11 ~~Virginia Racing Commission Special Account West Virginia Greyhound~~
12 ~~Breeding Development Fund".~~ The dog racing association shall make
13 a deposit equal to three percent of the total wagering handle on
14 all imported simulcast race signals into the track purse accounts
15 for dogs established by subdivision (3), subsection (b), section
16 nine of this article.

17 (g) ~~The provisions of the "Federal Interstate Horseracing Act~~
18 ~~of 1978", also known as Public Law 95-515, Section 3001-3007 of~~
19 ~~Title 15, U.S. Code, as amended, controls in determining the intent~~
20 ~~of this section.~~

21 **§19-23-12c. Interstate simulcasts by licensed racetracks.**

22 (a) Any licensed racing association may be authorized by the
23 commission to transmit broadcasts of races conducted at its
24 racetrack to legal wagering entities located outside this state,

1 which legal wagering entities located outside this state shall not
2 be subject to ~~the provisions of~~ subsection (e), section twelve-b of
3 this article: *Provided*, That as consideration for the televised
4 racing services it provides, the host racing association shall
5 receive a signal transmission fee to be paid by the receiving legal
6 wagering entity which shall be in an amount agreed upon by the
7 receiving legal wagering entity and the host racing association.
8 All broadcasts of horse races shall be in accordance with ~~all of~~
9 ~~the provisions of~~ the "Federal Interstate Horseracing Act of 1978,"
10 also known as Public Law 95-515, Section 3001-3007 of Title 15 of
11 the United States Code.

12 (b) One percent of the total signal transmission fee provided
13 in subsection (a) of this section shall be paid into a special fund
14 to be established by the Racing Commission for and on behalf of all
15 employees of the licensed racing association to be used for
16 payments into the pension plan for all employees of the licensed
17 racing association, and any thoroughbred horse racetrack which has
18 participated in the West Virginia Thoroughbred Development Fund for
19 a period of more than four consecutive calendar years prior to
20 December 31, 1992, shall pay seven and one-half percent of the
21 signal transmission fee into the West Virginia Thoroughbred
22 Development Fund established by the Racing Commission according to
23 section thirteen-b of this article and dog racetracks shall pay
24 seven and one-half percent of the signal transmission fee into the

1 West Virginia Greyhound Breeding Development Fund established by
2 the Racing Commission according to subsection (d), section ten of
3 this article. After deducting: (i) The amounts required to be
4 placed into the pension plan for all employees of the licensed
5 racing association under this section; (ii) the amounts, if any,
6 required to be paid into the West Virginia Thoroughbred Development
7 Fund or the Greyhound Breeding Development Fund under this section;
8 and (iii) the direct costs necessary to send a live audio and
9 visual signal of horse races or dog races from any racetrack
10 licensed under ~~the provisions of~~ section one of this article to any
11 legal wagering entities outside this state for the purpose of
12 pari-mutuel wagering, which direct costs shall include the cost of
13 satellite equipment necessary to transmit the signal, a satellite
14 operator and the satellite time necessary to broadcast the signal
15 and the cost of telecommunication and facsimile services needed to
16 communicate necessary information to all legal wagering entities
17 for the purpose of pari-mutuel wagering, thoroughbred horseracing
18 associations and dog racing associations shall make a deposit equal
19 to fifty percent of the remainder into the purse fund established
20 under ~~the provisions of subdivision~~ subdivisions (1) and (3),
21 subsection (b), section nine of this article: *Provided*, That the
22 funds deposited in the purse fund pursuant to this section may be
23 used for the payment of regular purses or, upon agreement between
24 the horse racing association or dog racing associations and the

1 representative of the majority of owners and trainers of horses or
 2 the owners and breeders of dogs at a particular thoroughbred
 3 racetrack or dog race track, may be used for capital improvements
 4 supporting simulcast operations.

5 **§19-23-13b. West Virginia Thoroughbred Development Fund;**
 6 **distribution; restricted races; nonrestricted**
 7 **purse supplements; preference for West Virginia**
 8 **accredited thoroughbreds.**

9 (a) The Racing Commission shall deposit moneys required to be
 10 withheld by an association or licensee in subsection (b), section
 11 nine of this article in a banking institution of its choice in a
 12 special account to be known as "West Virginia Racing Commission
 13 Special Account -- West Virginia Thoroughbred Development Fund":
 14 *Provided*, That after the West Virginia Lottery Commission has
 15 divided moneys between the West Virginia Thoroughbred Development
 16 Fund and the West Virginia Greyhound Breeding Development Fund
 17 pursuant to ~~the provisions of~~ sections ten and ten-b, article
 18 twenty-two-a, chapter twenty-nine of this code, the Racing
 19 Commission shall, beginning October 1, 2005, deposit the remaining
 20 moneys required to be withheld from an association or licensee
 21 designated to the Thoroughbred Development Fund under ~~the~~
 22 ~~provisions of~~ subsection (b), section nine of this article,
 23 subdivision (3), subsection (e), section twelve-b of this article,

1 subsection (b), section twelve-c of this article, paragraph (B),
2 subdivision (3), subsection (b), section thirteen-c of this article
3 and sections ten and ten-b, article twenty-two-a, chapter
4 twenty-nine of this code into accounts for each thoroughbred
5 racetrack licensee with a banking institution of its choice with a
6 separate account for each association or licensee. Each separate
7 account shall be a special account to be known as "West Virginia
8 Racing Commission Special Account - West Virginia Thoroughbred
9 Development Fund" and shall name the licensee for which the special
10 account has been established: *Provided, however,* That the Racing
11 Commission shall deposit all moneys paid into the Thoroughbred
12 Development Fund by a thoroughbred racetrack licensee that did not
13 participate in the Thoroughbred Development Fund for at least four
14 consecutive calendar years prior to December 31, 1992 from July 8,
15 2005 until the effective date of the amendment to this section
16 passed during the fourth extraordinary session of the
17 seventy-seventh Legislature shall be paid into the purse fund of
18 that thoroughbred racetrack licensee: *Provided further,* That the
19 moneys paid into the Thoroughbred Development Fund by a
20 thoroughbred racetrack licensee that did not participate in the
21 Thoroughbred Development Fund for at least four consecutive
22 calendar years prior to December 31, 1992, shall be transferred
23 into that licensee's purse fund until April 1, 2006. Notice of the
24 amount, date and place of the deposits shall be given by the Racing

1 Commission, in writing, to the State Treasurer. The purpose of the
2 funds is to promote better breeding and racing of thoroughbred
3 horses in the state through awards and purses for accredited
4 breeders/raisers, sire owners and thoroughbred race horse owners:
5 *Provided*, That five percent of the deposits required to be withheld
6 by an association or licensee in subsection (b), section nine of
7 this article shall be placed in a special revenue account hereby
8 continued in the State Treasury called the "Administration and
9 Promotion Account": *Provided, however*, That four and one-half
10 percent of the deposits into the Thoroughbred Development Fund
11 shall be placed in the Administration and Promotion Account, except
12 that of this percentage, no more than \$305,000 shall be placed in
13 the account in any year.

14 (b) The Racing Commission is authorized to expend the moneys
15 deposited in the administration and promotion account at times and
16 in amounts as the commission determines to be necessary for
17 purposes of administering and promoting the thoroughbred
18 development program: *Provided*, That during any fiscal year in which
19 the commission anticipates spending any money from the account, the
20 commission shall submit to the executive department during the
21 budget preparation period prior to the Legislature convening before
22 that fiscal year for inclusion in the executive budget document and
23 budget bill the recommended expenditures, as well as requests of
24 appropriations for the purpose of administration and promotion of

1 the program. The commission shall make an annual report to the
2 Legislature on the status of the administration and promotion
3 account, including the previous year's expenditures and projected
4 expenditures for the next year.

5 (c) The fund or funds and the account or accounts established
6 in subsection (a) of this section shall operate on an annual basis.

7 (d) Funds in the Thoroughbred Development Fund or funds in the
8 separate accounts for each association or licensee as provided in
9 subsection (a) of this section shall be expended for awards and
10 purses except as otherwise provided in this section. Annually, the
11 first \$800,000 shall be available for distribution for a minimum of
12 fourteen accredited stakes races at a racetrack which has
13 participated in the West Virginia Thoroughbred Development Fund for
14 a period of more than four consecutive calendar years prior to
15 December 31, 1992. The weights for all accredited stakes races
16 shall be weight for age. One of the stakes races shall be the West
17 Virginia Futurity and the second shall be the Frank Gall Memorial
18 Stakes. For the purpose of participating in the West Virginia
19 Futurity only, all mares, starting with the breeding season
20 beginning February 1 through July 31, 2004, and each successive
21 breeding season thereafter shall be bred back that year to an
22 accredited West Virginia stallion only which is registered with the
23 West Virginia Thoroughbred Breeders Association. The accredited
24 stake races shall be chosen by the committee set forth in

1 subsection (f) of this section.

2 (e) Awards and purses shall be distributed as follows:

3 (1) The breeders/raisers of accredited thoroughbred horses
4 that earn a purse at a participating West Virginia meet shall
5 receive a bonus award calculated at the end of the year as a
6 percentage of the fund dedicated to the breeders/raisers, which
7 shall be sixty percent of the fund available for distribution in
8 any one year. The total amount available for the breeders'/raisers'
9 awards shall be distributed according to the ratio of purses earned
10 by an accredited race horse to the total amount earned in the
11 participating races by all accredited race horses for that year as
12 a percentage of the fund dedicated to the breeders/raisers.
13 However, no breeder/raiser may receive from the fund dedicated to
14 breeders'/raisers' awards an amount in excess of the earnings of
15 the accredited horse at West Virginia meets. In addition, should
16 a horse's breeder and raiser qualify for the same award on the same
17 horse, they will each be awarded one half of the proceeds. The
18 bonus referred to in this subdivision may only be paid on the first
19 \$100,000 of any purse and not on any amounts in excess of the first
20 \$100,000.

21 (2) The owner of an accredited West Virginia sire of an
22 accredited thoroughbred horse that earns a purse in any race at a
23 participating West Virginia meet shall receive a bonus award
24 calculated at the end of the year as a percentage of the fund

1 dedicated to sire owners, which shall be fifteen percent of the
2 fund available for distribution in any one year. The total amount
3 available for the sire owners' awards shall be distributed
4 according to the ratio of purses earned by the progeny of
5 accredited West Virginia stallions in the participating races for
6 a particular stallion to the total purses earned by the progeny of
7 all accredited West Virginia stallions in the participating races.
8 However, no sire owner may receive from the fund dedicated to sire
9 owners an amount in excess of thirty-five percent of the accredited
10 earnings for each sire. The bonus referred to in this subdivision
11 shall only be paid on the first \$100,000 of any purse and not on
12 any amounts in excess of the first \$100,000.

13 (3) The owner of an accredited thoroughbred horse that earns
14 a purse in any participating race at a West Virginia meet shall
15 receive a restricted purse supplement award calculated at the end
16 of the year, which shall be twenty-five percent of the fund
17 available for distribution in any one year, based on the ratio of
18 the earnings in the races of a particular race horse to the total
19 amount earned by all accredited race horses in the participating
20 races during that year as a percentage of the fund dedicated to
21 purse supplements. However, the owners may not receive from the
22 fund dedicated to purse supplements an amount in excess of
23 thirty-five percent of the total accredited earnings for each
24 accredited race horse. The bonus referred to in this subdivision

1 shall only be paid on the first \$100,000 of any purse and not on
2 any amounts in excess of the first \$100,000.

3 (4) In no event may purses earned at a meet held at a track
4 which did not make a contribution to the Thoroughbred Development
5 Fund out of the daily pool on the day the meet was held qualify or
6 count toward eligibility for an award under this subsection.

7 (5) Any balance in the breeders/raisers, sire owners and purse
8 supplement funds after yearly distributions shall ~~first be used to~~
9 ~~fund the races established in subsection (f) of this section.~~ Any
10 amount not so used shall revert into the general account of the
11 Thoroughbred Development Fund for each racing association or
12 licensee for distribution in the next year.

13 Distribution shall be made on the fifteenth day of each
14 February for the preceding year's achievements.

15 (f) (1) Each pari-mutuel thoroughbred horse track shall
16 provide at least one restricted race per racing day: *Provided,*
17 That sufficient horses and funds are available. For purposes of
18 this subsection, there are sufficient horses if there are at least
19 seven single betting interests received for the race: *Provided*
20 That, if sufficient horses and funds are available, any
21 thoroughbred horse racetrack whose licensee participated in the
22 Thoroughbred Development Fund for at least four consecutive
23 calendar years prior to December 31, 1992, shall provide ~~two~~ a
24 minimum of four restricted races per racing day, one being a

1 substitute, and at least one of which may be split at the
 2 discretion of the racing secretary. The restricted race required
 3 by this section must be included in the first nine races written in
 4 the condition book for that racing day Provided, That the
 5 substitute race required by this section shall be the first
 6 substitute race written in the condition book for that racing day.

7 (2) The restricted races established in this subsection shall
 8 be administered by a three-member committee at each track
 9 consisting of:

10 (A) The racing secretary at each track;

11 (B) A member appointed by the authorized representative of a
 12 majority of the owners and trainers at the thoroughbred track; and

13 (C) A member appointed by the West Virginia Thoroughbred
 14 Breeders Association.

15 ~~(3) Restricted races shall be funded by each racing~~
 16 ~~association from:~~

17 ~~(A) Moneys placed in the general purse fund: Provided, That~~
 18 ~~a thoroughbred horse racetrack which did not participate in the~~
 19 ~~West Virginia Thoroughbred Development fund for a period of more~~
 20 ~~than four consecutive years prior to December 31, 1992, may fund~~
 21 ~~restricted races in an amount not to exceed \$1,000,000 per year.~~

22 ~~(B) Moneys as provided in subdivision (5), subsection (e) of~~
 23 ~~this section, which shall be placed in a special fund called the~~
 24 ~~"West Virginia Accredited Race Fund".~~

1 (3) Restricted races shall be funded by each racing
2 association from moneys placed in the General Purse Fund.

3 (4) If a thoroughbred wins a restricted race established in
4 this article or an accredited stakes race established in subsection
5 (d) of this section or a West Virginia thoroughbred breeders
6 classic stakes race established in subdivision (1), subsection (b),
7 section thirteen-c of this article, that win will not be considered
8 in eligibility for open races run by thoroughbred horse racetracks
9 in this state: *Provided*, That any horse can only break its maiden
10 once.

11 ~~(4) (5) The racing schedules, purse amounts and types of races~~
12 ~~are subject to the approval of the West Virginia Racing Commission.~~

13 ~~(5) If less than seventy-five percent of the restricted races~~
14 ~~required by this subsection fail to receive enough entries to race,~~
15 ~~the Racing Commission shall, on a quarterly basis, dedicate funds~~
16 ~~in each fund back to the general purse fund of the racing~~
17 ~~association or licensee: *Provided*, That no moneys may be dedicated~~
18 ~~back to a general purse fund if the dedication would leave less~~
19 ~~than \$250,000 in the fund.~~

20 (g) As used in this section, "West Virginia bred-foal" means
21 a horse that was born in the State of West Virginia.

22 (h) To qualify for the West Virginia Accredited Race Fund, the
23 breeder must qualify under one of the following:

24 (1) The breeder of the West Virginia bred-foal is a West

1 Virginia resident;

2 (2) The breeder of the West Virginia bred-foal is not a West
3 Virginia resident, but keeps his or her breeding stock in West
4 Virginia year round; or

5 (3) The breeder of the West Virginia bred-foal is not a West
6 Virginia resident and does not qualify under subdivision (2) of
7 this subsection, but either the sire of the West Virginia bred-foal
8 is a West Virginia stallion, or the mare is covered only by a West
9 Virginia accredited stallion or stallions before December 31 of the
10 calendar year following the birth of that West Virginia bred-foal.

11 (i) From July 1, 2001, West Virginia accredited thoroughbred
12 horses have preference for entry in all accredited races at a
13 thoroughbred race track at which the licensee participates in the
14 West Virginia Thoroughbred Development Fund.

15 (j) Beginning July 1, 2006, any racing association licensed by
16 the Racing Commission to conduct thoroughbred racing and permitting
17 and conducting pari-mutuel wagering under ~~the provisions of this~~
18 article must have a West Virginia Thoroughbred Racing Breeders
19 Program.

20 **§19-23-13c. Expenditure of racetrack video lottery distribution.**

21 (a) Funds received by the Racing Commission pursuant to
22 subdivision (6), subsection (c), section ten, article twenty-two-a,
23 chapter twenty-nine of this code, and subdivision (5), subsection
24 (a), section ten-b, article twenty-two-a, chapter twenty-nine of

1 this code, after the effective date of this section together with
2 the balance in the bank account previously established by the
3 commission to receive those funds shall be deposited in a banking
4 institution of its choice in a special account to be known as "West
5 Virginia Racing Commission Racetrack Video Lottery Account".
6 Notice of the amount, date and place of each deposit shall be given
7 by the Racing Commission, in writing, to the State Treasurer.

8 (b) Funds in this account shall be allocated and expended as
9 follows:

10 (1) For each fiscal year, the first \$800,000 deposited in the
11 separate account plus the amount then remaining of the June 30,
12 1997, balance in the separate account previously established for
13 the West Virginia breeders classic under section thirteen of this
14 article, shall be used by the commission for promotional
15 activities, advertising, administrative costs and purses for the
16 West Virginia Thoroughbred Breeders Classic, which shall give equal
17 consideration to all horses qualifying under the West Virginia
18 breeders program for each stake race, based solely on the horses'
19 sex, age and earnings.

20 (2) For each fiscal year, the next \$200,000 deposited into the
21 separate account shall be used by the Commission for promotional
22 activities and purses for open stake races for a race event to be
23 known as the West Virginia Derby to be held at a thoroughbred
24 racetrack which does not participate in the West Virginia Breeders

1 Classic.

2 (3) For each fiscal year, the next \$400,000 deposited into the
 3 separate account shall be used by the Racing Commission for purses
 4 for a greyhound race event to be known as the West Virginia
 5 Greyhound Challenge Stakes Race. The location of this race event
 6 shall be alternated each fiscal year between the greyhound
 7 racetracks in West Virginia. The final of the stakes race matches
 8 the top four accredited West Virginia whelped greyhounds with the
 9 top four greyhounds from an open field.

10 ~~(3)~~ (4) For each fiscal year, once the amounts provided in
 11 subdivisions (1), ~~and~~ (2) and (3) of this subsection have been
 12 deposited into separate bank accounts for use in connection with
 13 the West Virginia Thoroughbred Breeders Classics, ~~and~~ the West
 14 Virginia Derby and the West Virginia Greyhound Challenge Stakes
 15 Race the commission shall return to each racetrack all additional
 16 amounts deposited which originate during that fiscal year from each
 17 respective racetrack pursuant to subdivision (6), subsection (c),
 18 section ten, article twenty-two-a, chapter twenty-nine of this
 19 code, which returned excess funds shall be used as follows:

20 (A) For each dog racetrack, one ~~half~~ quarter of the returned
 21 excess funds shall be used for capital improvements at the
 22 racetrack and ~~one half~~ three quarters of the returned excess funds
 23 shall be ~~deposited into the West Virginia Racing Commission Special~~
 24 ~~Account — West Virginia Greyhound Breeding Development Fund.~~

1 equally divided between the West Virginia Racing
2 Commission-Special Account-West Virginia Greyhound Breeding
3 Development Fund established by subsection (d), section ten of this
4 article and the West Virginia Greyhound Challenge Stakes Race
5 established by subdivision (3), subsection (b) of this section.

6 (B) At those thoroughbred racetracks that have participated in
7 the West Virginia Thoroughbred Development Fund for a period of
8 more than four consecutive calendar years prior to December 31,
9 1992, one ~~half~~ quarter of the returned excess funds shall be used
10 for capital improvements at the licensee's racetrack and ~~one half~~
11 three quarters of the returned excess funds shall be equally
12 divided between the West Virginia Thoroughbred Breeders Classic,
13 the West Virginia Racing Commission Special Account - Unredeemed
14 Pari-Mutuel Tickets established by section thirteen of this article
15 and the West Virginia Thoroughbred Development Fund.

16 (C) At those thoroughbred horse racetracks which do not
17 participate in the West Virginia Breeders Classic, one half of the
18 returned excess funds shall be used for capital improvements at the
19 licensee's racetrack and one half of the returned excess funds
20 shall be used for purses for the open stakes race event known as
21 the West Virginia Derby.

22 (c) All expenditures that are funded under this section must
23 be approved in writing by the West Virginia Racing Commission
24 before the funds are expended for any of the purposes authorized by

1 this section.

NOTE: The purpose of this bill is to require licensees to provide preferential treatment to certain trainers. The bill sets forth the criteria for receiving preferential treatment. The bill increases the West Virginia Racing Commission by two members. The bill sets forth qualifications. The bill authorizes the commission to adjudicate certain disputes. The bill authorizes the commission to approve or reject certain racing associations house rules. The bill authorizes the commission to regulate stall allocation criteria. The bill requires thoroughbred licensees to pay three percent of paid purses into the local Horseman's Benevolent and Protective Association. The bill requires greyhound licensees to pay one percent of paid purses to the local West Virginia Greyhound Owners and Breeders Association. The bill grants all greyhound owners and breeders of certain greyhounds full voting membership in the West Virginia Greyhound Owners and Breeders Association. The bill requires dog racing associations to provide certain indoor facilities and handicap access. The bill requires ninety percent of the deposits into the Greyhound Breeding Development Fund each year to fund supplemental purse awards, stakes races and training track facilities. The bill requires ten percent of the deposits into the Greyhound Breeding Development Fund each year to fund greyhound adoption programs, including spaying and neutering. The bill requires the commission to provide accounting statements to greyhound owners. The bill requires the West Virginia Lottery Commission to assist the Racing Commission in providing a detailed statement of racetrack video lottery distributions into the West Virginia Greyhound Breeding Development Fund. The bill sets forth the contents of those statements. The bill provides that any year end balance in the Greyhound Breeding Development Fund be distributed to owners and breeders of West Virginia whelped greyhounds on a pro rata basis. The bill requires a monthly minimum of \$22,000 be taken from the West Virginia Greyhound Breeding Development Fund to fund stake races. The bill establishes the values of certain open stake races and juvenile stake races for greyhounds. The bill provides that up to three percent of payment applications deposited in the West Virginia Greyhound Breeding Development Fund be used for greyhound programs. The bill permits a representative of a majority of the owners and breeders at the dog racetrack to contract with legal wagering entities to accept wagers on races. The bill requires dog racetrack licensees pay six percent of the net simulcast income to the West Virginia Greyhound Breeding Development Fund. The bill requires the dog racing association to

deposit three percent of the total wagering handle on all imported simulcast race signals into track purse accounts. The bill requires dog racetracks to pay seven and one-half percent of the signal transmission fee into the West Virginia Breeding Development Fund. The bill permits the full year end balance in breeders/raisers, sire owners and purse supplement funds to revert into the Thoroughbred Development Fund for distribution to racing associations and licensees instead of first being used to fund certain races. The bill provides for additional horse races. The bill provides that certain horse racing wins will not be considered in eligibility for certain open races. The bill authorizes an annual \$400,000 expenditure from the West Virginia Racing Commission Racetrack Video Lottery Account be used purses in a newly created West Virginia Greyhound Challenge Stakes Race. The bill decreases the amount of certain funds available to be used for capital improvements at dog racetracks. The bill decreases the amount of certain funds paid into the West Virginia Racing Commission-Special Account-West Virginia Greyhound Breeding Development Fund. The bill uses certain funds to fund the West Virginia Greyhound Challenge Stakes Race. The bill decreases the amount of certain funds available to be used for capital improvements at horse racetracks. The bill requires certain funds be deposited into the West Virginia Racing Commission Special Account-Unredeemed Pari-Mutuel Tickets. The bill authorizes rule-making and updates statutory language.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.