

Preliminary Evaluation of the State Racing Commission, Maryland-Bred Race Fund Advisory Committee, and Standardbred Race Fund Advisory Committee

Recommendations: Waive from Full Evaluation at This Time

Require Full Evaluation on or before July 1, 2013

Extend Termination Date by Three Years to July 1, 2014

The 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 agencies according to a statutory schedule as part of sunset review. The review process begins with a preliminary evaluation conducted on behalf of the Legislative Policy Committee (LPC). 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.

The State Racing Commission and its two bred fund advisory committees last underwent a full evaluation as part of sunset review during 1999. The commission and advisory committees were authorized for another 10 years, with a termination date of July 1, 2011.

Department of Legislative Services staff undertook several research activities as part of this evaluation. Specifically, DLS reviewed applicable State laws and regulations, previous evaluations of the commission and other studies related to horse racing in Maryland, national literature, commission meeting minutes, annual reports, and other documents obtained from the commission. DLS also examined budgetary data; attended monthly commission meetings; conducted telephone interviews with three commissioners, including the chairman; had in-person and telephone discussions with the commission’s executive director; and visited commission offices and toured racing facilities.

The State Racing Commission and bred fund advisory committees reviewed a draft of this preliminary 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.

The Maryland Horse Racing Industry

In Maryland, pari-mutuel wagering is permitted on thoroughbred, standardbred (harness), and steeplechase races. Maryland has two mile-thoroughbred race tracks: 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 Magna Entertainment Corporation. Magna Entertainment acquired a controlling interest in MJC in 2002 and exercised an option to acquire the remaining interest in MJC in November 2007. In addition to races held at Laurel Park and Pimlico Race Course, special thoroughbred racing is held during the Maryland State Fair in Timonium. The Allegany Racing Association was issued a mile-thoroughbred track license in 2001 for a track in Allegany County; however, a track is yet to be built.

Maryland has two harness race tracks: Rosecroft Raceway in Prince George's County and Ocean Downs in Worcester County. Rosecroft Raceway is owned by Cloverleaf Enterprises, Inc., a subsidiary of the Cloverleaf Standardbred Owner's Association. 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 several off-track betting facilities (OTBs). Maryland has four OTBs: the Cracked Claw in Frederick County, NorthEast Racing and Sports Club in Cecil County, the Cambridge Turf Club in Dorchester County, and the Riverboat on the Potomac in Charles County. See **Appendices 1** through **4** for additional information on Maryland's race tracks and OTBs.

Betting on out-of-state races now accounts for a significant majority of all wagering conducted at State tracks. As **Exhibit 1** shows, simulcast betting on out-of-state races accounted for 84 percent of all betting at Maryland's thoroughbred and harness tracks during 2007.

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. The commission adopted regulations authorizing telephone account betting systems in 2000.

Exhibit 1
Wagering at Maryland Race Tracks
Calendar 2007

<u>Track</u>	<u>Total Betting at Track</u>	<u>Betting on Out-of-state Races</u>	<u>Percentage of Total Wagering on Out-of-state Races</u>
Laurel	\$153,482,531	\$127,312,028	83%
Pimlico	103,862,604	84,131,719	81%
Timonium	2,084,295	885,211	42%
Rosecroft	97,478,956	88,680,723	91%
Ocean Downs	20,147,163	16,674,221	83%
Total	\$377,055,549	\$317,683,902	84%

Source: State Racing Commission, 2007 Annual Report

Racing licensees are required to pay taxes on the total amount of bets wagered. The revenue from racing taxes, along with license fees, certain uncashed pari-mutuel tickets, and other racing related fees, is credited to a horse racing special fund. Money in the special fund is used to pay several statutory grants and to provide impact aid to certain local governments. At the end of each fiscal year, any money remaining in the special fund is distributed to the Maryland Agricultural Education and Rural Development Assistance Fund (MAERDAF), the Maryland-Bred Race Fund, and the Standardbred Race Fund.

Legislative Efforts to Help Maryland's Horse Racing Industry

The Maryland horse racing industry continues to face significant competition. Over the years, the industry's share of the legal gambling dollar has declined due to increased competition from state lotteries, casinos, slot machines, and card games. Maryland's horse racing industry also faces increased competition from tracks in neighboring states. The introduction of slot machine gambling in Delaware, West Virginia, and Pennsylvania, with a dedicated portion of the proceeds going to the respective state's horse racing industry, has resulted in significant increases in purse and bred fund amounts in those states. These measures have bolstered horse racing in neighboring states, which has led to increased pressure on Maryland's horse racing industry to stay competitive.

To help Maryland's horse racing industry compete with increased race purses in neighboring states, the General Assembly has, on occasion, provided funding to supplement purses in the State. In theory increased purses attract higher-quality horses, which aid the industry by increasing attendance and the betting activity on races.

In 1997 the General Assembly provided \$5 million in purse supplements from lottery revenues that would have otherwise gone to the general fund. Annual purse supplements of approximately \$10 million were also provided in each year for the next three years.

In 2000, in addition to the purse supplement, the General Assembly established a Maryland Racing Facility Redevelopment Bond Program to assist horse racing facilities with capital improvements. To carry out the bond program, the State Racing Commission and the Stadium Authority would have approved use of proceeds from bonds issued by the Maryland Economic Development Corporation (MEDCO) for capital improvements or related expenditures. To finance the debt service on the bonds issued by MEDCO, the legislation increased or reallocated the “takeout” (the amount that is deducted from betting pools) on thoroughbred and standardbred races and required additional takeout allocations from mile-thoroughbred licensees to be paid into a new special fund, the Racing Facility Redevelopment Bond Fund.

In 2002 a provision of the Budget Reconciliation and Financing Act authorized a transfer of up to \$3.50 million from the Racing Facility Redevelopment Bond Fund for purse and bred fund supplements. The fund was subsequently repealed during the 2004 legislative session. Legislation enacted in 2005 provided for the distribution of the cumulative receipts of at least \$1.04 million remaining in the former Racing Facility Redevelopment Bond Fund to a special fund to be used for purses for the running of the Pimlico Special and for purses at Rosecroft Raceway.

As shown in **Exhibit 2**, since 2003, the total amount in purses at Maryland tracks has declined. In 2003 purses totaled over \$47 million; in 2007 purses at Maryland tracks totaled less than \$44 million.

Exhibit 2
Purses at Maryland Race Tracks
Calendar 2003-2007

	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
Thoroughbred Tracks					
Laurel	\$23,811,771	\$9,286,091	\$23,392,376	\$30,306,075	\$28,973,185
Pimlico	15,701,370	22,705,429	11,293,851	8,922,813	8,481,554
Timonium	906,820	955,675	935,975	929,235	739,170
Harness Tracks					
Rosecroft	6,472,340	4,874,030	4,184,330	5,392,600	4,592,400
Ocean Downs	663,630	923,680	974,810	820,265	902,500
Total	\$47,555,931	\$38,744,905	\$40,781,342	\$46,370,988	\$43,688,809

Note: The backstretch and racing surfaces at Laurel were closed from mid-June 2004 through January 2005; races scheduled for Laurel during that period were instead held at Pimlico. Thus, purses from Pimlico that year are much higher than for Laurel.

Source: State Racing Commission, Annual Reports

Recent Developments in the Industry

Citing increasing financial pressures, Maryland tracks recently have taken measures to cut operating expenses. Rosecroft Raceway, in June 2008, received approval from the State Racing Commission to temporarily cancel live racing at the track. Though the plan calls for the track to remain open for simulcast wagering, cancellation of live racing days eliminates the need to pay purses and allows the track to reduce overhead costs.

MJC, in August 2008, announced the cancellation of its graded stakes races at Laurel Park for the 2008 fall meet. MJC also announced the closure of the backstretch facilities at Pimlico (which include stables and dormitories for stable employees). MJC will relocate displaced horses and stable employees to facilities at Laurel Park and the Bowie Training Center. For the 2009 spring meet at Pimlico Race Course, MJC plans to temporarily open the backstretch facilities before and after the running of the Preakness Stakes.

Although the horse racing industry continues to struggle, the recent authorization of video lottery terminals (VLTs) is expected to provide significant financial assistance to the industry. As discussed in greater detail below, the authorization of VLTs could bring as much as \$140 million in annual assistance to the industry.

The State Racing Commission

Prior to 1920, local jurisdictions regulated race tracks. In response to growing public concerns about the potential for wrong-doing within the horse racing industry, the General Assembly, in 1920, established the State Racing Commission to serve as a statewide regulatory and licensing body for the industry. The State Racing Commission regulates both harness and thoroughbred racing, as well as any steeplechase race at which pari-mutuel wagering is held. In this regulatory role, the commission is vested with the authority to prescribe the conditions under which all horse races are conducted within the State. The commission 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 individuals employed at or connected with the race tracks;
- audit and supervise race track 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.

The State Racing Commission 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 members have a background in thoroughbred racing and three members 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.

The State Racing Commission 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 **Appendices 5** and **6** for information on racing revenue sources and distributions, including the fiscal histories of the Racing Division, State Racing Commission, and Racetrack Operation Reimbursement.

Most of the commission's activities are carried out by an executive director and staff operating in the Division of Racing. Staff employed by the State Racing Commission include stewards, judges, veterinarians, licensing officials, and laboratory employees.

The Executive Director of the Division of Racing 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;
- the daily operations of the commission; and
- preparing, issuing, and submitting commission reports.

The Maryland-Bred Race Fund and the Maryland Standardbred Race Fund

In addition to its regulatory activities, the State Racing Commission 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.

The State Racing Commission administers the two bred funds with the assistance and advice of separate advisory committees. Each advisory committee recommends to the State Racing Commission the number, date, distance, and purse amount of fund races and the amounts of breeders' awards.

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 the State Racing Commission.

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 the State Racing Commission.

The two bred funds receive a percentage of the daily handle collected at thoroughbred and harness race tracks; 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. Legislation enacted in 2005 requires an annual distribution of \$300,000 from the horse racing special fund to the two bred funds, with 70 percent of the distribution going to the Maryland-Bred Race Fund and the remaining 30 percent going to the Maryland Standardbred Race Fund. That legislation also specifies that any revenues remaining in the special fund, after all required deductions and allocations are made, be divided equally among the two bred funds and the Maryland Agricultural Education and Rural Development Assistance Fund (previously any funds remaining in the special fund were transferred to the two bred funds).

Revenues from the two bred funds are distributed as purse money and as awards to owners and breeders of Maryland horses. In 2007 distributions from the Maryland-Bred Race Fund totaled approximately \$3.30 million, and distributions from the Maryland Standardbred Race Fund totaled approximately \$1.44 million.

Commission Licensing and the Integrity of the Industry

The State Racing Commission issues licenses to individuals employed at or connected with the race tracks. Racing industry participants licensed by the commission include the race track association, horse owners, trainers, jockeys, veterinarians, farriers (individuals who shoe horses), stable employees, track employees, and mutuel (betting) employees. OTB facility owners must also be licensed. As **Exhibit 3** shows, annual license fees for individuals typically range from \$5 to \$50.

Exhibit 3 State Racing Commission Licensing Fees

<u>Licensed Position</u>	<u>Annual License Fee</u>
Race track association	\$25 (per racing day)
OTB permit fee	500
Original owner or original (thoroughbred) trainer	50
Renewal owner, renewal trainer, original (harness) trainer, assistant trainer, jockey, jockey agent, driver, or veterinarian	25
Farrier	10
Stable employee, mutuel employee, track employee, exercise rider (thoroughbred), or vendor	5

Source: State Racing Commission

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. As shown in **Exhibit 4**, the State Racing Commission issued approximately 7,800 licenses in 2007. **Appendices 7 and 8** provide more information on the number of licenses issued by position within each industry.

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 the commission, was denied a license in another state, or had his license suspended or revoked by another state.

Exhibit 4
Summary of State Racing Commission Licensing and Registration Activity
Calendar 2003-2007

	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
Licenses Issued					
Thoroughbred	6,617	6,413	6,434	6,281	5,790
Harness	2,770	2,507	2,367	2,345	1,982
Total	9,387	8,920	8,801	8,626	7,772
Registrations					
Thoroughbred	712	723	810	877	820
Harness	110	84	86	91	51
Total	822	807	896	968	871
Revenue from Licenses and Registrations					
Thoroughbred	\$180,430	\$177,325	\$190,885	\$196,195	\$175,910
Harness	\$84,695	\$76,015	\$72,730	\$74,825	\$62,995
Total	\$265,125	\$253,340	\$263,615	\$271,020	\$238,905

Source: State Racing Commission, Annual Reports

Stewards and judges monitor the conduct of races and take disciplinary actions on a daily basis at the race tracks. Parties may appeal the decisions of stewards and judges to the commission. In 2007 the commission issued 287 rulings on matters relating to the rules of thoroughbred racing and 123 rulings on matters relating to the rules of harness racing. This constituted an increase in total rulings from 2006, when the commission issued 235 thoroughbred racing rulings and 125 harness racing rulings.

In January 2008, the commission 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, the commission 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 the Racing Medication and Testing Consortium (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, the State Racing Commission 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. By banning steroids, the commission joined 14 other major racing states. Penalties are yet to be determined.

Major Legislative Changes Affecting the Commission

Since the State Racing Commission's last evaluation in 1999, the General Assembly has passed legislation to:

- redevelop racing facilities (later repealed);
- grant the commission additional authority; and
- improve the financial health of the horse racing industry through purse and bred fund supplements.

The issue of whether to authorize VLTs, and, by extension, provide additional financial assistance to the State's horse racing industry, was a significant challenge for the General Assembly. The General Assembly authorized VLTs via constitutional amendment during the 2007 special session, and Maryland voters ratified the amendment on November 4, 2008. As a result, the horse racing industry could receive as much as \$140 million in annual assistance for purses, bred funds, and race track renewal. A summary of the VLT legislation, as well as other major legislative changes, appears in **Exhibit 5**.

After decades of deteriorating revenues and attendance, most, if not all, horse industry advocates in Maryland have linked the sustainability of Maryland's horse racing industry to the implementation of VLTs. While many neutral observers remain cautious about whether VLTs and the revenue they generate will provide a lasting solution for the financial condition of Maryland's horse racing industry, most agree that VLTs will provide significant assistance.

Under the VLT legislation, the State may grant licenses to operate a total of 15,000 video lottery terminals in five locations across the State. A purse dedication account, which will be used to enhance horse racing purses and provide funding to the horse breeding industry, will receive 7 percent of gross VLT revenues, limited to no more than \$100 million per year. Eighty percent of these funds will go to the thoroughbred industry. Also, VLTs will pay 2.5 percent of gross revenues for eight years, but no more than \$40 million per year, toward redeveloping race tracks. Eighty percent of these race track redevelopment funds will go to thoroughbred tracks.

The horse racing industry stands to benefit from the ratification of the VLT referendum, but the extent to which VLTs may sustain Maryland's horse racing industry is unknown. Although horse racing industry participants are not guaranteed to hold VLT licenses, and the State Lottery Commission will oversee the operation of VLTs, the fact that the State Racing Commission will have a member who serves as a liaison to the Lottery Commission, and vice-versa, demonstrates that VLTs and the horse racing industry are intertwined. The industry the State Racing Commission regulates in the coming years will likely be a stronger but different and more complicated one.

Exhibit 5

Major Legislative Changes Since 1999 Sunset Review

<u>Year</u>	<u>Chapter</u>	<u>Change</u>
2000	269	<p>Extends the termination date of the State Racing Commission and the two advisory committees by 10 years to July 1, 2011.</p> <p>Requires the State Racing Commission to inspect satellite simulcast facilities at least four times each year.</p>
	309	<p>Establishes the Maryland Racing Facility Redevelopment Program.</p> <p>Subject to expiration upon repayment of bonds issued under the program, increases the takeout for thoroughbred licensees, maintains the State wagering tax at 0.32 percent of the mutuel pool, increases the allocation of the takeout for purses, and requires an allocation of the takeout for payment to the Racing Facility Redevelopment Bond Fund.</p> <p>Requires a one-time \$10 million distribution of lottery revenues to the Racing Special Fund.</p>
2001	551	Establishes the Maryland Standardbred Horsemen's Assistance Fund, Inc.
2004	97	<p>Repeals the Maryland Racing Facility Redevelopment Program.</p> <p>Continues certain provisions of Chapter 309 of 2000 that were subject to sunset, including the State tax rate of 0.32 percent of the mutuel pool and the increased allocation for purses.</p>
2005	153	Increases from 22 to 25 percent the takeout for horse races at Fair Hill and from 8 to 9 percent the percentage of the takeout allocated to the Fair Hill Improvement Fund.
	410	<p>Distributes receipts of at least \$1.04 million from the Racing Facility Redevelopment Bond Fund to a special fund used only for purses at Rosecroft Raceway and the Pimlico Special race.</p> <p>Requires, after certain allocations, the following annual distributions from the Racing Special Fund: (1) \$300,000 to the Maryland-Bred Race Fund (70 percent) and the Maryland Standardbred Race Fund (30 percent); and (2) \$260,000 to MAERDAF, with \$130,000 of that amount allocated to support the operations of the Rural Maryland Council.</p> <p>Requires remaining money in the Racing Special Fund to be split evenly between MAERDAF and the two bred funds.</p>

<u>Year</u>	<u>Chapter</u>	<u>Change</u>
	603	Establishes a Pimlico Community Development Authority to distribute funds received to pay for facilities and services in Baltimore City communities within two miles of the Pimlico Race Course. Specifies that 80 percent of the local impact aid paid to Baltimore City from the Racing Special Fund is required to be distributed by the authority.
2006	81	Extends the period of time – from 75 to 90 days – within which a horse racing track licensee has to submit certain financial information to the State Racing Commission after the licensee's fiscal year ends.
	180	Authorizes Maryland to join the Interstate Compact on Licensure of Participants in Live Racing with Pari-Mutuel Wagering to make Maryland owners and trainers eligible for a compact license that is honored by the racing commissions of the member states.
	590	Authorizes the State Racing Commission to approve the running of a Maryland-Bred Fund Race at a thoroughbred track outside the State.
2007	356	Repeals the prohibition on live thoroughbred racing after 9:00 p.m., but prohibits live racing at Pimlico Race Course after 10:00 p.m. unless circumstances beyond the control of the licensee cause a delay. Requires MJC to hold meetings with Baltimore City and representatives of the neighborhoods in proximity to Pimlico Race Course to discuss security and lighting for the Pimlico Race Course property and the surrounding areas when live racing is scheduled after 6:15 p.m., except for Preakness Day.
2007*	4	Provides, subject to certain conditions, for the distribution of proceeds from VLTs to the horse racing industry, including 7.0 percent of gross revenue to a purse dedication account to enhance horse racing purses and bred funds, not to exceed \$100 million annually and 2.5 percent for an eight-year period to a Racetrack Renewal Fund, not to exceed \$40 million annually.
2008	22	Extends the time within which a mile-thoroughbred licensee must pay specified pari-mutuel racing taxes to the State Racing Commission from three to seven days after each racing day.
	161	Repeals the requirement that the State Racing Commission cancel a Maryland Standardbred Fund race if fewer than two separate qualified entries are in the race.
	326	Establishes a Task Force to Study Thoroughbred Horse Racing at Rosecroft Raceway.

*2007 Special Session.

Source: Laws of Maryland

Recommendations

State regulatory activity aims to protect the health, safety, and welfare of those participating in and affected by the regulated industry. Controlled legalized gambling finances the racing industry; its continued regulation is appropriate. **The Department of Legislative Services recommends, however, a full evaluation of the State Racing Commission to:**

- **examine the State Racing Commission's responsibilities in light of recent and expected future changes in Maryland's horse racing industry; and**
- **examine the State Racing Commission's performance in ensuring the health, safety, and well-being of horses and jockeys.**

Because the industry likely will undergo significant changes over the next few years, as a result of financial assistance from VLT revenues, the Department of Legislative Services recommends a deferral of the full evaluation in order to evaluate the State Racing Commission in an environment that reflects these anticipated changes. **The Department of Legislative Services, therefore, recommends that the termination date for the State Racing Commission be extended to July 1, 2014, and that a full evaluation be made on or before July 1, 2013, without benefit of another preliminary evaluation. Thus, a full evaluation would be undertaken during the 2012 interim rather than the 2009 interim.**

The additional justifications for and issues to be addressed in a full evaluation are discussed below.

Recent and Future Industry Changes Suggest the Need for a Full Evaluation

Since the State Racing Commission last underwent a full evaluation in 1999, the horse racing industry has undergone significant changes. For years, the industry has struggled in the face of increased competition from other forms of legalized gambling, including state lotteries, casinos, slot machines, and horse racing in neighboring states. Despite periodic purse supplements provided by the General Assembly, the total value of purses awarded at Maryland tracks has declined over the past several years. Likewise, the number of live racing days and attendance at Maryland tracks is in decline.

With the ratification of the constitutional amendment authorizing video lottery terminals, however, as much as \$140 million per year will be allotted to the industry to supplement purses, fund the State's horse breeding industry, and redevelop the State's race tracks. This new source of funding will likely bring financial and regulatory changes to the environment in which the commission operates.

The Department of Legislative Services recommends that a full evaluation of the State Racing Commission be conducted to determine whether the commission, in this new environment, is effectively meeting its responsibilities and has the necessary authority to properly regulate the industry. This evaluation should:

- determine whether the commission's scope of authority reflects the State's objectives in promoting and fostering the industry;
- examine the efficacy of housing the commission within the Department of Labor, Licensing, and Regulation, particularly in light of the recent authorization of VLTs, which will be regulated by the State Lottery Commission within the State Lottery Agency; and
- assess whether the commission has the resources available to fulfill its responsibilities.

The Commission's Regulation of Horse and Jockey Safety Should Be Examined in Light of Recent Industry Developments

Catastrophic accidents in major horse racing events like the Preakness and the Kentucky Derby have led to greater public scrutiny of issues of safety 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 to study "every facet" of the industry. The Kentucky Horse Racing Authority acted by forming an equine safety committee to study racing conditions, medications and horseshoes, and jockey safety, and by pledging to work with other groups studying the same problems.

In the U.S. Congress, the House Subcommittee on Commerce, Trade, and Consumer Protection held a high-profile hearing on horse racing safety during which it, along with top-level officials from the nation's horse racing industry, debated the merits of regulating horse racing on a nationwide level. Meanwhile, the National Institute for Occupational Safety and Health (NIOSH) with the Centers for Disease Control and Prevention has been investigating work-related hazards for jockeys and other employees since concerns were raised about these issues at a U.S. House Energy and Commerce Subcommittee on Oversight and Investigations hearing in 2005. NIOSH will produce a technical document based on the results of its investigation.

Maryland too has acted in the area of horse racing safety. Outside of the commission, the Maryland Horse Council conducts an annual horse seminar and operates an Equine Health and Welfare Committee. Within the commission, in addition to adopting the recent steroid ban, the commission has required thoroughbred riders to wear safety vests in races at State tracks since January 1994. More recently, in October 2007, the commission acted on the work of its Safety

and Welfare Committee and approved the experimental use of 20 padded horse whips in races. The commission has also given preliminary approval to new toe grab regulations that reflect safety measures followed across the country. Two commissioners interviewed for this preliminary evaluation opined that the commission has done enough in the area of safety, but one commissioner dissented. This suggests that some level of disagreement exists as to whether the commission should do more in the area of safety.

The Department of Legislative Services recommends conducting a full evaluation of the State Racing Commission to determine whether the commission is meeting its responsibilities with respect to protecting the safety and health of horses and jockeys. This evaluation should:

- survey other states' practices regarding the health and safety of horses and jockeys;
- review the findings of organizations that have taken a significant role in investigating ways to protect the well-being and safety of horses and jockeys; and
- consider whether the State Racing Commission should do more to ensure the health and safety of horses and jockeys.

Appendix 1. Race Track Descriptions

Thoroughbred Tracks

Laurel Park: The race track is located in Anne Arundel County, 20 miles from Baltimore, 20 miles from Washington, DC and 12 miles from the Baltimore/Washington International Thurgood Marshall Airport. The facility has a 7/8-mile turf track and a 1-1/8-mile dirt track. In 2007 total attendance at the track was 688,623, and the total handle was \$149.1 million.

Pimlico Race Course: The race track is located in Baltimore City and Baltimore County, 40 miles from Washington, DC and 12 miles from the Baltimore/Washington International Thurgood Marshall Airport. The facility has a 1-mile main track and a 7/8-mile turf track. In 2007 total attendance at the track was 524,994, and the total handle was \$101 million.

Timonium: The race track is located in Baltimore County, 14 miles from Baltimore City and 15 miles from the Baltimore/Washington International Thurgood Marshall Airport. The facility has a 5/8-mile track. Timonium conducts live racing during the Maryland State Fair. In 2007 Timonium held seven days of live racing. Total attendance at the track was 26,107, and the total handle was \$9.4 million.

Harness Tracks

Rosecroft Raceway: The track is located in Prince George's County, five miles from Washington, DC and seven miles from Reagan National Airport. The facility has a 5/8-mile track. In 2007 total attendance at the track was 339,579, and the total handle was \$97.5 million.

Ocean Downs Raceway: The race track is located in Worcester County, five miles from Ocean City. The facility has a 1/2-mile track. In 2007 total attendance at the track was 132,902, and the total handle was \$20.3 million.

Source: State Racing Commission, Annual Reports

Appendix 2. Annual Attendance at Maryland Race Tracks Calendar 2003-2007

<u>Track</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
Laurel	825,530	651,644	769,814	798,795	688,623
Pimlico	749,230	792,342	470,514	395,994	524,994
Timonium	N/A	N/A	37,548	27,548	26,107
Rosecroft	576,255	489,536	484,701	404,191	339,579
Ocean Downs	142,830	141,229	140,264	212,969	132,902
Fair Hill	10,441	14,050	15,000	15,000	14,000
Total	2,304,286	2,088,801	1,917,841	1,854,497	1,726,205

Source: State Racing Commission, Annual Reports

Appendix 3. Racing Days at Maryland Race Tracks Calendar 2003-2007

<u>Year</u>	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>
2003	217	129	162	580	379	709	1,088
2004	206	106	156	593	362	699	1,061
2005	204	99	137	584	341	683	1,024
2006	193	104	144	580	337	684	1,021
2007	187	114	136	585	323	699	1,022

Source: State Racing Commission, Annual Reports

Appendix 4. Amounts Wagered at Maryland Satellite Simulcast Betting Facilities Calendar 2007

<u>Facility</u>	<u>In-state Thoroughbred Races</u>	<u>In-state Harness Races</u>	<u>Out-of-state Races</u>	<u>Total</u>
Cracked Claw	\$2,986,566	\$34,724	\$38,887,156	\$41,908,446
NorthEast	1,500,853	85,573	14,686,280	16,272,706
Cambridge	395,657	40,692	5,126,409	5,562,758
Riverboat	927,530	57,212	10,451,446	11,436,188
Total	\$5,810,606	\$218,201	\$69,151,291	\$75,180,098

Source: State Racing Commission, 2007 Annual Report

Appendix 5. Racing Revenue Sources and Distributions Fiscal 2005-2009

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
<u>Sources of Revenue</u>					
Betting Taxes	\$1,577,962	\$1,677,320	\$1,717,691	\$1,730,000	\$1,609,600
Track Licensing	30,200	31,000	24,486	30,000	25,000
Occupational License Fees (GF Revs)	257,704	278,524	263,171	240,000	260,000
Impact Fund	329,000	336,000	367,837	350,000	368,000
Uncashed Pari-Mutuels	2,110,382	2,037,702	2,073,421	2,237,600	2,073,000
State Lab Service Fees	980,816	842,169	597,312	1,026,497	594,903
Racing Facility Redevelopment Fund				-	-
Transfer from Redevelopment Fund	1,319,520	548,996	522,165	-	-
Fair Hill	12,054	15,165	10,929	15,165	10,900
Total Revenues	\$6,617,638	\$5,766,876	\$5,577,012	\$5,629,262	\$4,941,403
<u>Distribution of Revenue</u>					
<u>Grants</u>					
Great Pocomoke Fair	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
Great Frederick Fair	40,000	40,000	40,000	40,000	40,000
MD Agriculture Ed Foundation	75,000	75,000	75,000	75,000	75,000
MD Agriculture Fair Board	825,000	825,000	825,000	825,000	825,000
MD State Fair & Ag Society, Inc.	500,000	500,000	500,000	500,000	500,000
Maryland Million	500,000	500,000	794,831	500,000	500,000
Standardbred Race Fund Sires Stakes	350,000	350,000	556,582	350,000	350,000

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Impact Aid					
Anne Arundel County	\$425,000	\$457,200	\$345,000	\$521,000	\$345,000
Baltimore County	50,000	50,000	50,000	50,000	50,000
Howard County	106,250	132,500	86,250	130,250	86,250
Prince George's County	100,000	100,000	100,000	100,000	100,000
Baltimore City	548,800	588,000	554,400	588,000	554,400
Bowie	18,300	18,200	18,200	18,200	18,200
Laurel	63,750	79,500	51,750	78,150	51,750
Other					
Fair Hill Improvement Fund	12,054	15,165	10,929	15,165	10,900
Track Operations	980,816	842,169	597,312	1,026,497	594,903
Maryland-Bred Race Fund	7,451	334,746	227,349	210,000	210,000
Maryland Standardbred Race Fund	2,893	128,245	112,651	90,000	90,000
MAERDAF	-	404,389	348,587	252,000	260,000
Redevelopment Fund – Takeout	1,319,520	28,238	-	-	-
Transfer to General Fund	415,100	-	-	-	-
Total	\$6,359,934	\$5,488,352	\$5,313,841	\$5,389,262	\$4,681,403
Occupational License Fees (GF Revs)	257,704	278,524	263,171	240,000	260,000
Total Distributions	\$6,617,638	\$5,766,876	\$5,577,012	\$5,629,262	\$4,941,403
Net Racing Revenue	-	-	-	-	-
Less GF Expenditures	2,547,348	2,434,145	2,716,061	2,885,158	2,624,135
Net to General Fund	(\$2,547,348)	(\$2,434,145)	(\$2,716,061)	(\$2,885,158)	(\$2,624,135)

Note: Fiscal 2008 and 2009 revenues are estimates.

Source: Maryland Governor's Budget Books, Fiscal 2006 through 2009

Appendix 6. Division of Racing Fiscal History

Fiscal 2005-2009

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Authorized Positions					
Racing Commission	5.00	5.00	5.00	5.00	5.00
Race Track Operation Reimbursement	11.00	11.00	11.00	11.00	10.00
Contractual Positions					
Racing Commission	0.00	0.00	0.05	0.00	0.00
Race Track Operation Reimbursement	13.15	12.80	9.83	11.80	9.80
General Fund Expenditures					
Racing Commission	\$379,24	\$407,763	\$497,179	\$474,672	\$562,237
Race Track Operation Reimbursement	2,168,101	2,026,382	2,218,882	2,410,486	2,061,898
Total	\$2,547,348	\$2,434,145	\$2,716,061	\$2,885,158	\$2,624,135
Special Fund Expenditures					
Racing Commission	\$2,037,972	\$1,414,031	\$2,040,000	\$1,410,000	\$1,410,000
Race Track Operation Reimbursement	980,816	842,169	597,312	\$1,026,497	594,903
Local Subdivisions	1,312,100	1,425,400	1,205,600	1,485,600	1,205,600
Facility Redevelopment Program	141,892	-	-	-	-
Total	\$4,472,780	\$3,681,600	\$3,842,912	\$3,922,097	\$3,210,503
Total Expenditures	\$7,020,128	\$6,115,745	\$6,558,973	\$6,807,255	\$5,834,638
Special Fund Revenues					
Racing Commission	\$2,037,972	\$1,414,031	\$2,040,000	\$1,410,000	\$1,410,000
Race Track Operation Reimbursement	980,816	842,169	597,312	1,026,497	594,903
Local Subdivisions	1,312,100	1,425,400	1,205,600	1,485,600	1,205,600
Facility Redevelopment Program	141,892	-	-	-	-
Total	\$4,472,780	\$3,681,600	\$3,842,912	\$3,922,097	\$3,210,503

Notes: Fiscal 2008 and 2009 expenditures are the appropriations for those years. Fiscal 2008 and 2009 revenues are estimates. 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 2006 through 2009

Appendix 7. Thoroughbred Licensing Summary Calendar 2003-2007

	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
Owners					
Original	540	566	642	666	480
Renewal	1,959	1,835	1,893	1,986	1,800
Trainers					
Original	58	61	78	60	42
Renewal	268	245	242	229	206
Assistant Trainers	99	114	117	101	104
Owner/Trainers	403	373	385	386	365
Jockeys and Apprentice Jockeys	240	211	254	248	246
Jockey Agents	24	30	26	32	29
Veterinarians	34	30	32	36	31
Farriers	38	36	28	34	30
Stable Employees	1,188	1,151	1,120	1,110	1,081
Track Employees	505	466	441	419	405
Exercise Riders	341	344	316	304	281
Mutuel Employees	704	739	675	489	531
Vendors	216	212	186	181	159
Total	6,617	6,413	6,435	6,281	5,790

Source: State Racing Commission, Annual Reports

Appendix 8. Harness Racing Licensing Summary Calendar 2003-2007

	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
Owners					
Original	240	222	238	230	187
Renewal	958	845	742	785	673
Trainers					
Original	15	12	21	17	12
Renewal	85	77	79	64	61
Drivers	50	47	53	48	50
Trainer/Drivers	76	62	57	60	52
Owner/Trainers	226	219	197	220	194
Owner/Trainer/Drivers	218	197	191	193	181
Owner/Drivers	21	20	19	27	22
Veterinarians	14	15	16	16	13
Farriers	3	-	3	8	4
Stable Employees	468	392	387	346	263
Track Employees	199	210	200	173	157
Mutuel Employees	161	158	137	130	99
Vendors	35	30	24	28	14
Caterers	1	1	1	-	-
Total	2,770	2,507	2,365	2,345	1,982

Source: State Racing Commission, Annual Reports

Appendix 9. Written Comments of the State Racing Commission

DLLR

STATE OF MARYLAND

DEPARTMENT OF LABOR, LICENSING AND REGULATION

MARTIN O'MALLEY, Governor
ANTHONY G. BROWN, Lt. Governor
THOMAS E. PEREZ, Secretary

Maryland Racing Commission

DLLR Home Page • <http://www.dllr.state.md.us>
E-mail • mddllr@dllr.state.md.us

December 3, 2008

Laura J. McCarty
Office of Policy Analysis
90 State Circle
Annapolis, Md. 21401

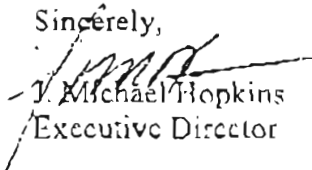
Dear Ms. McCarty:

I have read the draft report regarding the Maryland Racing Commission sunset review. I agree with you that it makes sense to put off the full review until the slots are operating. However I found two areas that I would like to bring to your attention:

- 1) On page 4 the report indicates that the tracks did not take advantage of the bond fund because the tracks never development a capital improvement plan. Not correct. The racetracks did not take advantage of the bond fund because the revenue being generated by the increased takeout was not sufficient to support the debt load of any bond that would have been issued; and
- 2) On page 9 the report asserts that the Racing Commission decided to implement the steroid ban because the Graded Stakes committee threatened to take away the graded status of all graded stakes in the State unless we adopted the model rules prohibiting the use of steroids. No. The reason why the Racing Commission decided not to go forward with the adoption of the rules in January 2008 was because Cornell University and the University of Florida were conducting research to determine what levels of the steroids found in the blood plasma would equate to the established levels found in urine. In September it was reported by Alan Foreman, Co-Vice Chairman of the Racing Medication and Testing Consortium (RMTC) that the research was not concluded and that it was unknown when it would be completed. At that point the Commission decided to go forward and adopt regulations prohibiting the use of the steroids with an effective date of January 1, 2009, which was consistent with national trends.

If you have any questions please feel free to give me call at any time.

Sincerely,


J. Michael Hopkins
Executive Director

