

Senate Bill No. 492

(By Senators Tucker, Barnes, Chafin, Cookman, Edgell, Facemire,
Kirkendoll, McCabe, Stollings, Williams and Kessler (Mr.
President))

[Introduced March 8, 2013; referred to the Committee on the
Judiciary; and then to the Committee on Finance.]

**FISCAL
NOTE**

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

1 repealing the local option provision of this article.

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

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 4 be repealed; that §29-25-1, §29-25-2, §29-25-3, §29-25-5, §29-25-6,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

11 **ARTICLE 25. AUTHORIZED GAMING FACILITY.-28**

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

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

20 (b) *Legislative findings.* -- The Legislature finds and declares
 21 that the tourism industry plays a critical role in the economy of
 22 this state and that a substantial state interest exists in
 23 protecting that industry. It further finds and declares that the

1 authorization of the operation of a gaming facility at ~~no more than~~
2 ~~one~~ a well-established historic resort hotel or rural resort
3 community in this state as provided in this article will serve to
4 protect and enhance the tourism industry, and indirectly other
5 segments of the economy of this state, by providing a resort hotel
6 amenity which is becoming increasingly important to many actual and
7 potential resort hotel patrons.

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

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

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

6 **§29-25-2. Definitions.**

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

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

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

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

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

24 (e) "Controlling interest" means:

1 (1) For a partnership, an interest as a general or limited
2 partner holding more than five percent interest in the entity;

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

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

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

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

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

17 (i) "Director" means the Director of the State Lottery
18 Commission.

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

1 considered to be property of the State of West Virginia.

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

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

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

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

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

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

1 game credits which are cleared from the video lottery terminals in
2 exchange for winning redemption tickets.

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

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

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

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

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

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

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

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

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

24 (v) "Licensed gaming facility employee" means any individual

1 licensed to be employed by a gaming licensee in connection with the
2 operation of a gaming facility.

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

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

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

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

24 (aa) "Person" means any natural person, corporation,

1 association, partnership, limited partnership, limited liability
2 company or other entity, regardless of its form, structure or
3 nature.

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

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

10 ~~(cc)~~ (dd) "Promotional credits" means credits given by the
11 licensed gaming facility or licensed racetrack to players allowing
12 limited free play of video lottery terminals in total amounts and
13 under 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 green
22 spaces, walking, hiking, jogging trails, swimming pools, lakes or
23 other areas, tennis facilities, golfing facilities, fitness
24 facilities, private, public and community meeting space and other

1 recreation activities;

2 (5) An overall project cost of no less than \$80 million at the
3 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" means
16 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
23 commission-approved, -owned and -controlled electronically simulated
24 game of chance which is displayed on a video lottery terminal and

1 which:

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

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

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

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

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

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

1 select a winning combination;

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

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

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

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

24 ~~(ee)~~ (jj) "Wager" means a sum of money or thing of value risked

1 on an uncertain occurrence.

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

12 **§29-25-3. Commission duties and powers.**

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

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

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

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

24 (4) Provide staff to supervise, inspect and monitor the

1 operation of any gaming facility, including inspection of gaming
2 devices and supplies used in the operation to assure continuous
3 compliance with all rules of the commission and provisions of this
4 article;

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

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

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

12 (8) Issue all licenses;

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

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

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

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

2 (11) Keep a public record of all commission actions and
3 proceedings; and

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

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

10 (1) To sue to enforce any provision of this article by
11 injunction;

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

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

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

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

21 **§29-25-5. Rules.**

22 The commission shall propose for promulgation legislative rules
23 in accordance with the provisions of article three, chapter
24 twenty-nine-a of this code as are necessary to provide for

1 implementation and enforcement of the provisions of this article.
2 Any legislative rules proposed by the commission before September
3 1, ~~2009~~ 2013, may be by emergency rule.

4 **§29-25-6. Law enforcement.**

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

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

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

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 limitation~~
23 ~~in the preceding sentence is found to be unconstitutional in a~~

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

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

23 (1) The character, reputation, experience and financial
24 integrity of the applicant and any controlling person of the

1 applicant;

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

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

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

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

1 considered approved by the commission unless a gaming facility is
2 notified in writing to the contrary within one month of filing a
3 detailed floor plan.

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

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

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

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

19 (4) *Other commission approvals and licenses.* -- The duties and
20 responsibility of a management services provider under a management
21 services contract may not be assigned, delegated, subcontracted or
22 transferred to a third party to perform without the prior approval
23 of the commission. Third parties shall be licensed under this
24 article before providing service. The commission shall license and

1 require the display of West Virginia Lottery game logos on
2 appropriate game surfaces and other gaming items and locations as
3 the commission considers appropriate.

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

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

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

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

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

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

24 (2) Pay to the commission a nonrefundable application fee for

1 deposit into the Community-Based Service Fund created in section
2 twenty-seven, article twenty-two-c of this chapter in the amount of
3 \$65,000.

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

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

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

22 (3) Key personnel of an applicant, including any executive,
23 employee or agent, having the power to exercise significant
24 influence over decisions concerning any part of the applicant's

1 business operation.

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

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

23 (i) *Surety bond requirement.* -- ~~The~~ A licensed gaming facility
24 shall execute a surety bond to be given to the state to guarantee

1 the licensee faithfully makes all payments in accordance with the
2 provisions of this article and rules promulgated by the commission.
3 The surety bond shall be:

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

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

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

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

19 (k) *Audits.* -- A licensed gaming facility operator shall submit
20 to the commission an annual audit, by a certified public accountant
21 who is, or whose firm is, licensed in the State of West Virginia,
22 or by a nationally recognized accounting firm, of the financial
23 transactions and condition of the licensee's total operations. The
24 audit shall be in accordance with generally accepted auditing

1 principles.

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

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

22 **§29-25-12. License to be employed by operator of gaming facility.**

23 (a) *Licenses.* -- The commission shall issue a license to each
24 applicant for a license to be employed in the operation of a gaming

1 facility who meets the requirements of this section.

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

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

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

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

1 Federal Bureau of Investigation; and

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

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

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

16 **§29-25-15. Expiration date and renewal of gaming license.**

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

20 (b) At least two months before a license expires, the
21 commission shall send to the licensee, by mail to the last known
22 address, a renewal application form and notice that states:

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

24 (2) The date by which the commission must receive the renewal

1 application for the renewal to be issued and mailed before the
2 existing license expires; and

3 (3) The amount of the renewal fee.

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

6 (1) Otherwise is entitled to be licensed;

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

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

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

12 (C) As set by the commission by rule in the case of a license
13 to be employed by an operator of a gaming facility, not to exceed
14 \$300, which renewal fee may be paid on behalf of the licensee by the
15 employer; and

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

20 (4) Submits to the commission evidence satisfactory to the
21 commission of the gaming facility operator's compliance with the
22 plan described in subdivision (4), subsection (b), section nine of
23 this article to create at least one hundred full-time equivalent
24 positions with a salary and benefit package commensurate with

1 existing employees at the historic resort hotel or rural resort
2 community. Notwithstanding any provision of subsection (d) of this
3 section, the failure to substantially comply with the plan, as
4 determined by the commission, may constitute grounds for the denial
5 of the renewal of the license.

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

8 **§29-25-18. Inspection and seizure.**

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

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

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

21 (3) Seize summarily and remove from the premises and impound
22 any gaming equipment for the purposes of examination, inspection or
23 testing;

24 (4) Inspect, examine and audit all books, records and documents

1 pertaining to a gaming facility licensee's operation;

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

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

12 **§29-25-19. Consent to presence of law-enforcement officers;**
13 **wagering limits; operations and services; posting**
14 **of betting limits.**

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

21 (b) *Commission discretion in gaming operations.* -- Video
22 lottery terminals operated at ~~the~~ a gaming facility may allow
23 minimum and maximum wagers on a single game the amounts determined

1 by the license in the exercise of its business judgment subject to
2 the approval of the commission.

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

6 (A) Maximum and minimum wagers;

7 (B) Advertising and promotional activities;

8 (C) Hours of operation;

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

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

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

19 (1) Minimum and maximum payout percentages;

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

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

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

9 **§29-25-20. Accounting and reporting of gross terminal income;**
10 **distribution.**

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

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

10 **§29-25-21. Taxes on games other than video lottery games.**

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

1 is located in a historic resort hotel or into the Rural Resort
2 Community Fund created in section twenty-two-b of this article if
3 the licensed gaming facility is located in a rural resort community.

4 For purposes of calculating the amount of tax due under this
5 section, the licensee shall use the accrual method of accounting.
6 This tax is in addition to all other taxes and fees imposed:
7 *Provided*, That the consumers sales and service tax imposed pursuant
8 to article fifteen, chapter eleven of this code may not apply to the
9 proceeds from any wagering with respect to a West Virginia Lottery
10 table game pursuant to this article.

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

1 article. Payments due to the commission under this section and
2 payments due to the commission under section twenty of this article
3 shall be sent simultaneously.

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

21 (d) *Prohibition on credits.* -- Notwithstanding any other
22 provision of this code to the contrary, no credits may be allowed
23 against any tax imposed on any taxpayer by this code for an
24 investment in gaming devices and supplies, for an investment in real

1 property which would be directly utilized for the operation of a
2 gaming facility or for any jobs created at a gaming facility.
3 Notwithstanding any other provision of this code to the contrary,
4 the tax imposed by this section may not be added to federal taxable
5 income in determining West Virginia taxable income of a taxpayer for
6 purposes of article twenty-four, chapter eleven of this code.

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

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

21 (2) With the exception of the ad valorem property tax collected
22 under chapter eleven-a of this code, the tax imposed by this section
23 is in lieu of all local taxes and fees levied on or imposed with
24 respect to the privilege of offering a West Virginia Lottery table

1 game to the public, including, but not limited to, the municipal
2 business and occupation taxes and amusement taxes authorized by
3 article thirteen, chapter eight of this code and the municipal sales
4 and service tax and use tax authorized by article thirteen-c of said
5 chapter.

6 **§29-25-22. Historic Resort Hotel Fund; allocation of adjusted**
7 **gross receipts; disposition of license fees.**

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

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

1 license fees, taxes or other amounts required to be deposited in the
2 Historic Resort Hotel Fund.

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

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

24 (1) Sixty-four percent of the Historic Resort Hotel Fund net

1 income shall be paid into the General Revenue Fund to be
2 appropriated by the Legislature;

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

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

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

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

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

22 (7) Each county commission in the state that is not eligible
23 to receive a distribution under subdivision (4) of this subsection
24 shall receive equal shares of two and one-half percent of the

1 Historic Resort Hotel Fund net income: *Provided*, That funds
2 transferred to the county commission under this subdivision shall
3 be used only to pay regional jail expenses and the costs of
4 infrastructure improvements and other capital improvements; and

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

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

19 (f) With the exception of the license fees and license renewal
20 fees received by the commission pursuant to section nine of this
21 article, all revenues received from licensees and license applicants
22 under this article shall be retained by the commission as
23 reimbursement for the licensing process.

24 (g) If more than one licensed gaming facility is depositing

1 into the Historic Resort Hotel Fund, then the disbursements required
2 under subdivision (4), (5) and (6) of subsection (d) of this section
3 shall be prorated based on the total amount of moneys contributed
4 by each licensed gaming facility to the Historic Resort Hotel Fund.

5 **§29-25-22a. Human Resource Benefit Fund.**

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

20 (b) For each dollar expended by the historic resort hotel for
21 fringe benefits for the employees of the historic resort hotel, the
22 commission shall transfer to the historic resort hotel \$1 of
23 recoupment from the Human Resource Benefit Fund: *Provided*, That the
24 historic resort hotel is not entitled to recoupment for money spent

1 on fringe benefits beyond the amount of money available to be
2 expended from the Human Resource Benefit Fund at the time the
3 request for recoupment is made by the historic resort hotel.

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

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

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

15 (A) One member shall be a representative of the collective
16 bargaining unit that represents a majority of the employees of the
17 historic resort hotel;

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

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

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

1 (3) A majority of members constitutes a quorum for the
2 transaction of business.

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

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

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

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

19 (e) In the event that an audit conducted by the commission, or
20 suggested changes to the audit submitted by the board and adopted
21 by the commission, reveals that the historic resort hotel has acted
22 improperly or negligently in its claim for money from the Human
23 Resource Benefit Fund, the commission may impose a civil penalty
24 against the historic resort hotel of up to one hundred percent of

1 the improperly claimed amount. Any civil penalty imposed on the
2 historic resort hotel by the commission under this subsection shall
3 be deposited by the commission into the Historic Resort Hotel Fund.

4 **§29-25-22b. Rural Resort Community Fund; allocation of adjusted**
5 **gross receipts; disposition of license fees.**

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

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

1 (c) A Rural Resort Community Modernization Fund is hereby
2 created within the Rural Resort Community Fund. For all fiscal years
3 beginning on or after July 1, 2013, the commission shall deduct two
4 and one-half percent from gross terminal income received by the
5 commission under section twenty of this article for the fiscal year
6 and deposit these amounts into a separate facility modernization
7 account maintained within the Rural Resort Community Modernization
8 Fund for each rural resort community. For each dollar expended by
9 a rural resort community for video lottery or table gaming facility
10 modernization improvements at the rural resort community, having a
11 useful life of three or more years and placed in service after July
12 1, 2013, the rural resort community shall receive \$1 in recoupment
13 from its facility modernization account. For purposes of this
14 section, the term "video lottery or table gaming facility
15 modernization improvements include acquisition of computer hardware
16 and software, communications and Internet access equipment, security
17 and surveillance equipment, video lottery terminals and other
18 electronic equipment or other equipment designed to modernize the
19 facility.

20 (d) The balance of the Rural Resort Community Fund shall become
21 net income and shall be divided as follows:

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

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

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

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

10 (5) The municipality where the gaming facility is located or
11 the municipality closest to the gaming facility by paved road access
12 as of the effective date of the reenactment of this section by the
13 2013 regular session of the Legislature shall receive two and
14 one-half percent of the Rural Resort Community Fund net income;

15 (6) The municipalities within the county where the gaming
16 facility is located, except for the municipality receiving funds
17 under subdivision (5) of this subsection, shall receive equal shares
18 of two and one-half percent of the Rural Resort Community Fund net
19 income, if no other municipality is located within the county where
20 the gaming facility is located as of the effective date of the
21 reenactment of this section by the 2013 regular session of the
22 Legislature then the equal shares shall be received by the county's
23 board of education;

24 (7) Each county commission in the state that is not eligible

1 to receive a distribution under subdivision (4) of this subsection
2 shall receive equal shares of two and one-half percent of the Rural
3 Resort Community Fund net income: *Provided*, That funds transferred
4 to the county commission under this subdivision shall be used only
5 to pay regional jail expenses and the costs of infrastructure
6 improvements and other capital improvements; and

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

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

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

1 reimbursement for the licensing process.

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

8 **§29-25-22c. Rural Resort Community Human Resource Benefit Fund.**

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

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

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

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

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

21 (A) One member shall be a representative of the collective
22 bargaining unit that represents a majority of the employees of the
23 rural resort community or if no collective bargaining unit has been
24 established then the employees of the rural resort community shall

1 elect a representative who will represent the majority of the
2 employees;

3 (B) One member shall be a representative of the rural resort
4 community; and

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

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

10 (3) A majority of members constitutes a quorum for the
11 transaction of business.

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

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

18 (6) The board shall operate in an advisory capacity. its
19 functions include, but are not limited to, reviewing and verifying
20 financial audits of the Rural Resort Community Human Resource
21 Benefit Fund conducted by the commission and its employees and
22 reviewing source documents associated with disbursements from the
23 Rural Resort Community Human Resource Benefit Fund.

24 (7) Within thirty days of any board meeting, the board shall

1 report to the commission its findings and any recommendations it may
2 have. The report to the commission shall be made at a commission
3 meeting that is open to the public.

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

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

22 **§29-25-24. Individual gaming restrictions.**

23 (a) An individual may enter a designated gaming area or remain
24 in a designated gaming area only if the individual meets the

1 qualifications in subdivisions (1) through (5) of this subsection.

2 (1) ~~Is~~ The designated gaming area is located within a historic
3 resort hotel and the individual is either:

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

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

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

16 (2) The individual is at least twenty-one years of age.

17 (3) The individual is not visibly intoxicated.

18 (4) The individual has not been determined by the gaming
19 facility operator or the commission to be unruly, disruptive or
20 otherwise interfering with operation of the gaming facility; or to
21 be likely to commit, or to attempt to commit, a violation of this
22 article. ~~and~~

23 (5) The individual has not been barred by the commission from
24 entering a gaming facility.

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

5 **§29-25-28. Specific provision for video lottery games.**

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

16 **§29-25-29. Video lottery terminal requirements; application for**
17 **approval of video lottery terminals; testing of video**
18 **lottery terminals; report of test results;**
19 **modifications to previously approved models;**
20 **conformity to prototype; seizure and destruction of**
21 **terminals.**

22 (a) Video lottery terminals registered with and approved by the
23 commission for use at the gaming facility may offer video lottery

1 games regulated, controlled, owned and operated by the commission
2 in accordance with the provisions of this section and utilizing
3 specific game rules.

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

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

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

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

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

17 (e) The video lottery terminal manufacturer and licensed gaming
18 facility are jointly responsible for the assembly and installation
19 of all video lottery terminals and associated equipment. The
20 manufacturer and licensed gaming facility shall not change the
21 assembly or operational functions of a terminal licensed for
22 placement in West Virginia unless a request for modification of an
23 existing video terminal prototype is approved by the commission.
24 The request shall contain a detailed description of the type of

1 change, the reasons for the change and technical documentation of
2 the change.

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

13 **§29-25-30. Video lottery terminal hardware and software**
14 **requirements; hardware specifications; software**
15 **requirements for randomness testing; software**
16 **requirements for percentage payout; software**
17 **requirements for continuation of video lottery**
18 **game after malfunction; software requirements for**
19 **play transaction records.**

20 (a) The commission may approve video lottery terminals and in
21 doing so shall take into account advancements in computer
22 technology, competition from nearby states and the preservation of
23 jobs at the historic resort hotel or rural resort community. In

1 approving video lottery terminals licensed for placement in this
2 state the commission shall insure that the terminals meet the
3 following hardware specifications:

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

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

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

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

20 (5) A bill or voucher acceptor or other means accurately and
21 efficiently to establish credits shall be installed on each video
22 lottery terminal. All acceptors shall be approved by the commission
23 prior to use on any video lottery terminal in this state.

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

1 controlled through a series of locks and seals.

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

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

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

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

22 (i) The number of credits accrued;

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

1 (iii) Time of day and date;

2 (iv) Validation number; and

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

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

7 (i) Manufacturer of the video lottery terminal;

8 (ii) Serial number of the terminal; and

9 (iii) Model number of the terminal.

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

21 (13) Communication equipment and devices shall be installed to
22 enable each video lottery terminal to communicate with the
23 commission's central computer system by use of a communications
24 protocol provided by the commission to each permitted manufacturer,

1 which protocol shall include information retrieval and terminal
2 activation and disable programs, and the commission may require each
3 licensed racetrack to pay the cost of a central site computer as a
4 part of the licensing requirement.

5 (14) All video lottery terminals shall have a security system
6 which temporarily disables the gaming function of the terminal while
7 opened.

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

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

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

21 (3) *Correlation test.* -- Each pair of symbols or numbers is
22 random if it meets the ninety-nine percent confidence level using
23 standard correlation analysis to determine whether each symbol or
24 number is independently chosen without regard to another symbol or

1 number within a single game play.

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

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

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

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

24 (1) Number of coins inserted by players or the coin equivalent

1 if a bill acceptor is being used or tokens or vouchers are used;

2 (2) Number of credits wagered;

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

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

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

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

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

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

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

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

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

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

23 (h) The commission shall directly or through a contract with
24 a third party vendor other than the video lottery licensee, maintain

1 a central site system of monitoring the lottery terminals, utilizing
 2 an online or dial-up inquiry. The central site system shall be
 3 capable of monitoring the operation of each video lottery game or
 4 video lottery terminal operating pursuant to this article and, at
 5 the direction of the director, immediately disable and cause not to
 6 operate any video lottery game and video lottery terminal. As
 7 provided in this section, the commission may require the licensed
 8 racetrack to pay the cost of a central site computer as part of the
 9 licensing requirement.

10 **§29-25-31. The specific video lottery duties required of a gaming**
 11 **facility.**

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

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

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

20 (c) Permit no person to tamper with or interfere with the
 21 operation of any video lottery terminal;

22 (d) Ensure that any telephone lines from the commission's
 23 central control computer to the video lottery terminals located at
 24 ~~the~~ a licensed gaming facility are at all times connected and

1 prevent any person from tampering or interfering with the operation
2 of the telephone lines;

3 (e) Ensure that video lottery terminals are within the sight
4 and control of designated employees of ~~the~~ a licensed gaming
5 facility;

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

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

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

16 (i) Provide no access by a player to an automated teller
17 machine (ATM) in the area of the gaming facility where video lottery
18 games are played;

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

21 (k) Report promptly to the manufacturer and the commission all
22 video lottery terminal malfunctions and notify the commission of the
23 failure of a manufacturer or service technician to provide prompt
24 service and repair of such terminals and associated equipment;

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

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

6 **§29-25-32. Surcharge; Capital Reinvestment Fund.**

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

11 (b) The Capital Reinvestment Fund is hereby created within the
 12 Lottery Fund. The surcharge amount attributable to ~~the historic~~
 13 ~~resort hotel~~ a licensed gaming facility shall be retained by the
 14 commission and deposited into a separate capital reinvestment
 15 account for ~~the historic resort hotel~~ each contributing licensed
 16 gaming facility. For each dollar expended by ~~the historic resort~~
 17 ~~hotel~~ a licensed gaming facility for capital improvements at the
 18 ~~historic resort hotel~~ licensed gaming facility, of any amenity
 19 associated with the historic resort hotel's or rural resort
 20 community's destination resort facility operations, or at adjacent
 21 facilities owned by the historic resort hotel or rural resort
 22 community having a useful life of seven or more years and placed in
 23 service after April 1, 2009, ~~the~~ a licensed gaming facility shall
 24 receive \$1 in recoupment from its Capital Reinvestment Fund account:

1 If a historic resort hotel's or rural resort community's unrecouped
2 capital improvements exceed its Capital Reinvestment Fund account
3 at the end of any fiscal year, the excess improvements may be
4 carried forward to seven subsequent fiscal years.

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

11 **§29-25-34. State ownership of West Virginia Lottery table games.**

12 All West Virginia Lottery table games authorized by this
13 article shall be West Virginia lottery games owned by the State of
14 West Virginia. A gaming facility license granted to a historic
15 resort hotel or rural resort community by the commission pursuant
16 to this article shall include the transfer by the commission to the
17 historic resort hotel or rural resort community limited license
18 rights in and to the commission's intellectual property ownership
19 of the West Virginia lottery games which includes granting licensees
20 limited lawful authority relating to the conduct of lottery table
21 games for consideration, within the terms and conditions established
22 pursuant to this article and any rules promulgated under this
23 article.

24 **§29-25-35. Preemption.**

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

8 **§29-25-37. Game rules of play; disputes.**

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

16 (b) All West Virginia Lottery table games shall be conducted
17 according to the specific rules of play approved by the commission.
18 All wagers and pay-offs of winning wagers shall be made according
19 to those rules of play, which shall establish any limitations
20 necessary to assure the vitality of West Virginia Lottery table game
21 operations.

22 (c) ~~The~~ A gaming facility licensee shall make available in
23 printed form to any patron, upon request of the patron, the complete
24 texts of the rules of play of any West Virginia Lottery table games

1 in operation at ~~the~~ a gaming facility, pay-offs of winning wagers
2 and any other advice to the player required by the commission.

3 (d) Patrons are considered to have agreed that the
4 determination of whether the patron is a valid winner is subject to
5 the game of play rules and, in the case of any dispute, will be
6 determined by the commission. The determination by the commission
7 shall be final and binding upon all patrons and shall not be subject
8 to further review or appeal.

9 **§29-25-38. Shipment of gambling devices.**

10 All shipments of gambling devices, including video lottery
11 machines, to ~~the~~ a licensed gaming facility in this state, the
12 registering, recording and labeling of which have been completed by
13 the manufacturer or dealer thereof in accordance with Chapter 1194,
14 64 Stat. 1134, 15 U.S.C. §1171 to §1178, are legal shipments of
15 gambling devices into the State of West Virginia.

NOTE: The purpose of this bill is to authorize a rural resort
community as a 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, strike-throughs
and underscoring have been omitted.