

SUNSET REVIEW: EVALUATION OF THE MARYLAND RACING COMMISSION



DEPARTMENT OF LEGISLATIVE SERVICES 2013

Sunset Review: Evaluation of the Maryland Racing Commission

**Department of Legislative Services
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Annapolis, Maryland**

December 2013

Primary Staff for This Report

Heather N. Ruby
David A. Smulski

Other Staff Who Contributed to This Report

Jennifer B. Chasse
Laura J. McCarty
Mindy L. McConville
Nancy C. Scaggs

For further information concerning this document contact:

Library and Information Services
Office of Policy Analysis
Department of Legislative Services
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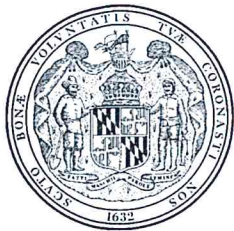
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Executive Director

DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF POLICY ANALYSIS
MARYLAND GENERAL ASSEMBLY

Warren G. Deschenaux
Director

December 2013

The Honorable Thomas V. Mike Miller, Jr.
The Honorable Michael E. Busch
Honorable Members of the General Assembly

Ladies and Gentlemen:

The Department of Legislative Services (DLS) has completed its evaluation of the State Racing Commission (the Maryland Racing Commission or MRC), the Maryland-Bred Race Fund Advisory Committee, and the Standardbred Race Fund Advisory Committee as required by the Maryland Program Evaluation Act. This evaluation process is more commonly known as “sunset review” because the agencies subject to evaluation are usually subject to termination; typically, legislative action must be taken to reauthorize them. This report was prepared to assist the committees designated to review the board – the Senate Finance Committee and the House Ways and Means Committee – in making their recommendations to the full General Assembly. Without further action by the General Assembly, MRC and the two advisory committees will terminate on July 1, 2014.

In Maryland, MRC maintains the public trust in horse racing; oversees the conduct of pari-mutuel wagering; and helps to make the sport as safe as possible for the horse, jockey, and all participants. DLS finds that there is a continued need for regulation of the horse racing industry. In recent years, the commission has worked admirably to address challenges facing the industry and balance the interests of industry stakeholders. DLS finds that MRC has taken its regulatory role seriously, using a proactive approach to address health and safety concerns and broker stakeholder interests.

While MRC has been fulfilling its statutory mandate, the commission could benefit from additional resources to effectively implement recently approved health and safety regulations and enhance its regulatory oversight, including an Equine Medical Director, a second investigator, and a deputy director. Additionally, DLS found that, unlike most regulatory entities, MRC is mostly funded with general funds. Changing the funding source from general to special funds would reduce general fund expenditures and not subject MRC to the occasional constraints of the general fund as it regulates a complicated and sometimes contentious industry.

The Honorable Thomas V. Mike Miller, Jr.
The Honorable Michael E. Busch
Honorable Members of the General Assembly
December 2013
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In total, DLS offers nine recommendations, including that the board's termination date be extended by 10 years to July 1, 2024. Draft legislation to implement the recommended statutory changes is included as an appendix to this report.

We would like to acknowledge the cooperation and assistance provided by MRC and industry representatives throughout the review process. MRC was provided a draft copy of the report for factual review and comment prior to its publication; the commission's written comments are included as an appendix to this report.

Sincerely,

Warren G. Deschenaux
Director

WGD/JBC/ncs

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Executive Summary

Pursuant to the Maryland Program Evaluation Act, the Department of Legislative Services (DLS) has evaluated the State Racing Commission (the Maryland Racing Commission or MRC), the Maryland-Bred Race Fund Advisory Committee, and the Standardbred Race Fund Advisory Committee, which are all scheduled to terminate July 1, 2014.

In 2008, DLS conducted a preliminary evaluation of MRC and the advisory committees and recommended a full evaluation to examine the commission's responsibilities in light of changes in Maryland's horse racing industry and the commission's performance in ensuring the health, safety, and well-being of horses and jockeys. Due to anticipated changes in the industry at the time of the preliminary evaluation, DLS recommended deferring the full evaluation. This evaluation focuses on the role of the commission, recent developments in the racing industry, and national and State efforts to ensure the health and safety of horses and jockeys.

This report provides an overview of factors that have significantly affected the horse racing industry in Maryland over the past several years and reviews the actions of MRC in response to those changes. DLS makes several findings about horse racing and MRC and presents a total of nine recommendations.

In Maryland, horse racing is a heavily regulated industry, with MRC given broad authority by law to regulate all aspects of it. The past few years have been very active for the horse racing industry and MRC, consistent with activity at the national level and the recent infusion of video lottery

terminal (VLT) revenues to aid Maryland's horse racing industry. Despite the relief that VLT revenues may provide to the industry, challenges remain in order for horse racing to thrive.

Maryland's horse racing industry faces significant competition and an aging clientele. Over the years, the industry's share of the legal gambling dollar has declined due to increased competition from State lotteries, VLTs, and table games. From 2008 through 2012, attendance and wagering at Maryland racetracks sharply declined. Since 2011, the industry has benefitted from significant assistance from VLT revenues for purses, bred funds, and racetrack renewal, providing a much-needed financial boost and increasing total purses to levels not seen since 2005. Larger purses attract a larger field of horses that allow a greater number of races and may generate greater public interest in the sport.

While beneficial to the industry, larger purses have also had a negative financial impact. The Maryland Jockey Injury Compensation Fund provides workers' compensation insurance for all jockeys licensed by MRC and participating at Maryland racetracks. DLS found that premiums for coverage have increased tremendously in recent years due to increased purses and higher jockey incomes. While the Maryland Thoroughbred Horsemen's Association (MTHA) has subsidized coverage to keep licensee assessments low, MRC should continue to monitor the cost of coverage, seek quotes from additional carriers, and work to continue enhancing horse and jockey safety to reduce these costs.

MRC is authorized to adopt regulations governing racing and betting on racing, including approving or disapproving the size of purses, rewards, or stakes. The General Assembly clearly intended to assist racing by designating a portion of VLT revenues for purses and facility renewal. However, as opposed to purses generated from wagering on racing, statute governing purse supplements from VLT revenues is silent as to whether or how purse monies should be reallocated.

Recommendation 1: The General Assembly may wish to consider providing further guidance as to the distribution of VLT revenues from the Purse Dedication Account (PDA). For example, the General Assembly could require that the distribution of VLT purse revenues be subject to an agreement between a licensee, MTHA, and the Maryland Horse Breeders' Association (MHBA), subject to review by MRC; or specify in law any requirement regarding the use of PDA revenues.

Horse racing is a dangerous sport with breakdowns occurring occasionally. Maryland tracks have experienced their share of horse breakdowns, with 21 fatalities in 2012, compared to only 11 in 2011. Additionally, 10 horses broke down and were subsequently euthanized at Laurel Park during a six-week period in 2013. While Maryland has experienced an unusual number of breakdowns in 2013, it generally has had a lower incidence of breakdowns compared to other tracks around the country.

Though Maryland has fewer breakdowns on average than most states, safety is still a concern. Larger purses *may* be creating an incentive for trainers to race unfit horses.

Both nationally and in Maryland, these concerns are being addressed by implementing stringent horse medication and safety reform – most notably adopting the Mid-Atlantic Uniform Medication Program.

DLS finds that MRC could benefit from an Equine Medical Director to ensure compliance with the recently adopted stringent equine testing and drug policies. An Equine Medical Director would provide MRC with an additional resource to further enhance the safety and welfare of the horses running races in Maryland, as well as providing the jockeys who ride these horses with the confidence that their horse has been observed to be sound enough to be competitive.

Recommendation 2: MRC should pursue hiring an Equine Medical Director to implement and enforce equine testing and drug policies.

The American Association of Equine Practitioners recommends that no claiming race should have a purse that exceeds the claiming price by more than 50%. The New York Task Force on Racehorse Health and Safety recommended that the purse-to-claim-price ratio should be no greater than 1.6, in which the value of the horse is approximately equal to the winner's share of the purse. MRC has already adopted several regulations governing claiming races that are intended to protect the health and safety of horses and jockeys. MRC indicates that these regulations may be sufficient to enhance safety.

Recommendation 3: MRC should carefully monitor the impact of recently adopted claiming regulations. If additional safety measures are warranted,

MRC should consider adoption of a maximum purse-to-claim-price ratio.

MRC has been approved to hire a second contractual investigator position to inspect barn areas, conduct barn searches, and perform investigations as requested. Employing a second investigator should allow MRC to carry out its oversight of the thoroughbred racing industry more effectively.

Recommendation 4: MRC should move forward with plans to hire a second investigator to further enhance oversight at racetracks.

The national Jockey Club Thoroughbred Safety Committee recommends that all racing regulatory authorities enhance rules to mandate centralized electronic storage of all medication treatment and records pertaining to horses conducting official workouts and racing. Centralized electronic storage of treatment records will assist in investigative and analytical efforts by regulatory authorities. MRC plans to implement the InCompass Pre-Race Veterinary Exam software. The software allows examining veterinarians to track the progress of a horse throughout its racing career and share information with other jurisdictions.

Recommendation 5: MRC should move forward with implementation of the InCompass software system to enhance the efficiency of pre-race veterinary examinations and further enhance horse and jockey safety.

A total of 20 personnel work in the Division of Racing, including 4 at the commission offices and 16 harness judges, racing stewards, chemists, veterinarians, and support staff under racetrack operations.

Since 2001, the deputy director position has been filled sporadically and has gone unfilled since 2009. Since then, the position has been eliminated. Though the absence of a deputy director has not yet hindered the commission, given the increased activity of MRC and changes in the racing industry, MRC indicates that a deputy director is again necessary to assist with complicated administrative tasks. Furthermore, a deputy director would allow for continuity of staff, which is vital for the regulation of such a complicated industry.

Recommendation 6: The Department of Labor, Licensing, and Regulation should work with the Department of Budget and Management to obtain an additional position for the division to enable replacement of the deputy director position.

As the racing industry has changed in recent years, MRC has grown more active, and there is no indication that this increased regulatory activity will be curtailed. The industry has seen significant changes, including VLT revenues for purses and facility renewal, restrictions on medications, new claiming regulations and other rules to improve horse and jockey safety, and brokered agreements among racing's various stakeholders. Yet in recent years, the budget for the division has been relatively consistent. It is questionable, given all that MRC is involved with, whether existing resources for the division are sufficient to effectively regulate the industry.

MRC is one of two budgeted programs in the Division of Racing along with Racetrack Operation Reimbursement. Revenues from the commission's licensing and registration activities accrue to the general fund. Licensing and registration fees, which are set in regulation, have not

been increased since the 1980s. Typically, State regulatory entities are funded by the regulated industry. In contrast, the division, which oversees a significant Maryland industry, is instead mostly supported with general funds.

The division could be special funded by creating a new State Racing Commission Special Fund. However, with removal of a general fund appropriation, the division would require a dedicated source of revenues to cover operating expenses. To special fund the division, the General Assembly could consider, among other options, allowing MRC to retain licensing and registration fees, increasing licensing and registration fees to provide additional revenues, dedicating a portion of VLT revenues earmarked for purse enhancement, and increasing the racing tax.

Recommendation 7: Statute should be amended to (1) establish a State Racing Commission Special Fund to fund the Division of Racing and (2) authorize current revenues from licensing and registration fees to accrue to that fund. The General Assembly should determine additional revenue sources to fully support the operations of the division through the fund.

Recommendation 8: MRC should conduct an analysis of current licensing and registration fees to determine the appropriate level of such fees. If the General Assembly elects to special fund the division, MRC should promulgate regulations to increase licensing and

registration fees to help support division operations.

In such a complex sport, with large sums of money at stake, there is potential for unscrupulous behavior. Therefore, racing across the nation is one of the oldest regulated activities. In Maryland, MRC maintains the public trust in racing; oversees the conduct of pari-mutuel wagering; and helps to make the sport as safe as possible for the horse, jockey, and all participants. MRC has been applauded by the media for its quick response to horse safety concerns, and the racing industry in Maryland has not experienced major problems regarding horse breakdowns as have other states. Likewise, DLS found that MRC has taken its regulatory role seriously, using a proactive approach to address health and safety concerns and broker stakeholder interests. As long as there is a racetrack operating in Maryland, the laws that govern racing and that established MRC should continue.

Recommendation 9: Statute should be amended to extend the termination date for MRC, its two advisory committees, and the laws regulating racing to July 1, 2024. MRC and the racing industry should also remain subject to periodic evaluation under the Maryland Program Evaluation Act with a preliminary evaluation scheduled for 2021.

Chapter 1. Introduction

Sunset Review Process

This evaluation was undertaken under the auspices of the Maryland Program Evaluation Act (§ 8-401 *et seq.* of the State Government Article), which establishes a process better known as “sunset review” because most of the agencies subject to review are also subject to termination. Since 1978, the Department of Legislative Services (DLS) has evaluated about 70 State entities according to a rotating statutory schedule as part of sunset review. The review process traditionally begins with a preliminary evaluation conducted on behalf of the Legislative Policy Committee (LPC), although a few entities are subject to direct full evaluation. Based on the preliminary evaluation, LPC decides whether to waive an agency from further (or full) evaluation. If waived, legislation to reauthorize the agency typically is enacted. Otherwise a full evaluation typically is undertaken the following year.

In 2008, DLS conducted a preliminary evaluation of the State Racing Commission (the Maryland Racing Commission or MRC), the Maryland-Bred Race Fund Advisory Committee, and the Standardbred Race Fund Advisory Committee. DLS recommended a full evaluation to examine the commission’s responsibilities in light of changes in Maryland’s horse racing industry and the commission’s performance in ensuring the health, safety, and well-being of horses and jockeys. However, due to anticipated changes in the industry at the time of the preliminary evaluation, DLS recommended deferring the full evaluation. Subsequently, Chapter 196 of 2009 extended the termination date of the commission and its advisory boards to July 1, 2014, and required DLS to conduct a direct full evaluation by July 1, 2013. DLS began the evaluation process in June 2012, but as the status of gaming in Maryland remained in flux, DLS deferred completion of the evaluation until 2013.

Research Activities

This evaluation focuses on the role of the commission, recent developments in the racing industry, and national and State efforts to ensure the health and safety of horses and jockeys. In conducting this evaluation, DLS staff completed the following activities:

- conducted in-person and telephone interviews with the Chairman of MRC, the commissioners, commission staff, and various employees of Maryland’s racetracks;
- attended MRC meetings;
- reviewed relevant statutes and regulations;
- surveyed racing industry representatives;

- analyzed fiscal and program data;
- conducted literature reviews and reviews of national organizations' actions and standards; and
- participated in field reviews and site visits of Maryland racetracks.

Report Organization

This report provides an overview of factors that have significantly affected the horse racing industry in Maryland over the past several years and reviews the actions of MRC in response to changes affecting the racing industry. Specifically, **Chapter 1** provides an overview of Maryland's horse racing industry, MRC's general regulatory authority, and major legislative changes impacting MRC since the 2008 preliminary sunset evaluation. **Chapter 2** describes recent changes impacting Maryland's horse racing industry, including the infusion of revenues from video lottery terminals (VLTs), recent legislative efforts regarding the racing industry, the 10-year agreement, and the future of standardbred racing in the State. **Chapter 3** addresses issues regarding horse safety both nationally and in Maryland, the potential indirect impact of VLT revenues on safety, national and State safety measures, the status of the State testing laboratory, options for further enhancing health and safety measures in Maryland, and the Maryland Jockey Injury Compensation Fund. **Chapter 4** examines the role and activities of MRC, including analyzing licensing and registration activities and how MRC is funded. **Chapter 5** covers the future of racing and MRC.

Several appendices provide more detailed information about horse racing and MRC. **Appendix 1** provides a description of Maryland's three thoroughbred and two harness tracks. **Appendix 2** displays annual attendance at Maryland racetracks for 2008 through 2012. **Appendix 3** shows the number of live and simulcast racing days at Maryland racetracks from 2007 through 2012. **Appendix 4** displays the amounts wagered at Maryland satellite simulcast betting facilities in calendar 2012. **Appendix 5** provides detailed information on gaming in Maryland, including VLTs and table games. **Appendix 6** shows the number of personnel, revenues, and expenditures for MRC and the Division of Racing for fiscal 2009 through 2014. **Appendices 7 and 8** display thoroughbred and harness racing licenses issued by license type for calendar 2008 through 2012.

MRC reviewed a draft of this evaluation and provided the written comments attached at the end of this document as **Appendix 9**. Appropriate factual corrections and clarifications have been made throughout the document. Therefore, references in those comments may not reflect this published version of the report. Draft legislation to implement the recommendations included in the report can be found in **Appendix 10**.

Overview of the Maryland Horse Racing Industry

In Maryland, pari-mutuel wagering is permitted on thoroughbred, standardbred (harness), and steeplechase races. Horse racing is a heavily regulated industry with MRC given broad authority by law to regulate all aspects of horse racing in Maryland.

Maryland has two mile-thoroughbred racetracks: Laurel Park in Anne Arundel County and Pimlico Race Course in Baltimore City. Both thoroughbred tracks are owned by the Maryland Jockey Club (MJC), a subsidiary of the Stronach Group. In addition to races held at Laurel Park and Pimlico, special thoroughbred racing is held during the Maryland State Fair in Timonium. A racetrack was authorized for Allegany County, but that authorization was repealed in 2010.

Maryland has two harness racetracks: Rosecroft Raceway in Prince George's County and Ocean Downs in Worcester County. Rosecroft was formerly owned by a subsidiary of the Cloverleaf Standardbred Owner's Association among others but is now owned by Penn National Gaming, Inc. Ocean Downs is owned by Ocean Downs LLC, which acquired the track from Bally's Maryland, Inc. in 2001. Maryland also has one steeplechase race course at which pari-mutuel wagering is permitted: Fair Hill in Cecil County. Steeplechase races are held at Fair Hill during a one-day race meeting each year.

In addition to betting on live races, an individual may bet on races simulcast from around the country to any of the State tracks or an off-track betting facility (OTB). For many years Maryland had four OTBs; however, over the last two years, three of the four facilities have closed: the Cracked Claw in Frederick County (closed in October 2011), the Cambridge Turf Club (closed in December 2012), and NorthEast Racing and Sports Club in Cecil County (closed in November 2013). Thus, there is currently only one OTB operating in Maryland – the Riverboat on the Potomac in Charles County. See **Appendices 1** through **4** for additional information on Maryland's racetracks and wagering at OTBs.

In Maryland, wagering on horse races is also permitted through approved telephone account betting systems, which allow an individual to place bets by telephone or other electronic means. Telephone account betting systems provide opportunities to bet on horse races held in Maryland and in other states that permit interstate wagering. MRC adopted regulations authorizing telephone account betting systems in 2000.

Overview of the Maryland State Racing Commission

Prior to 1920, local jurisdictions regulated racetracks. In 1920, the General Assembly established MRC to serve as a statewide regulatory and licensing body for the industry. MRC regulates harness and thoroughbred racing, as well as any steeplechase race at which pari-mutuel wagering is held. In this regulatory role, MRC is vested with the authority to prescribe the

conditions under which all horse races are conducted within the State. Specifically, MRC is authorized to:

- adopt regulations and conditions to govern racing and pari-mutuel betting in the State;
- approve specific types of betting and admission charges;
- operate a testing laboratory;
- assign racing dates;
- regulate satellite simulcast betting;
- license and register individuals employed at or connected with the racetracks;
- audit and supervise racetrack financial operations;
- administer and approve the activities of the Maryland-Bred Race Fund and the Standardbred Race Fund;
- administer the Maryland Jockey Injury Compensation Fund; and
- collect taxes and fees imposed under the Code of Maryland Regulations.

Composition of MRC

MRC comprises nine members appointed by the Governor with the advice and consent of the Senate. Of the nine commission members, statute requires that at least three have a background in thoroughbred racing and three have a background in harness racing. In addition, no more than four members may have a financial interest in Maryland horse racing, and no more than six members may belong to the same political party. Commissioners serve a four-year term and receive compensation and reimbursement for travel expenses as provided in the annual State budget. MRC has a relatively large number of commissioners compared to other states. Only Delaware has a larger number of commissioners (10, 5 harness and 5 thoroughbred). Meanwhile, other states have between 3 and 6 commissioners: Pennsylvania (6, 3 harness and 3 thoroughbred), Virginia (5), New York (4), and West Virginia (3). Both Delaware and Pennsylvania have separate commissions for thoroughbred and standardbred racing.

MRC is housed within the Division of Racing in the Department of Labor, Licensing, and Regulation (DLLR). The commission is one of two budgeted programs within the Division of Racing. The other budgeted program is Racetrack Operation Reimbursement. See **Appendix 6** for information on racing revenue sources and the fiscal history of the Racing Division.

Most of MRC's activities are carried out by an executive director and staff operating in the Division of Racing. Staff employed by MRC includes stewards, judges, veterinarians, licensing officials, and laboratory employees. A more detailed discussion of MRC personnel and finances is included in **Chapter 4** of this report.

Commission Benefits from Long-serving Members with Relevant Experience

As mentioned earlier, MRC has been granted extraordinary regulatory authority over racing in Maryland. MRC consists of nine members, three of whom are knowledgeable or experienced in thoroughbred racing, and three of whom are knowledgeable or experienced in standardbred racing. In addition, no more than four members of MRC may have a financial interest in racing in Maryland. Commissioner terms are limited to four years. Generally, the background of the commissioners reflects the intent of the law. Most commissioners indicated that some knowledge of the industry is helpful as MRC conducts its affairs. Several commissioners have been on MRC well beyond four years and have been repeatedly reappointed to serve additional terms. The law is silent on consecutive terms, and it is likely that finding people to serve on MRC with knowledge of either thoroughbred or standardbred racing is not an easy task.

Legislative Changes Affecting MRC

Since MRC's last sunset evaluation in 2008, the General Assembly has passed legislation altering the duties of MRC. Most of the legislation came from the industry or was suggested by MRC. The legislation is detailed in **Exhibit 1.1**.

Commission Administers the Maryland-Bred Race Fund and Maryland Standardbred Race Fund

In addition to its regulatory activities, MRC administers the Maryland-Bred Race Fund and the Maryland Standardbred Race Fund. The Maryland-Bred Race Fund was created in 1962 as an incentive program to encourage the improvement of thoroughbred horse breeding and racing in Maryland. The Standardbred Race Fund, created in 1971, serves as an incentive program to promote the breeding and racing of standardbred horses in Maryland.

MRC administers the two bred funds with the assistance and advice of separate advisory committees. Each advisory committee recommends to MRC the number, date, distance, and purse amount of fund races and the amounts of breeders' awards. The administrator of the Maryland-Bred Fund works for the Maryland Horse Breeders Association, while the administrator of the Standardbred Fund is employed by the Division of Racing in DLLR.

Exhibit 1.1
Legislative Changes Directly Affecting MRC
Since the 2008 Preliminary Sunset Review

<u>Year</u>	<u>Chapter</u>	<u>Changes</u>
2009	196	<p>Extends the termination date of the State Racing Commission, the Maryland Standardbred Race Fund Advisory Committee, and the Maryland-Bred Race Fund Advisory Committee to July 1, 2014.</p> <p>Requires DLS to conduct a sunset review of the commission by July 1, 2013.</p>
2012	127	<p>Alters criteria for the registration of a horse to be eligible for the Standardbred Foaled Stakes Program from requiring the horse to have been conceived in Maryland to the horse's dam had to be covered by a registered stallion during the previous season.</p>
	130	<p>Permits thoroughbred racing licensees additional days to remit the racing tax and local impact aid and authorizes a racing licensee to conduct live racing of Arabian breed horses at Pimlico.</p>
	167	<p>Authorizes MRC to allocate a portion, rather than up to 5%, of the Maryland-Bred Race Fund to races that are restricted to horses conceived, but not necessarily foaled, in Maryland.</p> <p>Requires MRC to set the amount of each breeder's award for races both in and outside the State.</p>
2013	78	<p>Authorizes a racetrack licensee to offer specific wagers under regulations adopted by MRC if MRC, the horsemen, and the breeders consent to the wagers.</p> <p>Requires a licensee to deduct specified amounts from the handle (the gross amount of money bet, less any refunds).</p>

Source: Department of Legislative Services

The Maryland-Bred Race Fund Advisory Committee consists of five members. Of the five members, two must be recommended by the Maryland Horse Breeders Association, one by the mile-thoroughbred racing licensees, and one by the State Fair and Agricultural Society. One member of the Maryland-Bred Race Fund Advisory Committee must also be a member of MRC. The Standardbred Race Fund Advisory Committee also consists of five members. Of the five members, one must be recommended by the standardbred breeding industry, one by the Cloverleaf Standardbred Owners' Association, one by the commercial breeders, and one by the harness track licensees. One member of the Standardbred Race Fund Advisory Committee must also be a member of MRC.

The two bred funds receive a percentage of the daily handle collected at thoroughbred and harness racetracks (the gross amount of money bet, less any refunds); a percentage of the breakage (in pari-mutuel betting, the odd cents left over after paying the successful bettors to the nearest \$0.10); and revenues received from various fees paid by horse owners. In addition, the bred funds receive an annual distribution of \$300,000 from the Horse Racing Special Fund, with 70% of the distribution going to the Maryland-Bred Race Fund and the remaining 30% going to the Maryland Standardbred Race Fund. Any revenues remaining in the Horse Racing Special Fund, after all required deductions and allocations are made, must be divided equally among the two bred funds and the Maryland Agricultural Education and Rural Development Assistance Fund. The two bred funds also receive a portion of VLT revenues designated for racing. A more detailed discussion of VLT revenues and their impact on racing is included in **Chapter 2** of this report.

Revenues from the two bred funds are distributed as purse money and as awards to owners and breeders of Maryland horses. In 2012, distributions from the Maryland-Bred Race Fund totaled approximately \$3.1 million, and distributions from the Maryland Standardbred Race Fund totaled \$970,850.

Chapter 2. Recent Developments in Maryland's Horse Racing Industry

The past couple of years have been very active for the horse racing industry in Maryland. The level of activity is not surprising, given the numerous changes that have occurred affecting horse racing, most notably the use of video lottery terminal (VLT) revenues to aid the horse racing industry. Despite the relief that VLT revenues may provide to the industry, challenges remain in order for the industry to thrive.

Industry Faces Significant Competition and Financial Pressures

The Maryland horse racing industry faces significant competition and an aging clientele. Over the years, the industry's share of the legal gambling dollar has declined due to increased competition from State lotteries, casinos, VLTs, and card games. Maryland's horse racing industry also faced increased competition from tracks in neighboring states. The introduction of VLT gambling in Delaware, West Virginia, and Pennsylvania, with a dedicated portion of the proceeds going to the respective state's horse racing industry, resulted in significant increases in purse and bred fund amounts in those states. Those measures bolstered horse racing in neighboring states, which increased pressure on Maryland's horse racing industry to stay competitive.

From calendar 2008 (the time the last sunset evaluation was conducted) through 2012, attendance at Maryland racetracks continued to decline, as shown in **Appendix 2**, despite an 11% increase in the number of licensed racing days at thoroughbred tracks and only a slight decline (1%) in the number of licensed days at standardbred or harness tracks. During the same time period, wagering at Maryland racetracks declined from \$225.2 million to \$158.0 million (29.8%) at thoroughbred tracks and from \$100.6 million to \$34.2 million (66.0%) at standardbred tracks.

While attendance and wagering have declined, purses (the cash prizes awarded to the owner of the horse that wins a race) have increased in recent years. Purses are widely acknowledged to be the key to a successful horse racing industry. Increased purses attract higher-quality horses, which aid the industry by increasing wagering on races and attendance at racetracks. As shown in **Exhibit 2.1**, the total amount in purses awarded at Maryland tracks declined to a low of \$24.4 million in 2010. However, with the infusion of a portion of VLT revenues in 2012, total purses increased to \$40.4 million, which raised purses to levels not seen since 2005.

Exhibit 2.1
Purses at Maryland Racetracks
Calendar 2008-2012

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Thoroughbred Tracks					
Laurel	\$22,545,198	\$20,267,180	\$18,817,640	\$19,589,605	\$26,589,170
Pimlico	6,952,102	4,447,202	4,363,625	6,812,980	8,603,875
Timonium	583,960	704,930	681,420	715,495	886,905
Harness Tracks					
Rosecroft	\$1,137,900	–	–	\$483,500	\$1,823,332
Ocean Downs	926,550	900,000	552,975	1,997,717	2,493,278
Total	\$32,145,710	\$26,319,312	\$24,415,660	\$29,599,297	\$40,396,560

Note: Purses for Rosecroft in 2011 were paid by the Maryland Standardbred Race Fund.

Source: State Racing Commission, Annual Reports

VLT Revenues Are Sustaining Racing

With Maryland's horse racing industry struggling, several proposals were before the General Assembly to authorize VLTs with the expectation to provide significant financial assistance to the industry. These attempts failed until 2007. After decades of deteriorating revenues and attendance, most, if not all, horse racing industry advocates in Maryland linked the sustainability of Maryland's horse racing industry to the implementation of VLTs. While many neutral observers remained cautious about whether VLTs and the revenue they generated would provide a lasting solution for the financial condition of Maryland's horse racing industry, most agreed VLTs would provide significant assistance.

The issue of whether to authorize VLTs and, by extension, provide additional financial assistance to the horse racing industry, was a significant challenge for the General Assembly. VLT gambling in Maryland was authorized by Chapters 4 and 5 of the 2007 special session. Chapter 5 was a constitutional amendment approved by the voters at the November 2008 general election that also authorized the expansion of gambling subject to specified restrictions. Once approved in 2008, the State was authorized to issue licenses to operate a total of 15,000 VLTs in five locations across the State. As a result, the horse racing industry was projected to receive as much as \$140 million in annual assistance for purses, bred funds, and racetrack renewal, with a maximum of \$100 million allocated for purses and a maximum of \$40 million allocated for racetrack renewal. In 2012, further changes were made to the State's VLT law, again with approval of the voters, by increasing the maximum number of VLTs to 16,500 and adding a sixth location in Prince George's County. In addition, allocations for the racing industry were also altered. The current distribution includes funds distributed to the:

- Purse Dedication Account (PDA) – generally 7% to enhance horse racing purses and funds for the horse breeding industry, not to exceed \$100 million annually; and
- Racetrack Facility Renewal Account (RFRA) – for construction and capital improvements to racetrack facilities, not to exceed \$20 million annually.

Of the funds distributed to PDA, 80% go to the thoroughbred industry and 20% to the standardbred industry. Further, of the funds allocated for purses, 89% go to purses and 11% are designated for the two bred funds. VLTs generally pay 1.75% of gross revenues for 16 years, but no more than \$20 million per year, toward redeveloping racetracks. The percentages for purses will change slightly with the addition of a casino in Prince George's County, but the net effect on the dollar amounts will be the same. Eighty percent of racetrack redevelopment funds goes to thoroughbred tracks and 20% to the standardbred tracks. **Exhibit 2.2** shows a breakdown of estimated VLT revenues for the racing industry. When all VLT facilities are operating, purse enhancement revenues should approach \$85 million per year.

Exhibit 2.2
Amount of Estimated VLT Revenues in Maryland for Horse Racing
(\$ in Millions)

	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>
VLTs					
Purse Dedication Account	\$42.3	\$68.6	\$76.2	\$81.1	\$85.0
Racetrack Renewal Account	10.4	9.7	10.8	13.4	14.0
Total VLT Revenues	\$52.7	\$78.3	\$87.0	\$94.5	\$99.0

Source: Department of Legislative Services

While the horse racing industry is already benefiting from VLT revenues, the extent to which VLT revenues alone may sustain Maryland's horse racing industry in the long term given declining interest in live racing remains unknown.

The State Lottery and Gaming Control Commission (SLGCC) oversees the operation of VLTs and table games in Maryland. A member of the State Racing Commission (MRC) serves as a liaison to SLGCC, and vice versa. For a detailed description of VLTs and table games in Maryland see **Appendix 5**.

Exhibit 2.3 lists significant legislative changes affecting racing, more generally, since the 2008 preliminary evaluation. As the exhibit shows, most legislation was related to VLT revenues for purses and facility redevelopment.

Exhibit 2.3

Major Legislative Changes Affecting Racing Since 2008

<u>Year</u>	<u>Chapter</u>	<u>Changes</u>
2009	447	Alters the allocation of VLT revenues dedicated to the Purse Dedication Account; out of the funds allocated to the thoroughbred and standardbred industries, 89% is allocated to purses and 11% to the respective bred funds.
2009	3	Authorizes the State to acquire by purchase or condemnation, for public use and with just compensation, private property relating to Pimlico, Laurel Park, Bowie Race Course Training Center, and other tangible and intangible property related to the Preakness Stakes.
2011	412	<p>Alters the distributions and uses of VLT revenues, dedicated to the Purse Dedication Account and the Racetrack Facility Renewal Account, for the purpose of providing operating assistance to Ocean Downs, Rosecroft Raceway, Laurel Park, and Pimlico Race Course, subject to specified requirements.</p> <p>Requires applications for operating assistance to be approved by the Secretary of Labor, Licensing, and Regulation.</p> <p>Establishes a Thoroughbred Racing Sustainability Task Force, which must report to the Governor and the Legislative Policy Committee by December 1, 2011.</p>
2012	303	Extends the reallocation of Purse Dedication Account funds for operating assistance for Ocean Downs and Rosecroft to 2015.
2012*	1	<p>Includes provisions subject to voter referendum including authorizing an additional VLT location and table games at VLT locations.</p> <p>Specifically authorizes a video lottery operation license to be awarded for a video lottery facility within Prince George's County; increases from 15,000 to 16,500 the maximum number of VLTs that may be authorized; and relating to racing, alters the distribution of VLT proceeds by reducing from \$40 million to \$20 million maximum funds dedicated to the Racetrack Facility Renewal Account (RFRA) but changes the distribution from 2.5% to 1.75% of VLT revenues to RFRA (when Baltimore City is issued a license, the distribution drops to 1%), extends the life of the account from 8 to 16 years, and upon the issuance of the Prince George's County license, reduces from 7% to 6% of VLT revenues the distribution to the Purse Dedication Account.</p>

*Second special session of 2012.

Source: Department of Legislative Services

The Industry Adjusts to a Post-VLT Revenue World – the 10-year Agreement

As detailed above, a portion of VLT revenues is designated for the racing industry, either for purses or facility improvement. Despite the influx of cash for the 2011 racing season, there remained significant items of disagreement among the various industry participants. The most predominant disagreements involved the existence of, or lack of, revenue-sharing agreements between the Maryland Jockey Club (MJC) and the owners of Rosecroft Raceway and the sharing of revenues (generally revenues from simulcast signals for thoroughbred and standardbred races).

Another source of contention, particularly on the thoroughbred side, has been the scheduling and conduct of racing days. To compensate for the declining interest in live racing, MJC has consistently approached MRC with a limited racing calendar to keep purses high. The Maryland Thoroughbred Horsemen's Association (MTHA) has generally opposed eliminating live racing days because of the economic model of racing in Maryland; fewer than 146 days of racing makes it financially difficult to sustain the industry.

VLT revenues for purses and facility improvements provided a much-needed financial boost for the industry. Even so, some matters still had to be resolved largely because, with the exception of Ocean Downs Race Track, no racing entity obtained a VLT license. While the video lottery facilities were being built, MJC proposed to cut back the number of live racing days, whereas live racing basically ceased at Rosecroft during 2010 and 2011.

In November 2010, a local referendum on the proposed Arundel Mills video lottery facility passed, allowing construction on that facility to go forward. MJC then submitted a significantly reduced 2011 racing schedule to MRC. MJC claimed that ongoing operating deficits at the tracks made it impossible to maintain the same level of live racing days at Laurel Park and Pimlico as in past years; thus, MJC asked MRC to approve a 2011 schedule of 77 total live racing days at the two tracks, down from 146 days in 2010. MTHA opposed the reduction. Meanwhile, Penn National Gaming resumed racing at Rosecroft and initially sought operating assistance to run the track.

MRC rejected MJC's proposal in December 2010 and requested that the parties reach an agreement for a 2011 racing calendar. As a result, MJC announced that hundreds of employees might be laid off and that the closure of Laurel Park and the Bowie Training Center were on the table. In order to prevent these closures, an agreement was reached between the O'Malley Administration, MJC, the Maryland Horse Breeders' Association (MHBA), and MTHA. Part of the agreement included diverting VLT proceeds from RFRA to cover the cost of running a 146-day live racing schedule for 2011 at Pimlico and Laurel Park. Another part of the agreement (codified in Chapter 412 of 2011) was altering the distributions and uses of VLT revenues to PDA and RFRA to provide operating assistance to thoroughbred and standardbred racetracks, as well as the establishment of a Thoroughbred Racing Sustainability Task Force.

Per the requirements of Chapter 412, in late 2012, MJC and Penn National Gaming reached a simulcast agreement whereby Rosecroft must pay MJC 8.5% of all wagers on live thoroughbred races in the State and 5.0% on all wagers placed on out-of-state thoroughbred races. Conversely, MJC must pay Rosecroft 8.5% of all wagers on standardbred races held at Rosecroft and 5.0% on wagers placed on out-of-state standardbred races. The agreement runs for two years and began on January 1, 2013.

Along with the simulcast agreement, MJC, MTHA, and MHBA announced a “10-year Agreement,” which governs the conduct of thoroughbred racing over the next 10 years. Facilitated by commission representatives, the agreement, according to representatives of the thoroughbred industry and a majority of MRC commissioners, represents a “high watermark” in the recent history of racing. Highlights of the agreement include:

- 146 days of live racing during 2013 and a guarantee of at least 100 days of live racing for each of the remaining nine years of the agreement;
- MJC keeping Laurel Park and Pimlico open for year-round training and closing the Bowie Race Track Training Center by the end of 2013;
- the construction of 150 new stalls at Laurel Park during 2013, the construction of another 150 new stalls during 2014, and the construction of 300 new stalls at Pimlico; and
- revenue sharing between MTHA and owners of the mile-thoroughbred racetracks, including the allocation of revenues derived from any new off-track betting (OTB) outlet.

The cost of operating any racing days beyond 100 of the live racing days guaranteed by the agreement will be paid for by MTHA from purses generated from wagering at Pimlico and Laurel Park. In addition, closing the Bowie Race Track Training Center requires action by the General Assembly.

With the addition of VLT revenues and the “10-year Agreement,” many in the industry and State racing commissioners hope that industry conflict will be abated and cooperation will continue. Many questions remain, however, including the fate of Rosecroft Raceway, who has control over VLT purse revenues, and the role of a recently invigorated commission.

Allocation of VLT Revenues for Purses as an Incentive to Breeding in Maryland

In May 2013, MRC’s Thoroughbred Breeding Task Force reported that Maryland’s breeding industry, like many across the nation, is in decline. The task force determined that, while in years past Maryland ranked just below the major horse breeding states of Kentucky, California, and Florida, Maryland now is also behind Idaho and Indiana. To address the decline, the task force made several recommendations targeted at increasing bonuses for Maryland-bred thoroughbreds that win races in the State. MRC adopted the recommendations and developed regulations to implement the recommendations.

MRC proposed to increase Maryland breeder awards and Maryland-based stallion owner awards under the Maryland-Bred Fund by eliminating awards to owners of Maryland-bred horses. To compensate for the loss of awards for owners under the Bred Fund, MRC proposed that it be able to direct increased purse amounts to the owner of a Maryland-bred horse that finished first, second, or third in a race other than a stakes race or claiming race for less than \$10,000. For 2013 and 2014, the new breeder bonus would have been 30% of the purse for a race, while the new owner incentive would have been 20%. By 2015, the breeder bonus and owner incentives would have been 30%, and the stallion bonus would have been 10%. MRC anticipated reallocating 3% of purse money for 2013 and 2014 for the owner incentive, and 6% starting in 2015.

Although MTHA initially objected to the reallocation, a compromise on the funding mechanism was reached between MRC, MTHA, MHBA, and MJC to govern the allocation of a portion of VLT purse money among breeder and owner awards for Maryland-bred thoroughbreds. The compromise became a signed agreement among the parties and had to be approved by MRC. The agreement was very similar to the original proposal by MRC, with a starting date of 2014 rather than the fall 2013 racing meet at Laurel Park. Thoroughbred interests view the purse agreement as an adjunct to the 10-year Agreement mentioned earlier.

Traditionally and as allowed by law, open thoroughbred purse monies generated from wagering on races may be allocated based on an agreement between a licensee and an organization that represents a majority of owners and trainers. MRC's actions regarding VLT purse revenues were based on provisions of law that the "jurisdiction, supervision, powers, and duties of the Commission extend to each person who holds racing for a purse, reward or stake." In addition, MRC is authorized to adopt regulations governing racing and betting on racing, including approving or disapproving the size of purses, rewards, or stakes.

Regarding purse revenues from wagering on horse races, control was specifically spelled out by the General Assembly. As mentioned above, statute gives MRC broad jurisdiction over all aspects of racing, including purses, and statute specifies the allocation of purses among the bred fund and various other uses of monies for purses. Statute also provides, however, that monies for purses may be allocated by an agreement between a licensee, MTHA, and MHBA – subject to the approval of MRC.

The General Assembly clearly intended to assist racing by designating a portion of VLT revenues for purses and facility renewal. However, as opposed to purses generated from wagering on racing, statute governing purse supplements from VLT revenues is silent as to whether or how purse monies should be reallocated. Two agreements among thoroughbred interests have emerged that presumably could settle years of disputes among these interests. The past may also be prologue, however, regarding relations between thoroughbred racing interests. While the amount of VLT revenues for purses affected by the agreement ultimately will represent at most 6% (\$3.4 million in 2015) of VLT revenues, these revenues represent public dollars from a source other than racing. **Recommendation 1: The General Assembly may wish to consider providing further guidance as to the distribution of VLT revenues from the Purse Dedication Account. For example, the General Assembly could:**

- **require that the distribution of VLT purse revenues be subject to an agreement between a licensee, MTHA, and MHBA, subject to review by MRC; or**
- **specify in law any requirement regarding the use of PDA revenues.**

Standardbred Racing in Maryland Is at a Crossroads

The thoroughbred side of the racing industry has dominated MRC's recent activities. Horse breakdowns at Laurel Park and the 10-year Agreement have garnered much of the public's attention. However, the standardbred industry also has its challenges. Most notably, the industry has been affected by a sharp decline in the number of horses available for racing, annual attendance at both Rosecroft Raceway and Ocean Downs, and wagering at standardbred tracks.

Factions within the standardbred horsemen and breeders disagree as to the structure of the Standardbred Fund and the awards paid from the fund. Several standardbred owners would like to eliminate the Foaled Stakes program (horses registered and raised, or foaled, in Maryland) in favor of the Sire Stakes program (horses that are the offspring of sires registered in Maryland), while several breeders prefer both programs. This ongoing argument is occurring within the Standardbred Race Fund Advisory Committee, and any significant changes related to these programs would require legislation. Racing commissioners are involved with these discussions.

As mentioned earlier, Penn National Gaming sought operating assistance for the conduct of live racing at Rosecroft. Chapter 412 of 2011 authorized the use of \$1.2 million of VLT revenues from standardbred purses for the operation of at least 40 live racing days. The assistance was conditioned on Penn National Gaming rehiring employees employed at Rosecroft Raceway during the 2008 racing season and recognizing any collective bargaining agreements in place in 2008. To date, Penn National Gaming has not applied to MRC for the use of VLT revenues for track operations. Instead, the cost to operate 54 live racing days is being covered by money from the simulcast revenue agreement with MJC, which expires at the end of the 2014 racing season. The fate of live racing at Rosecroft in 2015 and beyond is uncertain.

The most important concern for the industry may be the ultimate disposition of Rosecroft Raceway. Penn National Gaming is one of three entities applying for the video lottery facility license in Prince George's County. A decision by the Video Lottery Facility Location Commission on the location of a Prince George's County video lottery facility is expected in the next few months. There is some concern that, if Rosecroft is not selected, Penn National Gaming could close the facility. The closure of Rosecroft would leave Maryland with only one standardbred racetrack. The remaining standardbred track is on the lower Eastern Shore and only races a limited schedule during the summer. That track also competes with tracks in Delaware, which has a stronger standardbred industry.

Chapter 3. Health and Safety of Horses and Jockeys

Horse racing is a dangerous sport. Animals weighing more than 1,000 pounds carry riders racing at about 36 miles per hour around a track with as many as 20 horses. Horse breakdowns and injured jockeys are a reality in racing, but the frequency of these breakdowns and injuries in recent years has become concerning. Regarding standardbred racing, while breakdowns are rare, sulky riders are just as unprotected as jockeys if the cart fails during a race. Part of the role for states and their respective regulatory bodies is to keep riders and horses as safe as possible and to mitigate risk and other factors that jeopardize the safety of the rider and the horse. In Maryland, the State Racing Commission (MRC) has a significant role to play regarding the health and welfare of all participants in racing. Much of the focus is on addressing horse safety because it is widely accepted that, if one improves the safety of the horses, the jockeys' safety improves.

This chapter addresses horse safety in the United States and in Maryland, explores the indirect impact that enhanced revenues from video lottery terminals (VLTs) may have on the safety of horse racing, and reviews the horse safety measures that national organizations, other states, and Maryland have implemented. The chapter also discusses recent activities by MRC regarding contracting out laboratory testing services, the incidence of jockey injuries since 2008, and the rising costs of coverage for the Maryland Jockey Injury Compensation Fund. Finally, the chapter provides recommendations for further regulatory enhancements to ensure the health and safety of horses and jockeys in Maryland.

Misuse of Medications Believed to Be Key Factor in Horse Breakdowns

A variety of factors such as a poor track surface and jockey mistakes can cause a horse to break down, but often drugs are the prime suspect for a breakdown. Historically, the use of medications for horses has been the most persistent problem facing the racing industry. The misuse of medications could be a factor in horse breakdowns on and off the track. Drugs mask existing injuries so racetrack veterinarians cannot detect medical issues such as inflamed joints and mild lameness during pre-race examinations. As a result, unfit horses are deemed eligible to race, leading the horses to race hard and put extra stress on their injuries. Researchers in California found that up to 90% of horses that had a breakdown had preexisting injuries.

In Recent Years, Greater Public Scrutiny of Safety Issues Has Emerged

Several years ago, catastrophic accidents in major horse racing events like the Preakness and Kentucky Derby led to greater public scrutiny of safety issues in the nation's horse racing industry. The national Jockey Club and the Grayson-Jockey Research Foundation convened Welfare and Safety of the Racehorse summits in 2006 and 2008. The Jockey Club also formed a Thoroughbred Safety Committee. The Kentucky Horse Racing Authority acted by forming an Equine Safety Committee to study racing conditions, medications, horseshoes, and jockey safety,

and by pledging to work with other groups studying the same issues. In the U.S. Congress, the House Subcommittee on Commerce, Trade, and Consumer Protection held a high-profile hearing on horse racing safety and the merits of regulating horse racing on a national level. Meanwhile, the National Institute for Occupational Safety and Health within the federal Centers for Disease Control and Prevention investigated work-related hazards for jockeys and other employees – concerns raised at a U.S. House Energy and Commerce Subcommittee on Oversight and Investigations hearing in 2005.

Despite these efforts to address horse safety, breakdowns continued at an alarming rate. In 2012, *The New York Times* published a series of articles, *Breakdown: Death and Disarray at America's Racetracks*, raising a number of issues regarding the use of medications and injuries in the industry and the impact of gambling revenues on the use of injured horses in races. The series noted that, nationwide between 2009 and 2011, 6,600 horses broke down or showed signs of injury, while approximately 3,600 horses died racing or training at state-regulated tracks.

Enhanced Purses May Impact Safety

In Maryland, a portion of VLT revenues is directed to enhance purses with the goal of attracting higher-quality horses, drivers, and jockeys. Additionally, larger purses may expand fields and make the races more competitive, which in turn may attract more bettors to wager on the races. **Exhibit 3.1** highlights how purses have grown in Maryland since a portion of VLT revenues was earmarked for purse enhancement in fiscal 2011. From 2011 to 2012, total purses at Maryland racetracks increased by 36%.

Exhibit 3.1
Purses at Maryland Racetracks
Calendar 2011-2012

	<u>2011</u>	<u>2012</u>
Thoroughbred Tracks		
Laurel	\$19,589,605	\$26,589,170
Pimlico	6,812,980	8,603,875
Timonium	715,495	886,905
Harness Tracks		
Rosecroft	483,500	1,823,332
Ocean Downs	1,997,717	2,493,278
Total	\$29,599,297	\$40,396,560

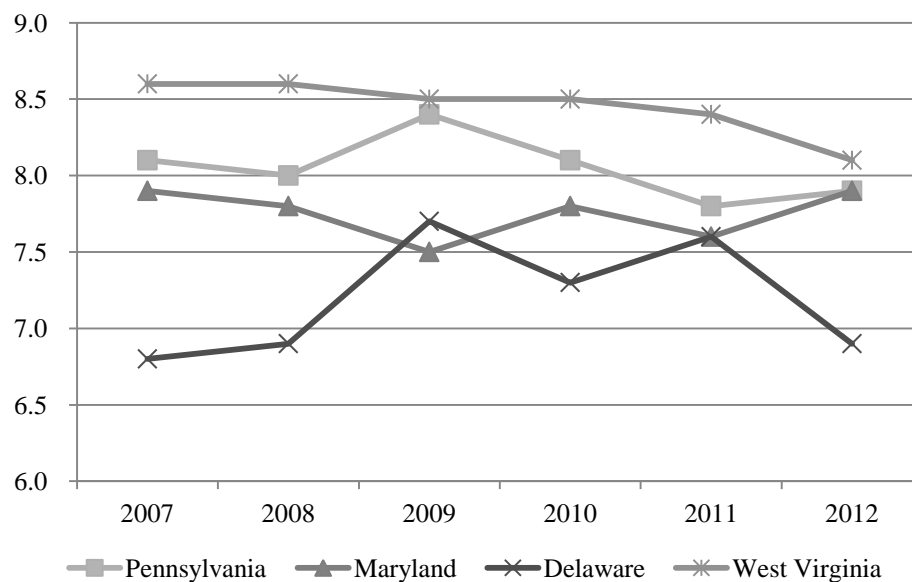
Purses for Rosecroft in 2011 were paid by the Maryland Standardbred Race Fund.

Source: State Racing Commission, Annual Reports

Larger Purses Increase Average Field Per Race, Average Number of Horses Racing Per Day, and Total Thoroughbred Races Per Day

Larger purses attract more horsemen to the State. As shown in **Exhibit 3.2**, larger purses in Maryland have caused the average field per race (the average number of horses that run in a race) to increase from 7.6 to 7.9, while the average field per race in Delaware and West Virginia has decreased from 7.6 to 6.9 and 8.4 to 8.1, respectively. VLT revenues have helped Maryland maintain an average field comparable to nearby states.

Exhibit 3.2
Average Field Per Race at Thoroughbred Tracks
Calendar 2007-2012



Source: New York Racing and Wagering Board Annual and Simulcast Reports

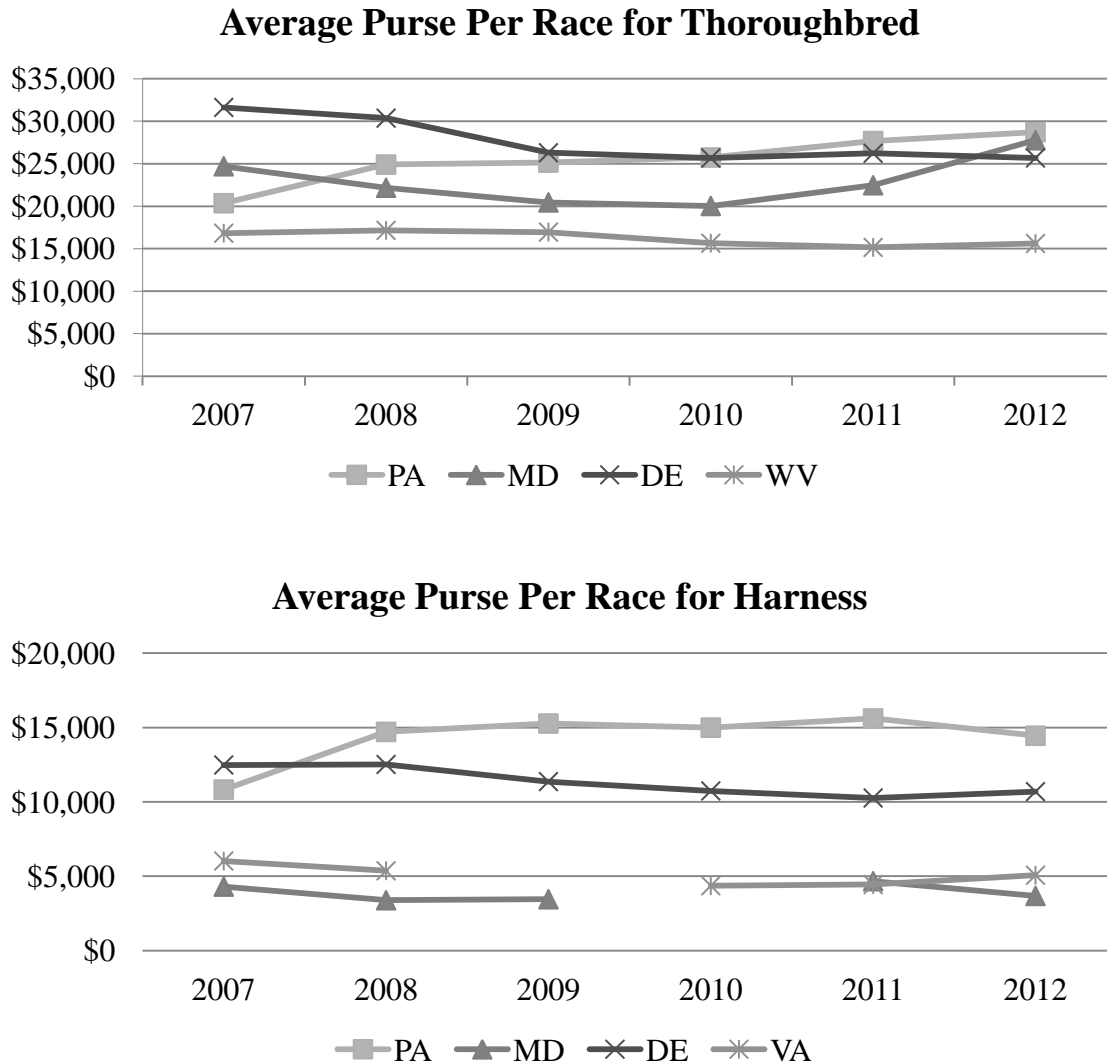
According to MRC, the average number of thoroughbred horses that race per day also increased from 69.9 in calendar 2011 to 73.7 in calendar 2012, a 5.4% increase. Similarly, the total number of thoroughbred races that were run in the State increased 3.7% during the same time period.

Thoroughbred Purses Are Competitive, While Harness Purses Lag Behind Other States

VLT revenues have helped Maryland remain competitive with neighboring thoroughbred tracks as **Exhibit 3.3** illustrates. With the recent expansion of casinos in Maryland and Pennsylvania, horsemen find purses to be more attractive in Maryland and Pennsylvania than Delaware and West Virginia. However, despite the Maryland harness racing industry receiving

VLT revenues, Maryland's average purse per race for harness races continues to lag behind neighboring states.

Exhibit 3.3



Note: Missing data points reflect years in which harness racing was not conducted.

Source: New York Racing and Wagering Board Annual and Simulcast Reports

Larger Purses May Be Problematic in Claiming Races

The purpose of increasing purses is to attract a larger field of horses that will allow a greater number of races and lead to greater public interest in the sport. However, despite these benefits, larger purses may have a negative impact on horse safety.

Higher purses from VLT revenues *may* be creating an incentive for trainers to race unfit horses. According to the national Jockey Club, the average purse per race in the United States has increased from \$9,530 in 1988 to \$25,014 in 2012. Walt Bogdanich explained in an interview to National Public Radio (NPR), “when you have a relatively cheap horse and a huge prize, the risk and reward gets out of balance. And if there’s little risk and a huge reward, owners are going to take chances that they otherwise wouldn’t do and end up putting rider and animal at risk.” As a result, horses have been referred to as “trading cards for people’s greed.” *The New York Times* series found that horses in claiming races are 22% more likely to break down or show signs of injury than horses in higher-grade races. This is problematic since claiming races account for almost 70% of American racing (and, according to MRC, as much as 80% or more in Maryland).

After a casino opened at Aqueduct Racetrack in New York in 2011, purses grew by about \$130,000 per day. At the same time, 30 horses died racing there, a 100% increase in the fatality rate compared to the prior year. Veterinary records showed that many of the euthanized horses repeatedly received pain medication prior to their breakdowns. Additionally, 19 of the 30 horse deaths occurred in races where the purse exceeded a horse’s value by more than 50%. Horses in a \$7,500 claiming race at Aqueduct were racing for a \$40,000 purse, which is more than three and a half times the American Association of Equine Practitioners’ recommended maximum of a 1.5 purse-to-claim-price ratio. Nationally, 57% of thoroughbred claiming races had purses that exceeded the horse’s value by more than 50%. For example, at Laurel Park, purses for \$5,000 claiming races were \$15,000 in 2013. While there is no evidence that high purses are creating an incentive in Maryland to race unfit horses at this time, it is a concern that MRC should follow closely as purses continue to rise from VLT revenues.

National Organizations and States Implement Horse Safety Measures

In response to increased breakdowns and *The New York Times* series, a number of national organizations and states began implementing additional safety measures. The National Thoroughbred Racing Association (NTRA) improved its examination and medical testing protocols. As of 2013, 22 racing facilities, including Pimlico, are fully accredited by NTRA’s Safety and Integrity Alliance. Laurel Park was previously accredited but is not accredited at this time.

The national Jockey Club stated in August 2013 that it will pay up to \$500,000 for out-of-competition drug testing over the next two years. The Jockey Club plans to build a national electronic database that will show the drugs and treatments that a horse receives. The database will be available to the public to encourage transparency. The Jockey Club hopes these efforts will curb cheating and drug use. The Jockey Club found that bettors wager less, by a margin of 9-to-1, when they suspect illegal drug use, so curbing drug use may not only improve the safety of horses, but also increase the handle.

New York Task Force Aggressively Addresses Horse Safety

Many states have also begun to address horse safety in racing. After Aqueduct experienced a large number of breakdowns, the Governor of New York appointed the New York Task Force on Racehorse Health and Safety to examine horse claiming rules, veterinary procedures, and drug use. The task force's investigation of Aqueduct found that some of the horses that experienced musculoskeletal fatalities were racing in claiming races with a purse-to-claim-price ratio of 5.3. In response to task force recommendations, New York created an Equine Medical Director position, prohibited certain medications, and created a hotline to allow jockeys to report horse health concerns anonymously. New York also established new rules for claiming races, which included voiding a claim if the claimed horse dies on the racetrack or dies within one hour of the conclusion of the race if the horse is removed from the track due to medical reasons during the race. The purse-to-claim-price ratio in New York is limited to no greater than 1.6 to 1, which is calculated when the value of the horse is approximately equal to the winner's share of the purse. Horse claimants must be notified within 48 hours if corticosteroids were administered to the claimed horse in the 30 days prior to the race. Furthermore, New York increased drug testing, pre- and post-race examinations, and necropsies (horse autopsies). New York has become aggressive in its efforts to address horse safety, and as a result, its rate of fatalities in 2013 of 1.1 per 1,000 starts was below the national average of 1.92 per 1,000 starts.

States Implement Mid-Atlantic Uniform Medication Program

In March 2013, eight states (Delaware, Massachusetts, Maryland, New Jersey, New York, Pennsylvania, Virginia, and West Virginia) agreed to implement the Mid-Atlantic Uniform Medication Program, a voluntary program headed by the Thoroughbred Horsemen's Association. The program, which will begin January 1, 2014, limits medication to only 24 medications to treat ill or injured racehorses. Only one medication, furosemide (Lasix), is permitted on race day. These states' testing laboratories must also be accredited by the Racing Medication and Testing Consortium (RMTTC) and uniformly test for banned substances. Arkansas, California, Illinois, and Kentucky are expected to adopt the uniform rules in 2014.

Although the Mid-Atlantic Uniform Medication Program was adopted by many states, the standardbred industry remains unhappy. The U.S. Trotting Association (USTA), the official national governing body of the standardbred industry, rejected the uniform medication standards on the basis that the physical differences between standardbreds and thoroughbreds warrant separate medication rules. One area that concerns USTA is the longer withdrawal time for the bronchodilator drug clenbuterol, which is administered for therapeutic reasons within two days after a standardbred race. Maryland standardbred industry representatives agree with USTA and want the Mid-Atlantic Uniform Medication Program to be applicable only to Maryland thoroughbred racing. The objections in some part stem from the fact that separate standardbred commissions in Pennsylvania and Delaware have not banned adjunct medications.

Federal legislation, the "Horseracing Integrity and Safety Act of 2013," was introduced in May 2013, which regulates the use of medication in race horses. The bill would create an independent anti-doping organization that would ensure the integrity and safety of horse races.

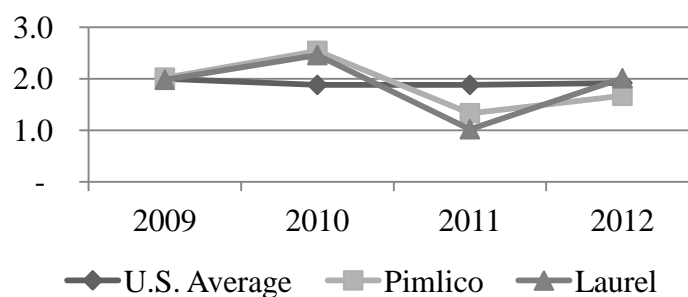
The bill would ban race-day medication, link medication policy to interstate simulcasts, enact stiff penalties for violators, and require race horse drug administration to comply with veterinary ethics. The bill was assigned to the House Energy and Commerce Committee, but no further action has been taken.

Maryland Generally Has Had a Good Safety Record

Maryland tracks have experienced their share of breakdowns, with 21 fatalities in 2012, compared to only 11 in 2011. Additionally, between January 9 and February 15, 2013, 10 horses broke down and were subsequently euthanized at Laurel Park. Of those 10 horses, 6 were participating in a \$5,000 claiming race. Seven of the horses were treated on race day with Lasix and adjunct medications, while the other 3 horses were treated only with Lasix on race day.

While Maryland has experienced an unusual number of breakdowns in 2013, it generally has had a lower incidence of breakdowns compared to other tracks. According to an analysis by *The New York Times* in 2012, the average number of breakdowns or signs of injuries for all tracks nationally was 5.2 incidents per 1,000 starts, but Laurel Park and Pimlico were below this average with only 3.5 and 3.8 incidents per 1,000 starts, respectively. The average fatality rate for racetracks participating in the Equine Injury Database was 1.92 per 1,000 starts, but for Pimlico the rate was only 1.67 per 1,000 starts in 2012. Laurel Park's rate was just above the average, with a rate of 2.01 per 1,000 starts. **Exhibit 3.4** shows the fatality rate at Pimlico and Laurel Park compared to the national average from 2009 to 2012.

Exhibit 3.4
Number of Fatalities per 1,000 Starts



Note: The increased rates in fatalities in 2010 are due to fewer starts, given the limited number of racing days, not a higher number of fatalities that year.

Source: The Jockey Club

Maryland Efforts to Enhance Horse Safety

In response to the recent breakdowns in Maryland, the State has taken actions to address horse racing safety. Outside of MRC, the Maryland Horse Council conducts an annual horse seminar and operates an Equine Health and Welfare Committee. Within MRC, thoroughbred riders have been required to wear safety vests in races at State tracks since 1994. More recently, in October 2007, MRC acted on the work of its Safety and Welfare Committee and approved the experimental use of 20 padded horse whips in races. MRC has also given preliminary approval to new toe-grab regulations that reflect safety measures followed across the country.

Exhibit 3.5 shows how Maryland addressed certain safety measures compared to states in the region *prior* to adopting the Mid-Atlantic Uniform Medication Program. As the chart illustrates, Maryland lagged behind other states on horse medication rules until recently.

Exhibit 3.5
Safety Measures in Place Prior to Adoption of the
Mid-Atlantic Uniform Medication Program

Safety Measure	MD	DE	PA	WV	NY	VA
Safety Vests	All mounted	All mounted	No regulation	Jockey only	All mounted	All mounted
Safety Helmets	All mounted	All mounted	Jockey and exercise persons	All mounted	All mounted	All mounted
Safety Crops	Padded safety crop (limited specification)	No regulation	Crop (limited specification)	Padded safety crop with specifications	Padded safety crop with specifications	Crop (limited specification)
Furosemide Administration	By private veterinarian	By official veterinarian	By association veterinarian at Penn National & by private veterinarian at Parx	By private veterinarian	By official veterinarian	By private veterinarian
Race-day Medications	Furosemide, aminocaproic acid, tranexamic acid, and carbazochrome	Furosemide and aminocaproic acid	Furosemide only	Furosemide only	Furosemide only	Furosemide, conjugated estrogens, aminocaproic acid, tranexamic acid, and carbazochrome
Nonsteroidal Anti-inflammatory Drugs (NSAIDs)	Does not specifically address multiple NSAIDs	Prohibits multiple NSAIDs	Prohibits multiple NSAIDs	Prohibits multiple NSAIDs	Does not specifically address multiple NSAIDs	Prohibits multiple NSAIDs

Source: Horse Racing Reform, Department of Legislative Services

Evolution of Race-day Medication Policy

Changing Maryland rules has not always been easy. In January 2008, MRC abandoned plans to join Delaware, Pennsylvania, and Virginia in implementing race-day testing and penalties for anabolic steroids. After groups representing horsemen cited unresolved concerns over the proposal, MRC decided to delay action until the completion of blood-plasma based research at Cornell University and the University of Florida. In August 2008, the American Graded Stakes Committee of the Thoroughbred Owners and Breeders Association declared that graded stakes races in states that did not adopt model guidelines developed by RMTC would lose their graded status. In September 2008, a board member of RMTC reported that the blood-plasma based research was still being conducted and that a completion date was not known. Later that month, given the new information, MRC reversed its decision and unanimously adopted emergency regulations to follow model guidelines and ban the use of anabolic steroids in racehorses beginning January 1, 2009. Maryland is now 1 of 15 major racing states that ban steroids.

Proactive Investigation of Breakdowns

MRC responded promptly after the spike in breakdowns at Laurel Park in the beginning of 2013. MRC's Safety and Welfare Committee, which was formed in June 2012, investigated the incidents by reviewing track conditions and maintenance procedures; interviewing veterinarians, jockeys, and trainers; and examining the medical history of the horses. While the committee could not determine the cause of the breakdowns, it made recommendations to MRC to further protect horses. These recommendations included adopting uniform medication guidelines, conducting scheduled meetings of the Safety and Welfare Committee to review each future breakdown of a horse, performing necropsies of each euthanized horse, and reviewing all racing procedures relative to other regional racing jurisdictions. Additionally, MRC veterinarians were instructed to expand their pre-race examinations so that their procedures are aligned with national regulatory and industry organizations.

Limits Placed on Claiming

In the past year, MRC has taken additional steps to address horse safety. Besides agreeing to the Mid-Atlantic Uniform Medication Program, MRC has implemented many safety regulations. MRC adopted a new regulation requiring claimed horses to start only in races worth at least 25% of the claiming price within the first 30 days after the horse has been claimed. This regulation is meant to prevent trainers from dropping a horse in class and running the horse quickly in order to receive a fast return on their investment. MRC now allows a horse that has not started for a minimum of 180 days to be exempted from being claimed if the horse races in a claiming race that is at least equal to the claiming price for which the horse last started. This regulation rewards horsemen who take their time in bringing a horse back from an injury. MRC also submitted proposed regulations, due to take effect December 1, 2013, that would void a claim if a horse is required to be euthanized immediately after a race. This is similar to the policy in place in New York. In addition to these claiming regulations, the Maryland Jockey Club has also agreed to fund a necropsy program.

MRC Plans to Close the State Laboratory to Ensure Testing Is Performed at an Accredited Facility

One of the requirements under the Mid-Atlantic Uniform Medication Program is to have an accredited laboratory perform drug testing. MRC's laboratory provides horse and human drug testing to protect the State, competing horsemen, and the wagering public. The laboratory is located within the Virginia-Maryland Regional College of Veterinary Medicine building at the University of Maryland, College Park.

The laboratory processes an average of 6,800 urine specimens and blood samples annually for both humans and horses. Of the samples processed, less than 1% have tested positive for banned substances. In 2011, those trainers that received positive results were either fined \$500 or received a written and verbal warning. In 2012, while most trainers with positive results received a warning or were fined \$500, one trainer was fined \$1,000 and another was disqualified and fined \$500.

MRC has operated a laboratory in Maryland for at least 50 years, and it has struggled to keep up with the pace of technological advancements and testing methodologies. The Maryland laboratory currently is not accredited, as will be required under the Mid-Atlantic Uniform Medication Program, and would incur significant costs to become accredited. Therefore, MRC plans to close the laboratory and instead use contractual services for all laboratory testing.

In October 2013, MRC sought requests for proposals from private companies to provide laboratory services. MRC received three bids and plans to select a company in November 2013. MRC should not incur any additional costs to contract with a laboratory that already has accreditation as such a contract should not cost more than continuing to provide the same services at the existing laboratory. The contracted laboratory will have upgraded its technology and its equipment to allow for different methods of screening. Additionally, the contracted laboratory will have a research component with the expectations of developing new methods for drug confirmations.

Strong Safety Program Now in Place

MRC implementation of safety rules and adopting the Mid-Atlantic Uniform Medication Program, puts the State in line with many of New York's safety task force recommendations and all key NTRA recommendations as shown in **Exhibit 3.6**. As Exhibit 3.6 illustrates, two areas where Maryland is not on par with leading safety policies adopted in New York are (1) having an Equine Medical Director and (2) establishing a maximum purse-to-claim-price ratio like New York.

Exhibit 3.6

Maryland's Implementation of Safety Measures Recommended by Industry Leaders

<u>Safety Measure Recommendations</u>	<u>Implemented in Maryland</u>
<i>National Thoroughbred Racing Association – Medication Rules, Penalties, and Laboratory Accreditation</i>	
Follow the Racing Commissioners International Schedule of Controlled Therapeutic Medications	✓
Provide enhanced penalties for individuals who accumulate multiple medication violations	✓
Furosemide (Lasix) is the only medication authorized on race day.	✓
Furosemide (Lasix) should only be administered by third-party veterinarians.	✓
A state's drug testing laboratory must be accredited.	✓
<i>New York Task Force on Racehorse Health and Safety</i>	
In the event of an increased occurrence of musculoskeletal injuries during a race meeting, the [State Racing] Commission should meet to review existing practices, develop strategies to reduce or mitigate injury occurrence, and enhance identification of horses for which intervention is warranted.	✓
The [State Racing] Commission should require a complete necropsy at a veterinary diagnostic laboratory of all horses fatally injured at state racetracks.	✓
A claim is voidable for a horse that breaks down on the track, within one hour of the race, at the discretion of the claimant.	✓
The purse-to-claim-price ratio should be no greater than 1.6, in which the value of the horse is approximately equal to the winner's share of the purse.	No
The laboratory testing process should be done by an accredited laboratory.	✓
The [State Racing] Commission should have an Equine Medical Director.	No
The [State Racing] Commission should have a Health and Safety Committee.	✓
Note: Maryland will be compliant with all of the National Thoroughbred Racing Association recommendations on medication rules, penalties, and laboratory accreditation under the Mid-Atlantic Uniform Medication Program, which takes effect January 1, 2014. Maryland's current laboratory is not accredited, but the State plans to contract laboratory services with an accredited facility.	

Source: New York Task Force on Racehorse Health and Safety, National Thoroughbred Racing Association, Department of Legislative Services

Options for Further Enhancements

While MRC has made great strides in addressing horse safety, Maryland could consider additional options to further enhance the health and safety of horses and jockeys in the State. MRC has already initiated efforts to add an additional investigator to ensure compliance at racetracks and implement electronic records for horse examinations and medications. Likewise, although MRC has taken regulatory action related to claiming races, it has not gone so far as to implement a purse-to-claim-price ratio. MRC has not yet been able to add an Equine Medical Director position.

Equine Medical Director Could Implement and Enforce Equine Testing and Drug Policies

MRC could benefit from an Equine Medical Director to ensure the recently stringent equine testing and drug policies are being abided by. This individual would provide MRC with an additional resource to further enhance the safety and welfare of the horses running races in Maryland, as well as providing the jockeys who ride these horses with the confidence that their horse has been observed to be sound enough to be competitive. An Equine Medical Director would be responsible not only for the safety and welfare of the horses participating in a race but would also be responsible for reviewing and making recommendations to MRC that could modify medication policies and procedures. As MRC moves forward into a comprehensive and ever-changing world of sample analysis and detection technology of complex drugs and medications used in horse racing, an Equine Medical Director could provide valuable oversight, direction, and advice. Employing an Equine Medical Director would put Maryland on par with other racing states, such as New York, California, Louisiana, and Kentucky, which employ an Equine Medical Director. **Recommendation 2: MRC should pursue hiring an Equine Medical Director to implement and enforce equine testing and drug policies.**

Maryland Could Establish a Maximum Purse-to-claim-price Ratio

The American Association of Equine Practitioners recommends that no claiming race should have a purse that exceeds the claiming price by more than 50%. The New York Task Force on Racehorse Health and Safety recommended that the purse-to-claim-price ratio should be no greater than 1.6, in which the value of the horse is approximately equal to the winner's share of the purse. As discussed above, MRC has already adopted several regulations governing claiming races that are intended to protect the health and safety of horses and jockeys. MRC indicates that these regulations may be sufficient to enhance safety. **Recommendation 3: MRC should carefully monitor the impact of recently adopted claiming regulations. If additional safety measures are warranted, MRC should consider adoption of a maximum purse-to-claim-price ratio.**

Additional Investigator Could Conduct Barn Searches and Investigations

MRC has been approved to hire a second contractual investigator position to inspect barn areas, conduct barn searches, and perform investigations as requested. Additionally, the investigator will write reports and assist with random human drug testing. A second investigator is greatly needed because, with only one investigator, it is extremely difficult to conduct barn searches and perform drug testing. Employing a second investigator should allow MRC to carry out its oversight of the thoroughbred racing industry more effectively. **Recommendation 4: MRC should move forward with plans to hire a second investigator to further enhance oversight at racetracks.**

Electronic Records Could Increase Efficiency of Horse Examinations and Medication Monitoring

The national Jockey Club Thoroughbred Safety Committee recommends that all racing regulatory authorities enhance rules to mandate centralized electronic storage of all medication treatment and procedure records pertaining to horses conducting official workouts and racing. Centralized electronic storage of treatment records will assist in investigative and analytical efforts by regulatory authorities.

Currently, pre-race veterinary examination results are handwritten on paper, which is inefficient and outdated. MRC plans to implement the InCompass Pre-Race Veterinary Exam software. The software allows examining veterinarians to track the progress of a horse throughout its racing career and share information with other jurisdictions. The system populates the screens with the races for the day and allows for entry of veterinary examination data. By using a tablet PC for data entry, all manual written examination information is eliminated. The InCompass software provides a history on each horse so a veterinarian will be able to determine if an ailment is new and should be watched carefully or is an old injury that has had no ill effect on the horse in the past. Racing and workout history is also provided to assist in making race-day decisions on whether to allow a horse to run or not. MRC recently purchased two tablets so the software can be easily implemented. The software is free to any jurisdiction that agrees to share its pre-race exam data with association and regulatory veterinarians at other tracks that are using the system. With the sharing of information, the national Thoroughbred Safety Committee believes the insights about the particular traits, behaviors, and histories of race horses gained through the software will be invaluable to the health and safety of the horse and rider. **Recommendation 5: MRC should move forward with implementation of the InCompass software system to enhance the efficiency of pre-race veterinary examinations and further enhance horse and jockey safety.**

Jockeys Are Covered by the Maryland Jockey Injury Compensation Fund

MRC manages the Maryland Jockey Injury Compensation Fund (MJICF), which was established in 1986. The purpose of the fund is to purchase a blanket workers' compensation

insurance policy for all jockeys licensed by MRC and participating at Maryland racetracks. MJICF only covers licensed jockeys and does not include coverage for trainers, who are required to be covered by private workers' compensation insurance. Other states that provide workers' compensation coverage to jockeys include New York, New Jersey, California, and Colorado, but Maryland was the first to provide such coverage for jockeys.

Fortunately, Maryland has not experienced many serious jockey injuries. As shown in **Exhibit 3.7**, there has been an average of 17.7 jockey injuries annually for which claims were submitted to MJICF since 2008, with a low of 13 in 2013 and a high of 27 in 2010. Many claims are very small, some as little as a few hundred dollars, though others are closer to \$5,000. Nine claims since 2008 have exceeded \$50,000, including a few claims as high as \$181,000. Most of the higher claims result from jockeys being dismounted by horses. Though not all cases have been closed for calendar 2013, both the number and total amount of expenses paid appear to have dropped significantly over prior years.

Exhibit 3.7
Maryland Jockey Injury Compensation Fund: Claims Experience
Calendar 2008-2013

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Total Claims	15	17	27	17	17	13
Compensation Expenses	\$161,371	\$250,570	\$216,496	\$69,617	\$109,870	\$3,479
Medical Expenses	125,260	77,942	325,755	54,255	58,090	6,175
Total Expenses	\$286,631	\$328,512	\$542,251	\$123,872	\$167,960	\$9,654
Cases with Total Expenses Paid > \$50,000	2	3	3	0	1	*

Note: Claims experience represents expenses paid and not the total amount of expenses incurred or reserves held.

* Some cases from 2013 are still open; therefore, total expenses paid cannot be calculated.

Source: Claims loss run reports, AIF and Chesapeake Employers' Insurance Company

Chesapeake Employers' Insurance Company, formerly called the Injured Workers' Insurance Fund (IWIF), underwrites the coverage and is the only company that submitted a quote for 2013 to MRC despite efforts to seek additional quotes. While MRC has had several companies inquire about MJICF, these companies lost interest in providing coverage upon learning the loss exposure for the fund. **Exhibit 3.8** shows the total cost of coverage for the fund for calendar 2003 through 2014.

As Exhibit 3.8 illustrates, premium costs have significantly increased in recent years but will drop to \$1.2 million in calendar 2014. AIG underwrote the program from 2009 through 2011. When AIG ceased coverage at the end of 2011, Chesapeake Employers began covering the fund as a provider of last resort, and the cost of coverage increased over 200% from 2011 to 2012.

The rising cost of coverage is not correlated with the number of licensed jockeys, which has remained relatively stable at an average of 50 to 60 licensed jockeys covered per year. According to MRC, the cost is instead associated with the payroll of jockeys. VLT revenues have caused purses to grow, leading to jockeys earning more than they did prior to the influx of VLT revenues. Since jockeys are earning more, it costs more to insure them since coverage provides a percentage of lost wages when a jockey is injured. From 2008 through 2013, 56% of claims expenses comprise compensation expenses paid to injured jockeys.

Exhibit 3.8
Total Cost of Coverage for Workers' Compensation Coverage of Jockeys
Calendar 2003-2014

2003	\$586,640
2004	611,533
2005	655,311
2006	741,868
2007	977,423
2008	723,852
2009	476,211
2010	404,954
2011	508,182
2012	1,544,304
2013	1,648,613
2014	1,200,000*

*Estimated cost of coverage.

Source: Maryland Racing Commission Annual Reports and Meeting Minutes

Additionally, premiums are based in part on the number of claims received on a three-year rolling average. Since Chesapeake Employers took over the fund, the company has implemented safety requirements, such as not allowing a jockey to ride until the jockey is no longer injured. Consequently, Chesapeake Employers began to see losses decrease. With MRC implementing many new safety measures in 2013, MRC expects an even steeper decline in accidents and, thus, losses. As such, policy costs may decline in the near future. The policy costs decreased by \$0.4 million from 2013 to 2014 as a result of fewer jockey injuries.

To fund coverage, MRC must assess each licensed owner and trainer of a thoroughbred horse an amount sufficient to pay the cost of workers' compensation insurance. The assessment per licensee for 2012 was \$100. For 2013, the Maryland Thoroughbred Horsemen's Association (MTHA) agreed to provide up to \$1.4 million for the premium costs so that MRC could keep the assessment at \$100. MTHA has been subsidizing the costs of coverage for the past several years. Without such subsidy, the assessment would be between \$600 and \$700 per licensee annually. MRC is concerned about the rising cost of coverage. However, with Chesapeake Employers being the only company willing to provide coverage, little can be done to curb costs except to continue to try to prevent jockey injuries.

MRC Has Been Proactive in Addressing Safety Concerns

Horse racing is a dangerous sport with breakdowns occurring occasionally. While Maryland has fewer breakdowns on average than most states, safety is still a concern. Both nationally and in Maryland, these concerns are being addressed by implementing stringent horse medication and safety reforms. Though Maryland has made great progress in addressing horse safety, further improvements are mostly limited by resource constraints. Even so, MRC is hiring a second investigator and implementing the InCompass software system for pre-race veterinary examinations. Furthermore, premiums for workers' compensation coverage for jockeys have increased tremendously in recent years due to increased purses and higher jockey incomes. While MTHA has subsidized coverage to keep licensee assessments low, MRC should continue to monitor the cost of coverage, seek quotes from additional carriers, and work to continue enhancing horse and jockey safety to reduce these costs.

Chapter 4. The Commission's Regulatory Role

In recent years, the State Racing Commission (MRC) has become increasingly active in light of the changing horse racing industry, taking a prominent role in addressing concerns about horse breakdowns and the health and safety of horses and jockeys as well as adjusting to the new flow of video lottery terminal (VLT) revenues to aid the industry. This chapter explores the regulatory activities of the commission, describes how MRC is funded, and makes recommendations about the future funding of the Division of Racing.

MRC Licenses or Registers All Racing Industry Participants

MRC issues licenses and registrations to individuals employed at or connected with the racetracks. Racing industry participants licensed by the commission include the racetrack association, horse owners, trainers, jockeys, veterinarians, farriers (individuals who shoe horses), stable employees, track employees, and mutuel (betting) employees. Off-track betting (OTB) facility owners must also be licensed. Registrations include authorized agents (individuals who claim horses on behalf of potential owners) and corporate or stable names.

Licensees must meet general requirements (financial responsibility, employer endorsement, and absence of a criminal record). Trainers, jockeys, and farriers must pass a standard examination that demonstrates their professional abilities. The State Board of Veterinary Medical Examiners also must approve veterinarians. The only requirement for registration is that the appropriate fees be paid to MRC. The commission may refuse to renew a license or may suspend or revoke a license if it finds that the holder, applicant, or any partner or associate of the applicant has been convicted of a crime, violated any rule of racing adopted by MRC, was denied a license in another state, or had a license suspended or revoked by another state.

After a Decline, Licenses and Registrations Are Rebounding

As shown in **Exhibit 4.1**, MRC issued 6,816 licenses and 855 registrations in 2012 (a combined total of 7,671). **Appendices 7** and **8** provide more information on the number of licenses issued by position within the thoroughbred and harness industries. Consistent with other aspects of racing, the total number of licenses issued declined by 23.3% from 2008 to 2010. Since that time, with the influx of VLT revenues, this trend has reversed, and the number of both thoroughbred and harness licenses has begun to increase. Though the number of registrations issued has varied widely, more were issued in 2012 than in any other year. According to MRC, this reflects a growing number of corporations in racing, which seek authorized agent registrations to allow multiple individuals to claim horses. Increased licenses and registrations likely reflect greater interest in racing due to VLT revenue-enhanced purses. Higher purses mean more horses racing, greater numbers of individuals to train and care for horses, more claiming, and more stables interested in racing in Maryland.

Exhibit 4.1
Summary of Licensing and Registration Activity
Calendar 2008-2012

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
<u>Licenses Issued</u>					
Thoroughbred	5,482	5,206	4,971	5,193	5,305
Harness	1,824	1,304	630	1,210	1,511
Total	7,306	6,510	5,601	6,403	6,816
<u>Registrations Issued</u>					
Thoroughbred	415	341	740	428	785
Harness	56	52	25	58	70
Total	471	393	765	486	855
<u>Revenue from Licenses and Registrations</u>					
Thoroughbred	\$140,855	\$128,195	\$161,505	\$140,660	\$170,490
Harness	57,550	44,275	12,745	52,135	52,060
Total	\$198,405	\$172,470	\$174,250	\$192,795	\$222,550

Source: State Racing Commission, Annual Reports

Revenues from the commission's licensing and registration activities generated \$222,550 in calendar 2012. These revenues accrue to the general fund. Increased revenues represent the overall increase in licenses and registrations stemming from greater interest in racing. As **Exhibit 4.2** shows, annual license and registration fees range from \$5 to \$50.

Exhibit 4.2

Annual License and Registration Fees

<u>License</u>	<u>Annual Fee</u>
Racetrack association	\$25 (per racing day)
Satellite simulcast permit fee	500
Original owner, original trainer (thoroughbred), track manager (harness)	50
Renewal owner, renewal trainer (thoroughbred), trainer (harness), assistant trainer (thoroughbred), jockey, apprentice jockey, jockey agent, driver, or veterinarian	25
Farrier	10
Pari-mutuel employee, stable employee, track employee, exercise rider (thoroughbred), or vendor	5
<u>Registration</u>	
Authorized Agent	10
Corporate or stable name	75

Source: Code of Maryland Regulations 09.10.01.25 and 09.10.02.19

License and Registration Fees Have Not Been Increased in Years

License and registration fees, which are set in regulation, have not been increased since the 1980s. One explanation for not increasing fees may have been the general decline in Maryland racing. Another explanation may be that any revenues generated by the fees do not benefit MRC or the industry and instead accrue to the general fund. With the infusion of VLT revenues for purses, financial conditions for licensees are expected to improve.

MRC Staff Monitors Racing Conduct and Takes Disciplinary Action

In addition to issuing licenses and registrations, MRC stewards and judges monitor the conduct of races, as well as behavior at racetracks, and take disciplinary actions when warranted. Examples include horses bumping each other during a race or jockeys or drivers failing to hold their line during a race, which may result in disqualification. In addition, getting a horse late to the paddock prior to a race or fights among track employees may result in a fine or suspension from the track. Parties may appeal the decisions of stewards and judges to MRC. In 2012, the commission issued 235 rulings on matters relating to the rules of thoroughbred racing and 38 rulings on matters relating to the rules of harness racing, which constituted a 50% increase in

thoroughbred rulings from 2011 and a slight decline in harness racing rulings (down from 40 in 2011). This increase may largely reflect an increase in the number of racing days.

The Commission Has Not Had a Deputy Director Since 2009, But Current Activity May Justify Replacement

Statute provides for the staff of MRC, including an executive director. The executive director serves at the pleasure of the Secretary of Labor, Licensing, and Regulation and is responsible for:

- keeping the records and papers of the commission;
- administering the licensing of individuals connected with racing;
- maintaining the daily operations of the commission; and
- preparing, issuing, and submitting commission reports.

A total of 20 personnel work in the Division of Racing, including 4 at the commission offices and 16 harness judges, racing stewards, chemists, veterinarians, and support staff under racetrack operations. An executive director must have extensive knowledge of racing to be effective and serve MRC well. The current executive director was appointed in 2001 and, prior to that, served as the deputy director for many years. Since 2001, the deputy director position has been filled sporadically and has gone unfilled since 2009. The position has since been eliminated.

Though the absence of a deputy director has not yet hindered the commission, given the increased activity of MRC and changes in the racing industry, MRC indicates that a deputy director is again necessary to assist with complicated administrative tasks. Furthermore, a deputy director would allow for continuity of staff, which is vital for the regulation of such a complicated industry. **Recommendation 6: The Department of Labor, Licensing, and Regulation (DLLR) should work with the Department of Budget and Management to obtain an additional position for the division to enable replacement of the deputy director position.**

General Fund Support of Division of Racing Operations Should Be Reexamined

MRC is one of two budgeted programs in the Division of Racing along with Racetrack Operation Reimbursement. Division operations are generally supported with general funds. MRC administrative expenses are expected to be \$421,401 in fiscal 2014 and have remained in the \$400,000 range since fiscal 2011. Racetrack Operation Reimbursement expenditures, which

fund MRC-related operations at racetracks, are anticipated to total \$2.1 million in fiscal 2014. This figure includes \$1.6 million in general funds and \$511,497 in special funds (laboratory fee reimbursement). In addition to the general funds that support operations, significant special fund expenditures (and corresponding revenues) flow through the division's budget. However, these funds represent VLT proceeds earmarked for racing (\$42.3 million in fiscal 2014) and racing revenues (\$850,000 in fiscal 2014), which are budgeted through the division but not used to support the division. **Exhibit 4.3** shows general fund, special fund, and total expenditures for the division for fiscal 2010 through 2014.

Exhibit 4.3
Division of Racing Expenditures
Fiscal 2010-2014

	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>
<u>GF Expenditures</u>					
Racing Commission	\$525,099	\$413,356	\$398,236	\$401,404	\$421,401
Racetrack Operation					
Reimbursement	1,396,315	1,402,872	1,484,313	1,374,481	1,571,107
<i>Total GF Expenditures</i>	<i>1,921,414</i>	<i>1,816,228</i>	<i>1,882,549</i>	<i>1,775,885</i>	<i>1,992,508</i>
<u>SF Expenditures</u>					
Racing Commission	621,234	9,328,038	14,577,719	37,575,113	43,129,974
Racetrack Operation	489,561	462,154	501,861	493,286	511,497
Reimbursement					
Local Subdivisions	407,278	700,926	0	0	0
<i>Total SF Expenditures</i>	<i>1,518,073</i>	<i>10,491,118</i>	<i>15,079,580</i>	<i>38,068,399</i>	<i>43,641,471</i>
Total Expenditures	\$3,439,487	\$12,307,346	\$16,962,129	\$39,844,284	\$45,633,979

Note: GF = general fund, SF = special fund. Fiscal 2014 expenditures are estimated. General fund expenditures are used to support division operations (in addition to a small amount of special funds for racetrack operation reimbursement attained from laboratory fee reimbursement). All other special funds are merely budgeted through, but not retained by, the division.

Source: Maryland Governor's Budget Books

Special Fund Revenues Flow through the Division But Do Not Support Commission Operations and Are No Longer Sufficient to Meet Mandated Grants

The special funds that pass through the division come from two major sources: VLT revenues to aid the industry and the Horse Racing Special Fund. Revenues to the Horse Racing Special Fund come from several sources. Racing licensees (the racetracks) are required to pay a racing tax on the total amount of bets (the handle) wagered on horse races. The revenue from this racing tax, along with daily license fees (a fee paid for each day of live racing), uncashed pari-mutuel tickets, and other racing-related fees, is credited to the fund. These special fund revenues are targeted toward specific purposes – including the State and county agricultural fairs,

4H clubs, the Maryland Million, the Standardbred Sire Stakes, and impact aid to various jurisdictions affected by racing. After all mandated grants are fulfilled and the impact aid is distributed, any remaining funds are divided between the Maryland-Bred Race Fund, the Maryland Standardbred Race Fund, and the Maryland Agricultural Education and Rural Development Assistance Fund (MAERDAF). **Exhibit 4.4** shows racing revenue sources and the statutorily mandated distribution of those revenues for fiscal 2010 through 2014. In recent years, special fund revenues have been insufficient to meet mandated grant amounts.

Exhibit 4.4
Racing Revenue Sources and Distributions
Fiscal 2010-2014

	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>
<u>Sources of Revenue</u>					
Racing Taxes*	\$1,059,472	\$907,639	\$924,032	\$900,000	\$1,000,000
Daily Track Licensing Fees*	30,775	21,200	26,375	21,200	21,650
Occupational Licensing Fees	189,140	196,774	235,276	180,000	200,000
Impact Fund*	351,000	351,000	346,000	351,000	351,000
Uncashed Pari-mutuels*	1,650,065	1,513,815	1,121,346	1,388,800	1,500,000
State Lab Service Fees	489,561	462,155	501,861	493,286	511,497
Fair Hill	15,601	16,015	13,479	15,000	15,000
Total Revenues	\$3,785,614	\$3,468,598	\$3,168,369	\$3,349,286	\$3,599,147
<u>Distribution of Revenue</u>					
Grants	\$2,035,770	\$2,108,743	\$2,310,000	\$2,310,000	\$2,310,000
Impact Aid	\$407,278	\$684,912	\$0	\$0	\$1,251,800
Revenue Shortfall					(689,150)
<u>Other</u>					
Fair Hill Improvement Fund	\$15,601	\$16,015	\$13,479	\$15,000	\$15,000
Track Operations	489,561	462,155	501,861	493,286	511,497
Maryland-Bred Race Fund	-	-	40,407	131,626	-
Maryland Standardbred Race Fund	-	-	17,317	56,410	-
Maryland Agricultural Education And Rural Development Assistance Fund	-	-	50,028	162,964	-
Transfer to General Fund	648,264	-	-	-	-
Occupational License Fees (to general fund)	189,140	196,774	235,276	180,000	200,000
Total Distributions	\$3,785,614	\$3,468,599	\$3,168,368	\$3,349,286	\$3,599,147

* Racing Special Fund Revenue

Note: 2013 and 2014 revenues are estimates.

Source: Maryland Governor's Budget Books

As discussed earlier, horse racing impact aid consists of grants to counties and municipalities that contain or are located close to thoroughbred racetracks. The aid has been in place since 1975 and is derived, in part, from revenues from the racing tax. The amounts granted to each jurisdiction are mandated by statute and are largely based on the number of racing days held each year. Due to a significant decline in wagering, revenues have been in considerable decline over the last few years. In fact, revenues have been insufficient to fulfill the expected allocations and other mandated uses. As shown in Exhibit 4.4, since fiscal 2011, no impact aid has been paid from the special fund. For fiscal 2014, mandates from the fund totaled \$3.6 million; however, expected revenues for fiscal 2014 are only \$2.9 million, leaving an anticipated shortfall of \$689,140. The Budget Reconciliation and Financing Act of 2013 (BRFA) authorized local impact aid grants to be proportionately reduced in order to match existing revenues. Since fiscal 2011, no impact aid has been paid from the special fund. It is anticipated that there will be no payment for the *full* amount of impact aid and no funds for the bred funds or MAERDAF.

Under VLT legislation, many local jurisdictions are or will soon be receiving local impact aid for video lottery facilities. Several of these jurisdictions are the same as those that receive horse racing impact aid. **Exhibit 4.5** shows horse racing impact aid (both the mandated amount and the proposed proportionate reduction under the BRFA of 2013) and the anticipated amount of VLT local impact aid by jurisdiction for fiscal 2014.

Exhibit 4.5
Horse Racing and VLT Impact Aid to Local Jurisdictions
Fiscal 2014

	Horse Racing Impact Aid		VLT Impact Aid
	<u>Mandate</u>	<u>BRFA of 2013</u>	<u>Estimated</u>
Allegany	-	-	\$874,235
Anne Arundel County	339,000	152,371	20,925,933
Baltimore County	50,000	22,474	-
Cecil County	-	-	3,195,335
Howard County	84,750	38,093	-
Prince George's County*	100,000	44,947	1,000,000
Worcester County	-	-	2,371,798
Baltimore City**	609,000	273,729	5,104,966
Bowie	18,200	8,180	-
Laurel	50,850	22,856	-
Total	\$1,251,800	\$562,650	\$33,472,267

* Prince George's County receives \$1.0 million annually for public safety projects within five miles of Rosecroft Raceway. The county will receive additional VLT impact aid in future years once the Prince George's video lottery facility is opened, which is anticipated to occur in fiscal 2017.

** Baltimore City receives VLT impact aid for the Pimlico Community Redevelopment Authority (\$5.1 million in 2014) but will receive additional VLT impact aid once the Baltimore City video lottery facility opens, which is anticipated to occur in fiscal 2015.

Source: Governor's Budget Book, Fiscal 2014, Department of Legislative Services

Given that attendance has significantly declined at Maryland racetracks since horse racing impact aid was instituted in the 1970s, special fund revenues have not been sufficient to cover the full amount of impact aid in recent years, and significant new VLT impact aid revenues are available to most of the jurisdictions impacted by racing, repeal of horse racing local impact aid may be a viable option for reducing expenditures from the special fund. Elimination of local impact aid would reduce mandated special fund expenditures by \$1.3 million in fiscal 2014 (\$562,650 as authorized under the BRFA of 2013). **The General Assembly should consider eliminating horse racing local impact aid.**

In Light of Increased Activity, Division May Be Underfunded

As the racing industry has changed in recent years, MRC has grown more active and there is no indication that this increased regulatory activity will be curtailed. The industry has seen significant changes, including VLT revenues for purses and facility renewal, restrictions on medications, new claiming regulations and other rules to improve horse and jockey safety, and brokered agreements among racing's various stakeholders. Yet in recent years, the budget for the division has been relatively consistent as shown in Exhibit 4.3. It is questionable, given all that MRC is involved with, whether existing resources for the division are sufficient to effectively regulate the industry.

As detailed in Chapter 3, MRC has been particularly active regarding horse and jockey safety, including agreeing to the Mid-Atlantic Uniform Medication Program. Because of MRC's recent actions, the division will require additional resources to effectively implement recently approved regulations, including an Equine Medical Director and a second investigator. In addition, MRC indicates that it would like to regain its deputy director position.

Division staff estimates that the cost to implement recent safety-related regulations and to hire a deputy director is approximately \$253,000, which includes the cost of one additional veterinarian (to serve as an Equine Medical Director), one additional contractual investigator, and one deputy director. The fiscal 2014 budget for division operations is \$2.5 million. Therefore, the division would require about \$2.76 million to enhance its regulation of the industry. **DLLR and MRC should work to ensure that the division has the resources it needs to effectively regulate the racing industry, particularly given the recent actions taken by MRC regarding the health and safety of horses and jockeys.**

Special Funding Options for Consideration

Typically, State regulatory entities are funded by the regulated industry. Examples of this include the Public Service Commission, the Maryland Insurance Administration, the Health Services Cost Review Commission, the Maryland Health Care Commission, most health occupations boards, and several DLLR business occupations boards. In contrast, the division, which oversees a significant Maryland industry, is instead mostly supported with general funds.

As shown in **Exhibit 4.6**, annual general fund expenditures to support the division are just under \$2.0 million. These expenditures are slightly offset by the licensing and registration fees collected by MRC, which accrue to the general fund, resulting in a net cost to the general

fund of \$1.8 million in fiscal 2014. Thus, changing the funding source of the division from general to special funds would reduce general fund expenditures by approximately \$1.8 million and not subject the division to the occasional constraints of the general fund as it regulates a complicated and sometimes contentious industry.

Exhibit 4.6
General Fund Impact of the Division of Racing
Fiscal 2014

	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>
General Fund Expenditures					
Racing Commission	\$525,099	\$413,356	\$398,236	\$401,404	\$421,401
Racetrack Operations	1,396,315	1,402,872	1,484,313	1,374,481	1,571,107
Total	\$1,921,414	\$1,816,228	\$1,882,549	\$1,775,885	\$1,992,508
General Fund Revenues					
Licensing and Registration Fees	189,140	196,774	235,276	180,000	200,000
Net to General Fund	(\$1,732,274)	(\$1,619,444)	(\$1,647,273)	(\$1,595,885)	(\$1,792,508)

Note: 2013 and 2014 figures are estimates.

Source: Maryland Governor's Budget Books

The division could be special funded by creating a new State Racing Commission Special Fund. However, with removal of a general fund appropriation, the division would require a dedicated source of revenues, presumably from the industry, to cover operational expenses. A few such funding options are discussed below.

Allow MRC to Retain Licensing and Registration Fee Revenues

Existing licensing and registration fees – that currently accrue to the general fund – represent the most apparent source for such revenues. As discussed earlier, revenues from these fees are projected to be \$200,000 in fiscal 2014. Current fees are generally low and have not been raised since the 1980s. As the financial status of the industry appears to be headed in a positive direction with the addition of VLT revenues, there is room to increase the fees to provide additional funding to cover the operational expenses of MRC. Doubling the current fees would generate a total of approximately \$400,000; however, it might not be reasonable for the fees to be raised enough to cover the entire operational cost of the division. Thus, additional sources of funding would likely be required.

Divert a Portion of VLT Revenues Designated for Purses

Administrative expenses for the State Lottery and Gaming Control Agency are funded using a portion of VLT revenues. The State could take a similar approach and direct a portion of VLT revenues designated for purses (before distribution to the purse accounts) to fund the operational expenses of the division. As discussed in Chapter 2, an estimated \$42.3 million is earmarked for the Purse Dedication Account in fiscal 2014, and this figure is expected to increase to \$85.0 million by fiscal 2018. Using a small portion of this funding for division operations would directly reduce the amount of VLT revenues available for purses. However, even using up to \$2.0 million in VLT revenues dedicated to purses represents less than 5% of fiscal 2014 funding and 2.5% of fiscal 2018 funding for this purpose.

Increase the Racing Tax

The current racing tax is set in statute at 0.32% of the handle (the total amount of bets) and is expected to generate about \$1.0 million in fiscal 2014. The current racing tax was set by the General Assembly in 2000 when it was reduced from 0.5%. Raising the tax to the pre-2000 level of 0.5% would raise an additional \$560,000. However, increasing the racing tax would reduce the revenues available to all racing interests from pari-mutuel wagering, including the licensees, purses, and the bettors. The industry, however, is expected to receive ultimately around \$85 million in VLT revenues for purses and millions more for racing facility renewal projects. Any increase in the racing tax or fees to fund the division would likely be offset by benefits to the industry and the confidence all industry participants, including bettors, would then have in Maryland racing. In addition, the division would continue to have revenue-raising authority on its own through regulatory licensing fees to cover contingencies.

Conclusion

To special fund the division, the General Assembly could consider a combination of the options discussed above including allowing MRC to retain licensing and registration fees, increasing licensing and registration fees to provide additional revenues, dedicating a portion of VLT revenues earmarked for purse enhancement, and increasing the racing tax. **Exhibit 4.7** shows the amount of revenues from these potential sources. Some combination of these options would produce sufficient funds to cover current operational expenses for the division (estimated at \$2.5 million for fiscal 2014) and provide supplemental funding to allow MRC to further enhance its regulatory activities through hiring of an Equine Medical Director, backstretch investigator, and a deputy director. These additional expenses are estimated to cost \$253,000 annually. Thus, a total of \$2.76 million will be required annually to fully special fund the division. Fully special funding the division will reduce general fund expenditures by approximately \$1.8 million annually.

Exhibit 4.7
Summary of Potential Revenue Options
to Special Fund the Division of Racing

<u>Revenue Option</u>	<u>Estimated Annual Amount</u>
Retain Licensing and Registration Fees	\$200,000
Double Licensing and Registration Fees ¹	200,000
Dedicate a Portion of VLT Revenues Available for Purse Enhancement	*
Increase the Racing Tax to 0.5%	560,000

¹Licensing fees could be increased by a greater amount.

* A total of \$42.3 million is dedicated to purse enhancement in fiscal 2014.

Source: Department of Legislative Services

Recommendation 7: Statute should be amended to (1) establish a State Racing Commission Special Fund to fund the Division of Racing and (2) authorize current revenues from licensing and registration fees to accrue to that fund. The General Assembly should determine additional revenue sources to fully support the operations of the division through the fund.

Recommendation 8: MRC should conduct an analysis of current licensing and registration fees to determine the appropriate level of such fees. If the General Assembly elects to special fund the division, MRC should promulgate regulations to increase licensing and registration fees to help support division operations.

Chapter 5. The Future of Racing and the Maryland Racing Commission

Nationwide, with some exceptions, horse racing is under duress. Common concerns include an aging fan base, a shortage of horses, and other gambling or entertainment options. Horse racing's biggest events, the Triple Crown and the Breeders' Cup, have maintained their popularity, and pari-mutuel wagering on these races has not suffered. Overall, however, pari-mutuel wagering on live racing keeps decreasing from year to year. This decline has been offset somewhat by alternative wagering mechanisms, including simulcasting, off-track betting, and telephone accounts.

Several years ago, the Maryland horse racing industry was in serious condition; only with occasional State support and the Preakness Stakes was Maryland racing enduring. In addition, neighboring states that designated significant video lottery terminal (VLT) revenues for racing purses and bred funds also presented a significant problem for Maryland racing. Racing in Maryland, however, is a tradition that dates back to the late 1700s, and the Preakness is one of the premier thoroughbred horse races in the world. Now VLT revenues are increasing purses and are expected to help Maryland's tracks to rebuild and modernize their facilities. Many industry representatives and Maryland Racing Commission (MRC) commissioners contacted by the Department of Legislative Services (DLS) expressed optimism or guarded optimism for the future of racing in Maryland. Factors that could impede racing in Maryland include dissolution of the recent cooperation in the thoroughbred industry, loss of national interest in the sport, and the decision on whether Rosecroft is maintained as a standardbred racing facility by Penn National Gaming.

Racing in Maryland is highly regulated, and MRC has broad regulatory authority over it. In such a complex sport, with large sums of money at stake, there is potential for unscrupulous behavior. Therefore, racing across the nation is one of the oldest regulated activities. In Maryland, MRC maintains the public trust in racing; oversees the conduct of pari-mutuel wagering; and helps to make the sport as safe as possible for the horse, jockey, and all participants. MRC has been applauded by the media for its quick response to horse safety concerns, and the racing industry in Maryland has not experienced major problems regarding horse breakdowns as have other states. Likewise, DLS found that MRC has taken its regulatory role seriously, using a proactive approach to address health and safety concerns and broker stakeholder interests.

In summary, based on observations and analysis conducted for this report, DLS has already made eight recommendations intended to support MRC's ongoing regulation of Maryland's horse racing industry. Most of those recommendations relate to ensuring appropriate resources and providing additional safeguards for horses and jockeys.

DLS makes a final recommendation: as long as there is a racetrack operating in Maryland, the laws that govern racing and that established MRC should continue.

Recommendation 9: Statute should be amended to extend the termination date for MRC, its two advisory committees, and the laws regulating racing to July 1, 2024. MRC and the racing industry should also remain subject to periodic evaluation under the Maryland Program Evaluation Act with a preliminary evaluation scheduled for 2021.

Appendix 1. Racetrack Descriptions

Thoroughbred Tracks

Laurel Park: The racetrack is located in Anne Arundel County, 20 miles from Baltimore, 20 miles from Washington, DC, and 12 miles from the Baltimore/Washington International Airport. The facility has a 7/8-mile turf track and a 1-1/8-mile dirt track. In 2012, total attendance at the track was 429,114, and the total handle was \$99,296,799.

Pimlico Race Course: The racetrack is located in Baltimore City and Baltimore County, 40 miles from Washington, DC and 12 miles from the Baltimore/Washington International Airport. The facility has a 1-mile main track and a 7/8-mile turf track. In 2012, total attendance at the track was 300,056, and the total handle was \$57,255,862.

Timonium: The racetrack is located in Baltimore County, 14 miles from Baltimore City and 15 miles from the Baltimore/Washington International Airport. The facility has a 5/8-mile track. Timonium conducts live racing during the Maryland State Fair. In 2012, Timonium held 7 days of live racing. Total attendance at the track was 18,118, and the total handle was \$1,329,343.

Harness Tracks

Rosecroft Raceway: The track is located in Prince George's County, 5 miles from Washington, DC and 7 miles from Reagan National Airport. The facility has a 5/8-mile track. In 2012, admission was free so there was no attendance number, and the total handle was \$19,668,504.

Ocean Downs Raceway: The racetrack is located in Worcester County, 5 miles from Ocean City. The facility has a 1/2-mile track. In 2012, total attendance at the track was 46,843, and the total handle was \$10,286,838.

Source: State Racing Commission, Annual Reports

Appendix 2. Annual Attendance at Maryland Racetracks 2008-2012

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Laurel	595,036	550,511	\$547,024	521,765	429,114
Pimlico	455,069	370,896	330,242	312,533	300,056
Timonium	23,022	22,591	22,287	17,389	18,118
Rosecroft	216,921	135,138	31,956	-	-
Ocean Downs	220,133	117,372	37,256	77,466	47,300
Fair Hill	14,500	15,250	14,000	-	-
Total	1,524,681	1,211,758	982,765	929,153	794,588

Attendance for Rosecroft in 2010 is for simulcast wagering only, and it was closed during 2011. For 2012, admission was free at Rosecroft; thus, there are no attendance numbers available.

Source: State Racing Commission, Annual Reports

Appendix 3. Racing Days at Maryland Racetracks

	Thoroughbred Racing Days		Harness Racing Days		Total Racing Days		
	<u>Live</u>	<u>Simulcast Only</u>	<u>Live</u>	<u>Simulcast Only</u>	<u>Live</u>	<u>Simulcast Only</u>	<u>Live & Simulcast</u>
2007	187	114	136	585	323	699	1,022
2008	173	130	83	644	256	774	1,030
2009	153	138	46	692	199	830	1,029
2010	147	143	4	529	151	672	823
2011	151	116	57	433	208	549	757
2012	151	325	98	619	249	944	1,193

Source: State Racing Commission, Annual Reports

Appendix 4. Amounts Wagered at Maryland Satellite Simulcast Betting Facilities (Calendar 2012)

	<u>NorthEast</u>	<u>Riverboat</u>
Maryland Thoroughbred Races	\$637,254	\$295,166
Maryland Harness Races	-	133
Out-of-state Races	6,829,874	4,118,06
Total	\$7,467,128	\$4,413,367

Source: State Racing Commission, 2012 Annual Report

Appendix 5. Maryland Gaming

The State of Maryland has authorized six video lottery operation licenses in Baltimore City and Allegany, Anne Arundel, Cecil, Prince George's, and Worcester counties with a maximum number of 16,500 video lottery terminals (VLTs) allotted in the State. Licensees are also authorized to have table games with approval of the State Lottery and Gaming Control Commission.

VLT Law

VLT gambling in Maryland was authorized by Chapter 4 (SB 3) and Chapter 5 (HB 4) of the 2007 special session. Chapter 5 was a constitutional amendment approved by the voters at the November 2008 general election that also authorized the expansion of gambling subject to specified restrictions. After November 15, 2008, the General Assembly may only authorize additional forms or expansion of gaming if approved through a referendum by a majority of voters in a general election. Chapter 4, which was contingent on ratification of Chapter 5, established the operational and regulatory framework for the VLT program. The Video Lottery Facility Location Commission (Location Commission) was established in the law to solicit and evaluate proposals for, and award, video lottery operation licenses.

Chapter 4 specified geographic locations and VLT allocations for five authorized video lottery facilities in Allegany (1,500 VLTs), Anne Arundel (4,750 VLTs), Cecil (2,500 VLTs), and Worcester (2,500 VLTs) counties and Baltimore City (3,750 VLTs).

During the 2012 second special session, the General Assembly adopted Chapter 1 (SB 1), which was approved by voter referendum at the November 2012 general election. Among its provisions, Chapter 1 authorizes a sixth video lottery operation license to be awarded for a video lottery facility to operate a maximum of 3,000 VLTs at a location in Prince George's County within a four-mile radius of the intersection of Bock Road and St. Barnabas Road. VLT operations may not begin at the Prince George's County facility until the earlier of July 1, 2016, or 30 months after the VLT facility in Baltimore City is open to the public.

Chapter 1 also authorized video lottery operation licensees to operate table games, with the approval of the State Lottery and Gaming Control Commission (SLGCC, previously the State Lottery Commission). Video lottery facilities were also authorized to remain open to the public 24 hours per day, seven days per week.

VLT Implementation

The first video lottery operation licenses were awarded by the Location Commission in fall 2009. Penn Cecil, in Cecil County, opened in September 2010 with 1,500 VLTs, and Ocean Downs, in Worcester County, opened in January 2011 and is currently operating 800 VLTs.

Power Plant Entertainment (PPE) Casino Resorts, LLC operates approximately 4,300 VLTs in a facility adjacent to Arundel Mills Mall in Anne Arundel County that opened on June 6, 2012.

On April 26, 2012, Evitts Resort, LLC (Evitts) was awarded a video lottery operation license to own and operate a video lottery facility adjacent to the existing lodge at the Rocky Gap Lodge and Resort, contingent on a number of actions by Evitts and others. However, Evitts was subsequently granted approval from the Location Commission to instead design, build, and operate a facility with 550 VLTs in the existing lodge conference and meeting space, assuming certain contingencies are met. The facility opened in May 2013.

On July 31, 2012, the Location Commission awarded a video lottery operation license to CBAC Gaming, LLC for a facility in Baltimore City. The facility is expected to open in mid-2014 with 2,500 VLTs.

On January 31, 2013, the Location Commission approved a Request for Proposals for the video lottery operation license in Prince George's County, and received three bids in May 2013. The Location Commission is expected to select a bid by December 2013 with the facility likely opening in 2016.

Distribution of VLT Proceeds

Under Chapter 4 of the 2007 special session and Chapter 1 of the 2012 second special session, gross VLT proceeds are distributed as follows from the proceeds of VLTs at each facility until a license is issued for the Prince George's County facility:

- Business Investment – 1.5% to a small, minority, and woman-owned business investment account;
- Lottery (Administration) – 2% to the State lottery for administrative costs, with other costs provided for in the State budget;
- Local Government Impact Grants – 5.5% to local governments in which a video lottery facility is operating, 18% of which would go for 20 years (starting in fiscal 2012 and ending in fiscal 2032) to Baltimore City through the Pimlico Community Development Authority and to Prince George's County for the community surrounding Rosecroft (\$1 million annually), except that the 18% dedication does not apply to Allegany, Cecil, and Worcester county facilities upon issuance of the Baltimore City license (described further below);
- Purse Dedication Account (PDA) – 7% to a PDA to enhance horse racing purses and funds for the horse breeding industry, not to exceed \$100 million annually;
- Racetrack Facility Renewal Account (RFRA) – 1.75% (except for the Allegany County facility) beginning October 1, 2012 (previously 2.5%), for a 16-year period to the RFRA, not to exceed \$20 million annually, until the VLT license for Baltimore City is issued, after which time the percentage is reduced to 1.0%;

- Licensee (Operator) – no more than 33% to video lottery operation licensees, except the Allegany (50% for the first 10 years) and Worcester (43%, effective July 1, 2013) licensees and as described below; and
- Education Trust Fund (ETF) – remainder to the ETF (49.25%-52.0%).

Beginning April 1, 2015, licensees are responsible for purchasing or leasing VLTs and the associated equipment and software instead of the State (except the Allegany and Worcester county facilities, which may request to purchase/lease machines), with compensation of 6% of VLT proceeds to the Baltimore City and Cecil County licensees and 8% to the Anne Arundel County licensee.

Upon the issuance of a Prince George's County video lottery operation license, the licensee in Baltimore City will receive an additional 7% of VLT revenues and the Anne Arundel County licensee will receive an additional 8% of VLT revenues at the facility for (1) required marketing, advertising, and promotional costs or (2) capital improvements at the video lottery facility. SLGCC may further increase this distribution to the Baltimore City and Anne Arundel County licensees by up to three and two percentage points, respectively; however if the Anne Arundel County licensee receives an additional adjustment, the Baltimore City licensee must receive at least the same additional percentage point increase. The commission may also provide an adjustment of up to 5% of VLT revenues to the Cecil County licensee from proceeds at that facility for marketing, advertising, and promotional costs or for capital improvements. Any adjustment(s) must be preceded by a specified report from SLGCC to the Governor and the General Assembly regarding the implications of the adjustment, must be determined by January 1, 2019, and may not take effect until the Prince George's County video lottery operation license is issued and no earlier than July 1, 2019.

Also upon the issuance of the Prince George's County license, Chapter 1 reduces from 7% to 6% of VLT revenues the distribution to PDA.

Chapter 1 specifies that, once a Baltimore City license is issued, of the revenues dedicated to local impact grants, 100% of the local impact grants from the proceeds of the video lottery facilities in Allegany, Cecil, and Worcester counties must be distributed to those jurisdictions. Chapter 1 also specifies that, once a Prince George's County license is issued, of the revenues dedicated to local impact grants, \$200,000 is distributed annually to Allegany and Worcester counties, \$130,000 is distributed to Cecil County, and \$70,000 is distributed to the Town of Perryville. Chapter 1 also extended the 18% distribution of local impact grants provided to Baltimore City and Prince George's County through fiscal 2032.

Beginning July 1, 2013, the licensee in Worcester County receives 43% of revenues generated at the facility, if the facility has less than 1,000 VLTs and the equivalent of 2.5% of the facility's proceeds are spent each year on capital improvements at the facility. Under previous law, the licensee share of 50% for the Allegany County video lottery facility is reduced to 33% of proceeds after 10 years of operations. Chapter 1 specifies that the operator share for the Allegany County facility will be 50% after 1 year of operations and meeting a 0.5% annual capital investment requirement; after 10 years of operations, the operator share will be 43% if a 2.5% capital investment requirement is met.

Ownership and Leasing of VLTs

Under Chapter 1, the Baltimore City and Prince George's County facility operators will own or lease VLTs at their respective facilities and SLGCC retains responsibility for ownership or leasing of VLTs and associated equipment at the video lottery facilities in Allegany and Worcester counties. However, the facilities in Allegany and Worcester counties may apply to SLGCC for permission to assume ownership or the right to lease each VLT used by the facility. For the existing facilities in Anne Arundel and Cecil counties, the licensees will own or lease the machines beginning April 1, 2015, after the State's master contract with VLT manufacturers expires on March 31, 2015. The savings to the State from requiring video lottery facilities to own or lease VLTs must be appropriated to ETF.

Upon assuming ownership of VLTs, the Anne Arundel County licensee receives an additional 8% of VLT revenues at the facility and the licensees in Baltimore City, Cecil County, and Prince George's County receive an additional 6% of VLT revenues from their facilities. Beginning April 1, 2015, Chapter 1 also reduces from 2% to 1% of VLT revenues the distribution to the State Lottery and Gaming Control Agency (SLGCA) for administrative costs associated with the VLT program (except for Allegany County).

Table Games

Chapter 1 of the 2012 second special session requires SLGCC to allow the holder of a video lottery operation license to offer specified table games and requires SLGCC to regulate table game operations. Prior to the issuance of a Prince George's County video lottery operation license, 80% of table game revenues are distributed to licensees and 20% of table game revenues are distributed to ETF. Upon issuance of a Prince George's County license, licensees continue to receive 80% of table game revenues, 15% is distributed to ETF, and 5% is distributed to local jurisdictions where a video lottery facility is located. Proceeds distributed to Baltimore City must be used equally to fund school construction projects and for the maintenance, operation, and construction of recreational facilities.

The State is prohibited from charging a table game *license* fee. However, SLGCC *may* establish an annual fee for each table game, capped at \$500 per table, to benefit the Problem Gambling Fund. SLGCC has adopted regulations that set the fee at \$500.

Authorized table games are defined as:

- roulette, baccarat, blackjack, craps, big six wheel, minibaccarat, poker, pai gow poker, and sic bo – or any variation and composites of these games; and
- gaming tournaments in which players compete against one another in one or more of the games previously described.

SLGCC may determine the suitability of any composites or variations of authorized table games, as well as additional games, after an appropriate test or experimental period as determined by the commission. SLGCC may, through regulations, define and limit the method of operation, type, and number of table games. SLGCC regulations must also establish procedures for accounting for money exchanged at table games and for the removal of VLTs (including the number that may be removed) to accommodate table games. The bill also defines “table game equipment” and adjusts the definition of “manufacturer” to include manufacturers of table games and related equipment.

VLT and Table Game Revenues

The estimated revenues from VLTs and table games in fiscal 2014 through 2018 are shown in **Exhibit 1**. In total, \$743.5 million in gross gaming revenues is projected in fiscal 2014, including \$340.3 million to be distributed to ETF. Revenues from VLTs and table games in fiscal 2013 totaled \$608.3 million, with \$39.1 million going to the Purse Dedication Account and \$10.8 million going to the Racetrack Facility Renewal Account.

Exhibit 1
Distribution of Estimated VLT and Table Game Revenues in Maryland
(\$ in Millions)

	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>
VLTs					
Education Trust Fund (ETF)	\$296.9	\$477.7	\$484.0	\$534.3	\$561.1
Lottery Operations	12.3	18.1	11.4	14.0	14.6
Purse Dedication Account	42.3	71.0	76.2	81.1	85.0
Racetrack Renewal Account	10.4	10.1	10.8	13.4	14.0
Local Impact Grants	33.4	56.0	60.1	74.4	78.0
Business Investment	9.1	15.3	16.4	20.3	21.3
Licensees	212.2	382.0	448.3	630.7	659.9
Total VLTs	\$616.6	\$1,030.1	\$1,107.2	\$1,368.2	\$1,434.0
Table Games					
Anne Arundel	\$108.4	\$123.0	\$127.4	\$107.1	\$107.7
Baltimore City	-	78.9	91.0	89.9	91.4
Cecil	11.5	11.5	11.5	11.5	11.5
Worcester	5.5	5.7	6.0	6.2	6.5
Allegany	1.5	1.9	2.2	2.3	2.4
Prince George's	-	-	-	102.7	115.6
Total Table Games	\$126.9	\$221.1	\$238.1	\$319.8	\$335.1
Table Games					
Education Trust Fund	\$25.4	\$44.2	\$47.6	\$48.0	\$50.3
Local Impact Grants	-	-	-	15.9	16.8
Licensee	101.5	176.8	190.5	255.9	268.1
Total Table Games	\$126.9	\$221.1	\$238.1	\$319.8	\$335.1
Total VLT and Table Games	\$743.5	\$1,251.2	\$1,345.3	\$1,688.0	\$1,769.1
Total Education Trust Fund*	\$340.3	\$521.9	\$531.6	\$582.4	\$611.4
VLT Lease Savings to ETF			\$34.4	\$59.1	\$57.7

*Fiscal 2014 includes \$18 million in initial license fees for Prince George's license.

Source: Department of Legislative Services

Appendix 6. Division of Racing Fiscal History

Fiscal 2009-2014

	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
Authorized Positions						
Racing Commission	5.00	5.00	4.00	4.00	4.00	4.00
Racetrack Operation						
Reimbursement	10.00	9.00	9.00	9.00	6.00	6.00
Contractual Positions						
Racing Commission	0	0	0	0	0	0
Racetrack Operation						
Reimbursement	9.8	4.94	4.66	10.7	5.72	10.06
General Fund Expenditures						
Racing Commission	\$531,951	\$525,099	\$413,356	\$398,236	\$401,404	\$421,401
Racetrack Operation						
Reimbursement	1,629,537	1,396,315	1,402,872	1,484,313	1,374,481	1,571,107
Total	\$2,161,488	\$1,921,414	\$1,816,228	\$1,882,549	\$1,775,885	\$1,992,508
Special Fund Expenditures						
Racing Commission	\$937,860	\$621,234	\$9,328,038	\$14,577,719	\$37,575,113	\$43,129,974
Racetrack Operation						
Reimbursement	547,875	489,561	462,154	501,861	493,286	511,497
Local Subdivisions	1,205,600	407,278	700,926	-	-	-
Total	\$2,691,335	\$1,518,073	\$10,491,118	\$15,079,580	\$38,068,399	\$43,641,471
Total Expenditures	\$4,852,823	\$3,439,487	\$12,307,346	\$16,962,129	\$39,844,284	\$45,633,979
Special Fund Revenues						
Racing Commission	\$937,860	\$621,234	\$9,328,038	\$14,577,719	\$37,575,113	\$43,129,974
Racetrack Operation						
Reimbursement	547,875	489,561	462,154	501,861	493,286	511,497
Local Subdivisions	1,205,600	407,278	700,926	-	-	-
Total	\$2,691,335	\$1,518,073	\$10,491,118	\$15,079,580	\$38,068,399	\$43,641,471

Notes: 2013 and 2014 expenditures are the appropriations for those years.
2013 and 2014 revenues are estimates.
Increases in special fund revenues and expenditures for fiscal 2011 and on reflect pass-through VLT revenues.
The State Racing Commission is housed within the Division of Racing and is one of two budgeted programs for the division. The other budgeted program is Racetrack Operation Reimbursement.

Source: Maryland Governor's Budget Books, Fiscal 2010 through 2014

Appendix 7. Thoroughbred Licensing Summary

Calendar 2008-2012

Owners					
Original	451	393	514	517	567
Renewal	1,739	1,551	1,523	1,495	15,18
Trainers					
Original	46	64	66	71	70
Renewal	202	190	218	211	238
Assistant Trainers	102	123	105	91	130
Owner/Trainers	339	315	315	352	338
Jockeys	199	212	215	233	234
Apprentice Jockeys	41	35	32	41	45
Jockey Agents	27	31	23	23	28
Veterinarians	27	26	20	23	22
Farriers	34	36	34	33	33
Stable Employees	1,043	973	842	877	896
Track Employees	372	356	268	370	358
Exercise Riders	257	246	218	218	219
Mutuel Employees	450	511	474	506	475
Vendors	153	144	104	132	134
Total	5482	5,206	4,971	5193	5305

Source: State Racing Commission, Annual Reports

Appendix 8. Harness Racing Licensing Summary

Calendar 2008-2012

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Owners					
Original	142	123	18	238	186
Renewal	629	404	140	420	479
Trainers					
Original	13	2	2	11	5
Renewal	75	41	16	62	75
Drivers	36	36	18	39	40
Trainer/Drivers	52	51	10	42	42
Owner/Trainers	184	168	27	189	179
Owner/Trainer/Drivers	158	117	21	131	115
Owner/Drivers	20	13	3	17	19
Veterinarians	10	8	6	6	6
Farriers	3	1	-	-	1
Stable Employees	247	164	189	8	252
Track Employees	143	88	103	24	47
Mutuel Employees	93	82	72	22	50
Vendors	19	6	5	1	15
Total	1,824	1,304	630	1,210	1,511

Source: State Racing Commission, Annual Reports

Appendix 9. Written Comments of the Maryland Racing Commission

December 18, 2013

Warren G. Deschenaux Director
Department of Legislative Services
Office of Policy Analysis
Maryland General Assembly
90 State Circle\Annapolis, Maryland 21401-1991

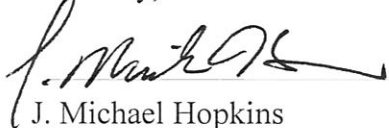
RE: Maryland Racing Commission Sunset Review

Dear Mr. Deschenaux:

I am pleased to present this response to you on behalf of the Department of Labor, Licensing and Regulation and the Maryland Racing Commission regarding the draft sunset and review report sent to us for comment. We have had several discussions with your staff about the draft report and are pleased to inform you that we have no comment on the report other than its content has been reviewed and correctly stated and that we concur with the recommendations.

It has been a pleasure working with Mr. David Smulski, Ms. Jennifer Chassie and Ms. Heather Ruby. If you have any questions or comments please do not hesitate to contact me at any time.

Sincerely,



J. Michael Hopkins
Executive Director

cc: Leonard Howie, III, Secretary
Scott Jensen, Deputy Secretary
Bruce Quade, Chairman

Appendix 10. Draft Legislation

This draft legislation implements the statutory recommendations of this report, including establishing a State Racing Commission Fund. While the fund retains revenues from commission licensing and renewal fees, that source is not sufficient to fully capitalize the special fund. Two additional options for supporting the special fund are presented in Chapter 4 of this report (see page 42).

Bill No.: _____

Requested: _____

Committee: _____

Drafted by: Chasse

Typed by: Carol

Stored – 12/17/13

Proofread by ☒ _____Checked by ☒ _____By: **Leave Blank**

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Horse Racing Act – Sunset Extension and Program Evaluation**

3 FOR the purpose of clarifying the authority of the State Racing Commission to set
 4 certain fees for certain services; requiring the Comptroller to distribute certain
 5 fees to a certain special fund; establishing a State Racing Commission Fund;
 6 stating the purpose of the Fund; requiring the executive director of the State
 7 Racing Commission to administer the Fund; providing that the Fund is a
 8 special, nonlapsing fund; requiring the State Treasurer to hold the Fund
 9 separately and invest the money of the Fund; requiring the Comptroller to
 10 account for the Fund; adding the Fund to the list of exceptions to the
 11 requirement that the earnings of special funds accrue to the General Fund;
 12 extending the date on which the Maryland Horse Racing Act terminates;
 13 requiring that an evaluation in accordance with the Maryland Program
 14 Evaluation Act (sunset law) be made of the State Racing Commission, the
 15 Maryland-Bred Race Fund Advisory Committee, and the Maryland
 16 Standardbred Race Fund Advisory Committee and the related statutes and
 17 regulations on or before a certain date; and generally relating to the Maryland
 18 Horse Racing Act and the establishment of a State Racing Commission Fund.

19 BY adding to

20 Article – Business Regulation

21 Section 11-207.1 and 11-210(c)

 EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2010 Replacement Volume and 2013 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article – Business Regulation
5 Section 11–1101
6 Annotated Code of Maryland
7 (2010 Replacement Volume and 2013 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article – Business Regulation
10 Section 11–1102
11 Annotated Code of Maryland
12 (2010 Replacement Volume and 2013 Supplement)

13 BY repealing and reenacting, without amendments,
14 Article – State Finance and Procurement
15 Section 6–226(a)(2)(i)
16 Annotated Code of Maryland
17 (2009 Replacement Volume and 2013 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – State Finance and Procurement
20 Section 6–226(a)(2)(ii)76. and 77.
21 Annotated Code of Maryland
22 (2009 Replacement Volume and 2013 Supplement)

23 BY adding to
24 Article – State Finance and Procurement
25 Section 6–226(a)(2)(ii)78.
26 Annotated Code of Maryland
27 (2009 Replacement Volume and 2013 Supplement)

28 BY repealing and reenacting, without amendments,
29 Article – State Government
30 Section 8–403(a)
31 Annotated Code of Maryland
32 (2009 Replacement Volume and 2013 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article – State Government
3 Section 8–403(b)(34), (47), and (53)
4 Annotated Code of Maryland
5 (2009 Replacement Volume and 2013 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article – Business Regulation**

9 **11–207.1.**

10 (A) IN THIS SECTION, “FUND” MEANS THE STATE RACING COMMISSION
11 FUND.

12 (B) THERE IS A STATE RACING COMMISSION FUND.

13 (C) THE PURPOSE OF THE FUND IS TO COVER THE ACTUAL
14 DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY
15 AND REGULATORY DUTIES OF THE COMMISSION AS PROVIDED UNDER THIS
16 TITLE.

17 (D) THE EXECUTIVE DIRECTOR OF THE COMMISSION SHALL
18 ADMINISTER THE FUND.

19 (E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
20 SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

21 (2) ANY UNSPENT PORTIONS OF THE FUND MAY NOT BE
22 TRANSFERRED OR REVERT TO THE GENERAL FUND OF THE STATE, BUT SHALL
23 REMAIN IN THE FUND TO BE USED FOR THE PURPOSES SPECIFIED IN THIS
24 TITLE.

25 (3) THE STATE TREASURER SHALL HOLD THE FUND
26 SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF:

(1) FEE REVENUE DISTRIBUTED TO THE FUND UNDER § 11-210(C) OF THIS SUBTITLE;

(2) INVESTMENT EARNINGS;

(3) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;
AND

(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.

(G) THE FUND MAY BE USED ONLY FOR THE ACTUAL DOCUMENTED DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY DUTIES OF THE COMMISSION AS PROVIDED UNDER THIS TITLE.

(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE FUND.

11-210.

(C) (1) EXCEPT FOR THE FEES SPECIFICALLY SET BY THIS TITLE, THE COMMISSION MAY SET REASONABLE FEES FOR THE ISSUANCE AND RENEWAL OF LICENSES AND FOR PROVIDING THE COMMISSION'S OTHER SERVICES.

(2) (I) THE COMMISSION SHALL PAY ANY FEES COLLECTED UNDER THIS SECTION TO THE COMPTROLLER.

(II) THE COMPTROLLER SHALL DISTRIBUTE THE FEES RECEIVED FROM THE COMMISSION TO THE STATE RACING COMMISSION FUND ESTABLISHED UNDER § 11-207.1 OF THIS SUBTITLE.

11-1101.

This title is the Maryland Horse Racing Act.

11–1102.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate on July 1, [2014] **2024**.

Article – State Finance and Procurement

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

76. the Baltimore City Public School Construction Financing Fund; [and]

77. the Spay/Neuter Fund; AND

78. THE STATE RACING COMMISSION FUND.

Article – State Government

8–403.

(a) On or before December 15 of the evaluation year specified, the Department shall:

(1) conduct a preliminary evaluation of each governmental activity or unit to be evaluated under this section; and

1 (2) prepare a report on each preliminary evaluation conducted.

2 (b) Each of the following governmental activities or units and the statutes
3 and regulations that relate to the governmental activities or units are subject to
4 preliminary evaluation in the evaluation year specified:

5 (34) Maryland–Bred Race Fund Advisory Committee (§ 11–531 of the
6 Business Regulation Article: [2011] **2021**);

7 (47) Racing Commission, State (§ 11–201 of the Business Regulation
8 Article: [2011] **2021**);

9 (53) Standardbred Race Fund Advisory Committee, Maryland (§
10 11–625 of the Business Regulation Article: [2011] **2021**);

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 July 1, 2014.