

SB 237

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

Senate Bill No. 237

(BY SENATORS McCABE, SNYDER, BROWNING, UNGER,
GULLS, YOST, STOLLINGS, CHAFIN, PLYMALE, EDGELL,
FOSTER, BOWMAN, KESSLER, CARUTH AND PALUMBO)

[Passed March 13, 2010; in effect from passage.]

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BOWMAN, KESSLER, CARUTH AND PALUMBO)

[Passed March 13, 2010; in effect from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §13-2H-1, §13-2H-2, §13-2H-3, §13-2H-4, §13-2H-5, §13-2H-6, §13-2H-7, §13-2H-8, §13-2H-9, §13-2H-10, §13-2H-11 and §13-2H-12; and to amend and reenact §29-22C-27 of said code, all relating to funding distributions from state lottery revenues generally; providing authorization for municipalities, county commissions and certain boards of education to issue revenue bonds secured by lottery revenue for the purpose of acquiring or constructing public projects; and changing the allocation of a certain distribution from the lottery racetrack table games fund to the purse funds of the thoroughbred racetracks from an equal allocation among the tracks to a pro rata distribution.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §13-2H-1,

§13-2H-2, §13-2H-3, §13-2H-4, §13-2H-5, §13-2H-6, §13-2H-7, §13-2H-8, §13-2H-9, §13-2H-10, §13-2H-11 and §13-2H-12; and that §29-22C-27 of said code be amended and reenacted, all to read as follows:

CHAPTER 13. PUBLIC BONDED INDEBTEDNESS.

ARTICLE 2H. LOTTERY REVENUE BOND ACT.

§13-2H-1. Short title.

1 This article may be known as and may be cited as the
2 Lottery Revenue Bond Act.

§13-2H-2. Definitions.

1 Unless the context clearly indicates otherwise, as used in
2 this article:

3 (a) "Board of education" means a county board of
4 education of a growth county, as that term is defined in
5 section three, article twenty, chapter seven of this code,
6 which has enacted the Local Powers Act and in which
7 county a racetrack is located that has participated in the
8 West Virginia Thoroughbred Development Fund since on
9 or before January 1, 1991, and is receiving lottery reve-
10 nues.

11 (b) "Governmental body" means any municipality,
12 county or board of education that receives lottery reve-
13 nues.

14 (c) "Lottery revenues" means the funds distributed to a
15 governmental body pursuant to the provisions of sections
16 ten and ten-b, article twenty-two-a, chapter twenty-nine
17 of this code; section one thousand four hundred eight,
18 article twenty-two-b of said chapter, or section twenty-
19 seven, article twenty-two-c of said chapter or section
20 twenty-two, article twenty-five, chapter twenty-nine of
21 this code.

22 (d) "Lottery revenue bonds" means bonds, debentures,
23 notes, certificates of participation, certificates of benefi-
24 cial interest, certificates of ownership or other evidences
25 of indebtedness or ownership that are issued by a govern-
26 mental body, the proceeds of which are used directly or
27 indirectly to finance or refinance public projects pursuant
28 to this article and are secured by the lottery revenues of
29 the governmental body.

30 (e) "Lottery revenue fund" means the fund required to
31 be established by the governmental body to deposit lottery
32 revenues if the governmental body issues lottery revenue
33 bonds.

34 (f) "Public project" means any project approved by a
35 governmental body to acquire, improve, renovate, extend,
36 enlarge, increase, repair, construct, equip, maintain and
37 operate public buildings, structures, fixtures, property,
38 public infrastructure and appurtenant facilities of any
39 type or types for which the governmental body is permit-
40 ted by law to expend public funds including, but not
41 limited to, those projects as defined in section one, article
42 sixteen, chapter eight of this code. Additionally, a public
43 project would include all roads and transportation infra-
44 structure.

§13-2H-3. Powers conferred on counties and municipalities.

1 In addition to any other powers which a county or
2 municipality may now have, each county, by and through
3 its county commission, and each municipality, by and
4 through its council or other governing body in lieu thereof,
5 may: (a) Acquire, whether by purchase, construction, gift,
6 lease or otherwise, one or more public projects, or addi-
7 tions thereto, which shall be located within this state; and
8 (b) issue and deliver lottery revenue bonds secured by
9 lottery revenues to finance or refinance public projects.

§13-2H-4. Issuance of lottery revenue bonds by county.

1 (a) The county commission may issue lottery revenue
2 bonds of the county as provided in this section to finance
3 or refinance all or part of a public project and pledge all
4 or any part of the lottery revenues for the payment of the
5 principal of and interest on such lottery revenue bonds
6 and for reserves therefor: *Provided*, That a county com-
7 mission receiving lottery revenues pursuant to the provi-
8 sions of subdivision (3), subsection (c), section twenty-
9 seven, article twenty-two-c, chapter twenty-nine of this
10 code may only pledge fifty percent of the lottery revenues
11 to the payment of principal and interest on the lottery
12 revenue bonds and for reserves therefor. Any pledge of
13 lottery revenue funds for lottery revenue bonds is a prior
14 and superior charge on the lottery revenues and Lottery
15 Revenue Fund over the use of any of the moneys to pay for
16 the cost of any of the purposes on a cash basis.

17 (b) The lottery revenue bonds may be authorized and
18 issued by the county commission to finance or refinance,
19 in whole or in part, public projects in an aggregate princi-
20 pal amount not exceeding the amount which the county
21 commission determines can be paid as to both principal
22 and interest and reasonable margins for a reserve therefor
23 from the lottery revenues and the Lottery Revenue Fund.
24 A county commission issuing lottery revenue bonds shall
25 establish a fund to deposit lottery revenues and call such
26 fund the Lottery Revenue Fund. The county commission
27 shall thereafter deposit all lottery revenues pledged to the
28 payment of principal and interest of lottery revenue bonds
29 into the Lottery Revenue Fund.

30 (c) The issuance of lottery revenue bonds may be autho-
31 rized by an order of the county commission. The lottery
32 revenue bonds shall: (1) Bear a date or dates; (2) mature at
33 a time or times not exceeding forty years from their
34 respective dates; (3) be in a specific denomination; (4) be
35 in a registered form with exchangeability and inter-
36 changeability privileges; (5) be payable in a medium of

37 payment and at a place or places within or without the
38 state; (6) be subject to terms of prior redemption at those
39 prices; and (7) may have such other terms and provisions
40 as determined by the county commission. The lottery
41 revenue bonds shall be signed by the president of the
42 county commission under the seal of the county commis-
43 sion, attested by the clerk of the county commission.
44 Lottery revenue bonds may be sold in a manner as the
45 county commission determines is for the best interests of
46 the county.

47 (d) The county commission may enter into: (1) Trust
48 agreements with banks or trust companies within or
49 without the state and in trust agreements or orders
50 authorizing the issuance of bonds; (2) valid and legally
51 binding covenants with the holders of the lottery revenue
52 bonds as to the custody, safeguarding and disposition of
53 the proceeds of the lottery revenue bonds, the moneys in
54 the Lottery Revenue Fund, sinking funds, reserve funds or
55 any other moneys or funds; as to the rank and priority, if
56 any, or different issues of lottery revenue bonds by the
57 county commission under the provisions of this section; (3)
58 agreements as to such provisions as payment, term,
59 security, default and remedy provisions as the county
60 commission shall consider necessary or desirable; and

61 (4) Agreements as to any other matters or provisions
62 which are considered necessary and advisable by the
63 county commission in the best interests of the county and
64 to enhance the marketability of such lottery revenue
65 bonds.

66 (e) The lottery revenue bonds are negotiable instruments
67 under the Uniform Commercial Code of this state and are
68 not obligations or debts of the state or of the county
69 issuing the bonds and the credit or taxing power of the
70 state or county may not be pledged therefor, but the

71 lottery revenue bonds may be payable only from the
72 revenue pledged therefor as provided in this section.

73 (f) A holder of lottery revenue bonds has a lien against
74 the lottery revenues and the Lottery Revenue Fund for
75 payment of the lottery revenue bond and the interest
76 thereon and may bring suit to enforce the lien.

77 (g) A county commission may issue and secure additional
78 bonds payable out of the lottery revenues and the Lottery
79 Revenue Fund which bonds may rank on a parity with, or
80 be subordinate or superior to, other bonds issued by the
81 county commission and payable from the Lottery Revenue
82 Fund.

§13-2H-5. Issuance of lottery revenue bonds by municipality.

1 (a) A municipality may issue lottery revenue bonds as
2 provided in this section to finance or refinance all or part
3 of a public project and pledge all or any part of the lottery
4 revenues for the payment of the principal of and interest
5 on the lottery revenue bonds and for reserves therefor:
6 *Provided*, That a municipality receiving lottery revenues
7 pursuant to the provisions of subdivision (4), subsection
8 (c), section twenty-seven, article twenty-two-c, chapter
9 twenty-nine of this code may only pledge fifty percent of
10 the lottery revenues to the payment of principal and
11 interest on the lottery revenue bonds and for reserves
12 therefor. Any pledge of lottery revenue funds for lottery
13 revenue bonds is a prior and superior charge on the lottery
14 revenues and Lottery Revenue Fund over the use of any of
15 the moneys to pay for the cost of any of such purposes on
16 a cash basis.

17 (b) The lottery revenue bonds may be authorized and
18 issued by the municipality to finance or refinance, in
19 whole or in part, public projects in an aggregate principal
20 amount not exceeding the amount which the municipality
21 determines can be paid as to both principal and interest

22 and reasonable margins for a reserve therefor from the
23 lottery revenues and the Lottery Revenue Fund. A munici-
24 pality issuing lottery revenue bonds shall establish a fund
25 to deposit lottery revenues and call the fund the Lottery
26 Revenue Fund. The municipality shall thereafter deposit
27 all lottery revenues pledged to the payment of principal
28 and interest of lottery revenue bonds into the Lottery
29 Revenue Fund.

30 (c) The issuance of lottery revenue bonds may be autho-
31 rized by an ordinance of the municipality and such lottery
32 revenue bonds shall be issued pursuant to the provisions
33 of article sixteen, chapter eight of this code.

34 (d) The lottery revenue bonds are negotiable instruments
35 under the Uniform Commercial Code of this state and may
36 not be considered to be obligations or debts of the state or
37 of the municipality issuing the bonds and the credit or
38 taxing power of the state or municipality may not be
39 pledged therefor, but the lottery revenue bonds may be
40 payable only from the revenue pledged therefor as pro-
41 vided in this section.

42 (e) A holder of lottery revenue bonds has a lien against
43 the lottery revenues and the Lottery Revenue Fund for
44 payment of the lottery revenue bond and the interest
45 thereon and may bring suit to enforce the lien.

46 (f) A municipality may issue and secure additional bonds
47 payable out of the lottery revenues and the Lottery
48 Revenue Fund which bonds may rank on a parity with, or
49 be subordinate or superior to, other bonds issued by the
50 municipality and payable from the Lottery Revenue Fund.

**§13-2H-6. Issuance of lottery revenue bonds by board of educa-
tion.**

1 (a) A board of education may issue and deliver lottery
2 revenue bonds secured by lottery revenues to finance or

3 refinance public projects. The board of education may
4 issue lottery revenue bonds of the school district as
5 provided in this section to finance or refinance all or part
6 of a public project and pledge all or any part of the lottery
7 revenues for the payment of the principal of and interest
8 on lottery revenue bonds and for reserves therefor. Any
9 pledge of lottery revenue funds for lottery revenue bonds
10 is a prior and superior charge on the lottery revenues and
11 Lottery Revenue Fund over the use of any of the moneys to
12 pay for the cost of any of such purposes on a cash basis.

13 (b) Lottery revenue bonds may be authorized and issued
14 by the board of education to finance or refinance, in whole
15 or in part, public projects in an aggregate principal
16 amount not exceeding the amount which the board of
17 education determines can be paid as to both principal and
18 interest and reasonable margins for a reserve therefor
19 from the lottery revenues and the Lottery Revenue Fund.
20 A board of education issuing lottery revenue bonds shall
21 establish a fund to deposit lottery revenues and call the
22 fund the Lottery Revenue Fund. The board of education
23 shall thereafter deposit all lottery revenues pledged to the
24 payment of principal and interest of lottery revenue bonds
25 into the Lottery Revenue Fund.

26 (c) The issuance of lottery revenue bonds may be autho-
27 rized by an order of the board of education and the lottery
28 revenue bonds shall: (1) Bear a specific date or dates; (2)
29 mature at such time or times not exceeding forty years
30 from their respective dates; (3) be in a specific denomina-
31 tion; (4) be in registered form with exchangeability and
32 interchangeability privileges; (5) be payable in the medium
33 of payment and at a specific place or places within or
34 without the state; (6) be subject to terms of prior redemp-
35 tion at specific prices; and (7) have such other terms and
36 provisions as determined by the board of education. The
37 lottery revenue bonds shall be signed by the president of
38 the board of education under the seal of the board of

39 education, attested by the secretary of the board of
40 education. Lottery revenue bonds may be sold in the
41 manner as the board of education determines is for the
42 best interests of the school district.

43 (d) The board of education may enter into: (1) Trust
44 agreements with banks or trust companies, within or
45 without the state; (2) trust agreements or the orders
46 authorizing the issuance of the bonds; (3) valid and legally
47 binding covenants with the holders of the lottery revenue
48 bonds as to the custody, safeguarding and disposition of
49 the proceeds of the lottery revenue bonds, the moneys in
50 the Lottery Revenue Fund, sinking funds, reserve funds or
51 any other moneys or funds; (4) agreements as to the rank
52 and priority, if any, or different issues of lottery revenue
53 bonds by the board of education under the provisions of
54 this section; (5) agreements as to the provisions of pay-
55 ment, term, security, default and remedy provisions as the
56 board of education may consider necessary or desirable;
57 and (6) agreements as to any other matters or provisions
58 which are considered necessary and advisable by the
59 board of education in the best interests of the school
60 district and to enhance the marketability of such lottery
61 revenue bonds.

62 (e) The lottery revenue bonds are negotiable instruments
63 under the Uniform Commercial Code of this state and may
64 not be considered to be obligations or debts of the state or
65 of the board of education issuing the bonds and the credit
66 or taxing power of the state or board of education may not
67 be pledged therefor, but the lottery revenue bonds may be
68 payable only from the revenue pledged therefor as pro-
69 vided in this section.

70 (f) A holder of lottery revenue bonds has a lien against
71 the lottery revenues and the Lottery Revenue Fund for
72 payment of the lottery revenue bond and the interest
73 thereon and may bring suit to enforce the lien.

74 (g) A board of education may issue and secure additional
75 bonds payable out of the lottery revenues or Lottery
76 Revenue Fund which bonds may rank on a parity with, or
77 be subordinate or superior to, other bonds issued by the
78 board of education and payable from the Lottery Revenue
79 Fund.

§13-2H-7. Use of proceeds from sale of bonds.

1 (a) The proceeds from the sale of any bonds issued under
2 authority of this article may be applied only for the
3 purpose for which the bonds were issued: *Provided*, That
4 any accrued interest received in any sale shall be applied
5 to the payment of the principal of or the interest on the
6 bonds sold. If for any reason any portion of the proceeds
7 are not needed for the purpose for which the bonds were
8 issued, then the unneeded portion of the proceeds shall be
9 applied to the purchase of bonds for cancellation or
10 payment of the principal of or the interest on the bonds or
11 held in reserve for the payment thereof.

12 (b) The costs of any public project shall be considered to
13 include the following:

14 (1) Capital costs, including, but not limited to, the actual
15 costs of the construction of public works or improvements,
16 capital improvements and facilities, new buildings,
17 structures and fixtures, the demolition, alteration, remodel-
18 eling, repair or reconstruction of existing buildings,
19 structures and fixtures, the removal or containment of, or
20 the restoration of soil or groundwater affected by environ-
21 mental pollution, environmental remediation, the acquisi-
22 tion of equipment and site clearing, grading and prepara-
23 tion;

24 (2) Financing costs, including, but not limited to, any
25 interest paid to holders of evidences of indebtedness issued
26 to pay for project costs, all costs of issuance and any
27 redemption premiums, credit enhancement or other
28 related costs;

- 29 (3) Real property acquisition costs;
- 30 (4) Professional service costs, including, but not limited
31 to, those costs incurred for architectural planning, engi-
32 neering and legal advice and services;
- 33 (5) Imputed administrative costs, including, but not
34 limited to, reasonable charges for time spent by govern-
35 mental body employees in connection with the implemen-
36 tation of a project;
- 37 (6) Relocation costs, including, but not limited to, those
38 relocation payments made following condemnation and
39 job training and retraining and costs for utility relocation;
40 and
- 41 (7) Organizational costs, including, but not limited to,
42 the costs of conducting environmental impact and other
43 studies and the costs of informing the public with respect
44 to the implementation of project plans.

§13-2H-8. Redemption of bonds.

1 The lottery revenue bonds issued pursuant to this article
2 may contain a provision therein to the effect that they, or
3 any of them, may be called for redemption at any time
4 prior to maturity by the governmental body and at such
5 redemption prices or premiums, which terms shall be
6 stated in the bond.

§13-2H-9. Refunding bonds.

1 Any lottery revenue bonds issued hereunder and at any
2 time outstanding may, at any time and from time to time,
3 be refunded by a county, municipality or board of educa-
4 tion by the issuance of its refunding bonds in such amount
5 as the governmental body may determine necessary to
6 refund the principal of the bonds so to be refunded,
7 together with any unpaid interest thereon; to make any
8 improvements or alterations in the public project; and any

9 premiums and commissions necessary to be paid in
10 connection therewith. Any refunding may be effected
11 whether the bonds to be refunded have then matured or
12 shall thereafter mature, either by sale of the refunding
13 bonds and the application of the proceeds thereof for the
14 redemption of the bonds to be refunded thereby or by
15 exchange of the refunding bonds for the bonds to be
16 refunded thereby: *Provided*, That the holders of any bonds
17 so to be refunded may not be compelled without their
18 consent to surrender their bonds for payment or exchange
19 prior to the date on which they are payable or, if they are
20 called for redemption, prior to the date on which they are
21 by their terms subject to redemption. Any refunding
22 bonds issued under the authority of this article shall be
23 payable from the lottery revenues, the Lottery Revenue
24 Fund or from other moneys or the principal of and interest
25 on or other investment yield from investments or proceeds
26 of bonds or other applicable funds and moneys, including
27 investments of proceeds of any refunding bonds, and are
28 subject to the provisions contained in section five, six or
29 seven of this article, as applicable.

§13-2H-10. Joint establishment by two or more governmental bodies.

1 Any two or more governmental bodies may jointly
2 acquire by construction or purchase, or both, or finance
3 one or more public projects or additions thereto by the
4 issuance and delivery of lottery revenue bonds in which
5 case such governmental bodies shall jointly exercise all the
6 rights, authority, power and duties herein conferred upon
7 a county commission, a municipality or aboard of educa-
8 tion when acting singly and they shall also be subject to
9 the same limitations, restrictions and conditions as are
10 herein imposed on a singly governmental body in connec-
11 tion with the acquisition or finance of a public project.
12 Notwithstanding the signing and sealing requirements set

13 forth in section four, five or six of this article, one of such
14 governing bodies may sign and seal bonds issued pursuant
15 to this article on both its own behalf and on behalf of all
16 other participating governing bodies, and signature in the
17 manner set forth in the said section four, five or six, as
18 applicable, by one governing body shall be effect as to all
19 other participating governing bodies. The respective
20 governing bodies, acting jointly, may also provide by
21 agreement among themselves, any other terms and condi-
22 tions of such joint participation.

§13-2H-11. Exemption from taxation.

1 The lottery revenue bonds issued pursuant to this article
2 and the income therefrom are exempt from all taxation by
3 the State of West Virginia, or by any county, school
4 district, municipality or political subdivision thereof,
5 except inheritance, estate and transfer taxes; and the real
6 and personal property which a county commission, a
7 municipality or board of education may acquire pursuant
8 to the provisions of this article shall be exempt from
9 taxation by the state, or any county, municipality or other
10 levying body, as public property, so long as the same is
11 owned by such county, municipality or board of education.

§13-2H-12. Construction of article.

1 This article may not be construed as a restriction or
2 limitation upon any powers which a county, municipality
3 or board of education might otherwise have under any
4 laws of this state, but shall be construed as alternative or
5 additional. This article may not be construed as requiring
6 an election by the voters of a county, municipality or
7 board of education prior to the issuance of bonds hereun-
8 der by a county, municipality or board of education and
9 may not be construed as requiring any proceeding under
10 any law or laws, other than that which is required by this
11 article.

CHAPTER 29. MISCELLANEOUS AND OFFICERS.

**ARTICLE 22C. WEST VIRGINIA LOTTERY RACETRACK TABLE GAMES
ACT.**

**§29-22C-27. West Virginia Lottery Racetrack Table Games
Fund; Community-Based Service Fund; State
Debt Reduction Fund; distribution of funds.**

1 (a) (1) The special fund in the State Treasury known as
2 the West Virginia Lottery Racetrack Table Games Fund is
3 continued and all tax collected under this article shall be
4 deposited with the State Treasurer and placed in the West
5 Virginia Lottery Racetrack Table Games Fund. The fund
6 shall be an interest-bearing account with all interest or
7 other return earned on the money of the fund credited to
8 and deposited in the fund.

9 (2) Notwithstanding any provision of this article to the
10 contrary, all racetrack table games license fees received by
11 the commission pursuant to section eight of this article
12 shall be deposited into the Community-Based Service
13 Fund which is continued in the State Treasury. Moneys of
14 the fund shall be expended by the Bureau of Senior
15 Services upon appropriation of the Legislature solely for
16 the purpose of enabling the aged and disabled citizens of
17 this state to maintain their residency in the community-
18 based setting through the provision of home and
19 community-based services.

20 (b) From the gross amounts deposited into the Racetrack
21 Table Games Fund pursuant to subsection (a) of this
22 section, the commission shall:

23 (1) Retain an amount for the administrative expenses of
24 the commission as determined by the commission in
25 accordance with subsection (e) of this section;

26 (2) Transfer two and one-half percent of adjusted gross
27 receipts from all thoroughbred racetracks with West

28 Virginia Lottery table games to the special funds estab-
29 lished by each thoroughbred racetrack table games
30 licensees for the payment of regular racetrack purses, the
31 amount being divided on a pro rata basis between the
32 special funds of each thoroughbred racetrack table games
33 licensee and transfer two and one-half percent of adjusted
34 gross receipts from all greyhound racetracks with West
35 Virginia Lottery table games to the special funds estab-
36 lished by each greyhound racetrack table games licensees
37 for the payment of regular racetrack purses, the amount
38 being divided equally between the special funds of each
39 greyhound racetrack table games licensee;

40 (3) Transfer two percent of the adjusted gross receipts
41 from all licensed racetracks to the West Virginia Thor-
42 oughbred Development Fund created under section
43 thirteen-b, article twenty-three, chapter nineteen of this
44 code and the West Virginia Greyhound Breeding Develop-
45 ment Fund created under section ten, article twenty-three,
46 chapter nineteen of this code. The total amount trans-
47 ferred under this subdivision shall be divided pro rata
48 among the development funds for each racetrack table
49 games licensee based on relative adjusted receipts from
50 each racetrack. The amounts transferred to these funds
51 may not be used for the benefit of any person or activity
52 other than at or associated with a racetrack table games
53 licensee;

54 (4) Transfer one percent of the adjusted gross receipts
55 from each licensed racetrack to the county commissions of
56 the counties where racetracks with West Virginia Lottery
57 table games are located. County commissions may pledge
58 this money to make payments on lottery revenue bonds
59 issued pursuant to article two-h, chapter thirteen of this
60 code. The one percent transferred under this subdivision
61 shall be divided pro rata among the counties with a
62 racetrack with West Virginia Lottery table games based on
63 relative adjusted gross receipts from each county's race-

64 track: *Provided*, That the county board of education of a
65 growth county, as that term is defined in section three,
66 article twenty, chapter seven of this code, which has
67 enacted the Local Powers Act, and in which county a
68 racetrack is located that has participated in the West
69 Virginia Thoroughbred Development Fund since on or
70 before January 1, 1991, shall receive the one percent of
71 adjusted gross receipts as provided in this subdivision for
72 the purpose of public projects, as defined in section two,
73 article two-h, chapter thirteen of this code or to make
74 payments on lottery revenue bonds issued to finance
75 public projects;

76 (5) Transfer two percent of the adjusted gross receipts
77 from each licensed racetrack to the governing bodies of
78 municipalities within counties where racetracks with West
79 Virginia Lottery table games are located. Municipalities
80 may pledge the money to make payments on lottery
81 revenue bonds issued pursuant to article two-h, chapter
82 thirteen of this code. This money shall be allocated as
83 follows:

84 (A) One half of the amounts transferred under this
85 subdivision shall be allocated to the municipalities within
86 each county having a racetrack table games licensee, based
87 on relative adjusted gross receipts from West Virginia
88 Lottery table games from those racetracks and the total
89 amount allocated to the municipalities within a county
90 shall be divided pro rata among the municipalities based
91 on each municipality's population determined at the most
92 recent United States decennial census of population:
93 *Provided*, That: (i) For each allocation, when a municipal-
94 ity is physically located in two or more counties, only that
95 portion of its population residing in the county where the
96 authorized table games are located shall be considered; (ii)
97 a single municipality in a county where West Virginia
98 Lottery racetrack table games are played may not receive
99 a total share under this paragraph that is in excess of

100 seventy-five percent of the total distribution under this
101 paragraph for the county in which the municipality is
102 located; and (iii) a municipality receiving moneys under
103 this paragraph may not receive an amount which is less
104 than that received by a municipality under provisions of
105 subdivision (4), subsection (d) of this section; and

106 (B) One half of the amounts transferred under this
107 subdivision shall be allocated pro rata to the municipali-
108 ties within all the counties, having a racetrack table games
109 licensee based on each municipality's population deter-
110 mined at the most recent United States decennial census
111 of population: *Provided*, That: (i) A municipality which
112 received funds above its pro rata share pursuant to
113 subpart (iii), paragraph (A) of this subdivision may not
114 receive an allocation under this paragraph; (ii) for each
115 allocation, when a municipality is physically located in
116 two or more counties, only that portion of its population
117 residing in the county where the authorized table games
118 are located shall be considered; and (iii) a single munici-
119 pality in a county where West Virginia Lottery racetrack
120 games are played may not receive a total share under this
121 paragraph that is in excess of twenty-five percent of the
122 total transfers under this paragraph: *Provided, however*,
123 That the county board of education of a growth county, as
124 that term is defined in section three, article twenty,
125 chapter seven of this code, which has enacted the Local
126 Powers Act, and in which county a racetrack is located
127 that has participated in the West Virginia Thoroughbred
128 Development Fund since on or before January 1, 1991,
129 shall receive the two percent of adjusted gross receipts as
130 provided in this subdivision for the purpose of public
131 projects, as defined in section two, article two-h, chapter
132 thirteen of this code, or to make payments on lottery
133 revenue bonds issued to finance the public projects;

134 (6) Transfer one half of one percent of the adjusted gross
135 receipts to the governing bodies of municipalities in which

136 a racetrack table games licensee is located. The municipi-
137 palities shall each receive an equal share of the total
138 amount allocated under this subdivision: *Provided*, That
139 distribution under this subdivision may not be made to
140 any municipality which did not have a licensed racetrack
141 within its municipal boundaries as they existed on Janu-
142 ary 1, 2007: *Provided, however*, That if no racetrack table
143 games licensee is located within a municipality, a transfer
144 may not be made under this subdivision. The municipality
145 may pledge this money to make payments on lottery
146 revenue bonds issued pursuant to article two-h, chapter
147 thirteen of this code; and

148 (7) Distribute the remaining amounts, hereinafter
149 referred to as the net amounts in the Racetrack Table
150 Games Funds, in accordance with the provisions of
151 subsection (d) of this section.

152 (c) Beginning with the fiscal year following the licensing
153 of every licensed racetrack to offer West Virginia Lottery
154 racetrack table games under this article, subsection (b) of
155 this section shall be superseded and replaced by this
156 subsection for distribution of the balances in the fund
157 established by subsection (a) of this section. From the
158 gross amounts deposited into the fund, the commission
159 shall:

160 (1) Retain an amount for the administrative expenses of
161 the commission as determined by the commission in
162 accordance with subsection(e) of this section;

163 (2) Transfer two and one-half percent of adjusted gross
164 receipts from all thoroughbred racetracks with West
165 Virginia Lottery table games to the special funds estab-
166 lished by each thoroughbred racetrack table games
167 licensee for the payment of regular racetrack purses, the
168 amount being divided on a pro rata basis between the
169 special funds of each thoroughbred racetrack table games
170 licensee and transfer two and one-half percent of adjusted

171 gross receipts from all greyhound racetracks with West
172 Virginia Lottery table games to the special funds estab-
173 lished by each greyhound racetrack table games licensee
174 for the payment of regular racetrack purses, the amount
175 being divided equally between the special funds of each
176 greyhound racetrack table games licensee;

177 (3) Transfer two percent of the adjusted gross receipts
178 from all licensed racetracks to the West Virginia Thor-
179 oughbred Development Fund created under section
180 thirteen-b, article twenty-three, chapter nineteen of this
181 code and the West Virginia Greyhound Breeding Develop-
182 ment Fund created under section ten, article twenty-three,
183 chapter nineteen of this code. The total amount trans-
184 ferred under this subdivision shall be divided pro rata
185 among the development funds for each racetrack table
186 games licensee based on relative adjusted receipts from
187 each racetrack. The amounts transferred to these funds
188 may not be used for the benefit of any person or activity
189 other than at or associated with a racetrack table games
190 licensee;

191 (4) Transfer two percent of the adjusted gross receipts
192 from each licensed racetrack to the county commissions of
193 the counties where racetracks with West Virginia Lottery
194 table games are located. The money transferred under this
195 subdivision shall be divided pro rata among the counties
196 with a racetrack with West Virginia Lottery table games
197 based on relative adjusted gross receipts from each
198 county's racetrack: *Provided*, That the county board of
199 education of a growth county, as that term is defined in
200 section three, article twenty, chapter seven of this code,
201 which has enacted the Local Powers Act, and in which a
202 racetrack is located that has participated in the West
203 Virginia Thoroughbred Development Fund since on or
204 before January 1, 1991, shall receive one half of that
205 county's share of adjusted gross receipts as provided in
206 this subdivision for the purpose of capital improvements;

207 (5) Transfer three percent of the adjusted gross receipts
208 from each licensed racetrack to the governing bodies of
209 municipalities within counties where racetracks with West
210 Virginia Lottery table games are located, which shall be
211 allocated as follows:

212 (A) One half of the money transferred by this subdivision
213 shall be allocated to the municipalities within each county,
214 other than a county described in paragraph (C) of this
215 subdivision, having a racetrack table games licensee based
216 on relative adjusted gross receipts from West Virginia
217 Lottery table games from those racetracks and the total
218 amount allocated to the municipalities within a county
219 shall be divided pro rata among the municipalities based
220 on each municipality's population determined at the most
221 recent United States decennial census of population:
222 *Provided, That:* (i) For each allocation, when a municipal-
223 ity is physically located in two or more counties, only that
224 portion of its population residing in the county where the
225 authorized table games are located shall be considered; (ii)
226 a single municipality in a county where West Virginia
227 Lottery racetrack table games are played may not receive
228 a total share under this paragraph that is in excess of
229 seventy-five percent of the total distribution under this
230 paragraph for the county in which the municipality is
231 located; and (iii) a municipality receiving moneys under
232 this paragraph may not receive an amount which is less
233 than that received by a municipality under provisions of
234 subdivision (4), subsection (d) of this section.

235 (B) One half of the money transferred under this subdivi-
236 sion shall be allocated pro rata to the municipalities
237 within all the counties, other than a county described in
238 paragraph (C) of this subdivision, having a racetrack table
239 games licensee based on each municipality's population
240 determined at the most recent United States decennial
241 census of population: *Provided, That:* (i) A municipality
242 which received funds above its pro rata share pursuant to

243 subparagraph (iii), paragraph (A) of this subdivision shall
244 not receive an allocation under this paragraph; (ii) for each
245 allocation, when a municipality is physically located in
246 two or more counties, only that portion of its population
247 residing in the county where the authorized table games
248 are located shall be considered; and (iii) a single municipi-
249 pality in a county where West Virginia Lottery racetrack
250 games are played may not receive a total share under this
251 paragraph that is in excess of twenty-five percent of the
252 total transfers under this paragraph.

253 (C) Notwithstanding the provisions of paragraphs (A)
254 and (B) of this subdivision, when a racetrack is located in
255 a growth county, as that term is defined in section three,
256 article twenty, chapter seven of this code, which has
257 enacted the Local Powers Act, and in which county a
258 racetrack is located that has participated in the West
259 Virginia Thoroughbred Development Fund since on or
260 before January 1, 1991, the county board of education
261 shall receive two thirds of the share of adjusted gross
262 receipts from West Virginia Lottery table games from the
263 racetrack in the county as provided in this subdivision and
264 the municipalities within the county shall share the
265 remaining one third of the total amount allocated as
266 provided in this paragraph. The municipal one-third share
267 shall be divided pro rata among the municipalities based
268 on each municipality's population determined at the most
269 recent United States decennial census of population. All
270 money transferred under this paragraph shall be used by
271 the county board of education and by the municipalities
272 for the purpose of capital improvements;

273 (6) Transfer one half of one percent of the adjusted gross
274 receipts to the governing bodies of municipalities in which
275 a racetrack table games licensee is located. The municipi-
276 palities shall each receive an equal share of the total
277 amount allocated under this subdivision: *Provided*, That
278 distribution under this subdivision may not be made to

279 any municipality that did not have a licensed racetrack
280 within its municipal boundaries as they existed on Janu-
281 ary 1, 2007: *Provided, however,* That if no racetrack table
282 games licensee is located within a municipality, a transfer
283 may not be made under this subdivision; and

284 (7) Distribute the remaining amounts, hereinafter
285 referred to as the net amounts in the Racetrack Table
286 Games Funds, in accordance with the provisions of
287 subsection (d) of this section.

288 (d) From the net amounts in the Racetrack Table Games
289 Fund, the commission shall:

290 (1) Transfer seventy-six percent to the State Debt
291 Reduction Fund which is hereby continued in the State
292 Treasury. Moneys of the fund shall be expended solely for
293 the purpose of accelerating the reduction of existing
294 unfunded liabilities and existing bond indebtedness of the
295 state and shall be expended or transferred only upon
296 appropriation of the Legislature;

297 (2) Transfer four percent, divided pro rata based on
298 relative adjusted gross receipts from the individual
299 licensed racetracks for and on behalf of all employees of
300 each licensed racing association, into a special fund to be
301 established by the Racing Commission to be used for
302 payment into the pension plan for all employees of each
303 licensed racing association;

304 (3) Transfer ten percent, to be divided and paid in equal
305 shares, to each county commission in the state that is not
306 eligible to receive a distribution under subdivision (4),
307 subsection (b) of this section: *Provided,* That funds
308 transferred to county commissions under this subdivision
309 shall be used only to pay regional jail expenses and the
310 costs of infrastructure improvements and other capital
311 improvements: *Provided, however,* That up to fifty percent
312 of these funds may be pledged to make payments on

313 lottery revenue bonds issued pursuant to article two-h,
314 chapter thirteen of this code; and

315 (4) Transfer ten percent, to be divided and paid in equal
316 shares, to the governing bodies of each municipality in the
317 state that is not eligible to receive a distribution under
318 subdivisions (5) and (6), subsection (b) of this section:
319 *Provided*, That funds transferred to municipalities under
320 this subdivision shall be used only to pay for debt reduc-
321 tion in municipal police and fire pension funds and the
322 costs of infrastructure improvements and other capital
323 improvements: *Provided, however*, That up to fifty percent
324 of these funds may be pledged to make payments on
325 lottery revenue bonds issued pursuant to article two-h,
326 chapter thirteen of this code.

327 (e) All expenses of the commission incurred in the
328 administration and enforcement of this article shall be
329 paid from the Racetrack Table Games Fund, including
330 reimbursement of state law-enforcement agencies for
331 services performed at the request of the commission
332 pursuant to this article. The commission's expenses
333 associated with a particular racetrack with authorized
334 table games under this article may not exceed three
335 percent of the total annual adjusted gross receipts received
336 from that licensee's operation of table games under this
337 article, including, but not limited to, all license fees or
338 other amounts attributable to the licensee's operation of
339 table games under this article, except as provided in
340 subdivision (2), subsection (a) of this section. However, for
341 the fiscal year following the licensing of every licensed
342 racetrack to offer West Virginia lottery racetrack table
343 games under this article and for the fiscal year thereafter,
344 the commission's expenses associated with a particular
345 racetrack with authorized table games under this article
346 may not exceed four percent of the total annual adjusted
347 gross receipts received from that licensee's operation of
348 table games under this article, including, but not limited

349 to, all license fees or other amounts attributable to the
350 licensee's operation of table games under this article,
351 except as provided in subdivision (2), subsection (a) of this
352 section. These expenses shall either be allocated to the
353 racetrack with West Virginia Lottery table games for
354 which the expense is incurred, if practicable, or be treated
355 as general expenses related to all racetrack table games
356 facilities and be allocated pro rata among the racetrack
357 table games facilities based on the ratio that annual
358 adjusted gross receipts from operation of table games at
359 each racetrack with West Virginia Lottery table games
360 bears to total annual adjusted gross receipts from opera-
361 tion of table games at all racetracks with West Virginia
362 Lottery table games during the fiscal year of the state.
363 From this allowance, the commission shall transfer at least
364 \$100,000 but not more than \$500,000 into the Compulsive
365 Gambling Treatment Fund created in section nineteen,
366 article twenty-two-a of this chapter.

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

.....
Chairman Senate Committee

.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

.....
Clerk of the Senate

.....
Clerk of the House of Delegates

.....
President of the Senate

.....
Speaker House of Delegates

The within *is approved* this the *31st*

Day of *May*, 2010.

.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 29 2010

Time 3:40 pm