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LEGISLATIVE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000



# ENROLLED

## House Bill No. 4689

(By Delegates Faircloth, Doyle and Manuel)



Passed March 18, 2000

In Effect from Passage

# **SECOND ENROLLMENT**

## **H. B. 4689**

(BY DELEGATES FAIRCLOTH, DOYLE AND MANUEL)

[Passed March 18, 2000; in effect from passage.]

AN ACT to amend and reenact sections thirteen and thirteen-b, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article twenty-three by adding thereto a new section, designated section thirteen-c; and to amend and reenact section ten, article twenty-two-a, chapter twenty-nine of said code, all relating generally to horse and dog racing; disposition of funds for payment of outstanding and unredeemed pari-mutuel tickets; increasing prize money for restricted races; defining West Virginia-bred foal; limiting qualification for payments from West Virginia accredited race fund to West Virginia-bred foals; providing for distribution of racetrack video lottery money for purses at breeders' classic to be expended as provided in racing statutes; and making technical changes that make the code more readable and delete obsolete language.

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

That sections thirteen and thirteen-b, article twenty-three, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article twenty-three be further amended by adding thereto a new section, designated section thirteen-c; and that section ten, article twenty-two-a, chapter twenty-nine of said code, be amended and reenacted, all to read as follows:

## **CHAPTER 19. AGRICULTURE.**

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

#### **§19-23-13. Disposition of funds for payment of outstanding and unredeemed pari-mutuel tickets; publication of notice; irredeemable tickets; stake races for dog tracks.**

1       (a) All moneys held by any licensee for the payment of  
2       outstanding and unredeemed pari-mutuel tickets, if not claimed  
3       within ninety days after the close of a horse or dog race meeting  
4       or the televised racing day, as the case may be, in connection  
5       with which the tickets were issued, shall be turned over by the  
6       licensee to the racing commission within fifteen days after the  
7       expiration of the ninety-day period, and the licensee shall give  
8       any information required by the racing commission concerning  
9       the outstanding and unredeemed tickets. The moneys shall be  
10      deposited by the racing commission in a banking institution of  
11      its choice in a special account to be known as "West Virginia  
12      Racing Commission Special Account - Unredeemed Pari-  
13      Mutuel Tickets". Notice of the amount, date and place of each  
14      deposit shall be given by the racing commission, in writing, to  
15      the state treasurer. The racing commission shall then cause to  
16      be published a notice to the holders of the outstanding and  
17      unredeemed pari-mutuel tickets, notifying them to present their  
18      unredeemed tickets for payment at the principal office of the  
19      racing commission within ninety days from the date of the  
20      publication of the notice. The notice shall be published within

21 fifteen days following the receipt of the outstanding and  
22 unredeemed pari-mutuel ticket moneys by the commission from  
23 the licensee as a Class I legal advertisement in compliance with  
24 the provisions of article three, chapter fifty-nine of this code,  
25 and the publication area for the publication shall be the county  
26 in which the horse or dog race meeting was held and the county  
27 in which the televised racing day wagering was conducted in  
28 this state.

29 (b) Any outstanding and unredeemed pari-mutuel tickets  
30 that are not presented for payment within ninety days from the  
31 date of the publication of the notice are thereafter irredeemable,  
32 and the moneys theretofore held for the redemption of the pari-  
33 mutuel tickets shall become the property of the racing commis-  
34 sion and shall be expended as provided in this subsection. The  
35 racing commission shall maintain separate accounts for each  
36 licensee and shall record in each separate account the moneys  
37 turned over by the licensee and the amount expended at the  
38 licensee's track for the purposes set forth in this subsection. The  
39 moneys in the "West Virginia Racing Commission Special  
40 Account - Unredeemed Pari-Mutuel Tickets" shall be expended  
41 as follows:

42 (1) To the owner of the winning horse in any horse race at  
43 a horse race meeting held or conducted by any licensee:  
44 *Provided*, That the owner of the horse is at the time of the horse  
45 race a bona fide resident of this state, a sum equal to ten percent  
46 of the purse won by the horse at that race. The commission may  
47 require proof that the owner was, at the time of the race, a bona  
48 fide resident of this state. Upon proof by the owner that he or  
49 she filed a personal income tax return in this state for the  
50 previous two years and that he or she owned real or personal  
51 property in this state and paid taxes in this state on real or  
52 personal property for the previous two years, he or she shall be  
53 presumed to be a bona fide resident of this state; and

54       (2) To the breeder (that is, the owner of the mare) of the  
55 winning horse in any horse race at a horse race meeting held or  
56 conducted by any licensee: *Provided*, That the mare foaled in  
57 this state, a sum equal to ten percent of the purse won by the  
58 horse; and

59       (3) To the owner of the stallion which sired the winning  
60 horse in any horse race at a horse race meeting held or con-  
61 ducted by any licensee: *Provided*, That the mare which foaled  
62 the winning horse was served by a stallion standing and  
63 registered in this state, a sum equal to ten percent of the purse  
64 won by the horse; and

65       (4) To those horse racing licensees not participating in the  
66 thoroughbred development fund authorized in section thirteen-b  
67 of this article, the unexpended balance of the licensee's account  
68 not expended as provided in subdivisions (1), (2) and (3) of this  
69 subsection: *Provided*, That all moneys distributed under this  
70 subdivision shall be expended solely for capital improvements  
71 at the licensee's track: *Provided, however*, That the capital  
72 improvements must be approved, in writing, by the West  
73 Virginia racing commission before funds are expended by the  
74 licensee for that capital improvement; and

75       (5) When the moneys in the special account, known as the  
76 "West Virginia Racing Commission Special Account - Unre-  
77 deemed Pari-Mutuel Tickets" will more than satisfy the  
78 requirements of subdivisions (1), (2), (3) and (4) of this  
79 subsection, the West Virginia racing commission shall have the  
80 authority to expend the excess moneys from unredeemed horse  
81 racing pari-mutuel tickets as purse money in any race condi-  
82 tioned exclusively for West Virginia bred or sired horses, and  
83 to expend the excess moneys from unredeemed dog racing pari-  
84 mutuel tickets in supplementing purses and establishing stake  
85 races and dog racing handicaps at the dog tracks: *Provided*,  
86 That subject to the availability of funds, the commission shall,

87 after the requirements of subdivisions (1), (2), (3) and (4) of  
88 this subsection have been satisfied:

89 (A) Transfer annually two hundred thousand dollars to the  
90 "West Virginia Racing Commission Special Account - West  
91 Virginia Greyhound Breeding Development Fund"; and

92 (B) Transfer annually two hundred thousand dollars into a  
93 separate account to be used for stakes races for West Virginia  
94 bred greyhounds at dog racetracks.

95 (c) The commission shall submit to the legislative auditor  
96 a quarterly report and accounting of the income, expenditures  
97 and unobligated balance in the special account created by this  
98 section known as the "West Virginia Racing Commission  
99 Special Account - Unredeemed Pari-Mutuel Tickets".

100 (d) Nothing contained in this article shall prohibit one  
101 person from qualifying for all or more than one of the aforesaid  
102 awards or for awards under section thirteen-b of this article.

103 (e) The cost of publication of the notice provided for in this  
104 section shall be paid from the funds in the hands of the state  
105 treasurer collected from the pari-mutuel pools' tax provided for  
106 in section ten of this article, when not otherwise provided in the  
107 budget; but no such costs shall be paid unless an itemized  
108 account thereof, under oath, be first filed with the state auditor.

**§19-23-13b. West Virginia thoroughbred development fund;  
distribution; restricted races; nonrestricted purse  
supplements.**

1 (a) The racing commission shall deposit moneys required  
2 to be withheld by an association or licensee in subsection (b),  
3 section nine of this article in a banking institution of its choice  
4 in a special account to be known as "West Virginia Racing  
5 Commission Special Account — West Virginia Thoroughbred

6 Development Fund". Notice of the amount, date and place of  
7 the deposit shall be given by the racing commission, in writing,  
8 to the state treasurer. The purpose of the fund is to promote  
9 better breeding and racing of thoroughbred horses in the state  
10 through awards and purses for accredited breeders/raisers, sire  
11 owners and thoroughbred race horse owners. A further objec-  
12 tive of the fund is to aid in the rejuvenation and development of  
13 the present horse tracks now operating in West Virginia for  
14 capital improvements, operations or increased purses: *Provided*,  
15 That five percent of the deposits required to be withheld by an  
16 association or licensee in subsection (b), section nine of this  
17 article shall be placed in a special revenue account hereby  
18 created in the state treasury called the "administration and  
19 promotion account".

20 (b) The racing commission is authorized to expend the  
21 moneys deposited in the administration and promotion account  
22 at such times and in such amounts as the commission deter-  
23 mines to be necessary for purposes of administering and  
24 promoting the thoroughbred development program: *Provided*,  
25 That during any fiscal year in which the commission anticipates  
26 spending any money from the account, the commission shall  
27 submit to the executive department during the budget prepara-  
28 tion period prior to the Legislature convening before that fiscal  
29 year for inclusion in the executive budget document and budget  
30 bill the recommended expenditures, as well as requests of  
31 appropriations for the purpose of administration and promotion  
32 of the program. The commission shall make an annual report to  
33 the Legislature on the status of the administration and promo-  
34 tion account, including the previous year's expenditures and  
35 projected expenditures for the next year.

36 (c) The fund and the account established in subsection (a)  
37 of this section shall operate on an annual basis.

38 (d) Funds in the thoroughbred development fund shall be  
39 expended for awards and purses except as otherwise provided  
40 in this section. Annually, the first one hundred thousand dollars

41 of the fund shall be available for distribution for a maximum of  
42 four stakes races. One of these races shall be the West Virginia  
43 futurity and the second shall be the Frank Gall memorial stakes.  
44 The remaining races may be chosen by the committee set forth  
45 in subsection(g) of this section.

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

47 (1) The breeders/raisers of accredited thoroughbred horses  
48 that earn a purse at any West Virginia meet shall receive a  
49 bonus award calculated at the end of the year as a percentage of  
50 the fund dedicated to the breeders/raisers, which shall be sixty  
51 percent of the fund available for distribution in any one year.  
52 The total amount available for the breeders'/raisers' awards  
53 shall be distributed according to the ratio of purses earned by an  
54 accredited race horse to the total amount earned in the races by  
55 all accredited race horses for that year as a percentage of the  
56 fund dedicated to the breeders/raisers. However, no  
57 breeder/raiser may receive from the fund dedicated to breed-  
58 ers'/raisers' awards an amount in excess of the earnings of the  
59 accredited horse at West Virginia meets. In addition, should a  
60 horse's breeder and raiser qualify for the same award on the  
61 same horse, they will each be awarded one half of the proceeds.  
62 The bonus referred to in this subdivision (1) shall only be paid  
63 on the first one hundred thousand dollars of any purse, and not  
64 on any amounts in excess thereof.

65 (2) The owner of a West Virginia sire of an accredited  
66 thoroughbred horse that earns a purse in any race at a West  
67 Virginia meet shall receive a bonus award calculated at the end  
68 of the year as a percentage of the fund dedicated to sire owners,  
69 which shall be fifteen percent of the fund available for distribu-  
70 tion in any one year. The total amount available for the sire  
71 owners' awards shall be distributed according to the ratio of  
72 purses earned by the progeny of accredited West Virginia  
73 stallions in the races for a particular stallion to the total purses



74 earned by the progeny of all accredited West Virginia stallions  
75 in the races. However, no sire owner may receive from the fund  
76 dedicated to sire owners an amount in excess of thirty-five  
77 percent of the accredited earnings for each sire. The bonus  
78 referred to in this subdivision (2) shall only be paid on the first  
79 one hundred thousand dollars of any purse, and not on any  
80 amounts in excess thereof.

81 (3) The owner of an accredited thoroughbred horse that  
82 earns a purse in any race at a West Virginia meet shall receive  
83 a restricted purse supplement award calculated at the end of the  
84 year, which shall be twenty-five percent of the fund available  
85 for distribution in any one year, based on the ratio of the  
86 earnings in the races of a particular race horse to the total  
87 amount earned by all accredited race horses in the races during  
88 that year as a percentage of the fund dedicated to purse supple-  
89 ments. However, the owners may not receive from the fund  
90 dedicated to purse supplements an amount in excess of thirty-  
91 five percent of the total accredited earnings for each accredited  
92 race horse. The bonus referred to in this subdivision shall only  
93 be paid on the first one hundred thousand dollars of any purse,  
94 and not on any amounts in excess thereof.

95 (4) In no event shall purses earned at a meet held at a track  
96 which did not make a contribution to the thoroughbred develop-  
97 ment fund out of the daily pool on the day the meet was held  
98 qualify or count toward eligibility for an award under this  
99 subsection (e).

100 (5) Any balance in the breeders/raisers, sire owners and  
101 purse supplement funds after yearly distributions shall first be  
102 utilized to fund the races established in subsection (g) of this  
103 section. Any amount not so used shall revert back into the  
104 general account of the thoroughbred development fund for  
105 distribution in the next year.

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

108        (f) The remainder, if any, of the thoroughbred development  
109        fund that is not available for distribution in the program  
110        provided for in subsection (e) of this section in any one year is  
111        reserved for regular purses, marketing expenses and for capital  
112        improvements in the amounts and under the conditions pro-  
113        vided in this subsection (f).

114        (1) Fifty percent of the remainder shall be reserved for  
115        payments into the regular purse fund established in subsection  
116        (b), section nine of this article.

117        (2) Up to five hundred thousand dollars per year shall be  
118        available for:

119        (A) Capital improvements at the eligible licensed horse  
120        racing tracks in the state; and

121        (B) Marketing and advertising programs above and beyond  
122        two hundred fifty thousand dollars for the eligible licensed  
123        horse racing tracks in the state: *Provided*, That moneys shall be  
124        expended for capital improvements or marketing and advertis-  
125        ing purposes as described in this subsection only in accordance  
126        with a plan filed with and receiving the prior approval of the  
127        racing commission, and on a basis of fifty percent participation  
128        by the licensee and fifty percent participation by moneys from  
129        the fund, in the total cost of approved projects: *Provided*,  
130        *however*, That funds approved for one track may not be used at  
131        another track unless the first track ceases to operate or is  
132        viewed by the commission as unworthy of additional invest-  
133        ment due to financial or ethical reasons.

134        (g)(1) Each pari-mutuel thoroughbred horse track shall  
135        provide at least one restricted race per three racing days.

136           (2) The restricted races established in this subsection shall  
137   be administered by a three-member committee consisting of:

138           (A) The racing secretary;

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

142           (C) A member appointed by a majority of the thoroughbred  
143   breeders.

144           (3) The purses for the restricted races established in this  
145   subsection shall be twenty percent larger than the purses for  
146   similar type races at each track.

147           (4) Restricted races shall be funded by each racing associa-  
148   tion from:

149           (A) Moneys placed in the general purse fund up to a  
150   maximum of three hundred fifty thousand dollars per year.

151           (B) Moneys as provided in subdivision(5), subsection(e) of  
152   this section, which shall be placed in a special fund called the  
153   “West Virginia accredited race fund”.

154           (5) The racing schedules, purse amounts and types of races  
155   are subject to the approval of the West Virginia racing commis-  
156   sion.

157           (h) Effective on and after the first day of July, two thou-  
158   sand, as used in this section, “West Virginia bred-foal” means  
159   a horse that was born in the State of West Virginia.

160           (i) To qualify for the West Virginia accredited race fund,  
161   the breeder must qualify under one of the following:

162           (1) The breeder of the West Virginia bred-foal is a West  
163   Virginia resident;

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

167       (3) The breeder of the West Virginia bred-foal is not a West  
168       Virginia resident and does not qualify under (2) above, but  
169       either the sire of the West Virginia bred-foal is a West Virginia  
170       stallion, or the mare is covered by a West Virginia stallion  
171       following the birth of that West Virginia bred-foal.

172       (j) No association or licensee qualifying for the alternate  
173       tax provision of subsection (b), section ten of this article is  
174       eligible for participation in any of the provisions of this section:  
175       *Provided*, That the provisions of this subsection shall not apply  
176       to a thoroughbred race track at which the licensee has partici-  
177       pated in the West Virginia thoroughbred development fund for  
178       a period of more than four consecutive calendar years prior to  
179       the thirty-first day of December, one thousand nine hundred  
180       ninety-two.

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

1       (a) Funds received by the racing commission pursuant to  
2       subdivision (6), subsection (c), section ten, article twenty-two-  
3       a, chapter twenty-nine of this code, after the effective date of  
4       this section together with the balance in the bank account  
5       previously established by the commission to receive those funds  
6       shall be deposited in a banking institution of its choice in a  
7       special account to be known as “West Virginia Racing Com-  
8       mission Racetrack Video Lottery Account”. Notice of the  
9       amount, date and place of each deposit shall be given by the  
10      racing commission, in writing, to the state treasurer.

11      (b) Funds in this account shall be allocated and expended  
12      as follows:

13       (1) For each fiscal year, the first eight hundred thousand  
14 dollars deposited in the separate account plus the amount then  
15 remaining of the June thirtieth, one thousand nine hundred  
16 ninety-seven, balance in the separate account previously  
17 established for the West Virginia breeders classic under section  
18 thirteen of this article, shall be used by the commission for  
19 promotional activities, advertising, administrative costs and  
20 purses for the West Virginia thoroughbred breeders classic,  
21 which shall give equal consideration to all horses qualifying  
22 under the West Virginia breeders program for each stake race,  
23 based solely on the horses' sex, age and earnings.

24       (2) For each fiscal year, the next two hundred thousand  
25 dollars deposited into the separate account shall be used by the  
26 commission for promotional activities and purses for open stake  
27 races for a race event to be known as the West Virginia derby  
28 to be held at a thoroughbred racetrack which does not partici-  
29 pate in the West Virginia thoroughbred development fund.

30       (3) For each fiscal year, once the amounts provided in  
31 subdivisions (1) and (2) of this subsection (b) have been  
32 deposited into separate bank accounts for use in connection  
33 with the West Virginia thoroughbred breeders classics and the  
34 West Virginia derby, the commission shall return to each  
35 racetrack all additional amounts deposited which originate  
36 during that fiscal year from each respective racetrack pursuant  
37 to subdivision (6) of subsection (c), section ten, article twenty-  
38 two-a, chapter twenty-nine of this code, which returned excess  
39 funds shall be used as follows:

40       (A) For each dog racetrack, one half of the returned excess  
41 funds shall be used for capital improvements at the racetrack  
42 and one half of the returned excess funds shall be deposited into  
43 the "West Virginia Racing Commission Special Account - West  
44 Virginia Greyhound Breeding Development Fund".

45 (B) At those thoroughbred racetracks that have participated  
46 in the West Virginia thoroughbred development fund for a  
47 period of more than four consecutive calendar years prior to the  
48 thirty-first day of December, one thousand nine hundred ninety-  
49 two, one half of the returned excess funds shall be used for  
50 capital improvements at the licensee's racetrack and one half of  
51 the returned excess funds shall be equally divided between the  
52 West Virginia thoroughbred breeders classic and the West  
53 Virginia thoroughbred development fund.

54 (C) At those thoroughbred horse racetracks which do not  
55 participate in the West Virginia thoroughbred development  
56 fund, one half of the returned excess funds shall be used for  
57 capital improvements at the licensee's racetrack and one half of  
58 the returned excess funds shall be used for purses for the open  
59 stakes race event known as the West Virginia derby.

60 (c) All expenditures that are funded under this section must  
61 be approved in writing by the West Virginia racing commission  
62 before the funds are expended for any of the purposes autho-  
63 rized by this section.

64 (d) The commission shall submit to the legislative auditor  
65 a quarterly report and accounting of the income, expenditures  
66 and unobligated balance in the special bank accounts authorized  
67 by this section.

## **CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

### **ARTICLE 22A. RACETRACK VIDEO LOTTERY.**

**§29-22A-10. Accounting and reporting; commission to provide  
communications protocol data; distribution of net  
terminal income; remittance through electronic  
transfer of funds; establishment of accounts and  
nonpayment penalties; commission control of**

**accounting for net terminal income; settlement of accounts; manual reporting and payment may be required; request for reports; examination of accounts and records.**

1       (a) The commission shall provide to manufacturers, or  
2 applicants applying for a manufacturer's permit, the protocol  
3 documentation data necessary to enable the respective manufac-  
4 turer's video lottery terminals to communicate with the  
5 commission's central computer for transmitting auditing  
6 program information and for activation and disabling of video  
7 lottery terminals.

8       (b) The gross terminal income of a licensed racetrack shall  
9 be remitted to the commission through the electronic transfer of  
10 funds. Licensed racetracks shall furnish to the commission all  
11 information and bank authorizations required to facilitate the  
12 timely transfer of moneys to the commission. Licensed race-  
13 tracks must provide the commission thirty days' advance notice  
14 of any proposed account changes in order to assure the uninter-  
15 rupted electronic transfer of funds. From the gross terminal  
16 income remitted by the licensee to the commission, the com-  
17 mission shall deduct an amount sufficient to reimburse the  
18 commission for its actual costs and expenses incurred in  
19 administering racetrack video lottery at the licensed racetrack,  
20 and the resulting amount after such deduction shall be the net  
21 terminal income. The amount deducted for administrative costs  
22 and expenses of the commission may not exceed four percent  
23 of gross terminal income.

24       (c) Net terminal income shall be divided as set out in this  
25 subsection. The licensed racetrack's share shall be in lieu of all  
26 lottery agent commissions and is considered to cover all costs  
27 and expenses required to be expended by the licensed racetrack  
28 in connection with video lottery operations. The division shall  
29 be made as follows:

30       (1) The commission shall receive thirty percent of net  
31 terminal income, which shall be paid into the general revenue  
32 fund of the state to be appropriated by the Legislature;

33       (2) Fourteen percent of net terminal income at a licensed  
34 racetrack shall be deposited in the special fund established by  
35 the licensee, and used for payment of regular purses in addition  
36 to other amounts provided for in article twenty-three, chapter  
37 nineteen of this code;

38       (3) The county where the video lottery terminals are located  
39 shall receive two percent of the net terminal income: *Provided,*  
40 That: (A) Beginning the first day of July, one thousand nine  
41 hundred ninety-nine, and thereafter, any amount in excess of  
42 the two percent received during fiscal year one thousand nine  
43 hundred ninety-nine by a county in which a racetrack is located  
44 that has participated in the West Virginia thoroughbred devel-  
45 opment fund since on or before the first day of January, one  
46 thousand nine hundred ninety-nine, shall be divided as follows:

47       (i) The county shall receive fifty percent of the excess  
48 amount; and

49       (ii) The municipalities of the county shall receive fifty  
50 percent of the excess amount, said fifty percent to be divided  
51 among the municipalities on a per capita basis as determined by  
52 the most recent decennial United States census of population;  
53 and

54       (B) Beginning the first day of July, one thousand nine  
55 hundred ninety-nine, and thereafter, any amount in excess of  
56 the two percent received during fiscal year one thousand nine  
57 hundred ninety-nine by a county in which a racetrack other than  
58 a racetrack described in paragraph (A) of this proviso is located  
59 and where the racetrack has been located in a municipality  
60 within the county since on or before the first day of January,  
61 one thousand nine hundred ninety-nine, shall be divided, if  
62 applicable, as follows:



63       (i) The county shall receive fifty percent of the excess  
64    amount; and

65       (ii) The municipality shall receive fifty percent of the  
66    excess amount; and

67       (C) This proviso shall not affect the amount to be received  
68    under this subdivision by any county other than a county  
69    described in paragraph (A) or (B) of this proviso;

70       (4) One half of one percent of net terminal income shall be  
71    paid for and on behalf of all employees of the licensed racing  
72    association by making a deposit into a special fund to be  
73    established by the racing commission to be used for payment  
74    into the pension plan for all employees of the licensed racing  
75    association;

76       (5) The West Virginia thoroughbred development fund  
77    created under section thirteen-b, article twenty-three, chapter  
78    nineteen of this code and the West Virginia greyhound breeding  
79    development fund created under section ten, article twenty-  
80    three, chapter nineteen of this code shall receive an equal share  
81    of a total of not less than one and one-half percent of the net  
82    terminal income: *Provided*, That for any racetrack which does  
83    not have a breeder's program supported by the thoroughbred  
84    development fund or the greyhound breeding development  
85    fund, the one and one-half percent provided for in this subdivi-  
86    sion shall be deposited in the special fund established by the  
87    licensee and used for payment of regular purses, in addition to  
88    other amounts provided for in subdivision (2) of this subsection  
89    and article twenty-three, chapter nineteen of this code;

90       (6) The West Virginia racing commission shall receive one  
91    percent of the net terminal income which shall be deposited and  
92    used as provided in section thirteen-c, article twenty-three,  
93    chapter nineteen of this code;

94       (7) A licensee shall receive forty-seven percent of net  
95       terminal income;

96       (8) The tourism promotion fund established in section  
97       twelve, article two, chapter five-b of this code shall receive  
98       three percent of the net terminal income; and

99       (9) The veterans memorial program shall receive one  
100      percent of the net terminal income until sufficient moneys have  
101      been received to complete the veterans memorial on the  
102      grounds of the state capitol complex in Charleston, West  
103      Virginia. The moneys shall be deposited in the state treasury in  
104      the division of culture and history special fund created under  
105      section three, article one-i, chapter twenty-nine of this code:  
106      *Provided*, That only after sufficient moneys have been depos-  
107      ited in the fund to complete the veterans memorial and to pay  
108      in full the annual bonded indebtedness on the veterans memo-  
109      rial, not more than twenty thousand dollars of the one percent  
110      of net terminal income provided for in this subdivision shall be  
111      deposited into a special revenue fund in the state treasury, to be  
112      known as the "John F. 'Jack' Bennett Fund". The moneys in  
113      this fund shall be expended by the division of veterans affairs  
114      to provide for the placement of markers for the graves of  
115      veterans in perpetual cemeteries in this state. The division of  
116      veterans affairs shall promulgate legislative rules pursuant to  
117      the provisions of article three, chapter twenty-nine-a of this  
118      code specifying the manner in which the funds are spent,  
119      determine the ability of the surviving spouse to pay for the  
120      placement of the marker, and setting forth the standards to be  
121      used to determine the priority in which the veterans grave  
122      markers will be placed in the event that there are not sufficient  
123      funds to complete the placement of veterans grave markers in  
124      any one year, or at all. Upon payment in full of the bonded  
125      indebtedness on the veterans memorial, one hundred thousand  
126      dollars of the one percent of net terminal income provided for  
127      in this subdivision shall be deposited in the special fund in the

128 division of culture and history created under section three,  
129 article one-i, chapter twenty-nine of this code and be expended  
130 by the division of culture and history to establish a West  
131 Virginia veterans memorial archives within the cultural center  
132 to serve as a repository for the documents and records pertain-  
133 ing to the veterans memorial, to restore and maintain the  
134 monuments and memorial on the capitol grounds, and not more  
135 than twenty thousand dollars be deposited in the "John F. 'Jack'  
136 Bennett Fund": *Provided, however*, That five hundred thousand  
137 dollars of the one percent of net terminal income shall be  
138 deposited in the state treasury in a special fund of the depart-  
139 ment of administration, created under section five, article four,  
140 chapter five-a of this code to be used for construction and  
141 maintenance of a parking garage on the state capitol complex:  
142 *Provided further*, That the remainder of the one percent of net  
143 terminal income shall be deposited in equal amounts in the  
144 capitol dome and improvements fund created under section two,  
145 article four, chapter five-a of this code and cultural facilities  
146 and capitol resources matching grant program fund created  
147 under section three, article one of this chapter.

148 (d) Each licensed racetrack shall maintain in its account an  
149 amount equal to or greater than the gross terminal income from  
150 its operation of video lottery machines, to be electronically  
151 transferred by the commission on dates established by the  
152 commission. Upon a licensed racetrack's failure to maintain  
153 this balance, the commission may disable all of a licensed  
154 racetrack's video lottery terminals until full payment of all  
155 amounts due is made. Interest shall accrue on any unpaid  
156 balance at a rate consistent with the amount charged for state  
157 income tax delinquency under chapter eleven of this code,  
158 which interest shall begin to accrue on the date payment is due  
159 to the commission.

160 (e) The commission's central control computer shall keep  
161 accurate records of all income generated by each video lottery

162 terminal. The commission shall prepare and mail to the licensed  
163 racetrack a statement reflecting the gross terminal income  
164 generated by the licensee's video lottery terminals. Each  
165 licensed racetrack must report to the commission any discrep-  
166 ancies between the commission's statement and each terminal's  
167 mechanical and electronic meter readings. The licensed  
168 racetrack is solely responsible for resolving income discrepan-  
169 cies between actual money collected and the amount shown on  
170 the accounting meters or on the commission's billing statement.

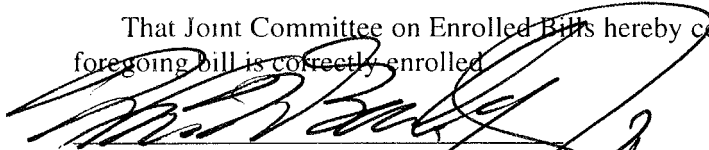
171 (f) Until an accounting discrepancy is resolved in favor of  
172 the licensed racetrack, the commission may make no credit  
173 adjustments. For any video lottery terminal reflecting a discrep-  
174 ancy, the licensed racetrack shall submit to the commission the  
175 maintenance log which includes current mechanical meter  
176 readings and the audit ticket which contains electronic meter  
177 readings generated by the terminal's software. If the meter  
178 readings and the commission's records cannot be reconciled,  
179 final disposition of the matter shall be determined by the  
180 commission. Any accounting discrepancies which cannot be  
181 otherwise resolved shall be resolved in favor of the commis-  
182 sion.

183 (g) Licensed racetracks shall remit payment by mail if the  
184 electronic transfer of funds is not operational or the commission  
185 notifies licensed racetracks that remittance by this method is  
186 required. The licensed racetracks shall report an amount equal  
187 to the total amount of cash inserted into each video lottery  
188 terminal operated by a licensee, minus the total value of game  
189 credits which are cleared from the video lottery terminal in  
190 exchange for winning redemption tickets, and remit such  
191 amount as generated from its terminals during the reporting  
192 period. The remittance shall be sealed in a properly addressed  
193 and stamped envelope and deposited in the United States mail  
194 no later than noon on the day when the payment would other-  
195 wise be completed through electronic funds transfer.

196       (h) Licensed racetracks may, upon request, receive addi-  
197       tional reports of play transactions for their respective video  
198       lottery terminals and other marketing information not consid-  
199       ered confidential by the commission. The commission may  
200       charge a reasonable fee for the cost of producing and mailing  
201       any report other than the billing statements.

202       (i) The commission has the right to examine all accounts,  
203       bank accounts, financial statements and records in a licensed  
204       racetrack's possession, under its control or in which it has an  
205       interest and the licensed racetrack must authorize all third  
206       parties in possession or in control of the accounts or records to  
207       allow examination of any of those accounts or records by the  
208       commission.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled



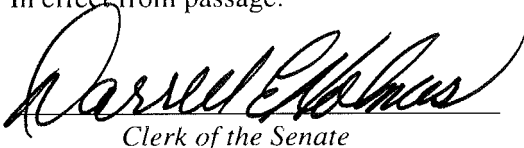
Chairman Senate Committee



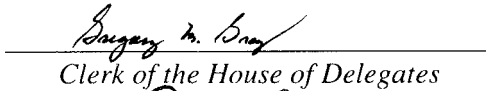
Chairman House Committee

Originating in the House.

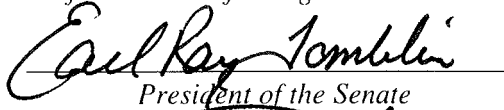
In effect from passage.



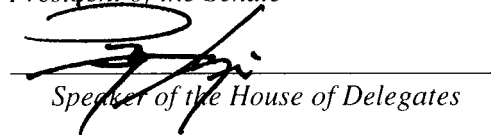
Clerk of the Senate



Clerk of the House of Delegates

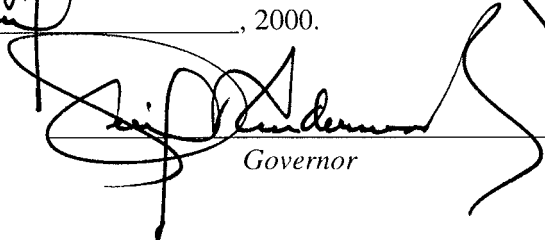


President of the Senate



Speaker of the House of Delegates

The within approved this the 5th  
day of April, 2000.



Governor

PRESENTED TO

GOVERNOR

Date 3/31/00

Time 4:30 