

SB 197

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 2004



ENROLLED

COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 197

(By Senator TOMBLIN, MR. PRESIDENT, AND
SPROUSE, BY REQUEST OF THE EXECUTIVE)



PASSED MARCH 21, 2004

In Effect From Passage

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Senate Bill No. 197

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND SPROUSE,
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[Passed March 21, 2004; in effect from passage.]

AN ACT to amend the code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §5A-4-5a and §5A-4-6; to amend said code by adding thereto a new section, designated §5B-2-3b; to amend and reenact §5B-2-12 of said code; to amend said code by adding thereto a new section, designated §18B-1B-10; and to amend and reenact §29-22A-10 and §29-22A-10b of said code, all relating generally to distribution of net terminal income of racetrack video lottery terminals and the proceeds thereof for funding purposes; creating a 2004 capitol complex parking garage fund, a capitol renovation and improvement fund, a development office promotion fund and a research challenge fund for specified purposes; transferring funds from the tourism promotion fund; prohibiting members of the tourism commission from participating in the discussion of, or action upon, an application for or an award of any grant from the tourism

promotion fund in which the member has a direct financial interest; and reallocating certain percentages of net terminal income.

Be it enacted by the Legislature of West Virginia:

That the code of West Virginia, 1931, as amended, be amended by adding thereto two new sections, designated §5A-4-5a and §5A-4-6; that said code be amended by adding thereto a new section, designated §5B-2-3b; that §5B-2-12 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18B-1B-10; and that §29-22A-10 and §29-22A-10b of said code be amended and reenacted, all to read as follows:

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 4. GENERAL SERVICES DIVISION.

§5A-4-5a. Construction of parking garage for general public; creation of fund.

1 (a) It is the intent of the Legislature to provide a parking
2 facility for the general public and to direct the secretary of
3 the department of administration to plan and construct a
4 parking garage at the state capitol complex that will
5 provide sufficient and additional parking exclusively for
6 the general public.

7 (b) There is created in the state treasury to be adminis-
8 tered by the department of administration a special fund
9 to be named the "2004 capitol complex parking garage
10 fund" into which shall be deposited funds that are appro-
11 priated and funds from other sources to be used for the
12 construction and maintenance of a parking garage on or
13 adjacent to the state capitol complex.

§5A-4-6. Renovation and improvement of capitol building and capitol complex.

1 (a) It is the intent of the Legislature to provide renova-
2 tion and improvement of the existing state capitol building

3 and the capitol complex and to direct the secretary of the
4 department of administration to plan and make renova-
5 tions and improvements of the existing state capitol
6 building and the capitol complex for the purpose of
7 reversing deterioration to existing facilities, securing the
8 safety of the general public and state employees, promot-
9 ing efficiency of governmental operations and enhancing
10 tourism in the state.

11 (b) There is created in the state treasury to be adminis-
12 tered by the department of administration a special fund
13 to be named the "capitol renovation and improvement
14 fund" into which shall be deposited funds that are appro-
15 priated and funds from other sources to be used for
16 renovations and improvements of the existing state capitol
17 building and the capitol complex.

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 2. WEST VIRGINIA DEVELOPMENT OFFICE.

§5B-2-3b. Development office promotion fund.

1 There is hereby established in the state treasury a special
2 revenue fund known as the "development office promotion
3 fund". Moneys deposited in this fund shall be administered
4 by the development office and used solely to promote
5 business formation, expansion, recruitment and retention
6 through aggressive marketing and international develop-
7 ment and export assistance, which together lead to more
8 and better jobs with higher wages for all geographic
9 regions and communities of the state, including rural areas
10 and urban core areas, and for all residents, including
11 minorities.

§5B-2-12. Tourism promotion fund continued; use of funds.

1 There is hereby continued in the state treasury the
2 special revenue fund known as the "tourism promotion
3 fund" created under prior enactment of section nine,
4 article one of this chapter.

5 (a) A minimum of five percent of the moneys deposited
6 in the fund each year shall be used solely for direct
7 advertising for West Virginia travel and tourism: *Provided,*
8 That no less than twenty percent of these funds be ex-
9 pended with the approval of the director of the division of
10 natural resources to effectively promote and market the
11 state's parks, state forests, state recreation areas and
12 wildlife recreational resources. Direct advertising means
13 advertising which is limited to television, radio, mailings,
14 newspaper, magazines and outdoor billboards, or any
15 combination thereof.

16 (b) The balance of the moneys deposited in the fund shall
17 be used for direct advertising within the state's travel
18 regions as defined by the commission. The funds shall be
19 made available to these districts beginning the first day of
20 July, one thousand nine hundred ninety-five, according to
21 legislative rules authorized for promulgation by the
22 tourism commission.

23 (c) All advertising expenditures over twenty-five thou-
24 sand dollars from the tourism promotion fund require
25 prior approval by recorded vote of the commission. No
26 member of the commission or of any committee created by
27 the commission to evaluate applications for advertising or
28 other grants may participate in the discussion of, or action
29 upon, an application for or an award of any grant in which
30 the member has a direct financial interest.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

§18B-1B-10. Research challenge.

1 (a) There is established in the state treasury a special
2 revenue fund known as the "research challenge fund".
3 Moneys deposited in this fund shall be administered by the
4 higher education policy commission.

5 The moneys deposited in this fund shall be used to fund
6 coal research and development projects at institutions of

7 higher education located in this state. Research includes,
8 but is not limited to, carbon sequestration and carbon
9 technology research and development projects. The
10 moneys deposited in this fund shall also be used to fund
11 other research and development projects at institutions of
12 higher education in this state.

13 (b) The policy commission shall use the recommenda-
14 tions of the EPSCoR state advisory council in its allocation
15 of appropriations made to the research challenge fund and
16 in its development of procedures for competitive applica-
17 tion and review of proposals for funding. The research
18 challenge is a critical component in the state's strategic
19 plan for economic development and the contribution of
20 higher education in the economic health of the state and
21 the EPSCoR state advisory council is well qualified, by
22 virtue of its research-oriented mission and membership, to
23 advise the policy commission in the allocation of research
24 challenge funding.

25 The objectives of the research challenge are to:

26 (1) Increase the research capacity of institutions of
27 higher education and the competitiveness of these institu-
28 tions to apply for external funding;

29 (2) Stimulate the development of research and research
30 products that are directly applicable in improving the
31 economic competitiveness of existing West Virginia
32 industries and the development of new business and jobs
33 in the state;

34 (3) Leverage limited state resources with private and
35 federal funds to support projects and activities directly
36 related to economic development by requiring matching
37 funds and cooperative agreements with external partners;

38 (4) Increase the production of undergraduate and
39 graduate students of programs in the sciences, technology,
40 engineering and mathematics, with special attention to
41 emerging disciplines such as biometrics; and

42 (5) Hold institutions more accountable for the success of
43 research projects funded under this program with the
44 expectation that state support will be phased out and the
45 project or activity will be terminated if it is unable to
46 generate ongoing external support.

47 (c) The priorities for the research challenge shall be:

48 (1) Research on energy generation, distribution and
49 utilization that builds on the state's existing energy
50 research strengths, related research products and technol-
51 ogy transfer programs;

52 (2) Research, education and outreach conducted by the
53 EPSCoR program. This federal program is recognized by
54 the national science foundation as the state's primary
55 entity for developing the research capacity that is so
56 important to the state's economic and educational devel-
57 opment;

58 (3) Research projects that are related to the economic
59 development of the state, and that have significant poten-
60 tial to attract participation and funding from industrial,
61 federal or foundation partners;

62 (4) Collaborative projects between higher education and
63 public education to improve science and mathematics
64 education;

65 (5) Graduate education in science (including medical
66 education), technology, engineering and mathematics. The
67 allocation shall be used for the increase in doctoral
68 students and programs at West Virginia university and
69 Marshall university in these fields; and

70 (6) Recruitment of eminent scholars to strengthen
71 research capacity and competitiveness for external
72 funding.

73 (d) The policy commission shall report to the legislative
74 oversight committee on educational accountability annu-

75 ally on the results of the projects and activities funded by
76 the research challenge appropriation.

77 (e) The priorities established in subsection (c) of this
78 section shall be reviewed biannually by the policy commis-
79 sion and the EPSCoR state advisory council beginning in
80 two thousand six. The policy commission shall include
81 any recommended adjustments in its budget request for
82 the two thousand seven budget.

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
3 protocol documentation data necessary to enable the
4 respective manufacturer's video lottery terminals to
5 communicate with the commission's central computer for
6 transmitting auditing program information and for
7 activation and disabling of video lottery terminals.

8 (b) The gross terminal income of a licensed racetrack
9 shall be remitted to the commission through the electronic
10 transfer of funds. Licensed racetracks shall furnish to the
11 commission all information and bank authorizations
12 required to facilitate the timely transfer of moneys to the
13 commission. Licensed racetracks must provide the
14 commission thirty days' advance notice of any proposed
15 account changes in order to assure the uninterrupted

16 electronic transfer of funds. From the gross terminal
17 income remitted by the licensee to the commission, the
18 commission shall deduct an amount sufficient to reimburse
19 the commission for its actual costs and expenses incurred
20 in administering racetrack video lottery at the licensed
21 racetrack and the resulting amount after the deduction is
22 the net terminal income. The amount deducted for admin-
23 istrative costs and expenses of the commission may not
24 exceed four percent of gross terminal income: *Provided,*
25 That any amounts deducted by the commission for its
26 actual costs and expenses that exceeds its actual costs and
27 expenses shall be deposited into the state lottery fund. For
28 all fiscal years beginning on or after the first day of July,
29 two thousand one, the commission shall not receive an
30 amount of gross terminal income in excess of the amount
31 of gross terminal income received during the fiscal year
32 ending on the thirtieth day of June, two thousand one, but
33 four percent of any amount of gross terminal income
34 received in excess of the amount of gross terminal income
35 received during the fiscal year ending on the thirtieth day
36 of June, two thousand one, shall be deposited into the fund
37 established in section eighteen-a, article twenty-two of
38 this chapter.

39 (c) Net terminal income shall be divided as set out in this
40 subsection. For all fiscal years beginning on or after the
41 first day of July, two thousand one, any amount of net
42 terminal income received in excess of the amount of net
43 terminal income received during the fiscal year ending on
44 the thirtieth day of June, two thousand one, shall be
45 divided as set out in section ten-b of this article. The
46 licensed racetrack's share is in lieu of all lottery agent
47 commissions and is considered to cover all costs and
48 expenses required to be expended by the licensed race-
49 track in connection with video lottery operations. The
50 division shall be made as follows:

51 (1) The commission shall receive thirty percent of net
52 terminal income, which shall be paid into the state lottery
53 fund as provided in section ten-a of this article;

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

59 (3) The county where the video lottery terminals are
60 located shall receive two percent of the net terminal
61 income: *Provided, That:*

62 (A) Any amount in excess of the two percent received
63 during fiscal year one thousand nine hundred ninety-nine
64 by a county in which a racetrack is located that has
65 participated in the West Virginia thoroughbred develop-
66 ment fund since on or before the first day of January, one
67 thousand nine hundred ninety-nine, shall be divided as
68 follows:

69 (i) The county shall receive fifty percent of the excess
70 amount; and

71 (ii) The municipalities of the county shall receive fifty
72 percent of the excess amount, the fifty percent to be
73 divided among the municipalities on a per capita basis as
74 determined by the most recent decennial United States
75 census of population; and

76 (B) Any amount in excess of the two percent received
77 during fiscal year one thousand nine hundred ninety-nine
78 by a county in which a racetrack other than a racetrack
79 described in paragraph (A) of this proviso is located and
80 where the racetrack has been located in a municipality
81 within the county since on or before the first day of
82 January, one thousand nine hundred ninety-nine, shall be
83 divided, if applicable, as follows:

84 (i) The county shall receive fifty percent of the excess
85 amount; and

86 (ii) The municipality shall receive fifty percent of the
87 excess amount; and

88 (C) This proviso shall not affect the amount to be
89 received under this subdivision by any county other than
90 a county described in paragraph (A) or (B) of this subdivi-
91 sion;

92 (4) One half of one percent of net terminal income shall
93 be paid for and on behalf of all employees of the licensed
94 racing association by making a deposit into a special fund
95 to be established by the racing commission to be used for
96 payment into the pension plan for all employees of the
97 licensed racing association;

98 (5) The West Virginia thoroughbred development fund
99 created under section thirteen-b, article twenty-three,
100 chapter nineteen of this code and the West Virginia
101 greyhound breeding development fund created under
102 section ten of said article shall receive an equal share of a
103 total of not less than one and one-half percent of the net
104 terminal income: *Provided*, That for any racetrack which
105 does not have a breeder's program supported by the
106 thoroughbred development fund or the greyhound breed-
107 ing development fund, the one and one-half percent
108 provided in this subdivision shall be deposited in the
109 special fund established by the licensee and used for
110 payment of regular purses in addition to other amounts
111 provided in subdivision (2) of this subsection and article
112 twenty-three, chapter nineteen of this code;

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

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

119 (8)(A) The tourism promotion fund established in section
120 twelve, article two, chapter five-b of this code shall receive
121 three percent of the net terminal income: *Provided*, That
122 for the fiscal year beginning the first day of July, two

123 thousand three, the tourism commission shall transfer
124 from the tourism promotion fund five million dollars of
125 the three percent of the net terminal income described in
126 this section and section ten-b of this article into the fund
127 administered by the West Virginia economic development
128 authority pursuant to section seven, article fifteen, chapter
129 thirty-one of this code, five million dollars into the capitol
130 renovation and improvement fund administered by the
131 department of administration pursuant to section six,
132 article four, chapter five-a of this code and five million
133 dollars into the tax reduction and federal funding in-
134 creased compliance fund; and

135 (B) Notwithstanding any provision of paragraph (A) of
136 this subdivision to the contrary, for each fiscal year
137 beginning after the thirtieth day of June, two thousand
138 four, this three percent of net terminal income and the
139 three percent of net terminal income described in para-
140 graph (B), subdivision (8), subsection (a), section ten-b of
141 this article shall be distributed as provided in this para-
142 graph as follows:

143 (i) 1.375 percent of the total amount of net terminal
144 income described in this section and in section ten-b of
145 this article shall be deposited into the tourism promotion
146 fund created under section twelve, article two, chapter
147 five-b of this code;

148 (ii) 0.375 percent of the total amount of net terminal
149 income described in this section and in section ten-b of
150 this article shall be deposited into the development office
151 promotion fund created under section three-b, article two,
152 chapter five-b of this code;

153 (iii) 0.5 percent of the total amount of net terminal
154 income described in this section and in section ten-b of
155 this article shall be deposited into the research challenge
156 fund created under section ten, article one-b, chapter
157 eighteen-b of this code;

158 (iv) 0.6875 percent of the total amount of net terminal
159 income described in this section and in section ten-b of
160 this article shall be deposited into the capitol renovation
161 and improvement fund administered by the department of
162 administration pursuant to section six, article four,
163 chapter five-a of this code; and

164 (v) 0.0625 percent of the total amount of net terminal
165 income described in this section and in section ten-b of
166 this article shall be deposited into the 2004 capitol com-
167 plex parking garage fund administered by the department
168 of administration pursuant to section five-a, article four,
169 chapter five-a of this code; and

170 (9) The remaining one percent of net terminal income
171 shall be deposited as follows:

172 (A) For the fiscal year beginning the first day of July,
173 two thousand three, the veterans memorial program shall
174 receive one percent of the net terminal income until
175 sufficient moneys have been received to complete the
176 veterans memorial on the grounds of the state capitol
177 complex in Charleston, West Virginia. The moneys shall
178 be deposited in the state treasury in the division of culture
179 and history special fund created under section three,
180 article one-i, chapter twenty-nine of this code: *Provided*,
181 That only after sufficient moneys have been deposited in
182 the fund to complete the veterans memorial and to pay in
183 full the annual bonded indebtedness on the veterans
184 memorial, not more than twenty thousand dollars of the
185 one percent of net terminal income provided for in this
186 subdivision shall be deposited into a special revenue fund
187 in the state treasury, to be known as the "John F. 'Jack'
188 Bennett Fund". The moneys in this fund shall be expended
189 by the division of veterans affairs to provide for the
190 placement of markers for the graves of veterans in perpet-
191 ual cemeteries in this state. The division of veterans
192 affairs shall promulgate legislative rules pursuant to the
193 provisions of article three, chapter twenty-nine-a of this
194 code specifying the manner in which the funds are spent,

195 determine the ability of the surviving spouse to pay for the
196 placement of the marker and setting forth the standards to
197 be used to determine the priority in which the veterans
198 grave markers will be placed in the event that there are
199 not sufficient funds to complete the placement of veterans
200 grave markers in any one year, or at all. Upon payment in
201 full of the bonded indebtedness on the veterans memorial,
202 one hundred thousand dollars of the one percent of net
203 terminal income provided for in this subdivision shall be
204 deposited in the special fund in the division of culture and
205 history created under section three, article one-i, chapter
206 twenty-nine of this code and be expended by the division
207 of culture and history to establish a West Virginia veterans
208 memorial archives within the cultural center to serve as a
209 repository for the documents and records pertaining to the
210 veterans memorial, to restore and maintain the monu-
211 ments and memorial on the capitol grounds: *Provided,*
212 *however,* That five hundred thousand dollars of the one
213 percent of net terminal income shall be deposited in the
214 state treasury in a special fund of the department of
215 administration, created under section five, article four,
216 chapter five-a of this code, to be used for construction and
217 maintenance of a parking garage on the state capitol
218 complex; and the remainder of the one percent of net
219 terminal income shall be deposited in equal amounts in the
220 capitol dome and improvements fund created under
221 section two, article four, chapter five-a of this code and
222 cultural facilities and capitol resources matching grant
223 program fund created under section three, article one of
224 this chapter.

225 (B) For each fiscal year beginning after the thirtieth day
226 of June, two thousand four:

227 (i) Five hundred thousand dollars of the one percent of
228 net terminal income shall be deposited in the state trea-
229 sury in a special fund of the department of administration,
230 created under section five, article four, chapter five-a of

231 this code, to be used for construction and maintenance of
232 a parking garage on the state capitol complex; and

233 (ii) The remainder of the one percent of net terminal
234 income and all of the one percent of net terminal income
235 described in paragraph (B), subdivision (9), subsection (a),
236 section ten-b of said article twenty-two-a shall be distrib-
237 uted as follows: The net terminal income shall be deposited
238 in equal amounts into the capitol dome and capitol
239 improvements fund created under section two, article four,
240 chapter five-a of this code and the cultural facilities and
241 capitol resources matching grant program fund created
242 under section three, article one, chapter twenty-nine of
243 this code until a total of one million five hundred thousand
244 dollars is deposited into the cultural facilities and capitol
245 resources matching grant program fund; thereafter, the
246 remainder shall be deposited into the capitol dome and
247 capitol improvements fund.

248 (d) Each licensed racetrack shall maintain in its account
249 an amount equal to or greater than the gross terminal
250 income from its operation of video lottery machines, to be
251 electronically transferred by the commission on dates
252 established by the commission. Upon a licensed race-
253 track's failure to maintain this balance, the commission
254 may disable all of a licensed racetrack's video lottery
255 terminals until full payment of all amounts due is made.
256 Interest shall accrue on any unpaid balance at a rate
257 consistent with the amount charged for state income tax
258 delinquency under chapter eleven of this code. The
259 interest shall begin to accrue on the date payment is due to
260 the commission.

261 (e) The commission's central control computer shall keep
262 accurate records of all income generated by each video
263 lottery terminal. The commission shall prepare and mail
264 to the licensed racetrack a statement reflecting the gross
265 terminal income generated by the licensee's video lottery
266 terminals. Each licensed racetrack shall report to the
267 commission any discrepancies between the commission's

268 statement and each terminal's mechanical and electronic
269 meter readings. The licensed racetrack is solely responsi-
270 ble for resolving income discrepancies between actual
271 money collected and the amount shown on the accounting
272 meters or on the commission's billing statement.

273 (f) Until an accounting discrepancy is resolved in favor
274 of the licensed racetrack, the commission may make no
275 credit adjustments. For any video lottery terminal reflect-
276 ing a discrepancy, the licensed racetrack shall submit to
277 the commission the maintenance log which includes
278 current mechanical meter readings and the audit ticket
279 which contains electronic meter readings generated by the
280 terminal's software. If the meter readings and the commis-
281 sion's records cannot be reconciled, final disposition of the
282 matter shall be determined by the commission. Any
283 accounting discrepancies which cannot be otherwise
284 resolved shall be resolved in favor of the commission.

285 (g) Licensed racetracks shall remit payment by mail if
286 the electronic transfer of funds is not operational or the
287 commission notifies licensed racetracks that remittance by
288 this method is required. The licensed racetracks shall
289 report an amount equal to the total amount of cash
290 inserted into each video lottery terminal operated by a
291 licensee, minus the total value of game credits which are
292 cleared from the video lottery terminal in exchange for
293 winning redemption tickets, and remit the amount as
294 generated from its terminals during the reporting period.
295 The remittance shall be sealed in a properly addressed and
296 stamped envelope and deposited in the United States mail
297 no later than noon on the day when the payment would
298 otherwise be completed through electronic funds transfer.

299 (h) Licensed racetracks may, upon request, receive
300 additional reports of play transactions for their respective
301 video lottery terminals and other marketing information
302 not considered confidential by the commission. The

303 commission may charge a reasonable fee for the cost of
304 producing and mailing any report other than the billing
305 statements.

306 (i) The commission has the right to examine all accounts,
307 bank accounts, financial statements and records in a
308 licensed racetrack's possession under its control or in
309 which it has an interest and the licensed racetrack shall
310 authorize all third parties in possession or in control of the
311 accounts or records to allow examination of any of those
312 accounts or records by the commission.

§29-22A-10b. Distribution of excess net terminal income.

1 (a) Any amount of net terminal income generated
2 annually by a licensed racetrack in excess of the amount
3 of net terminal income generated by that licensed race-
4 track during the fiscal year ending on the thirtieth day of
5 June, two thousand one, shall be divided as follows:

6 (1) The commission shall receive forty-one percent of net
7 terminal income, which the commission shall deposit in
8 the state excess lottery revenue fund created in section
9 eighteen-a, article twenty-two of this chapter;

10 (2) Eight percent of net terminal income at a licensed
11 racetrack shall be deposited in the special fund established
12 by the licensee and used for payment of regular purses in
13 addition to other amounts provided for in article twenty-
14 three, chapter nineteen of this code;

15 (3) The county where the video lottery terminals are
16 located shall receive two percent of the net terminal
17 income: *Provided, That:*

18 (A) Any amount by which the total amount under this
19 section and subdivision (3), subsection (c), section ten of
20 this article is in excess of the two percent received during
21 fiscal year one thousand nine hundred ninety-nine by a
22 county in which a racetrack is located that has partici-
23 pated in the West Virginia thoroughbred development

24 fund since on or before the first day of January, one
25 thousand nine hundred ninety-nine, shall be divided as
26 follows:

27 (i) The county shall receive fifty percent of the excess
28 amount; and

29 (ii) The municipalities of the county shall receive fifty
30 percent of the excess amount, the fifty percent to be
31 divided among the municipalities on a per capita basis as
32 determined by the most recent decennial United States
33 census of population; and

34 (B) Any amount by which the total amount under this
35 section and subdivision (3), subsection (c), section ten of
36 this article is in excess of the two percent received during
37 fiscal year one thousand nine hundred ninety-nine by a
38 county in which a racetrack other than a racetrack de-
39 scribed in paragraph (A) of this proviso is located and
40 where the racetrack has been located in a municipality
41 within the county since on or before the first day of
42 January, one thousand nine hundred ninety-nine, shall be
43 divided, if applicable, as follows:

44 (i) The county shall receive fifty percent of the excess
45 amount; and

46 (ii) The municipality shall receive fifty percent of the
47 excess amount; and

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

51 (4) One half of one percent of net terminal income shall
52 be paid for and on behalf of all employees of the licensed
53 racing association by making a deposit into a special fund
54 to be established by the racing commission to be used for
55 payment into the pension plan for all employees of the
56 licensed racing association;

57 (5) The West Virginia thoroughbred development fund
58 created under section thirteen-b, article twenty-three,
59 chapter nineteen of this code and the West Virginia
60 greyhound breeding development fund created under
61 section ten, article twenty-three, chapter nineteen of this
62 code shall receive an equal share of a total of not less than
63 one and one-half percent of the net terminal income:
64 *Provided*, That for any racetrack which does not have a
65 breeder's program supported by the thoroughbred devel-
66 opment fund or the greyhound breeding development fund,
67 the one and one-half percent provided for in this subdivi-
68 sion shall be deposited in the special fund established by
69 the licensee and used for payment of regular purses, in
70 addition to other amounts provided for in subdivision (2)
71 of this subsection and article twenty-three, chapter
72 nineteen of this code;

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

77 (7) A licensee shall receive forty-two percent of net
78 terminal income;

79 (8) The tourism promotion fund established in section
80 twelve, article two, chapter five-b of this code shall receive
81 three percent of the net terminal income: *Provided*, That
82 for each fiscal year beginning after the thirtieth day of
83 June, two thousand four, this three percent of net terminal
84 income shall be distributed pursuant to the provisions of
85 paragraph (B), subdivision (8), subsection (c), section ten
86 of this article; and

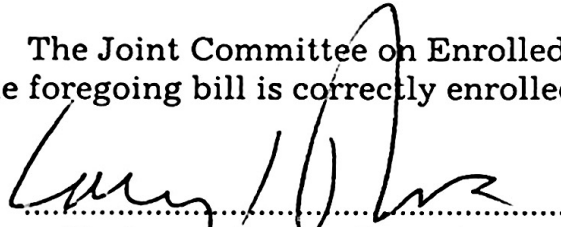
87 (9)(A) One percent of the net terminal income shall be
88 deposited in equal amounts in the capitol dome and
89 improvements fund created under section two, article four,
90 chapter five-a of this code and cultural facilities and
91 capitol resources matching grant program fund created
92 under section three, article one of this chapter; and

93 (B) Notwithstanding any provision of paragraph (A) of
94 this subdivision to the contrary, for each fiscal year
95 beginning after the thirtieth day of June, two thousand
96 four, this one percent of net terminal income shall be
97 distributed pursuant to the provisions of subparagraph (ii),
98 paragraph (B), subdivision (9), subsection (c), section ten
99 of this article.

100 (b) The commission may establish orderly and effective
101 procedures for the collection and distribution of funds
102 under this section in accordance with the provisions of this
103 section and section ten of this article.

Enr. Com. Sub. for S. B. No. 197] 20

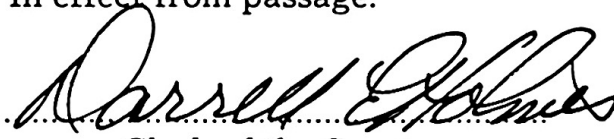
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee

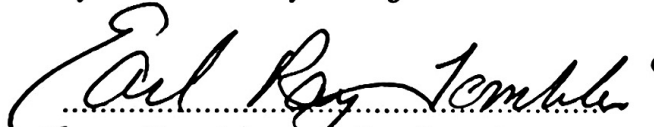

.....
Chairman House Committee

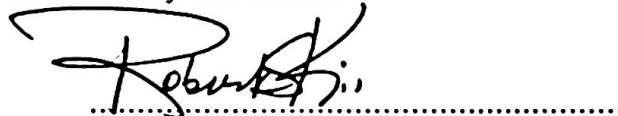
Originated in the Senate.

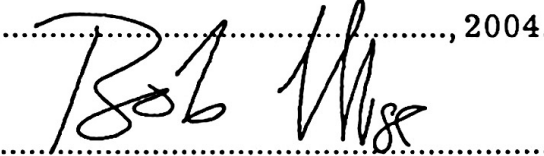
In effect from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is approved this the 6th
Day of April, 2004.

.....
Governor

PRESENTED TO THE
GOVERNOR
DATE 3/31/04
TIME 10:45 a