

H. B. 4633

(By Delegate Michael)

[Introduced February 20, 2012; referred to the
Committee on the Judiciary then Finance.]

10 A BILL to repeal §29-25-7 of the Code of West Virginia, 1931, as
11 amended; to amend and reenact §29-25-1, §29-25-2, §29-25-3,
12 §29-25-5, §29-25-6, §29-25-9, §29-25-12, §29-25-15, §29-25-18,
13 §29-25-19, §29-25-20, §29-25-21, §29-25-22, §29-25-22a, §29-
14 25-24 §29-25-28, §29-25-29, §29-25-30, §29-25-31, §29-25-32,
15 §29-25-34, §29-25-35, §29-25-37 and §29-25-38 of said code;
16 and to amend said code by adding thereto two new sections,
17 designated §29-25-22b and §29-25-22c, all relating to
18 miscellaneous boards and officers; authorized gaming facility;
19 including a rural resort community as limited gaming facility;
20 providing definition of rural resort community; creating the
21 Rural Resort Community Fund and Rural Resort Community Human
22 Resource Benefit Fund; otherwise providing for the regulation
23 and control of a rural resort community; and repealing the
24 local option provision of this article.

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

2 That §29-25-7 of the Code of West Virginia, 1931, as amended,
3 be repealed; that §29-25-1, §29-25-2, §29-25-3, §29-25-5, §29-25-6,
4 §29-25-9, §29-25-12, §29-25-15, §29-25-18, §29-25-19, §29-25-20,
5 §29-25-21, §29-25-22, §29-25-22a, §29-25-24, §29-25-28, §29-25-29,
6 §29-25-30, §29-25-31, §29-25-32, §29-25-34, §29-25-35, §29-25-37
7 and §29-25-38 of said code be amended and reenacted; and that said
8 code be amended by adding thereto two new sections, designated
9 §29-25-22b and §29-25-22c, all to read as follows:

10 **ARTICLE 25. AUTHORIZED GAMING FACILITY.**

11 **§29-25-1. Authorization of limited gaming facility; findings;**
12 **intent.**

13 (a) *Operation of West Virginia Lottery table games.* --
14 Notwithstanding any provision of law to the contrary, the operation
15 of West Virginia Lottery games permitted by this article and the
16 related operation of a gaming facility and ancillary activities is
17 not unlawful when conducted under the terms specified in this
18 article and article twenty-two-c of this chapter.

19 (b) *Legislative findings.* -- The Legislature finds and
20 declares that the tourism industry plays a critical role in the
21 economy of this state and that a substantial state interest exists
22 in protecting that industry. It further finds and declares that
23 the authorization of the operation of a gaming facility at ~~no more~~

1 ~~than one~~ well-established historic resort hotel or rural resort
2 community in this state as provided in this article will serve to
3 protect and enhance the tourism industry, and indirectly other
4 segments of the economy of this state, by providing a resort hotel
5 amenity which is becoming increasingly important to many actual and
6 potential resort hotel patrons.

7 The Legislature finds and declares that video lottery
8 operations pursuant to section twenty-eight of this article and the
9 operation of the other West Virginia Lottery table games permitted
10 by this article constitute the operation of lotteries within the
11 purview of section thirty-six, Article VI of the Constitution of
12 West Virginia.

13 (c) *Legislative intent.* -- It is the intent of the Legislature
14 in the enactment of this article to promote tourism and year-round
15 employment in this state. It is expressly not the intent of the
16 Legislature to promote gaming. As a consequence, it is the intent
17 of the Legislature to allow limited gaming as authorized by this
18 article and article twenty-two-c of this chapter with all moneys
19 gained from the operation of ~~the~~ a gaming facility, other than
20 those necessary to reimburse reasonable costs of operation, to
21 inure to the benefit of the state. Further, it is the intent of
22 the Legislature that amendments made to this article during the
23 2009 regular session will establish appropriate conformity between
24 the operations of video lottery and West Virginia Lottery table

1 games at ~~the~~ a licensed gaming facility under this article and the
2 operations of video lottery and table games at the pari-mutuel
3 racetracks licensed under articles twenty-two-a and twenty-two-c of
4 this chapter.

5 **§29-25-2. Definitions.**

6 As used in this article, unless the context otherwise
7 requires, the following words and phrases have meanings indicated:

8 (a) "Applicant" means any person or entity applying for a
9 license.

10 (b) "Adjusted gross receipts" means the gross receipts of a
11 gaming facility from West Virginia Lottery table games less
12 winnings paid to wagerers in such games.

13 (c) "Annual average gross receipts of the pari-mutuel
14 racetracks with table games licenses" means the amount obtained by
15 adding the adjusted gross receipts of all West Virginia pari-mutuel
16 racetracks with table games licenses and then dividing that
17 calculation by the number of West Virginia pari-mutuel racetracks
18 with table games licenses.

19 (d) "Background investigation" means a security, criminal and
20 credit investigation of an applicant who has applied for the
21 issuance or renewal or a license pursuant to this article or a
22 licensee who holds a current license.

23 (e) "Controlling interest" means:

24 (1) For a partnership, an interest as a general or limited

1 partner holding more than five percent interest in the entity;

2 (2) For a corporation, an interest of more than five percent
3 of the stock in the corporation; and

4 (3) For any other entity, an ownership interest of more than
5 five percent in the entity.

6 (f) "Controlling person" means, with respect to another
7 person, any person directly or indirectly owning or holding a
8 controlling interest in that other person.

9 (g) "Commission" means the State Lottery Commission created in
10 section four, article twenty-two of this chapter.

11 (h) "Designated gaming area" means one or more specific floor
12 areas of a licensed gaming facility within which the commission has
13 authorized operation of video lottery terminals or West Virginia
14 Lottery table games, or the operation of both video lottery
15 terminals and West Virginia Lottery table games.

16 (I) "Director" means the Director of the State Lottery
17 Commission.

18 (j) "Erasable programmable read-only memory chips" or "EPROM"
19 means the electronic storage medium on which the operation software
20 for all games playable on a video lottery terminal resides and can
21 also be in the form of CD ROM, flash ROM or other new technology
22 medium that the commission may from time to time approve for use in
23 video lottery terminals. All electronic storage media are
24 considered to be property of the State of West Virginia.

1 (k) "Fringe benefits" means sickness and accident benefits and
2 benefits relating to medical and pension coverage.

3 (l) "Gaming devices and supplies" mean gaming tables for all
4 West Virginia Lottery table games, roulette wheels, wheels of
5 fortune, video lottery terminals, cards, dice, chips, tokens,
6 markers or any other mechanical, electronic or other device,
7 mechanism or equipment or related supplies utilized in the
8 operation of a West Virginia Lottery table game.

9 (m) "Gaming facility" means a designated area on the premises
10 of an existing historic resort hotel or a rural resort community in
11 which West Virginia Lottery table games are conducted by a gaming
12 licensee.

13 (n) "Gaming licensee" means the licensed operator of a gaming
14 facility.

15 (o) "Gross receipts" means the total amount of money exchanged
16 for the purchase of chips, tokens or electronic cards by patrons of
17 a gaming facility reduced by gross terminal income to the extent
18 gross terminal income is included in the amount of money exchanged.

19 (p) "Gross terminal income", as used in this article and as
20 used in article twenty-two-a of this chapter, means the total
21 amount of cash, vouchers or tokens inserted into the video lottery
22 terminals operated by a licensee, minus promotional credits played,
23 and minus the total value of coins and tokens won by a player and
24 game credits which are cleared from the video lottery terminals in

1 exchange for winning redemption tickets.

2 (q) "Historic resort hotel" means a resort hotel registered
3 with the United States Department of the Interior as a national
4 historic landmark in its National Registry of Historic Places
5 having not fewer than five hundred guest rooms under common
6 ownership and having substantial recreational guest amenities in
7 addition to the gaming facility.

8 (r) "Historic Resort Hotel Fund" means the special fund in the
9 State Treasury created in section twenty-two of this article.

10 (s) "Human Resource Benefit Fund" means the special fund in
11 the State Treasury created in section twenty-two-a of this article.

12 (t) "Human Resource Benefit Advisory Board" or "board" means
13 the advisory board created in section twenty-two-a of this article.

14 (u) "License" means a license issued by the commission,
15 including:

16 (1) A license to operate a gaming facility;

17 (2) A license to supply gaming devices and supplies to a
18 gaming facility;

19 (3) A license to be employed in connection with the operation
20 of a gaming facility; or

21 (4) A license to provide management services under a contract
22 to a gaming facility under this article.

23 (v) "Licensed gaming facility employee" means any individual
24 licensed to be employed by a gaming licensee in connection with the

1 operation of a gaming facility.

2 (w) "Licensed gaming facility supplier" means a person who is
3 licensed by the commission to engage in the business of supplying
4 gaming devices and gaming supplies to a gaming facility.

5 (x) "Licensee" means a gaming licensee, a licensed gaming
6 facility supplier or a licensed gaming facility employee.

7 (y) "Manufacturer" means any person holding a license granted
8 by the commission to engage in the business of designing, building,
9 constructing, assembling or manufacturing video lottery terminals,
10 the electronic computer components of the video lottery terminals,
11 the random number generator of the video lottery terminals, or the
12 cabinet in which it is housed, and whose product is intended for
13 sale, lease or other assignment to a licensed gaming facility in
14 West Virginia and who contracts directly with the licensee for the
15 sale, lease or other assignment to a licensed gaming facility in
16 West Virginia.

17 (z) "Net terminal income" means gross terminal income minus an
18 amount deducted by the commission to reimburse the commission for
19 its actual cost of administering video lottery at the licensed
20 gaming facility. No deduction for any or all costs and expenses of
21 a licensee related to the operation of video lottery games shall be
22 deducted from gross terminal income.

23 (aa) "Person" means any natural person, corporation,
24 association, partnership, limited partnership, limited liability

1 company or other entity, regardless of its form, structure or
2 nature.

3 (bb) "Premises of an existing historic resort hotel" means the
4 historic resort hotel, attachments of the historic resort hotel,
5 and the traditional, immediate grounds of the historic resort
6 hotel.

7 (cc) "Premises of a Rural Resort Community" means the rural
8 resort community, attachments of the rural resort community, and
9 the immediate grounds of the rural resort community.

10 (dd) "Promotional credits" means credits given by the licensed
11 gaming facility or licensed racetrack to players allowing limited
12 free play of video lottery terminals in total amounts and under
13 conditions approved in advance by the commission.

14 (ee) "Rural Resort Community" means;

15 (1) A planned community with no less than one thousand planned
16 home sites occupying no less than one thousand contiguous acres
17 which includes;

18 (2) Hotel or Lodge having not fewer than one hundred fifty
19 guestrooms;

20 (3) A planned development of at least one thousand acres;

21 (4) Specific amenities for guests and residents including
22 green spaces, walking, hiking, jogging trails, swimming pools,
23 lakes or other areas, tennis facilities, golfing facilities,
24 fitness facilities, private, public and community meeting space and

1 other recreation activities;

2 (5) An overall project cost of no less than \$80 million at
3 the time of any application toward gaming license;

4 (6) Located in a county where;

5 (A) There is an adequate economic base within the county from
6 any source other than tourism,

7 (B) Has a population of less than fifteen persons per square
8 mile in an overall county population of less than ten thousand
9 persons according to the most recent United States Census at the
10 time of application;

11 (C) Has access to State and National forest within the county
12 in which the rural resort community is located;

13 (ff) "Rural Resort Community Fund" means The special fund in
14 the State Treasury created in section twenty-two-b of this article.

15 (gg) "Rural Resort Community Human Resource Benefit Fund"
16 means the special fund in the State Treasury created in section
17 twenty-two-c of this article.

18 (hh) "Rural Resort Community Human Resource Benefit Advisory
19 Board" or "Board" means the advisory board created in section
20 twenty-two-c of this article.

21 ~~(dd)~~ (ii) "Video lottery game", as used in this article and as
22 used in article twenty-two-a of this chapter, means a commission-
23 approved, -owned and -controlled electronically simulated game of
24 chance which is displayed on a video lottery terminal and which:

1 (1) Is connected to the commission's central control computer
2 by an online or dial-up communication system;

3 (2) Is initiated by a player's insertion of cash, vouchers or
4 tokens into a video lottery terminal, which causes game play
5 credits to be displayed on the video lottery terminal and, with
6 respect to which, each game play credits entitles a player to
7 choose one or more symbols or numbers or to cause the video lottery
8 terminal to randomly select symbols or numbers;

9 (3) Allows the player to win additional game play credits,
10 coins or tokens based upon game rules which establish the random
11 selection of winning combinations of symbols or numbers or both and
12 the number of free play credits, coins or tokens to be awarded for
13 each winning combination of symbols or numbers or both;

14 (4) Is based upon a computer-generated random selection of
15 winning combinations based totally or predominantly on chance;

16 (5) In the case of a video lottery game which allows the
17 player an option to select replacement symbols or numbers or
18 additional symbols or numbers after the game is initiated and in
19 the course of play, either:

20 (A) Signals the player, prior to any optional selection by the
21 player of randomly generated replacement symbols or numbers, as to
22 which symbols or numbers should be retained by the player to
23 present the best chance, based upon probabilities, that the player
24 may select a winning combination;

1 (B) Signals the player, prior to any optional selection by the
2 player of randomly generated additional symbols or numbers, as to
3 whether such additional selection presents the best chance, based
4 upon probabilities, that the player may select a winning
5 combination; or

6 (C) Randomly generates additional or replacement symbols and
7 numbers for the player after automatically selecting the symbols
8 and numbers which should be retained to present the best chance,
9 based upon probabilities, for a winning combination, so that in any
10 event, the player is not permitted to benefit from any personal
11 skill, based upon a knowledge of probabilities, before deciding
12 which optional numbers or symbols to choose in the course of video
13 lottery game play;

14 (6) Allows a player at any time to simultaneously clear all
15 game play credits and print a redemption ticket entitling the
16 player to receive the cash value of the free plays cleared from the
17 video lottery terminal; and

18 (7) Does not use the following game themes commonly associated
19 with casino gambling: Roulette, dice or baccarat card games:
20 *Provided*, That games having a display with symbols which appear to
21 roll on drums to simulate a classic casino slot machine, game
22 themes of other card games and keno may be used.

23 ~~(ee)~~ (jj) "Wager" means a sum of money or thing of value
24 risked on an uncertain occurrence.

1 ~~(ff)~~ (kk) "West Virginia Lottery table game" means any game
2 played with cards, dice or any mechanical, electromechanical or
3 electronic device or machine for money, credit or any
4 representative of value, including, but not limited to, baccarat,
5 blackjack, poker, craps, roulette, wheel of fortune or any
6 variation of these games similar in design or operation and
7 expressly authorized by rule of the commission, including
8 multiplayer electronic table games, machines and devices, but
9 excluding video lottery, punchboards, faro, numbers tickets, push
10 cards, jar tickets, pull tabs or similar games.

11 **§29-25-3. Commission duties and powers.**

12 (a) *Duties.* -- In addition to the duties set forth elsewhere
13 in this article, the commission shall:

14 (1) Establish minimum standards for gaming devices and
15 supplies, including electronic or mechanical gaming devices;

16 (2) Approve, modify or reject game rules of play for all West
17 Virginia Lottery table games proposed to be operated by a gaming
18 licensee;

19 (3) Approve, modify or reject minimum internal control
20 standards proposed by the licensee gaming facility for a West
21 Virginia Lottery table game, including the maintenance of financial
22 books and records;

23 (4) Provide staff to supervise, inspect and monitor the
24 operation of any gaming facility, including inspection of gaming

1 devices and supplies used in the operation to assure continuous
2 compliance with all rules of the commission and provisions of this
3 article;

4 (5) Establish minimum levels of insurance to be maintained
5 with respect to a gaming facility;

6 (6) Investigate applicants to determine eligibility for any
7 license and, where appropriate, select among competing applicants;

8 (7) Designate appropriate classifications of personnel to be
9 employed in the operation of a gaming facility and establish
10 appropriate licensing standards within the classifications;

11 (8) Issue all licenses;

12 (9) Charge and collect the taxes and fees authorized, required
13 or specified in this article:

14 (I) Receive, accept and pay the specified percentage of taxes
15 collected under sections twenty and twenty-one of this article into
16 the Historic Resort Hotel Fund or under sections twenty and twenty-
17 one-b of this article into the Rural Resort Community Fund; and

18 (ii) Receive, accept and pay the specified percentage of taxes
19 collected under sections twenty and twenty-one of this article into
20 the Human Resource Benefit Fund or under sections twenty and
21 twenty-one-c of this article into the Rural Resort Community Human
22 Resource Benefit Fund;

23 (10) Maintain a record of all licenses issued;

24 (11) Keep a public record of all commission actions and

1 proceedings; and

2 (12) File a written annual report to the Governor, the
3 President of the Senate and the Speaker of the House of Delegates
4 on or before January 30 of each year and any additional reports as
5 the Governor or Legislature may request.

6 (b) *Powers.* -- In addition to the powers set forth elsewhere
7 in this article, the commission has the following powers:

8 (1) To sue to enforce any provision of this article by
9 injunction;

10 (2) To hold hearings, administer oaths and issue subpoenas for
11 the attendance of a witness to testify and to produce evidence;

12 (3) To enter a gaming facility at any time and without notice
13 to ensure strict compliance with the rules of the commission;

14 (4) To bar, for cause, any person from entering or
15 participating in any capacity in the operation of a gaming
16 facility; and

17 (5) To exercise such other powers as may be necessary to
18 effectuate the provisions of this article.

19 **§29-25-5. Rules.**

20 The commission shall propose for promulgation legislative
21 rules in accordance with the provisions of article three, chapter
22 twenty-nine-a of this code as are necessary to provide for
23 implementation and enforcement of the provisions of this article.
24 Any legislative rules proposed by the commission before September

1 1, ~~2009~~ 2012, may be by emergency rule.

2 **§29-25-6. Law enforcement.**

3 (a) *Generally.* -- Notwithstanding any provision of this code
4 to the contrary, the commission shall, by contract or cooperative
5 agreement with the West Virginia State Police, arrange for those
6 law-enforcement services uniquely related to gaming as such occurs
7 at ~~the~~ a gaming facility that are necessary to enforce the
8 provisions of this article.

9 (b) *Costs.* -- The actual cost of services provided by the West
10 Virginia State Police pursuant to a contract or cooperative
11 agreement entered into pursuant to the provisions of subsection (a)
12 of this section, including, but not limited to, necessary training
13 costs, shall be paid by the commission as an administrative
14 expense.

15 (c) Notwithstanding any provision of this code to the
16 contrary, the West Virginia State Police shall have exclusive
17 jurisdiction over felony offenses committed on the grounds of the
18 gaming facility.

19

20 **§29-25-9. License to operate a gaming facility.**

21 (a) ~~*Single license.* -- The commission may issue only one~~
22 ~~license to operate a gaming facility. If the one license~~
23 ~~limitation in the preceding sentence is found to be~~

1 ~~unconstitutional in a final, nonappealable order by a court of~~
2 ~~competent jurisdiction, the commission shall have no authority to~~
3 ~~issue any license under this article and, in such event, the~~
4 ~~provisions of this article shall not be severable and any license~~
5 ~~issued under the provisions of this article prior thereto shall be~~
6 ~~void. The Legislature intends that no more than one license to~~
7 ~~operate one gaming facility in this state shall be authorized in~~
8 ~~any event. License.-- The commission may issue licenses to operate~~
9 ~~a gaming facility.~~

10 (b) *Applicant qualifications.* -- The applicant shall be the
11 actual operator of the gaming facility to be located on the
12 premises of an existing historic resort hotel or rural resort
13 community. The applicant may be the owner of the existing historic
14 resort hotel or rural resort community or a person that leases
15 well-defined spaces on the premises of the historic resort hotel or
16 rural resort community in order to operate a gaming facility as
17 defined by this article. ~~The resort hotel shall be located within~~
18 ~~the jurisdiction of a county approving the operation of a gaming~~
19 ~~facility in accordance with section seven of this article.~~ The
20 applicant shall meet the qualifications and requirements set forth
21 in this article and rules adopted by the commission. In
22 determining whether to grant a license to operate a gaming facility
23 to an applicant, the commission shall consider:

24 (1) The character, reputation, experience and financial

1 integrity of the applicant and any controlling person of the
2 applicant;

3 (2) Whether the applicant has adequate capital to construct
4 and maintain the proposed gaming facility for the duration of a
5 license;

6 (3) The extent to which the applicant meets standards
7 contained in rules adopted by the commission relating to public
8 safety or other standards; and

9 (4) The plan submitted by the applicant regarding employment
10 levels and the extent to which the submitted plan demonstrates an
11 ability on the part of the applicant to create at least one hundred
12 full-time equivalent jobs with a salary and benefit package
13 commensurate with existing employees at the historic resort hotel
14 or rural resort community.

15 (c) *Floor plan submission requirement.* -- Prior to commencing
16 the operation of any West Virginia Lottery table game in a
17 designated gaming area, ~~the~~ a gaming facility licensee shall submit
18 to the commission for its approval a detailed floor plan depicting
19 the location of the designated gaming area in which West Virginia
20 Lottery table game gaming equipment will be located and its
21 proposed arrangement of the West Virginia Lottery table game gaming
22 equipment. If the floor plans for the designated gaming area
23 preserve the historic integrity of the historic resort hotel or
24 rural resort community where the licensed gaming facility is

1 located, then any floor plan submission that satisfies the
2 requirements of the rules promulgated by the commission shall be
3 considered approved by the commission unless a gaming facility is
4 notified in writing to the contrary within one month of filing a
5 detailed floor plan.

6 (d) *Management service contracts.* --

7 (1) *Approval.* -- A gaming facility may not enter into any
8 management service contract that would permit any person other than
9 the licensee to act as the commission's agent in operating West
10 Virginia Lottery table game unless the management service contract:
11 (A) Is with a person licensed under this article to provide
12 management services; (B) is in writing; and (C) the contract has
13 been approved by the commission.

14 (2) *Material change.* -- A licensed gaming facility shall
15 submit any material change in a management service contract
16 previously approved by the commission to the commission for its
17 approval or rejection before the material change may take effect.

18 (3) *Prohibition on assignment or transfer.* -- A management
19 services contract may not be assigned or transferred to a third
20 party.

21 (4) *Other commission approvals and licenses.* -- The duties and
22 responsibility of a management services provider under a management
23 services contract may not be assigned, delegated, subcontracted or
24 transferred to a third party to perform without the prior approval

1 of the commission. Third parties shall be licensed under this
2 article before providing service. The commission shall license and
3 require the display of West Virginia Lottery game logos on
4 appropriate game surfaces and other gaming items and locations as
5 the commission considers appropriate.

6 (e) *License application requirements.* -- An applicant for a
7 license to operate a gaming facility shall:

8 (1) Submit an application to the commission on a form
9 prescribed by the commission, which form shall include:

10 (A) Information concerning the applicant and of any
11 controlling person of the applicant sufficient to serve as a basis
12 for a thorough background check;

13 (B) Subject to the provisions of subsection (g) of this
14 section with respect to publicly-traded corporations, the identity
15 of all stockholders or other persons having a financial interest in
16 either the applicant or any controlling person of the applicant and
17 the identity of each director or executive officer of the applicant
18 and of any controlling person of the applicant;

19 (C) The identity of the historic resort hotel or rural resort
20 community at which the gaming facility is to be located, including
21 identification of the county in which the historic resort hotel or
22 rural resort community is located; and

23 (D) Any other information designated by the commission as
24 appropriate to assist it in determining whether a license should be

1 issued;

2 (2) Pay to the commission a nonrefundable application fee for
3 deposit into the Community-Based Service Fund created in section
4 twenty-seven, article twenty-two-c of this chapter in the amount of
5 \$65,000.

6 (f) *Privately held corporations.* -- In the event that an
7 applicant or any controlling person of an applicant is a privately
8 held corporation, then the commission may not grant a license until
9 the commission determines that each person who has control of the
10 applicant also meets all of the qualifications the applicant must
11 meet to hold the license for which application is made. The
12 following persons are considered to have control of an applicant:

13 (1) Each person associated with a corporate applicant,
14 including any corporate holding company, parent company or
15 subsidiary company of the applicant, but not including a bank or
16 other licensed lending institution which holds a mortgage or other
17 lien acquired in the ordinary course of business, who has the
18 ability to control the activities of the corporate applicant or
19 elect a majority of the board of directors of that corporation;

20 (2) Each person associated with a noncorporate applicant who
21 directly or indirectly holds any beneficial or proprietary interest
22 in the applicant or who the commission determines to have the
23 ability to control the applicant; and

24 (3) Key personnel of an applicant, including any executive,

1 employee or agent, having the power to exercise significant
2 influence over decisions concerning any part of the applicant's
3 business operation.

4 (g) *Publicly traded corporations.* -- In the event that an
5 applicant or any controlling person of an applicant is a publicly
6 traded corporation, then information otherwise required to be
7 furnished by an applicant with respect to stockholders, directors
8 and executive officers of the publicly traded corporation shall be
9 limited to information concerning only those executive officers of
10 the publicly traded corporation whose ongoing and regular
11 responsibilities relate or are expected to relate directly to the
12 operation or oversight of the gaming facility. "Publicly traded
13 corporation" as used herein means any corporation or other legal
14 entity, except a natural person, which has one or more classes of
15 securities registered pursuant to Section twelve of the Securities
16 Exchange Act of 1934, as amended (15 U.S.C. §78), or is an issuer
17 subject to Section fifteen-d of said act.

18 (h) *Gaming facility qualifications.* -- An applicant for a
19 license to operate a gaming facility shall demonstrate that the
20 gaming facility will: (1) Be accessible to disabled individuals;
21 (2) not be located at the main entrance to the historic resort
22 hotel or rural resort community; (3) be licensed in accordance with
23 all other applicable federal, state and local laws; and (4) meet
24 any other qualifications specified by rules adopted by the

1 commission.

2 (I) *Surety bond requirement.* -- ~~The~~ A licensed gaming facility
3 shall execute a surety bond to be given to the state to guarantee
4 the licensee faithfully makes all payments in accordance with the
5 provisions of this article and rules promulgated by the commission.

6 The surety bond shall be:

7 (1) In an amount determined by the commission to be adequate
8 to protect the state against nonpayment by the licensee of amounts
9 due the state under this article;

10 (2) In a form approved by the commission; and

11 (3) With a surety approved by the commission who is licensed
12 to write surety insurance in this state. The bond shall remain in
13 effect during the term of the license and may not be canceled by a
14 surety on less than thirty days' notice in writing to the
15 commission. The total and aggregate liability of the surety on the
16 bond is limited to the amount specified in the bond.

17 (j) *Authorization of license.* -- A license to operate a gaming
18 facility authorizes the licensee to engage in the business of
19 operating a gaming facility while the license is effective. A
20 license to operate a gaming facility is not transferable or
21 assignable and cannot be sold or pledged as collateral.

22 (k) *Audits.* -- A licensed gaming facility operator shall
23 submit to the commission an annual audit, by a certified public
24 accountant who is, or whose firm is, licensed in the State of West

1 Virginia, or by a nationally recognized accounting firm, of the
2 financial transactions and condition of the licensee's total
3 operations. The audit shall be in accordance with generally
4 accepted auditing principles.

5 (l) *Annual license renewal fee.* -- For the second year that it
6 is licensed, ~~the~~ a licensed gaming facility shall pay to the
7 commission a license renewal fee of \$250,000. For the third year
8 that it is licensed, ~~the~~ a licensed gaming facility shall pay to
9 the commission a license renewal fee of \$500,000. For every year
10 after the third year that it is licensed, ~~the~~ a licensed gaming
11 facility shall pay to the commission a license renewal fee that is
12 calculated by determining the annual average gross receipts of the
13 West Virginia pari-mutuel racetracks with table games licenses for
14 the last full fiscal year of adjusted gross receipts available, and
15 dividing that number into the licensed gaming facility operator's
16 adjusted gross receipts for the same full fiscal year of adjusted
17 gross receipts to obtain a percentage, and by multiplying the
18 resulting percentage by \$2,500,000: *Provided,* That the amount
19 required to be paid by the licensed gaming facility shall be not
20 less than \$500,000, nor more than \$2,500,000.

21 (m) ~~The~~ A licensed gaming facility shall provide to the
22 commission, at no cost to the commission, suitable office space at
23 the gaming facility to perform the duties required of it by the
24 provisions of this article.

1 **§29-25-12. License to be employed by operator of gaming facility.**

2 (a) *Licenses.* -- The commission shall issue a license to each
3 applicant for a license to be employed in the operation of a gaming
4 facility who meets the requirements of this section.

5 (b) *License qualifications.* -- To qualify for a license to be
6 employed in a gaming facility, the applicant shall be an individual
7 of good moral character and reputation and have been offered
8 employment by ~~the~~ a gaming facility contingent upon licensure
9 pursuant to the provisions of this section. The commission, by
10 rule, may specify additional requirements to be met by applicants
11 based on the specific job classification in which the applicant is
12 to be employed.

13 (c) *License application requirements.* -- An applicant for a
14 license to be employed in the operation of a gaming facility shall:

15 (1) Submit an application to the commission on the form that
16 the commission requires, including adequate information to serve as
17 a basis for a thorough background check;

18 (2) Submit fingerprints for a national criminal records check
19 by the Criminal Identification Bureau of the West Virginia State
20 Police and the Federal Bureau of Investigation. The fingerprints
21 shall be furnished by all persons required to be named in the
22 application and shall be accompanied by a signed authorization for
23 the release of information by the Criminal Investigation Bureau and
24 the Federal Bureau of Investigation. The commission may require

1 any applicant seeking the renewal of a license or permit to furnish
2 fingerprints for a national criminal records check by the Criminal
3 Identification Bureau of the West Virginia State Police and the
4 Federal Bureau of Investigation; and

5 (3) Pay to the commission a nonrefundable application fee in
6 the amount of \$100 to be retained by the commission as
7 reimbursement for the licensing process. This fee may be paid on
8 behalf of the applicant by the employer.

9 (d) *Authorization of licensee.* -- A license to be employed by
10 a gaming facility authorizes the licensee to be so employed in the
11 capacity designated by the commission with respect to the license
12 while the license is effective.

13 (e) *Annual license renewal fee.* -- Each licensed employee
14 shall pay to the commission an annual license renewal fee set by
15 the commission, which renewal fee may vary based on the capacity
16 designated with respect to the licensee but in no event to exceed
17 \$100. The fee may be paid on behalf of the licensed employee by
18 the employer.

19 **§29-25-15. Expiration date and renewal of gaming license.**

20 (a) A license expires on the fifth anniversary of its
21 effective date, unless the license is renewed for additional
22 five-year terms as provided in this section.

23 (b) At least two months before a license expires, the
24 commission shall send to the licensee, by mail to the last known

1 address, a renewal application form and notice that states:

2 (1) The date on which the current license expires;

3 (2) The date by which the commission must receive the renewal
4 application for the renewal to be issued and mailed before the
5 existing license expires; and

6 (3) The amount of the renewal fee.

7 (c) Before the license expires the licensee may renew it for
8 successive additional five-year terms if the licensee:

9 (1) Otherwise is entitled to be licensed;

10 (2) Pays to the commission the following renewal fee:

11 (A) The sum of \$25,000 for a license to operate a gaming
12 facility;

13 (B) The sum of \$5,000 for a license to supply a gaming
14 facility; and

15 (C) As set by the commission by rule in the case of a license
16 to be employed by an operator of a gaming facility, not to exceed
17 \$300, which renewal fee may be paid on behalf of the licensee by
18 the employer; and

19 (3) Submits to the commission a renewal application in the
20 form that the commission requires accompanied by satisfactory
21 evidence of compliance with any additional requirements set by
22 rules of the commission for license renewal; and

23 (4) Submits to the commission evidence satisfactory to the
24 commission of the gaming facility operator's compliance with the

1 plan described in subdivision (4), subsection (b), section nine of
2 this article to create at least one hundred full-time equivalent
3 positions with a salary and benefit package commensurate with
4 existing employees at the historic resort hotel or rural resort
5 community. Notwithstanding any provision of subsection (d) of this
6 section, the failure to substantially comply with the plan, as
7 determined by the commission, may constitute grounds for the denial
8 of the renewal of the license.

9 (d) The commission shall renew the license of each licensee
10 who meets the requirements of this section.

11 **§29-25-18. Inspection and seizure.**

12 As a condition of licensure, to inspect or investigate for
13 criminal violations of this article or violations of the rule
14 promulgated by the commission, the commission agents and the West
15 Virginia State Police may each, without notice and without warrant:

16 (1) Inspect and examine all premises of ~~the~~ a gaming facility
17 with West Virginia Lottery table games, gaming devices, the
18 premises where gaming equipment is manufactured, sold, distributed
19 or serviced or any premises in which any records of the activities
20 are prepared or maintained;

21 (2) Inspect any gaming equipment in, about, upon or around the
22 premises of a gaming facility with West Virginia Lottery table
23 games;

24 (3) Seize summarily and remove from the premises and impound

1 any gaming equipment for the purposes of examination, inspection or
2 testing;

3 (4) Inspect, examine and audit all books, records and
4 documents pertaining to a gaming facility licensee's operation;

5 (5) Summarily seize, impound or assume physical control of any
6 book, record, ledger, West Virginia Lottery table game, gaming
7 equipment or device, cash box and its contents, counting room or
8 its equipment or West Virginia Lottery table game operations; and

9 (6) Inspect the person, and the person's personal effects
10 present on the grounds of a licensed gaming facility with West
11 Virginia Lottery table games, of any holder of a license issued
12 pursuant to this article while that person is present on the
13 grounds of a licensed gaming facility having West Virginia Lottery
14 table games.

15 **§29-25-19. Consent to presence of law-enforcement officers;**
16 **wagering limits; operations and services; posting**
17 **of betting limits.**

18 (a) *Consent to presence of law-enforcement officers.* -- Any
19 individual entering the gaming facility shall be advised by the
20 posting of a notice or other suitable means of the possible
21 presence of state, county or municipal law-enforcement officers and
22 by entering ~~the~~ a gaming facility impliedly consents to the
23 presence of the law-enforcement officers.

24 (b) *Commission discretion in gaming operations.* -- Video

1 lottery terminals operated at ~~the~~ a gaming facility may allow
2 minimum and maximum wagers on a single game the amounts determined
3 by the license in the exercise of its business judgment subject to
4 the approval of the commission.

5 (1) Subject to the approval of the commission, ~~the~~ a gaming
6 facility licensee shall, with respect to West Virginia Lottery
7 table games, establish the following:

8 (A) Maximum and minimum wagers;

9 (B) Advertising and promotional activities;

10 (C) Hours of operation;

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

12 (2) The commission may consider multiple factors, including,
13 but not limited to, industry standards, outside competition and any
14 other factors as determined by the commission to be relevant in its
15 decision to approve ~~the~~ a gaming facility's determination of those
16 items listed in subdivision (1) of this subsection.

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

21 (1) Minimum and maximum payout percentages;

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

24 (3) Limitations on the types and amounts of financial

1 transactions, including extension of credit to a patron, which a
2 gaming facility can enter into with its patrons.

3 (d) *Posting of betting limits.* -- A gaming facility shall
4 conspicuously post a sign at each West Virginia Lottery table game
5 indicating the permissible minimum and maximum wagers pertaining at
6 that table. A gaming facility licensee may not require any wager
7 to be greater than the stated minimum or less than the stated
8 maximum. However, any wager actually made by a patron and not
9 rejected by a gaming facility licensee prior to the commencement of
10 play shall be treated as a valid wager.

11 **§29-25-20. Accounting and reporting of gross terminal income;
12 distribution.**

13 ~~The~~ A licensed gaming facility shall submit thirty-six percent
14 of the gross terminal income from video lottery games at the
15 licensed gaming facility to the commission through electronic funds
16 transfer to be deposited into the Historic Resort Hotel Fund
17 created in section twenty-two of this article if the licensed
18 gaming facility is located in a historic resort hotel or into the
19 Rural Resort Community Fund created in section twenty-two-b of this
20 article if the licensed gaming facility if located in a rural
21 resort community. The licensed gaming facility shall also submit
22 seventeen percent of the gross terminal income from video lottery
23 games at the licensed gaming facility to the commission through
24 electronic funds transfer to be deposited into the Human Resource

1 Benefit Fund created in section twenty-two-a of this article if the
 2 licensed gaming facility is located in a historic resort hotel or
 3 into the Rural Resort Community Fund created in section twenty-two-
 4 b of this article if the licensed gaming facility if located in a
 5 rural resort community. Each of these submissions shall be made to
 6 the commission weekly. The gaming licensee shall furnish to the
 7 commission all information and bank authorizations required to
 8 facilitate the timely transfer of moneys to the commission. The
 9 gaming licensee shall provide the commission thirty days' advance
 10 notice of any proposed account changes in order to assure the
 11 uninterrupted electronic transfer of funds.

12 **§29-25-21. Taxes on games other than video lottery games.**

13 (a) *Imposition and rate of limited gaming profits tax.* --
 14 There is hereby levied and shall be collected a privilege tax
 15 against a gaming license in an amount to be determined by the
 16 application of the rate against adjusted gross receipts of the
 17 licensed gaming facility. The rate of tax is thirty-five percent.
 18 Of that thirty-five percent, thirty percent shall be directly
 19 deposited by the commission into the Historic Resort Hotel Fund
 20 created in section twenty-two of this article if the licensed
 21 gaming facility is located in a historic resort hotel or into the
 22 Rural Resort Community Fund created in section twenty-two-b of this
 23 article if the licensed gaming facility if located in a rural
 24 resort community. ~~and the~~ The remaining five percent shall be

1 directly deposited by the commission into the Human Resource
2 Benefit Fund created in section twenty-two-a of this article if the
3 licensed gaming facility is located in a historic resort hotel or
4 into the Rural Resort Community Fund created in section twenty-two-
5 b of this article if the licensed gaming facility if located in a
6 rural resort community. For purposes of calculating the amount of
7 tax due under this section, the licensee shall use the accrual
8 method of accounting. This tax is in addition to all other taxes
9 and fees imposed: *Provided,* That the consumers sales and service
10 tax imposed pursuant to article fifteen, chapter eleven of this
11 code may not apply to the proceeds from any wagering with respect
12 to a West Virginia Lottery table game pursuant to this article.

13 (b) *Computation and payment of tax.* -- The taxes levied under
14 the provisions of this section are due and payable to the
15 commission in weekly installments on or before the Wednesday of
16 each week. The taxpayer shall, on or before the Wednesday of each
17 week, make out and submit by electronic communication to the
18 commission a return for the preceding week, in the form prescribed
19 by the commission, showing: (1) The total gross receipts from the
20 gaming facility for that month and the adjusted gross receipts; (2)
21 the amount of tax for which the taxpayer is liable; and (3) any
22 further information necessary in the computation and collection of
23 the tax which the Tax Commissioner or the commission may require.
24 Payment of the amount of tax due shall accompany the return. All

1 payments made pursuant to this section shall be deposited in
2 accordance with sections ~~twenty-two~~ and twenty-two-a, twenty-two-b
3 and twenty-two-c of this article. Payments due to the commission
4 under this section and payments due to the commission under section
5 twenty of this article shall be sent simultaneously.

6 (c) *Negative adjusted gross receipts.* -- When adjusted gross
7 receipts for a week is a negative number because the winnings paid
8 to patrons wagering on the gaming facility's West Virginia Lottery
9 table games exceeds the gaming facility's gross receipts from the
10 purchase of table game tokens, chips or electronic media by
11 patrons, the commission shall allow the licensee to, pursuant to
12 rules of the commission, carry over the negative amount of adjusted
13 gross receipts to returns filed for subsequent weeks. The negative
14 amount of adjusted gross receipts may not be carried back to an
15 earlier week and the commission is not required to refund any tax
16 received by the commission, except when the licensee surrenders its
17 license to act as agent of the commission in operating West
18 Virginia Lottery table game under this article and the licensee's
19 last return filed under this section shows negative adjusted gross
20 receipts. In that case, the commission shall multiply the amount
21 of negative adjusted gross receipts by the applicable rate of tax
22 and pay the amount to the licensee, in accordance with rules of the
23 commission.

24 (d) *Prohibition on credits.* -- Notwithstanding any other

1 provision of this code to the contrary, no credits may be allowed
2 against any tax imposed on any taxpayer by this code for an
3 investment in gaming devices and supplies, for an investment in
4 real property which would be directly utilized for the operation of
5 a gaming facility or for any jobs created at a gaming facility.
6 Notwithstanding any other provision of this code to the contrary,
7 the tax imposed by this section may not be added to federal taxable
8 income in determining West Virginia taxable income of a taxpayer
9 for purposes of article twenty-four, chapter eleven of this code.

10 (e) *Tax imposed by this section is in lieu of other taxes. --*

11 (1) With the exception of the ad valorem property tax
12 collected under chapter eleven-a of this code, the tax imposed by
13 this section is in lieu of all other state taxes and fees imposed
14 on the operation of, or the proceeds from operation of West
15 Virginia Lottery table games, except as otherwise provided in this
16 section. The consumers sales and service tax imposed pursuant to
17 article fifteen, chapter eleven of this code shall not apply to the
18 licensee's gross receipts from any wagering on a West Virginia
19 Lottery table game pursuant to this article or to the licensee's
20 purchasing of gaming equipment, supplies or services directly used
21 in operation of a West Virginia Lottery table games authorized by
22 this article. These purchases are also exempt from the use tax
23 imposed by article fifteen-a, chapter eleven of this code.

24 (2) With the exception of the ad valorem property tax

1 collected under chapter eleven-a of this code, the tax imposed by
2 this section is in lieu of all local taxes and fees levied on or
3 imposed with respect to the privilege of offering a West Virginia
4 Lottery table game to the public, including, but not limited to,
5 the municipal business and occupation taxes and amusement taxes
6 authorized by article thirteen, chapter eight of this code and the
7 municipal sales and service tax and use tax authorized by article
8 thirteen-c of said chapter.

9 **§29-25-22. Historic Resort Hotel Fund; allocation of adjusted**
10 **gross receipts; disposition of license fees.**

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

21 (b) All expenses of the commission shall be paid from the
22 Historic Resort Hotel Fund, including reimbursement of the State
23 Police for activities performed at the request of the commission in
24 connection with background investigations or enforcement activities

1 pursuant to this article. At no time may the commission's expenses
2 under this article exceed fifteen percent of the total of the
3 annual revenue received from the licensee under this article,
4 including all license fees, taxes or other amounts required to be
5 deposited in the Historic Resort Hotel Fund.

6 (c) An Historic Resort Hotel Modernization Fund is hereby
7 created within the Historic Resort Hotel Fund. For all fiscal
8 years beginning on or after July 1, 2011, the commission shall
9 deduct two and one-half percent from gross terminal income received
10 by the commission under section twenty of this article for the
11 fiscal year and deposit these amounts into a separate facility
12 modernization account maintained within the Historic Resort Hotel
13 Modernization Fund for each historic resort hotel. For each dollar
14 expended by a historic resort hotel for video lottery or table
15 gaming facility modernization improvements at the historic resort
16 hotel, having a useful life of three or more years and placed in
17 service after April 1, 2011, the historic resort hotel shall
18 receive \$1 in recoupment from its facility modernization account.
19 For purposes of this section, the term "video lottery or table
20 gaming facility modernization improvements" include acquisition of
21 computer hardware and software, communications and Internet access
22 equipment, security and surveillance equipment, video lottery
23 terminals and other electronic equipment or other equipment
24 designed to modernize the facility.

1 (d) The balance of the Historic Resort Hotel Fund shall become
2 net income and shall be divided as follows:

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

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

10 (3) The Tourism Promotion Fund established in section twelve,
11 article two, chapter five-b of this code shall receive three
12 percent of the Historic Resort Hotel Fund net income;

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

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

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

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

8 (8) The governing body of each municipality in the state that
9 is not eligible to receive a distribution under subdivisions (5)
10 and (6) of this subsection shall receive equal shares of two and
11 one-half percent of the Historic Resort Hotel Fund net income:
12 *Provided*, That funds transferred to municipalities under this
13 subdivision shall be used only to pay for debt reduction in
14 municipal police and fire pension funds and the costs of
15 infrastructure improvements and other capital improvements.

16 (e) Notwithstanding any provision of this article to the
17 contrary, all limited gaming facility license fees and license
18 renewal fees received by the commission pursuant to section nine of
19 this article shall be deposited into the Community-Based Service
20 Fund created in section twenty-seven, article twenty-two-c of this
21 chapter.

22 (f) With the exception of the license fees and license renewal
23 fees received by the commission pursuant to section nine of this
24 article, all revenues received from licensees and license

1 applicants under this article shall be retained by the commission
2 as reimbursement for the licensing process.

3 (g) If more than one licensed gaming facility is depositing
4 into the Historic Resort Hotel Fund, then the disbursements
5 required under subdivision (4), (5) and (6) of subsection d of this
6 section shall be prorated based on the total amount of moneys
7 contributed by each licensed gaming facility to the Historic Resort
8 Hotel Fund.

9 **§29-25-22a. Human Resource Benefit Fund.**

10 (a) There is hereby created a special fund in the State
11 Treasury which shall be designated and known as the Human Resource
12 Benefit Fund. Seventeen percent of the gross terminal income
13 received by the commission under section twenty of this article and
14 five percent of the adjusted gross receipts received by the
15 commission under section twenty-one of this article shall be
16 deposited with the State Treasurer and placed in the Human Resource
17 Benefit Fund. If more than one licensed gaming facility is
18 depositing into the Human Resource Benefit Fund, then the
19 disbursements required under subsection (b) of this section shall
20 be prorated based on the total amount of monies contributed by each
21 licensed gaming facility to the Human Resource Benefit Fund. The
22 fund shall be an interest-bearing account with interest to be
23 credited to and deposited in the Human Resource Benefit Fund.

24 (b) For each dollar expended by the historic resort hotel for

1 fringe benefits for the employees of the historic resort hotel, the
2 commission shall transfer to the historic resort hotel \$1 of
3 recoupment from the Human Resource Benefit Fund: *Provided*, That
4 the historic resort hotel is not entitled to recoupment for money
5 spent on fringe benefits beyond the amount of money available to be
6 expended from the Human Resource Benefit Fund at the time the
7 request for recoupment is made by the historic resort hotel.

8 (c) The commission shall have full rights and powers to audit
9 the spending of money from the Human Resource Benefit Fund to
10 ensure that the money is being used in the manner prescribed under
11 this section. The commission shall have the power and authority to
12 audit as frequently as it sees fit, so long as it conducts at least
13 two audits each fiscal year.

14 (d) There is hereby created the Human Resource Benefit
15 Advisory Board, which shall meet every six months to verify the
16 commission's audit.

17 (1) The board shall consist of five members, all residents and
18 citizens of the State of West Virginia:

19 (A) One member shall be a representative of the collective
20 bargaining unit that represents a majority of the employees of the
21 historic resort hotel;

22 (B) One member shall be a representative of the historic
23 resort hotel; and

24 (C) Three members shall be employees of the commission.

1 (2) The members shall be appointed or elected by the entity or
2 persons that they represent. Establishment of terms for members
3 shall be determined by the entity or persons that they represent,
4 if the entity or persons choose to set terms.

5 (3) A majority of members constitutes a quorum for the
6 transaction of business.

7 (4) The board shall meet every six months at the headquarters
8 of the commission. Upon its own motion or upon the request of the
9 commission, it may hold meetings in addition to the required
10 meetings. The commission shall pay the travel expenses of members
11 of the board who are not employed by the commission.

12 (5) All meetings of the board shall be open to the public.

13 (6) The board shall operate in an advisory capacity. Its
14 functions shall include, but are not limited to, reviewing and
15 verifying financial audits of the Human Resource Benefit Fund
16 conducted by the commission and its employees and reviewing source
17 documents associated with disbursements from the Human Resource
18 Benefit Fund.

19 (7) Within thirty days of any board meeting, the board shall
20 report to the commission its findings and any recommendations it
21 may have. The report to the commission shall be made at a
22 commission meeting that is open to the public.

23 (e) In the event that an audit conducted by the commission, or
24 suggested changes to the audit submitted by the board and adopted

1 by the commission, reveals that the historic resort hotel has acted
2 improperly or negligently in its claim for money from the Human
3 Resource Benefit Fund, the commission may impose a civil penalty
4 against the historic resort hotel of up to one hundred percent of
5 the improperly claimed amount. Any civil penalty imposed on the
6 historic resort hotel by the commission under this subsection shall
7 be deposited by the commission into the Historic Resort Hotel Fund.

8 **§29-25-22b. Rural Resort Community Fund; allocation of adjusted**
9 **gross receipts; disposition of license fees.**

10 (a) There is hereby created a special fund in the State
11 Treasury which shall be designated and known as the Rural Resort
12 Community Fund. Thirty-six percent of the gross terminal income
13 received by the commission under section twenty of this article and
14 thirty percent of the adjusted gross receipts received by the
15 commission under section twenty-one of this article shall be
16 deposited with the State Treasurer and placed in the Rural Resort
17 Community Fund. The fund shall be an interest bearing account with
18 interest to be credited to and deposited in the Rural Resort
19 Community Fund.

20 (b) All expenses of the commission shall be paid from the
21 Rural Resort Community Fund, including reimbursement of the State
22 Police for activities performed at the request of the Commission in
23 connection with background investigations or enforcement activities
24 pursuant to this article. At no time may the commission's expenses

1 under this article exceed fifteen percent of the total of the
2 annual revenue received from the licensee under this article,
3 including all license fees, taxes or other amounts required to be
4 deposited in the Rural Resort Community Fund.

5 (c) A Rural Resort Community Modernization Fund is hereby
6 created within the Rural Resort Community Fund. For all fiscal
7 years beginning on or after July 1, 2012, the commission shall
8 deduct two and one-half percent from gross terminal income received
9 by the commission under section twenty of this article for the
10 fiscal year and deposit these amounts into a separate facility
11 modernization account maintained within the Rural Resort Community
12 Modernization Fund for each rural resort community. For each dollar
13 expended by a rural resort community for video lottery or table
14 gaming facility modernization improvements at the rural resort
15 community, having a useful life of three or more years and placed
16 in service after July 1, 2012, the rural resort community shall
17 receive \$1 in recoupment from its facility modernization account.
18 for purposes of this section, the term "video lottery or table
19 gaming facility modernization improvements include acquisition of
20 computer hardware and software, communications and Internet access
21 equipment, security and surveillance equipment, video lottery
22 terminals and other electronic equipment or other equipment
23 designed to modernize the facility.

24 (d) The balance of the Rural Resort Community Fund shall

1 become net income and shall be divided as follows:

2 (1) Sixty-four percent of the Rural Resort Community Fund net
3 income shall be paid into the General Revenue Fund to be
4 appropriated by the Legislature;

5 (2) Nineteen percent of the Rural Resort Community Fund net
6 income shall be paid into the State Debt Reduction Fund established
7 in section twenty-seven, article twenty-two-c of this chapter to be
8 appropriated by the Legislature;

9 (3) The Tourism Promotion Fund established in section twelve,
10 article two, chapter five-b of this code shall receive three
11 percent of the Rural Resort Community Fund net income;

12 (4) The county where the gaming facility is located shall
13 receive four percent of the Rural Resort Community Fund net income;

14 (5) The municipality where the gaming facility is located or
15 the municipality closest to the gaming facility by paved road
16 access as of the effective date of the reenactment of this section
17 by the 2012 regular session of the Legislature shall receive two
18 and one-half percent of the Rural Resort Community Fund net income;

19 (6) The municipalities within the county where the gaming
20 facility is located, except for the municipality receiving funds
21 under subdivision (5) of this subsection, shall receive equal
22 shares of two and one-half percent of the Rural Resort Community
23 Fund net income, if no other municipality is located within the
24 county where the gaming facility is located as of the effective

1 date of the reenactment of this section by the 2012 regular session
2 of the Legislature then the equal shares shall be received by the
3 county's board of education;

4 (7) Each county commission in the state that is not eligible
5 to receive a distribution under subdivision (4) of this subsection
6 shall receive equal shares of two and one-half percent of the Rural
7 Resort Community Fund net income: *Provided, That funds transferred*
8 to the county commission under this subdivision shall be used only
9 to pay regional jail expenses and the costs of infrastructure
10 improvements and other capital improvements; and

11 (8) The governing body of each municipality in the state that
12 is not eligible to receive a distribution under subdivisions (5)
13 and (6) of this subsection shall receive equal shares of two and
14 one-half percent of the Rural Resort Community Fund net income:
15 *Provided, That funds transferred to municipalities under this*
16 subdivision shall be used only to pay for debt reduction in
17 municipal police and fire pension funds and the costs of
18 infrastructure improvements and other capital improvements.

19 (e) Notwithstanding any provision of this article to the
20 contrary, all limited gaming facility license fees and license
21 renewal fees received by the Commission pursuant to section nine of
22 this article shall be deposited into the community-based service
23 fund created in section twenty-seven, article twenty-two-c of this
24 chapter.

1 (f) With the exception of the license fees and license renewal
2 fees received by the Commission pursuant to section nine of this
3 article, all revenues received from licensees and license
4 applicants under this article shall be retained by the Commission
5 as reimbursement for the licensing process.

6 (g) If more than one licensed gaming facility is depositing
7 into the Rural Resort Community Fund, then the disbursements
8 required under subdivision (4), (5) and (6) of subsection d of this
9 section shall be prorated based on the total amount of moneys
10 contributed by each licensed gaming facility to the Rural Resort
11 Community Fund.

12 **§29-25-22c. Rural Resort Community Human Resource Benefit Fund.**

13 (a) There is hereby created a special fund in the State
14 Treasury which shall be designated and known as the Rural Resort
15 Community Human Resource Benefit Fund. Seventeen percent of the
16 gross terminal income received by the commission under section
17 twenty of this article and five percent of the adjusted gross
18 receipts received by the commission under section twenty-one of
19 this article shall be deposited with the State Treasurer and placed
20 in the Rural Resort Community Human Resource Benefit Fund. If more
21 than one licensed gaming facility is depositing into the Rural
22 Resort Community Human Resource Benefit Fund, then the
23 disbursements required under subsection (b) of this section shall
24 be prorated based on the total amount of moneys contributed by each

1 licensed gaming facility to the Rural Resort Community Human
2 Resource Benefit Fund. The fund shall be an interest-bearing
3 account with interest to be credited to and deposited in the Rural
4 Resort Community Human Resource Benefit Fund.

5 (b) For each dollar expended by a rural resort community for
6 fringe benefits for the employees of the rural resort community,
7 the commission shall transfer to the rural resort community one
8 dollar of recoupment from the Rural Resort Community Human
9 Resource Benefit Fund: *Provided*, That the rural resort community is
10 not entitled to recoupment for money spent on fringe benefits
11 beyond the amount of money available to be expended from the Rural
12 Resort Community Human Resource Benefit Fund at the time the
13 request for recoupment is made by the rural resort community.

14 (c) The commission shall have full rights and powers to audit
15 the spending of money from the Human Resource Benefit Fund to
16 ensure that the money is being used in the manner prescribed under
17 this section. The commission shall have the power and authority to
18 audit as frequently as it sees fit, so long as it conducts at least
19 two audits each fiscal year.

20 (d) There is hereby created the Rural Resort Community Human
21 Resource Benefit Advisory Board, which shall meet every six months
22 to verify the commission's audit.

23 (1) The board shall consist of five members, all residents and
24 citizens of the State of West Virginia:

1 (a) One member shall be a representative of the collective
2 bargaining unit that represents a majority of the employees of the
3 rural resort community or if no collective bargaining unit has been
4 established then the employees of the rural resort community shall
5 elect a representative who will represent the majority of the
6 employees;

7 (b) One member shall be a representative of the rural resort
8 community; and

9 (c) Three members shall be employees of the commission.

10 (2) The members shall be appointed or elected by the entity or
11 persons that they represent. Establishment of terms for members
12 shall be determined by the entity or persons that they represent,
13 if the entity or persons choose to set terms.

14 (3) A majority of members constitutes a quorum for the
15 transaction of business.

16 (4) The board shall meet every six months at the headquarters
17 of the commission. Upon its own motion or upon the request of the
18 commission, it may hold meetings in addition to the required
19 meetings. The commission shall pay the travel expenses of members
20 of the board who are not employed by the commission.

21 (5) All meetings of the board shall be open to the public.

22 (6) The board shall operate in an advisory capacity. its
23 functions shall include, but are not limited to, reviewing and
24 verifying financial audits of the Rural Resort Community Human

1 Resource Benefit Fund conducted by the commission and its employees
2 and reviewing source documents associated with disbursements from
3 the Rural Resort Community Human Resource Benefit Fund.

4 (7) Within thirty days of any board meeting, the board shall
5 report to the commission its findings and any recommendations it
6 may have. The report to the commission shall be made at a
7 commission meeting that is open to the public.

8 (8) If more than one licensed gaming facility is depositing
9 into the Rural Resort Community Human Resource Benefit Fund, then
10 there shall be created a separate Rural Resort Community Human
11 Resource Benefit Fund advisory board for each licensed gaming
12 facility contributing to the Rural Resort Community Human Resource
13 Benefit Fund to audit each of the licensed gaming facilities under
14 the same requirements set forth in this subsection d of this
15 section.

16 (e) In the event that an audit conducted by the commission, or
17 suggested changes to the audit submitted by the board and adopted
18 by the commission, reveals that the rural resort community has
19 acted improperly or negligently in its claim for money from the
20 Rural Resort Community Human Resource Benefit Fund, the commission
21 may impose a civil penalty against the rural resort community of up
22 to one hundred percent of the improperly claimed amount. Any civil
23 penalty imposed on the rural resort community by the commission
24 under this subsection shall be deposited by the commission into the

1 Rural Resort Community Fund.

2 **§29-25-24. Individual gaming restrictions.**

3 (a) An individual may enter a designated gaming area or remain
4 in a designated gaming area only if the individual:

5 (1) ~~Is~~ If the designated gaming area is located within a
6 historic resort hotel then the individual must be either;

7 (A) A registered overnight guest at the historic resort hotel
8 on whose premises the gaming facility is located;

9 (B) A person who is a not a registered overnight guest, but is
10 a registered participant at a convention or event being held at the
11 historic resort hotel: *Provided*, That this paragraph does not
12 apply on any calendar day when less than four hundred guest rooms
13 are occupied at the historic resort hotel; or

14 (C) A member of a homeowner or facility association that
15 entitles members to substantial privileges at the historic resort
16 hotel on whose premises the gaming facility is located or an
17 overnight guest of such a member: *Provided*, That the association
18 was in existence as of April 1, 2009;

19 (2) Is at least twenty-one years of age;

20 (3) Is not visibly intoxicated;

21 (4) Has not been determined by the gaming facility operator or
22 the commission to be unruly, disruptive or otherwise interfering
23 with operation of the gaming facility; or to be likely to commit,
24 or to attempt to commit, a violation of this article; and

1 (5) Has not been barred by the commission from entering a
2 gaming facility.

3 (b) Notwithstanding any provisions of this code to the
4 contrary, no employee of the commission or employee of the historic
5 resort hotel or any member of his or her immediate household may
6 wager at the gaming facility.

7 **§29-25-28. Specific provision for video lottery games.**

8 The commission is authorized to implement and operate video
9 lottery games at ~~one~~ a gaming facility in this state in accordance
10 with the provisions of this article and the applicable provisions
11 of article twenty-two-a of this chapter. The provisions of said
12 article apply to this article, except in the event of conflict or
13 inconsistency between any of the provisions of this article and the
14 provisions of article twenty-two-a of this chapter. In that event,
15 the provisions of this article shall supersede any conflicting or
16 inconsistent provisions contained in article twenty-two-a of this
17 chapter.

18 **§29-25-29. Video lottery terminal requirements; application for**
19 **approval of video lottery terminals; testing of**
20 **video lottery terminals; report of test results;**
21 **modifications to previously approved models;**
22 **conformity to prototype; seizure and destruction of**
23 **terminals.**

1 (a) Video lottery terminals registered with and approved by
2 the commission for use at the gaming facility may offer video
3 lottery games regulated, controlled, owned and operated by the
4 commission in accordance with the provisions of this section and
5 utilizing specific game rules.

6 (b) A manufacturer may not sell or lease a video lottery
7 terminal for placement at ~~the~~ a gaming facility unless the terminal
8 has been approved by the commission. Only manufacturers with
9 licenses may apply for approval of a video lottery terminal or
10 associated equipment. The manufacturer shall submit two copies of
11 terminal illustrations, schematics, block diagrams, circuit
12 analysis, technical and operation manuals and any other information
13 requested by the commission for the purpose of analyzing and
14 testing the video lottery terminal or associated equipment.

15 (c) The commission may require that two working models of a
16 video lottery terminal be transported to the location designated by
17 the commission for testing, examination and analysis.

18 (1) The manufacturer shall pay all costs of testing,
19 examination, analysis and transportation of such video lottery
20 terminal models. The testing, examination and analysis of any
21 video lottery terminal model may require dismantling of the
22 terminal and some tests may result in damage or destruction to one
23 or more electronic components of such terminal model. The
24 commission may require that the manufacturer provide specialized

1 equipment or pay for the services of an independent technical
2 expert to test the terminal.

3 (2) The manufacturer shall pay the cost of transportation of
4 two video lottery terminals to lottery headquarters. The
5 commission shall conduct an acceptance test to determine terminal
6 functions and central system compatibility. If the video lottery
7 terminal fails the acceptance test conducted by the commission, the
8 manufacturer shall make all modifications required by the
9 commission.

10 (d) After each test has been completed, the commission shall
11 provide the terminal manufacturer with a report containing
12 findings, conclusions and pass/fail results. The report may
13 contain recommendations for video lottery terminal modification to
14 bring the terminal into compliance with the provisions of this
15 article. Prior to approving a particular terminal model, the
16 commission may require a trial period not to exceed sixty days for
17 a licensed gaming facility to test the terminal. During the trial
18 period, the manufacturer may not make any modifications to the
19 terminal model unless modifications are approved by the commission.

20 (e) The video lottery terminal manufacturer and licensed
21 gaming facility are jointly responsible for the assembly and
22 installation of all video lottery terminals and associated
23 equipment. The manufacturer and licensed gaming facility shall not
24 change the assembly or operational functions of a terminal licensed

1 for placement in West Virginia unless a request for modification of
2 an existing video terminal prototype is approved by the commission.
3 The request shall contain a detailed description of the type of
4 change, the reasons for the change and technical documentation of
5 the change.

6 (f) Each video lottery terminal approved for placement at ~~the~~
7 a gaming facility shall conform to the exact specifications of the
8 video lottery terminal prototype tested and approved by the
9 commission. If any video lottery terminal or any video lottery
10 terminal modification, which has not been approved by the
11 commission, is supplied by a manufacturer and operated by ~~the~~ a
12 gaming facility, the commission shall seize and destroy all of that
13 licensed gaming facility's and manufacturer's noncomplying video
14 lottery terminals and shall suspend the license and permit of the
15 licensed gaming facility and manufacturer.

16 **§29-25-30. Video lottery terminal hardware and software**
17 **requirements; hardware specifications; software**
18 **requirements for randomness testing; software**
19 **requirements for percentage payout; software**
20 **requirements for continuation of video lottery**
21 **game after malfunction; software requirements for**
22 **play transaction records.**

23 (a) The commission may approve video lottery terminals and in

1 doing so shall take into account advancements in computer
2 technology, competition from nearby states and the preservation of
3 jobs at the historic resort hotel or rural resort community. In
4 approving video lottery terminals licensed for placement in this
5 state the commission shall insure that the terminals meet the
6 following hardware specifications:

7 (1) Electrical and mechanical parts and design principles may
8 not subject a player to physical hazards or injury.

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

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

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

23 (5) A bill or voucher acceptor or other means accurately and
24 efficiently to establish credits shall be installed on each video

1 lottery terminal. All acceptors shall be approved by the
2 commission prior to use on any video lottery terminal in this
3 state.

4 (6) Access to the interior of video lottery terminal shall be
5 controlled through a series of locks and seals.

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

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

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

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

1 a video lottery terminal are redeemed for cash:

2 (I) The number of credits accrued;

3 (ii) Value of the credits in dollars and cents displayed in
4 both numeric and written form;

5 (iii) Time of day and date;

6 (iv) Validation number; and

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

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

11 (I) Manufacturer of the video lottery terminal;

12 (ii) Serial number of the terminal; and

13 (iii) Model number of the terminal.

14 (12) The rules of play for each game shall be displayed on the
15 video lottery terminal face or screen. The commission may reject
16 any rules of play which are incomplete, confusing, misleading or
17 inconsistent with game rules approved by the commission. For each
18 video lottery game, there shall be a display detailing the credits
19 awarded for the occurrence of each possible winning combination of
20 numbers or symbols. All information required by this subdivision
21 shall be displayed under glass or another transparent substance.
22 No stickers or other removable devices may be placed on the video
23 lottery terminal screen or face without the prior approval of the
24 commission.

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

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

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

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

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

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

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

11 (c) Each video lottery terminal shall pay out no less than
12 eighty percent and no more than ninety-nine percent of the amount
13 wagered. The theoretical payout percentage will be determined
14 using standard methods of probability theory.

15 (d) Each video lottery terminal shall be capable of continuing
16 the current game with all current game features after a video
17 lottery terminal malfunction is cleared. If a video lottery
18 terminal is rendered totally inoperable during game play, the
19 current wager and all credits appearing on the video lottery
20 terminal screen prior to the malfunction shall be returned to the
21 player.

22 (e) Each video lottery terminal shall at all times maintain
23 electronic accounting regardless of whether the terminal is being
24 supplied with electrical power. Each meter shall be capable of

1 maintaining a total of no less than eight digits in length for each
2 type of data required. The electronic meters shall record the
3 following information:

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

6 (2) Number of credits wagered;

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

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

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

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

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

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

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

15 (10) Number of cumulative credits representing money inserted
16 by a player and credits for video lottery games won, but not
17 collected.

18 (f) No video lottery terminal may have any mechanism which
19 allows the electronic accounting meters to clear automatically.
20 Electronic accounting meters may not be cleared without the prior
21 approval of the commission. Both before and after any electronic
22 accounting meter is cleared, all meter readings shall be recorded
23 in the presence of a commission employee.

24 (g) The primary responsibility for the control and regulation

1 of any video lottery games and video lottery terminals operated
2 pursuant to this article rests with the commission.

3 (h) The commission shall directly or through a contract with
4 a third party vendor other than the video lottery licensee,
5 maintain a central site system of monitoring the lottery terminals,
6 utilizing an online or dial-up inquiry. The central site system
7 shall be capable of monitoring the operation of each video lottery
8 game or video lottery terminal operating pursuant to this article
9 and, at the direction of the director, immediately disable and
10 cause not to operate any video lottery game and video lottery
11 terminal. As provided in this section, the commission may require
12 the licensed racetrack to pay the cost of a central site computer
13 as part of the licensing requirement.

14 **§29-25-31. The specific video lottery duties required of a gaming**
15 **facility.**

16 ~~The~~ A gaming facility licensee shall:

17 (a) Acquire video lottery terminals by purchase, lease or
18 other assignment and provide a secure location for the placement,
19 operation and play of the video lottery terminals;

20 (b) Pay for the installation and operation of commission
21 approved telephone lines to provide direct dial-up or online
22 communication between each video lottery terminal and the
23 commission's central control computer;

24 (c) Permit no person to tamper with or interfere with the

1 operation of any video lottery terminal;

2 (d) Ensure that any telephone lines from the commission's
3 central control computer to the video lottery terminals located at
4 ~~the~~ a licensed gaming facility are at all times connected and
5 prevent any person from tampering or interfering with the operation
6 of the telephone lines;

7 (e) Ensure that video lottery terminals are within the sight
8 and control of designated employees of ~~the~~ a license gaming
9 facility;

10 (f) Ensure that video lottery terminals are placed and remain
11 placed in the specific locations within ~~the~~ a gaming facility that
12 have been approved by the commission. No video lottery terminal or
13 terminals at ~~the~~ a gaming facility ~~shall~~ may be relocated without
14 the prior approval of the commission;

15 (g) Monitor video lottery terminals to prevent access to or
16 play by persons who are under the age of twenty-one years or who
17 are visibly intoxicated;

18 (h) Maintain at all times sufficient change and cash in the
19 denominations accepted by the video lottery terminals;

20 (I) Provide no access by a player to an automated teller
21 machine (ATM) in the area of the gaming facility where video
22 lottery games are played;

23 (j) Pay for all credits won upon presentment of a valid
24 winning video lottery ticket;

1 (k) Report promptly to the manufacturer and the commission all
2 video lottery terminal malfunctions and notify the commission of
3 the failure of a manufacturer or service technician to provide
4 prompt service and repair of such terminals and associated
5 equipment;

6 (l) Install, post and display prominently at locations within
7 or about the licensed gaming facility signs, redemption information
8 and other promotional material as required by the commission; and

9 (m) Promptly notify the commission in writing of any breaks or
10 tears to any logic unit seals.

11 **§29-25-32. Surcharge; Capital Reinvestment Fund.**

12 (a) For all fiscal years beginning on or after July 1, 2009,
13 there shall be imposed a surcharge of ten percent against the share
14 of gross terminal income retained by the gaming facility as
15 provided by section twenty of this article.

16 (b) The Capital Reinvestment Fund is hereby created within the
17 Lottery Fund. The surcharge amount attributable to ~~the historic~~
18 ~~resort hotel~~ a licensed gaming facility shall be retained by the
19 commission and deposited into a separate capital reinvestment
20 account for ~~the historic resort hotel~~ each contributing licensed
21 gaming facility. For each dollar expended by ~~the historic resort~~
22 ~~hotel~~ a licensed gaming facility for capital improvements at the
23 ~~historic resort hotel~~ licensed gaming facility, of any amenity
24 associated with the historic resort hotel's or rural resort

1 community's destination resort facility operations, or at adjacent
2 facilities owned by the historic resort hotel or rural resort
3 community having a useful life of seven or more years and placed in
4 service after April 1, 2009, ~~the~~ a licensed gaming facility shall
5 receive \$1 in recoupment from its Capital Reinvestment Fund
6 account: If a historic resort hotel's or rural resort community's
7 unrecouped capital improvements exceed its Capital Reinvestment
8 Fund account at the end of any fiscal year, the excess improvements
9 may be carried forward to seven subsequent fiscal years.

10 (c) Any moneys remaining in the historic resort hotel's
11 Capital Reinvestment Fund account at the end of any fiscal year
12 shall be deposited in the Historic Resort Hotel Fund if the gaming
13 facility is located in a historic resort hotel or in the Rural
14 Resort Community Fund if the gaming facility is located in a rural
15 resort community.

16 **§29-25-34. State ownership of West Virginia Lottery table games.**

17 All West Virginia Lottery table games authorized by this
18 article shall be West Virginia lottery games owned by the State of
19 West Virginia. A gaming facility license granted to a historic
20 resort hotel or rural resort community by the commission pursuant
21 to this article shall include the transfer by the commission to the
22 historic resort hotel or rural resort community limited license
23 rights in and to the commission's intellectual property ownership
24 of the West Virginia lottery games which includes granting

1 licensees limited lawful authority relating to the conduct of
2 lottery table games for consideration, within the terms and
3 conditions established pursuant to this article and any rules
4 promulgated under this article.

5 **§29-25-35. Preemption.**

6 No local law or rule providing any penalty, disability,
7 restriction, regulation or prohibition for operating a historic
8 resort hotel or rural resort community with West Virginia Lottery
9 table games or supplying a licensed gaming facility may be enacted
10 and the provisions of this article preempt all regulations, rules,
11 ordinances and laws of any county or municipality in conflict with
12 this article.

13 **§29-25-37. Game rules of play; disputes.**

14 (a) As an agent of the commission authorized to operate West
15 Virginia Lottery table games, the gaming facility licensee shall
16 have written rules of play for each West Virginia Lottery table
17 game it operates that are approved by the commission before the
18 West Virginia Lottery table game is offered to the public. Rules
19 of play proposed by the gaming facility may be approved, amended or
20 rejected by the commission.

21 (b) All West Virginia Lottery table games shall be conducted
22 according to the specific rules of play approved by the commission.
23 All wagers and pay-offs of winning wagers shall be made according
24 to those rules of play, which shall establish any limitations

1 necessary to assure the vitality of West Virginia Lottery table
2 game operations.

3 (c) ~~The~~ A gaming facility licensee shall make available in
4 printed form to any patron, upon request of the patron, the
5 complete texts of the rules of play of any West Virginia Lottery
6 table games in operation at ~~the~~ a gaming facility, pay-offs of
7 winning wagers and any other advice to the player required by the
8 commission.

9 (d) Patrons are considered to have agreed that the
10 determination of whether the patron is a valid winner is subject to
11 the game of play rules and, in the case of any dispute, will be
12 determined by the commission. The determination by the commission
13 shall be final and binding upon all patrons and shall not be
14 subject to further review or appeal.

15 **§29-25-38. Shipment of gambling devices.**

16 All shipments of gambling devices, including video lottery
17 machines, to ~~the~~ a licensed gaming facility in this state, the
18 registering, recording and labeling of which have been completed by
19 the manufacturer or dealer thereof in accordance with Chapter 1194,
20 64 Stat. 1134, 15 U.S.C. §1171 to §1178, are legal shipments of
21 gambling devices into the State of West Virginia.

NOTE: The purpose of this bill is to authorize a rural resort
community as limited gaming facility. The bill also repeals §29-

25-7 relating to local options.

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

§29-25-22b and §29-25-22c are new; therefore, they have been completely underscored.