

1 **H. B. 3242**

2  
3 (By Delegates Swartzmiller, T. Campbell, Manypenny and Jones)

4 [Introduced February 21, 2011; referred to the  
5 Committee on the Judiciary then Finance.]

6 **FISCAL**  
7 **NOTE**

8  
9  
10 A BILL to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new section, designated §19-23-12d; to amend  
12 and reenact §29-22A-6, §29-22A-10 and §29-22A-10c of said  
13 code; and to amend and reenact §29-25-19 and §29-25-22 of said  
14 code, all relating to allowing simulcast pari-mutuel racing  
15 within the confines of gaming facilities located at historic  
16 resort hotels; defining terms; permitting the issuing of  
17 licenses; providing for payments; setting forth conditions for  
18 out-of-state tracks and interstate pools; registering of  
19 persons conducting wagering activities; setting forth the  
20 licensee's retainage; setting forth the amounts of payments  
21 made by a licensee and to whom they are to be paid; requiring  
22 compliance with federal law; authorizing rulemaking; exempting  
23 pari-mutuel wagering and equipment from state sales taxes;  
24 permitting licensees at racetracks and historic resort hotels

1 to establishing minimum and maximum wager limits at video  
 2 lottery terminals; authorizing the use of video lottery  
 3 terminal bill acceptors for all United States currency;  
 4 reducing the required life for capital investments by  
 5 licensees at racetracks to be reimbursed from the Capital  
 6 Investment Fund; extending the time for recoupment of  
 7 expenditures for capital improvements; requiring historic  
 8 resort hotels to pay a portion of certain proceeds into the  
 9 Human Resources Fund; creating a Licensed Racetrack and  
 10 Historic Resort Hotel Facility Modernization Fund; requiring  
 11 a certain portion of a licensed racetrack's gross terminal  
 12 income to be deposited into that new fund; and defining terms.

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

14 That the Code of West Virginia, 1931, as amended, be amended  
 15 by adding thereto a new section, designated §19-23-12d; that  
 16 §29-22A-6, §29-22A-10 and §29-22A-10c of said code be amended and  
 17 reenacted; that §29-25-19 and §29-25-22 of said code be amended and  
 18 reenacted, all to read as follows:

19 **CHAPTER 19. AGRICULTURE.**

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

21 **§19-23-12d. Simulcast races and pari-mutuel wagering at authorized**  
 22 **gaming facility in historic resort hotel.**

23 (a) Definitions. -- In addition to the words and phrases

1 defined in section three of this article, the words and phrases  
2 defined in subsection (b) of this section have the meanings  
3 provided in that subsection when used in this section, unless the  
4 context in which the term or phrase is used clearly indicates that  
5 a different meaning is intended.

6 (b) *Defined words and phrases.* --

7 (1) "Applicant" means any gaming licensee who is licensed  
8 under article twenty-five, chapter twenty-nine of this code,  
9 applying for a license under this section to conduct pari-mutuel  
10 wagering on televised horse and dog races.

11 (2) "Designated pari-mutuel wagering area" means one or more  
12 specific areas of an existing historic resort hotel within which  
13 the Racing Commission has authorized the gaming licensee to offer  
14 pari-mutuel wagering to patrons of the hotel.

15 (3) "Gaming facility" means a designated area on the premises  
16 of an existing historic resort hotel in which pari-mutuel wagering  
17 is conducted by a gaming licensee.

18 (4) "Gaming licensee" means the licensed operator of a gaming  
19 facility under article twenty-five, chapter twenty-nine of this  
20 code, who is also licensed under this article to offer pari-mutuel  
21 wagering on simulcast horse or dog races or on both types of races.

22 (5) "Historic resort hotel" means a historic resort hotel as  
23 defined in section two, article twenty-five, chapter twenty-nine of  
24 this code.

1       (6) "In-state host track" means a racetrack within this state  
2 licensed to conduct horse or dog race meetings at which pari-mutuel  
3 wagering is conducted and which is an in-state sending track.

4       (7) "In-state sending track" means a racetrack in this state  
5 licensed under this article to conduct horse or dog race meetings  
6 at which pari-mutuel wagering is conducted and which is equipped to  
7 conduct simulcasting of those races and intertrack pari-mutuel  
8 wagering on those races.

9       (8) "In-state track" means an in-state host track or an  
10 in-state sending track.

11       (9) "Interstate common pool" means a pari-mutuel pool  
12 established within this state or in another state or foreign nation  
13 within which is combined comparable pari-mutuel pools of one or  
14 more receiving legal wagering entities located in one or more  
15 states or foreign nations upon a race at a sending track located  
16 within or outside of this state for the purpose of establishing  
17 payoff prices in the various jurisdictions.

18       (10) "Intertrack wagering" means pari-mutuel wagering on  
19 simulcast horse or dog races held at an in-state sending track by  
20 patrons at a gaming facility licensed under this section and the  
21 electronic transmission of the wagers to the in-state sending  
22 track.

23       (11) "License" means a license issued by the Racing Commission  
24 pursuant to this section, including:

1       (A) A license to operate a gaming facility in which  
2 pari-mutuel wagering on simulcast races will be available to  
3 patrons;

4       (B) A license to be employed in connection with the operation  
5 of a gaming facility at which pari-mutuel wagering is offered on  
6 simulcast races; or

7       (C) A license to provide management services under a contract  
8 to a gaming facility licensed under this article.

9       (12) "Licensed gaming facility employee" means any individual  
10 licensed or registered to be employed by a gaming licensee in  
11 connection with the operation of a pari-mutuel wagering pursuant to  
12 this section.

13       (13) "Out-of-state host track" means a racetrack in a  
14 jurisdiction other than this state, the operator of which is  
15 lawfully permitted to conduct a horse or dog race meeting and which  
16 conducts horse or dog races upon which pari-mutuel wagers may be  
17 placed.

18       (14) "Out-of-state track" means an out-of-state host track or  
19 an out-of-state sending track.

20       (15) "Out-of-state sending track" means a racetrack in a  
21 jurisdiction other than the State of West Virginia which is  
22 lawfully permitted to conduct a horse or dog race meeting and to  
23 provide simulcast horse or dog races to a racetrack in this state.

24       (16) "Participation agreement" means the written contract that

1 provides for the establishment or implementation of simulcasting of  
2 horse or dog races and pari-mutuel wagering. Each contract shall  
3 set forth the manner in which the pari-mutuel wagering system shall  
4 be managed, operated and capitalized, as well as how expenses and  
5 revenues shall be allocated and distributed by and among the  
6 licensed gaming facility under this section and the other eligible  
7 participants in the contract.

8 (17) "Premises of an existing historic resort hotel" means the  
9 historic resort hotel, attachments of the historic resort hotel,  
10 and the traditional, immediate grounds of the historic resort  
11 hotel.

12 (18) "Receiving gaming facility" means a licensed racetrack or  
13 authorized gaming facility within this state licensed under this  
14 article which is equipped to receive simulcast horse and dog races  
15 and to conduct intertrack or interstate wagering on those races.

16 (19) "Simulcast horse or dog races" means horse or dog races  
17 conducted at an in-state sending track or an out-of-state sending  
18 track, as the case may be, and transmitted simultaneously by  
19 picture to the authorized gaming facility licensed under this  
20 section or other legal wagering facility.

21 (20) "Simulcasting" means the simultaneous audio or visual  
22 transmission of horse or dog races conducted at in-state and  
23 out-of-state racetracks to the gaming facility licensee under this  
24 section and pari-mutuel wagering on the results of those races.

1       (c) Application for license. -- An applicant who is licensed  
2 under article twenty-five, chapter twenty-nine of this code may  
3 apply to the West Virginia Racing Commission for a license to  
4 conduct at the historic resort hotel pari-mutuel wagering on  
5 simulcast horse and dog races held at a licensed racetrack in this  
6 state, or in another jurisdiction, where pari-mutuel wagering is  
7 permitted and conducted. The application shall be submitted in the  
8 form prescribed by the commission and provide the information  
9 required by the commission.

10       (d) Issuance of license. -- Within sixty days after an  
11 application is filed pursuant to subsection (b) of this section,  
12 the Racing Commission shall act on the application and either grant  
13 or deny the application: Provided, That issuance of the license  
14 shall not be unreasonably withheld. Once issued, the license shall  
15 expire, be renewed, revoked or suspended on the same basis as  
16 license issued under this article to racetrack to hold live racing  
17 and conduct pari-mutuel wagering.

18       (e) Transmission of races from in-state sending tracks. -- An  
19 in-state sending track may transmit to a gaming licensee under this  
20 section all or some of the live races conducted at the racetrack.

21       (f) Receipt of simulcasts transmitted from out-of-state  
22 tracks. -- The gaming licensee under this section may, in  
23 accordance with this article, and any applicable rules of the  
24 Racing Commission and with the approval of the commission, receive

1 at the facility simulcast horse or dog races, or both, conducted at  
2 out-of-state sending tracks.

3 (g) Payments to sending track. - The authorized gaming  
4 facility receiving a simulcast horse or dog race from an  
5 out-of-state sending track shall pay to the out-of-state sending  
6 track for the transmission such amount, if any, as may be agreed  
7 upon by the authorized gaming facility and the out-of-state sending  
8 track. The authorized gaming facility accepting pari-mutuel wagers  
9 on a horse or dog race conducted at an out-of-state host track  
10 shall pay to the out-of-state host track such amount, if any, as  
11 provided for in the agreement, if any, between the authorized  
12 gaming facility and the out-of-state host track.

13 (h) Conditions for participation by out-of-state tracks;  
14 interstate common pools. --

15 (1) Except as provided in subdivision (2) of this subsection,  
16 the Racing Commission shall not permit an out-of-state sending  
17 track or an out-of-state host track to participate in simulcast  
18 pari-mutuel wagering or qualify as an out-of-state host track,  
19 respectively, unless the pari-mutuel pools respecting the  
20 authorized gaming facility under this article are combined with  
21 comparable pari-mutuel pools at the out-of-state track. The types  
22 of wagering, takeout, distribution of winnings, rules of racing,  
23 method of calculating breakage, and the percentage of deposits  
24 remaining undistributed from a pari-mutuel pool after payment is



1 made to winning ticket holders shall be determined in accordance  
2 with the law or policy applicable to the out-of-state track.

3 (2) With the prior approval of the Racing Commission and the  
4 concurrence of the out-of-state track, an authorized gaming  
5 facility under this article and receiving tracks or entities in  
6 other states other than the state in which the out-of-state track  
7 is located may form an interstate common pool. With respect to such  
8 interstate common pools, the Racing Commission may approve types of  
9 wagering, takeout, distribution of winnings, rules of racing,  
10 method of calculating breakage, and a percentage of deposits  
11 remaining undistributed from a pari-mutuel pool after payment is  
12 made to winning ticket holders which are different from those which  
13 would otherwise be applied in this state but which are consistent  
14 for all parties to the interstate common pool.

15 (i) Licensing or registration of persons conducting  
16 wagering-related activities. -- All persons engaged in conducting  
17 wagering-related activities at the authorized gaming facility  
18 licensed under this section, whether employed directly by the  
19 licensee or by a person or entity conducting or operating the  
20 simulcast racing and pari-mutuel wagering facility under an  
21 agreement with the licensee, shall be licensed or registered in  
22 accordance with such rules as may be promulgated by the Racing  
23 Commission. All other employees at the simulcast racing and  
24 pari-mutuel wagering facility shall be licensed or registered in

1 accordance with regulations of the Racing Commission: *Provided,*  
2 That when the employee is licensed by the Lottery Commission, that  
3 employee must register with the Racing Commission is not required  
4 to have a separate license issued by the Racing Commission. The  
5 Racing Commission shall has the authority to promulgate rules,  
6 regulations and conditions under which all such licenses are  
7 issued, or registrations made, in this state and to revoke or  
8 refuse to issue a license, or revoke or refuse to accept a  
9 registration, if in the opinion of the commission the revocation or  
10 refusal is in the public interest: *Provided,* That the rules,  
11 regulations and conditions are uniform in their application to both  
12 the gaming facility licensed under this section and racetracks  
13 licensed under this article to hold race meetings at which  
14 pari-mutuel wagering is conducted. The fees under this subsection  
15 may not be in excess of the fee charge for a similar occupational  
16 permit or license at a licensed racetrack.

17 (j) *Retainage of gaming licensee.* -- The gaming licensee under  
18 this section shall retain from pari-mutuel wagers a basic  
19 commission of seventeen and twenty-five one-hundredths percent on  
20 horse races and a basic commission of sixteen and twenty-five  
21 one-hundredths percent on dog races. Breakage shall be calculated  
22 and distributed in the manner provided in subsection (c), section  
23 nine of this article.

24 (k) *Payments by the licensee.* -- Out of the commission

1 retained or deducted by a gaming licensee under the provisions of  
2 subsection (j) of this section, the gaming licensee shall pay:

3 (1) One-tenth of one percent into the General Revenue Fund of  
4 county commission of the county in which the historic resort hotel  
5 is located;

6 (2) Each day, the daily pari-mutuel pools tax calculated under  
7 section ten of this article; and

8 (3) The amount required to be paid under the terms of a  
9 contract with a host licensed racing association in this state or  
10 in another jurisdiction that permits pari-mutual wagering on horse  
11 or dog races held or conducted in that jurisdiction.

12 (l) After making the payments required by subsection (k) of  
13 this section, the remaining balance may be retained by the gaming  
14 licensee under this section.

15 (m) Compliance with federal law. -- The federal Interstate  
16 Horseracing Act of 1978, P. L. 95-515, 15 U.S.C. §§3001-3007, is  
17 instructive as the legislative intent of this section.

18 (n) Promulgation of rules. -- The Racing Commission shall  
19 promulgate rules in accordance with article three, chapter  
20 twenty-nine-a of this code, it deems necessary to implement and  
21 efficiently administer this section: Provided, That the rules are  
22 to be similar to rules promulgated for pari-mutuel wagering on  
23 televised races at the racetracks.

24 (o) Pari-mutuel wagers and equipment exempt from sales tax. --

1 Notwithstanding any provision of this code to the contrary, the  
2 license tax imposed in section ten of this article shall be in lieu  
3 of payment of the tax imposed by article fifteen, chapter eleven of  
4 this code, on pari-mutuel wagering and on the purchase of  
5 equipment, services and supplies directly used in pari-mutual  
6 wagering under this section.

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

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

9 **§29-22A-6. Video lottery terminal hardware and software**  
10           **requirements; hardware specifications; software**  
11           **requirements for randomness testing; software**  
12           **requirements for percentage payout; software**  
13           **requirements for continuation of video lottery**  
14           **game after malfunction; software requirements for**  
15           **play transaction records.**

16           (a) The commission may approve video lottery terminals and in  
17 doing so shall take into account advancements in computer  
18 technology, competition from nearby states and the preservation of  
19 jobs in the West Virginia pari-mutuel racing industry. In  
20 approving video lottery terminals licensed for placement in this  
21 state, the commission shall ensure that the terminals meet the  
22 following hardware specifications:

23           (1) Electrical and mechanical parts and design principles may

1 not subject a player to physical hazards or injury.

2 (2) A surge protector shall be installed on the electrical  
3 power supply line to each video lottery terminal. A battery or  
4 equivalent power back-up for the electronic meters shall be capable  
5 of maintaining accuracy of all accounting records and terminal  
6 status reports for a period of one hundred eighty days after power  
7 is disconnected from the terminal. The power back-up device shall  
8 be located within the locked logic board compartment of the video  
9 lottery terminal.

10 (3) An on/off switch which controls the electrical current  
11 used in the operation of the terminal shall be located in an  
12 accessible place within the interior of the video lottery terminal.

13 (4) The operation of each video lottery terminal may not be  
14 adversely affected by any static discharge or other electromagnetic  
15 interference.

16 (5) A minimum of one electronic or mechanical coin acceptor or  
17 other means accurately and efficiently to establish credits shall  
18 be installed on each video lottery terminal. Each video lottery  
19 terminal may also contain bill acceptors for ~~one or more of the~~  
20 ~~following: One dollar bills, five dollar bills, ten dollar bills~~  
21 ~~and twenty dollar bills~~ any legal United States currency. All coin  
22 and bill acceptors shall be approved by the commission prior to use  
23 on any video lottery terminal in this state.

24 (6) Access to the interior of a video lottery terminal shall

1 be controlled through a series of locks and seals.

2       (7) The main logic boards and all erasable programmable  
3 read-only memory chips (EPROMS) are considered to be owned by the  
4 commission and shall be located in a separate locked and sealed  
5 area within the video lottery terminal.

6       (8) The cash compartment shall be located in a separate locked  
7 area within or attached to the video lottery terminal.

8       (9) No hardware switches, jumpers, wire posts or any other  
9 means of manipulation may be installed which alter the pay tables  
10 or payout percentages in the operation of a game. Hardware  
11 switches on a video lottery terminal to control the terminal's  
12 graphic routines, speed of play, sound and other purely cosmetic  
13 features may be approved by the commission.

14       (10) Each video lottery terminal shall contain a single  
15 printing mechanism capable of printing an original ticket and  
16 retaining an exact legible copy within the video lottery terminal  
17 or other means of capturing and retaining an electronic copy of the  
18 ticket data as approved by the commission: *Provided*, That such  
19 printing mechanism is optional on any video lottery terminal which  
20 is designed and equipped exclusively for coin or token payouts. The  
21 following information shall be recorded on the ticket when credits  
22 accrued on a video lottery terminal are redeemed for cash:

23       (i) The number of credits accrued;

24       (ii) Value of the credits in dollars and cents displayed in

1 both numeric and written form;

2 (iii) Time of day and date;

3 (iv) Validation number; and

4 (v) Any other information required by the commission.

5 (11) A permanently installed and affixed identification plate  
6 shall appear on the exterior of each video lottery terminal and the  
7 following information shall be on the plate:

8 (i) Manufacturer of the video lottery terminal;

9 (ii) Serial number of the terminal; and

10 (iii) Model number of the terminal.

11 (12) The rules of play for each game shall be displayed on the  
12 video lottery terminal face or screen. The commission may reject  
13 any rules of play which are incomplete, confusing, misleading or  
14 inconsistent with game rules approved by the commission. For each  
15 video lottery game there shall be a display detailing the credits  
16 awarded for the occurrence of each possible winning combination of  
17 numbers or symbols. A video lottery terminal may allow ~~up to five~~  
18 ~~dollars to be wagered on a single game~~ the amounts of minimum and  
19 maximum wagers on a single game to be determined by licensee or  
20 permit holder in the exercise of its business judgment subject to  
21 the approval of the commission. All information required by this  
22 subdivision shall be displayed under glass or another transparent  
23 substance. No stickers or other removable devices shall be placed  
24 on the video lottery terminal screen or face without the prior

1 approval of the commission.

2       (13) Communication equipment and devices shall be installed to  
3 enable each video lottery terminal to communicate with the  
4 commission's central computer system by use of a communications  
5 protocol provided by the commission to each permitted manufacturer,  
6 which protocol shall include information retrieval and terminal  
7 activation and disable programs, and the commission may require  
8 each licensed racetrack to pay the cost of a central site computer  
9 as a part of the licensing requirement.

10       (14) All video lottery terminals shall have a security system  
11 which temporarily disables the gaming function of the terminal  
12 while opened.

13       (b) Each video lottery terminal shall have a random number  
14 generator to determine randomly the occurrence of each specific  
15 symbol or number used in video lottery games. A selection process  
16 is random if it meets the following statistical criteria:

17       (1) *Chi-square test.* -- Each symbol or number shall satisfy  
18 the ninety-nine percent confidence level using the standard  
19 chi-square statistical analysis of the difference between the  
20 expected result and the observed result.

21       (2) *Runs test.* -- Each symbol or number may not produce a  
22 significant statistic with regard to producing patterns of  
23 occurrences. Each symbol or number is random if it meets the  
24 ninety-nine percent confidence level with regard to the "runs test"



1 for the existence of recurring patterns within a set of data.

2       (3) *Correlation test.* -- Each pair of symbols or numbers is  
3 random if it meets the ninety-nine percent confidence level using  
4 standard correlation analysis to determine whether each symbol or  
5 number is independently chosen without regard to another symbol or  
6 number within a single game play.

7       (4) *Serial correlation test.* -- Each symbol or number is  
8 random if it meets the ninety-nine percent confidence level using  
9 standard serial correlation analysis to determine whether each  
10 symbol or number is independently chosen without reference to the  
11 same symbol or number in a previous game.

12       (c) Each video lottery terminal shall meet the following  
13 maximum and minimum theoretical percentage payout during the  
14 expected lifetime of the terminal:

15       (1) Video lottery games shall pay out no less than eighty  
16 percent and no more than ninety-five percent of the amount wagered.  
17 The theoretical payout percentage will be determined using standard  
18 methods of probability theory.

19       (2) Manufacturers must file a request and receive approval  
20 from the commission prior to manufacturing for placement in this  
21 state video lottery terminals programmed for a payout greater than  
22 ninety-two percent of the amount wagered. Commission approval  
23 shall be obtained prior to applying for testing of the high payout  
24 terminals.

1           (3) Each terminal shall have a probability greater than one in  
2 seventeen million of obtaining the maximum payout for each play.

3           (d) Each video lottery terminal shall be capable of continuing  
4 the current game with all current game features after a video  
5 lottery terminal malfunction is cleared. If a video lottery  
6 terminal is rendered totally inoperable during game play, the  
7 current wager and all credits appearing on the video lottery  
8 terminal screen prior to the malfunction shall be returned to the  
9 player.

10          (e) Each video lottery terminal shall at all times maintain  
11 electronic accounting regardless of whether the terminal is being  
12 supplied with electrical power. Each meter shall be capable of  
13 maintaining a total of no less than eight digits in length for each  
14 type of data required. The electronic meters shall record the  
15 following information:

16           (1) Number of coins inserted by players or the coin equivalent  
17 if a bill acceptor is being used or tokens or vouchers are used;

18           (2) Number of credits wagered;

19           (3) Number of total credits, coins and tokens won;

20           (4) Number of credits paid out by a printed ticket;

21           (5) Number of coins or tokens won, if applicable;

22           (6) Number of times the logic area was accessed;

23           (7) Number of times the cash door was accessed;

24           (8) Number of credits wagered in the current game;

1           (9) Number of credits won in the last complete video lottery  
2 game; and

3           (10) Number of cumulative credits representing money inserted  
4 by a player and credits for video lottery games won but not  
5 collected.

6           (f) No video lottery terminal may have any mechanism which  
7 allows the electronic accounting meters to clear automatically.  
8 Electronic accounting meters may not be cleared without the prior  
9 approval of the commission. Both before and after any electronic  
10 accounting meter is cleared, all meter readings shall be recorded  
11 in the presence of a commission employee.

12           (g) The primary responsibility for the control and regulation  
13 of any video lottery games and video lottery terminals operated  
14 pursuant to this article rests with the commission.

15           (h) The commission shall, directly or through a contract with  
16 a third-party vendor other than the video lottery licensee,  
17 maintain a central site system of monitoring the lottery terminals  
18 utilizing an on-line or dial-up inquiry. The central site system  
19 shall be capable of monitoring the operation of each video lottery  
20 game or video lottery terminal operating pursuant to this article  
21 and, at the direction of the director, immediately disable and  
22 cause not to operate any video lottery game and video lottery  
23 terminal. As provided in this section, the commission may require  
24 the licensed racetrack to pay the cost of a central site computer

1 as part of the licensing requirement.

2 **§29-22A-10. Accounting and reporting; commission to provide**  
3 **communications protocol data; distribution of net**  
4 **terminal income; remittance through electronic**  
5 **transfer of funds; establishment of accounts and**  
6 **nonpayment penalties; commission control of**  
7 **accounting for net terminal income; settlement of**  
8 **accounts; manual reporting and payment may be**  
9 **required; request for reports; examination of**  
10 **accounts and records.**

11 (a) The commission shall provide to manufacturers, or  
12 applicants applying for a manufacturer's permit, the protocol  
13 documentation data necessary to enable the respective  
14 manufacturer's video lottery terminals to communicate with the  
15 commission's central computer for transmitting auditing program  
16 information and for activation and disabling of video lottery  
17 terminals.

18 (b) The gross terminal income of a licensed racetrack shall be  
19 remitted to the commission through the electronic transfer of  
20 funds. Licensed racetracks shall furnish to the commission all  
21 information and bank authorizations required to facilitate the  
22 timely transfer of moneys to the commission. Licensed racetracks  
23 must provide the commission thirty days' advance notice of any

1 proposed account changes in order to assure the uninterrupted  
2 electronic transfer of funds. From the gross terminal income  
3 remitted by the licensee to the commission:

4       (1) The commission shall deduct an amount sufficient to  
5 reimburse the commission for its actual costs and expenses incurred  
6 in administering racetrack video lottery at the licensed racetrack.  
7 ~~and the resulting amount after the deduction is the net terminal~~  
8 ~~income.~~ The amount deducted for administrative costs and expenses  
9 of the commission may not exceed four percent of gross terminal  
10 income: *Provided*, That any amounts deducted by the commission for  
11 its actual costs and expenses that exceeds its actual costs and  
12 expenses shall be deposited into the State Lottery Fund. For the  
13 fiscal years ending June 30, 2006, 2007, 2008, 2009, 2010 and 2011,  
14 the term "actual costs and expenses" shall include transfers of no  
15 more than \$20 million in any year to the Revenue Center  
16 Construction Fund created by subsection (1), section eighteen,  
17 article twenty-two of this chapter for the purpose of constructing  
18 a state office building. For all fiscal years beginning on or  
19 after July 1, 2001, the commission shall not receive an amount of  
20 gross terminal income in excess of the amount of gross terminal  
21 income received during the fiscal year ending on June 30, 2001, but  
22 four percent of any amount of gross terminal income received in  
23 excess of the amount of gross terminal income received during the  
24 fiscal year ending on June 30, 2001, shall be deposited into the

1 fund established in section eighteen-a, article twenty-two of this  
2 chapter; and

3 (2) A Licensed Racetrack Modernization Fund shall be created  
4 within the lottery fund. For all fiscal years beginning on or  
5 after July 1, 2011, the commission shall deduct two and one-half  
6 percent from gross terminal income generated by a licensed  
7 racetrack for the fiscal year and deposit such amounts into a  
8 separate facility modernization account maintained within the  
9 Licensed Racetrack Modernization Fund for each racetrack. For each  
10 dollar expended by a licensed racetrack for facility modernization  
11 improvements at the racetrack, at the location of any amenity  
12 associated with the racetrack's destination resort facility  
13 operations, or at adjacent facilities owned by the racetrack,  
14 having a useful life of three or more years and placed in service  
15 after April 1, 2010, the licensed racetrack or historic resort  
16 hotel shall receive \$1 in recoupment from its facility  
17 modernization account. For purposes of this section, the term  
18 "facility modernization improvements" include acquisitions of  
19 structures and equipment associated with gaming facilities. For  
20 purposes of this definition equipment includes: computer hardware  
21 and software, communications and Internet access equipment,  
22 security and surveillance equipment, video lottery terminals and  
23 other electronic equipment or other equipment designed to modernize  
24 the facility.

1           (c) ~~Net~~ The amount resulting after the deductions required by  
2 subsection (b) of this section constitutes net terminal income that  
3 shall be divided as set out in this subsection. For all fiscal  
4 years beginning on or after July 1, 2001, any amount of net  
5 terminal income received in excess of the amount of net terminal  
6 income received during the fiscal year ending on June 30, 2001,  
7 shall be divided as set out in section ten-b of this article. The  
8 licensed racetrack's share is in lieu of all lottery agent  
9 commissions and is considered to cover all costs and expenses  
10 required to be expended by the licensed racetrack in connection  
11 with video lottery operations. The division shall be made as  
12 follows:

13           (1) The commission shall receive thirty percent of net  
14 terminal income, which shall be paid into the State Lottery Fund as  
15 provided in section ten-a of this article;

16           (2) Until July 1, 2005, fourteen percent of net terminal  
17 income at a licensed racetrack shall be deposited in the special  
18 fund established by the licensee, and used for payment of regular  
19 purses in addition to other amounts provided for in article  
20 twenty-three, chapter nineteen of this code, on and after July 1,  
21 2005, the rate shall be seven percent of net terminal income;

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

1           (A) Beginning July 1, 1999, and thereafter, any amount in  
2 excess of the two percent received during the fiscal year 1999 by  
3 a county in which a racetrack is located that has participated in  
4 the West Virginia Thoroughbred Development Fund since on or before  
5 January 1, 1999 shall be divided as follows:

6           (i) The county shall receive fifty percent of the excess  
7 amount; and

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

12          (B) Beginning July 1, 1999, and thereafter, any amount in  
13 excess of the two percent received during the fiscal year 1999 by  
14 a county in which a racetrack other than a racetrack described in  
15 paragraph (A) of this proviso is located and where the racetrack  
16 has been located in a municipality within the county since on or  
17 before January 1, 1999 shall be divided, if applicable, as follows:

18          (i) The county shall receive fifty percent of the excess  
19 amount;

20          (ii) The municipality shall receive fifty percent of the  
21 excess amount; and

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



1           (4) One percent of net terminal income shall be paid for and  
2 on behalf of all employees of the licensed racing association by  
3 making a deposit into a special fund to be established by the  
4 Racing Commission to be used for payment into the pension plan for  
5 all employees of the licensed racing association;

6           (5) The West Virginia Thoroughbred Development Fund created  
7 under section thirteen-b, article twenty-three, chapter nineteen of  
8 this code and the West Virginia Greyhound Breeding Development Fund  
9 created under section ten of said article shall receive an equal  
10 share of a total of not less than one and one-half percent of the  
11 net terminal income;

12           (6) The West Virginia Racing Commission shall receive one  
13 percent of the net terminal income which shall be deposited and  
14 used as provided in section thirteen-c, article twenty-three,  
15 chapter nineteen of this code.

16           (7) A licensee shall receive forty-six and one-half percent of  
17 net terminal income.

18           (8) (A) The Tourism Promotion Fund established in section  
19 twelve, article two, chapter five-b of this code shall receive  
20 three percent of the net terminal income: *Provided*, That for the  
21 fiscal year beginning July 1, 2003, the tourism commission shall  
22 transfer from the Tourism Promotion Fund \$5 million of the three  
23 percent of the net terminal income described in this section and  
24 section ten-b of this article into the fund administered by the

1 West Virginia Economic Development Authority pursuant to section  
2 seven, article fifteen, chapter thirty-one of this code, \$5 million  
3 into the Capitol Renovation and Improvement Fund administered by  
4 the Department of Administration pursuant to section six, article  
5 four, chapter five-a of this code and \$5 million into the Tax  
6 Reduction and Federal Funding Increased Compliance Fund; and

7 (B) Notwithstanding any provision of paragraph (A) of this  
8 subdivision to the contrary, for each fiscal year beginning after  
9 June 30, 2004, this three percent of net terminal income and the  
10 three percent of net terminal income described in paragraph (B),  
11 subdivision (8), subsection (a), section ten-b of this article  
12 shall be distributed as provided in this paragraph as follows:

13 (i) 1.375 percent of the total amount of net terminal income  
14 described in this section and in section ten-b of this article  
15 shall be deposited into the Tourism Promotion Fund created under  
16 section twelve, article two, chapter five-b of this code;

17 (ii) 0.375 percent of the total amount of net terminal income  
18 described in this section and in section ten-b of this article  
19 shall be deposited into the Development Office Promotion Fund  
20 created under section three-b, article two, chapter five-b of this  
21 code;

22 (iii) 0.5 percent of the total amount of net terminal income  
23 described in this section and in section ten-b of this article  
24 shall be deposited into the Research Challenge Fund created under

1 section ten, article one-b, chapter eighteen-b of this code;

2 (iv) 0.6875 percent of the total amount of net terminal income  
3 described in this section and in section ten-b of this article  
4 shall be deposited into the Capitol Renovation and Improvement Fund  
5 administered by the Department of Administration pursuant to  
6 section six, article four, chapter five-a of this code; and

7 (v) 0.0625 percent of the total amount of net terminal income  
8 described in this section and in section ten-b of this article  
9 shall be deposited into the 2004 Capitol Complex Parking Garage  
10 Fund administered by the Department of Administration pursuant to  
11 section five-a, article four, chapter five-a of this code;

12 (9) (A) On and after July 1, 2005, seven percent of net  
13 terminal income shall be deposited into the Workers' Compensation  
14 Debt Reduction Fund created in section five, article two-d, chapter  
15 twenty-three of this code: *Provided*, That in any fiscal year when  
16 the amount of money generated by this subdivision totals \$11  
17 million, all subsequent distributions under this subdivision shall  
18 be deposited in the special fund established by the licensee and  
19 used for the payment of regular purses in addition to the other  
20 amounts provided ~~for~~ in article twenty-three, chapter nineteen of  
21 this code;

22 (B) The deposit of the seven percent of net terminal income  
23 into the Worker's Compensation Debt Reduction Fund pursuant to this  
24 subdivision shall expire and not be imposed with respect to these

1 funds and shall be deposited in the special fund established by the  
2 licensee and used for payment of regular purses in addition to the  
3 other amounts provided in article twenty-three, chapter nineteen of  
4 this code, on and after the first day of the month following the  
5 month in which the Governor certifies to the Legislature that: (i)  
6 The revenue bonds issued pursuant to article two-d, chapter  
7 twenty-three of this code, have been retired or payment of the debt  
8 service provided for; and (ii) that an independent certified  
9 actuary has determined that the unfunded liability of the old fund,  
10 as defined in chapter twenty-three of this code, has been paid or  
11 provided for in its entirety; and

12 (10) The remaining one percent of net terminal income shall be  
13 deposited as follows:

14 (A) For the fiscal year beginning July 1, 2003, the veterans  
15 memorial program shall receive one percent of the net terminal  
16 income until sufficient moneys have been received to complete the  
17 veterans memorial on the grounds of the State Capitol Complex in  
18 Charleston, West Virginia. The moneys shall be deposited in the  
19 State Treasury in the Division of Culture and History special fund  
20 created under section three, article one-I, chapter twenty-nine of  
21 this code: *Provided*, That only after sufficient moneys have been  
22 deposited in the fund to complete the veterans memorial and to pay  
23 in full the annual bonded indebtedness on the veterans memorial,  
24 not more than \$20,000 of the one percent of net terminal income

1 provided in this subdivision shall be deposited into a special  
2 revenue fund in the State Treasury, to be known as the "John F.  
3 'Jack' Bennett Fund". The moneys in this fund shall be expended by  
4 the Division of Veterans Affairs to provide for the placement of  
5 markers for the graves of veterans in perpetual cemeteries in this  
6 state. The Division of Veterans Affairs shall promulgate  
7 legislative rules pursuant to the provisions of article three,  
8 chapter twenty-nine-a of this code specifying the manner in which  
9 the funds are spent, determine the ability of the surviving spouse  
10 to pay for the placement of the marker and setting forth the  
11 standards to be used to determine the priority in which the  
12 veterans grave markers will be placed in the event that there are  
13 not sufficient funds to complete the placement of veterans grave  
14 markers in any one year, or at all. Upon payment in full of the  
15 bonded indebtedness on the veterans memorial, \$100,000 of the one  
16 percent of net terminal income provided ~~for~~ in this subdivision  
17 shall be deposited in the special fund in the Division of Culture  
18 and History created under section three, article one-i, chapter  
19 twenty-nine of this code and be expended by the Division of Culture  
20 and History to establish a West Virginia veterans memorial archives  
21 within the Cultural Center to serve as a repository for the  
22 documents and records pertaining to the veterans memorial, to  
23 restore and maintain the monuments and memorial on the capitol  
24 grounds: *Provided, however,* That \$500,000 of the one percent of

1 net terminal income shall be deposited in the State Treasury in a  
2 special fund of the Department of Administration, created under  
3 section five, article four, chapter five-a of this code, to be used  
4 for construction and maintenance of a parking garage on the State  
5 Capitol Complex; and the remainder of the one percent of net  
6 terminal income shall be deposited in equal amounts in the Capitol  
7 Dome and Improvements Fund created under section two, article four,  
8 chapter five-a of this code and Cultural Facilities and Capitol  
9 Resources Matching Grant Program Fund created under section three,  
10 article one of this chapter.

11 (B) For each fiscal year beginning after June 30, 2004:

12 (i) Five hundred thousand dollars of the one percent of net  
13 terminal income shall be deposited in the State Treasury in a  
14 special fund of the Department of Administration, created under  
15 section five, article four, chapter five-a of this code, to be used  
16 for construction and maintenance of a parking garage on the State  
17 Capitol Complex; and

18 (ii) The remainder of the one percent of net terminal income  
19 and all of the one percent of net terminal income described in  
20 paragraph (B), subdivision (9), subsection (a), section ten-b of  
21 this article twenty-two-a shall be distributed as follows: The net  
22 terminal income shall be deposited in equal amounts into the  
23 Capitol Dome and Capitol Improvements Fund created under section  
24 two, article four, chapter five-a of this code and the Cultural  
25 Facilities and Capitol Resources Matching Grant Program Fund

1 created under section three, article one, chapter twenty-nine of  
2 this code until a total of \$1,500,000 is deposited into the  
3 Cultural Facilities and Capitol Resources Matching Grant Program  
4 Fund; thereafter, the remainder shall be deposited into the Capitol  
5 Dome and Capitol Improvements Fund.

6 (d) Each licensed racetrack shall maintain in its account an  
7 amount equal to or greater than the gross terminal income from its  
8 operation of video lottery machines, to be electronically  
9 transferred by the commission on dates established by the  
10 commission. Upon a licensed racetrack's failure to maintain this  
11 balance, the commission may disable all of a licensed racetrack's  
12 video lottery terminals until full payment of all amounts due is  
13 made. Interest shall accrue on any unpaid balance at a rate  
14 consistent with the amount charged for state income tax delinquency  
15 under chapter eleven of this code. The interest shall begin to  
16 accrue on the date payment is due to the commission.

17 (e) The commission's central control computer shall keep  
18 accurate records of all income generated by each video lottery  
19 terminal. The commission shall prepare and mail to the licensed  
20 racetrack a statement reflecting the gross terminal income  
21 generated by the licensee's video lottery terminals. Each licensed  
22 racetrack shall report to the commission any discrepancies between  
23 the commission's statement and each terminal's mechanical and  
24 electronic meter readings. The licensed racetrack is solely  
25 responsible for resolving income discrepancies between actual money

1 collected and the amount shown on the accounting meters or on the  
2 commission's billing statement.

3 (f) Until an accounting discrepancy is resolved in favor of  
4 the licensed racetrack, the commission may make no credit  
5 adjustments. For any video lottery terminal reflecting a  
6 discrepancy, the licensed racetrack shall submit to the commission  
7 the maintenance log which includes current mechanical meter  
8 readings and the audit ticket which contains electronic meter  
9 readings generated by the terminal's software. If the meter  
10 readings and the commission's records cannot be reconciled, final  
11 disposition of the matter shall be determined by the commission.  
12 Any accounting discrepancies which cannot be otherwise resolved  
13 shall be resolved in favor of the commission.

14 (g) Licensed racetracks shall remit payment by mail if the  
15 electronic transfer of funds is not operational or the commission  
16 notifies licensed racetracks that remittance by this method is  
17 required. The licensed racetracks shall report an amount equal to  
18 the total amount of cash inserted into each video lottery terminal  
19 operated by a licensee, minus the total value of game credits which  
20 are cleared from the video lottery terminal in exchange for winning  
21 redemption tickets, and remit the amount as generated from its  
22 terminals during the reporting period. The remittance shall be  
23 sealed in a properly addressed and stamped envelope and deposited  
24 in the United States mail no later than noon on the day when the  
25 payment would otherwise be completed through electronic funds



1 transfer.

2 (h) Licensed racetracks may, upon request, receive additional  
3 reports of play transactions for their respective video lottery  
4 terminals and other marketing information not considered  
5 confidential by the commission. The commission may charge a  
6 reasonable fee for the cost of producing and mailing any report  
7 other than the billing statements.

8 (i) The commission has the right to examine all accounts, bank  
9 accounts, financial statements and records in a licensed  
10 racetrack's possession, under its control or in which it has an  
11 interest and the licensed racetrack shall authorize all third  
12 parties in possession or in control of the accounts or records to  
13 allow examination of any of those accounts or records by the  
14 commission.

15 **§29-22A-10c. Surcharge; Capital Reinvestment Fund.**

16 (a) For all fiscal years beginning on or after July 1, 2001,  
17 there shall be imposed a surcharge of ten percent against the  
18 excess of total net terminal income generated from a licensed  
19 racetrack for that fiscal year over total net terminal income from  
20 that licensed racetrack for the fiscal year ending June 30, 2001.

21 (b) A Capital Reinvestment Fund is hereby created within the  
22 Lottery Fund. Forty-two percent of the surcharge amount  
23 attributable to each racetrack shall be retained by the commission  
24 and deposited into a separate Capital Reinvestment Account for that  
25 licensed racetrack. For each dollar expended by a licensed

1 racetrack for capital improvements at the racetrack, at the  
2 location of any amenity associated with the licensed racetrack's  
3 destination resort facility operations, or at adjacent facilities  
4 owned by the licensee, having a useful life of ~~seven~~ three or more  
5 years and placed in service after April 1, 2001, the licensed  
6 racetrack shall receive \$1 in recoupment from its Capital  
7 Reinvestment Fund Account: *Provided*, That in the case of  
8 thoroughbred horse tracks, four cents of every dollar in recoupment  
9 shall be reserved into a separate account, which shall only be  
10 spent on capital improvements and upgrading to facilities used for  
11 the housing and care of horses, facilities located inside the  
12 perimeter of the racing surface, including the surface thereof,  
13 facilities used for housing persons responsible for the care of  
14 horses, and that any such capital improvements and upgrading shall  
15 be subject to recoupment under this section only if they have been  
16 approved by the Horsemen's Benevolent and Protective Association  
17 acting on behalf of the horsemen: *Provided, however*, That in the  
18 case of greyhound race tracks, four cents of every dollar in  
19 recoupment shall be spent on capital improvements and upgrading in  
20 the kennel area or other areas at the track. If a licensed  
21 racetrack's unrecouped capital improvements exceed its Capital  
22 Reinvestment Fund account at the end of any fiscal year, the excess  
23 improvements may be carried forward to ~~seven~~ fifteen subsequent  
24 fiscal years.

25 (c) Fifty-eight percent of the surcharge amount plus any

1 moneys remaining in a racetrack's Capital Reinvestment Fund Account  
 2 at the end of any fiscal year shall be deposited in the State  
 3 Excess Lottery Revenue Fund created in section eighteen-a, article  
 4 twenty-two of this chapter.

5 **ARTICLE 25. AUTHORIZED GAMING FACILITY.**

6 **§29-25-19. Consent to presence of law-enforcement officers;**  
 7 **wagering limits; operations and services; posting**  
 8 **of betting limits.**

9 (a) *Consent to presence of law-enforcement officers.* -- Any  
 10 individual entering the gaming facility shall be advised by the  
 11 posting of a notice or other suitable means of the possible  
 12 presence of state, county or municipal law-enforcement officers and  
 13 by entering the gaming facility impliedly consents to the presence  
 14 of the law-enforcement officers.

15 (b) *Commission discretion in gaming operations.* -- Video  
 16 lottery terminals operated at the gaming facility may ~~not~~ allow  
 17 ~~more than five dollars to be wagered on a single game~~ minimum and  
 18 maximum wagers on a single game the amounts determined by the  
 19 license in the exercise of its business judgment subject to the  
 20 approval of the commission.

21 (1) Subject to the approval of the commission, the gaming  
 22 facility licensee shall, with respect to West Virginia Lottery  
 23 table games, establish the following:

24 (A) Maximum and minimum wagers;

1 (B) Advertising and promotional activities;

2 (C) Hours of operation;

3 (D) The days during which games may be played; and

4 (2) The commission may consider multiple factors, including,  
5 but not limited to, industry standards, outside competition and any  
6 other factors as determined by the commission to be relevant in its  
7 decision to approve the gaming facility's determination of those  
8 items listed in subdivision (1) of this subsection.

9 (c) *Setting of operations.* -- Notwithstanding anything to the  
10 contrary contained elsewhere in this chapter, the commission may  
11 establish the following parameters for commission regulated lottery  
12 games of any kind which is played at a licensed gaming facility:

13 (1) Minimum and maximum payout percentages;

14 (2) Any probability limits of obtaining the maximum payout for  
15 a particular play; and

16 (3) Limitations on the types and amounts of financial  
17 transactions, including extension of credit to a patron, which a  
18 gaming facility can enter into with its patrons.

19 (d) *Posting of betting limits.* -- A gaming facility shall  
20 conspicuously post a sign at each West Virginia Lottery table game  
21 indicating the permissible minimum and maximum wagers pertaining at  
22 that table. A gaming facility licensee may not require any wager  
23 to be greater than the stated minimum or less than the stated  
24 maximum. However, any wager actually made by a patron and not  
25 rejected by a gaming facility licensee prior to the commencement of

1 play shall be treated as a valid wager.

2 **§29-25-22. Historic Resort Hotel Fund; allocation of adjusted**  
3 **gross receipts; disposition of license fees.**

4 (a) There is hereby created a special fund in the State  
5 Treasury which shall be designated and known as the Historic Resort  
6 Hotel Fund. Thirty-six percent of the gross terminal income  
7 received by the commission under section twenty of this article and  
8 thirty percent of the adjusted gross receipts received by the  
9 commission under section twenty-one of this article shall be  
10 deposited with the State Treasurer and placed in the Historic  
11 Resort Hotel Fund. The fund shall be an interest-bearing account  
12 with interest to be credited to and deposited in the Historic  
13 Resort Hotel Fund.

14 (b) All expenses of the commission shall be paid from the  
15 Historic Resort Hotel Fund, including reimbursement of the State  
16 Police for activities performed at the request of the commission in  
17 connection with background investigations or enforcement activities  
18 pursuant to this article. At no time may the commission's expenses  
19 under this article exceed fifteen percent of the total of the  
20 annual revenue received from the licensee under this article,  
21 including all license fees, taxes or other amounts required to be  
22 deposited in the Historic Resort Hotel Fund.

23 (c) A Historic Resort Hotel Modernization Fund is hereby  
24 created within the Historic Resort Hotel Fund. For all fiscal  
25 years beginning on or after July 1, 2011, the commission shall

1 deduct two and one-half percent from gross terminal income received  
2 by the commission under section twenty of this article for the  
3 fiscal year and deposit these amounts into a separate facility  
4 modernization account maintained within the Historic Resort Hotel  
5 Modernization Fund for each historic resort hotel. For each dollar  
6 expended by a historic resort hotel for facility modernization  
7 improvements at the historic resort hotel, having a useful life of  
8 three or more years and placed in service after April 1, 2010, the  
9 historic resort hotel shall receive \$1 in recoupment from its  
10 facility modernization account. For purposes of this section, the  
11 term "facility modernization improvements" include acquisitions of  
12 computer hardware and software, communications and Internet access  
13 equipment, security and surveillance equipment, video lottery  
14 terminals and other electronic equipment or other equipment  
15 designed to modernize the facility.

16 ~~(c)~~ (d) The balance of the Historic Resort Hotel Fund shall  
17 become net income and shall be divided as follows:

18 (1) Sixty-four percent of the Historic Resort Hotel Fund net  
19 income shall be paid into the General Revenue Fund to be  
20 appropriated by the Legislature;

21 (2) Nineteen percent of the Historic Resort Hotel Fund net  
22 income shall be paid into the State Debt Reduction Fund established  
23 in section twenty-seven, article twenty-two-c of this chapter to be  
24 appropriated by the Legislature;

25 (3) The Tourism Promotion Fund established in section twelve,

1 article two, chapter five-b of this code shall receive three percent  
2 of the Historic Resort Hotel Fund net income;

3 (4) The county where the gaming facility is located shall  
4 receive four percent of the Historic Resort Hotel Fund net income;

5 (5) The municipality where the gaming facility is located or  
6 the municipality closest to the gaming facility by paved road access  
7 as of the effective date of the reenactment of this section by the  
8 2009 regular session of the Legislature shall receive two and  
9 one-half percent of the Historic Resort Hotel Fund net income;

10 (6) The municipalities within the county where the gaming  
11 facility is located, except for the municipality receiving funds  
12 under subdivision (5) of this subsection, shall receive equal shares  
13 of two and one-half percent of the Historic Resort Hotel Fund net  
14 income;

15 (7) Each county commission in the state that is not eligible  
16 to receive a distribution under subdivision (4) of this subsection  
17 shall receive equal shares of two and one-half percent of the  
18 Historic Resort Hotel Fund net income: *Provided*, That funds  
19 transferred to the county commission under this subdivision shall  
20 be used only to pay regional jail expenses and the costs of  
21 infrastructure improvements and other capital improvements; and

22 (8) The governing body of each municipality in the state that  
23 is not eligible to receive a distribution under subdivisions (5) and  
24 (6) of this subsection shall receive equal shares of two and  
25 one-half percent of the Historic Resort Hotel Fund net income:

1 *Provided*, That funds transferred to municipalities under this  
2 subdivision shall be used only to pay for debt reduction in  
3 municipal police and fire pension funds and the costs of  
4 infrastructure improvements and other capital improvements.

5 ~~(d)~~ (e) Notwithstanding any provision of this article to the  
6 contrary, all limited gaming facility license fees and license  
7 renewal fees received by the commission pursuant to section nine of  
8 this article shall be deposited into the Community-Based Service  
9 Fund created in section twenty-seven, article twenty-two-c of this  
10 chapter.

11 ~~(e)~~ (f) With the exception of the license fees and license  
12 renewal fees received by the commission pursuant to section nine of  
13 this article, all revenues received from licensees and license  
14 applicants under this article shall be retained by the commission  
15 as reimbursement for the licensing process.

NOTE: The purpose of this bill is to allow simulcast pari-mutuel racing within the confines of gaming facilities located at historic resort hotels. The bill defines terms. The bill permits the issuing of licenses. The bill provides for payments and sets forth conditions for out-of-state tracks and interstate pools. The bill requires the registering of persons conducting wagering activities. The bill sets forth the licensee's retainage amount. The bill sets forth the amounts of the payments by a licensee and to whom those payments are made. The bill requires compliance with federal law and authorizes rulemaking. The bill also exempts pari-mutuel wagering and equipment from sales taxes. The bill permits licensees at racetracks and historic resort hotels to establishing minimum and maximum wager limits at video lottery terminals. The bill authorizes the use of video lottery terminal bill acceptors for all United States currency. The bill reduces the required life for capital investments by licensees at racetracks to be reimbursed from the Capital Investment Fund. The bill extends the



time for recoupment of expenditures for capital improvements. The bill requires historic resort hotels to pay a portion of certain proceeds into the Human Resources Fund. The bill creates a Licensed Racetrack and Historic Resort Hotel Facility Modernization Fund and requires a certain portion of a licensed racetrack's gross terminal income to be deposited into that new fund. The bill also redefines the terms.

§19-23-12d is new; therefore, it has been completely underscored.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.