

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 428

BY SENATOR KESSLER

(BY REQUEST OF THE EXECUTIVE)

[Introduced January 29, 2016;

Referred to the Committee on Finance.]

1 A BILL to amend and reenact §29-22A-10 and §29-22A-10d of the Code of West Virginia, 1931,
 2 as amended; and to amend and reenact §29-25-22 and §29-25-22b of said code, all
 3 relating to ending discretionary transfers to Licensed Racetrack Modernization Fund;
 4 transferring funds remaining in Licensed Racetrack Modernization Fund and Historic
 5 Resort Hotel Modernization Fund to the General Revenue Fund of the state during the
 6 fiscal year ending June 30, 2016; and closing Licensed Racetrack Modernization Fund
 7 and Historic Resort Hotel Modernization Fund.

Be it enacted by the Legislature of West Virginia:

1 That §29-22A-10 and §29-22A-10d of the Code of West Virginia, 1931, as amended, be
 2 amended and reenacted; and that §29-25-22 and §29-25-22b of said code be amended and
 3 reenacted, all to read as follows:

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

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

1 (a) The commission shall provide to manufacturers, or applicants applying for a
 2 manufacturer’s permit, the protocol documentation data necessary to enable the respective
 3 manufacturer’s video lottery terminals to communicate with the commission’s central computer
 4 for transmitting auditing program information and for activation and disabling of video lottery
 5 terminals.

6 (b) The gross terminal income of a licensed racetrack shall be remitted to the commission
 7 through the electronic transfer of funds. Licensed racetracks shall furnish to the commission all
 8 information and bank authorizations required to facilitate the timely transfer of moneys to the

9 commission. Licensed racetracks must provide the commission thirty days' advance notice of
10 any proposed account changes in order to assure the uninterrupted electronic transfer of funds.
11 From the gross terminal income remitted by the licensee to the commission:

12 (1) The commission shall deduct an amount sufficient to reimburse the commission for its
13 actual costs and expenses incurred in administering racetrack video lottery at the licensed
14 racetrack, and the resulting amount after the deduction is the net terminal income. The amount
15 deducted for administrative costs and expenses of the commission may not exceed four percent
16 of gross terminal income: *Provided*, That any amounts deducted by the commission for its actual
17 costs and expenses that exceeds its actual costs and expenses shall be deposited into the State
18 Lottery Fund. For the fiscal years ending June 30, 2011 through June 30, ~~2020~~ 2015, the term
19 "actual costs and expenses" may include transfers of up to \$10 million in surplus allocations for
20 each fiscal year, as calculated by the commission when the commission has closed its books for
21 the fiscal year to the Licensed Racetrack Modernization Fund created by subdivision (2),
22 subsection (b), of this section. For all fiscal years beginning on or after July 1, 2001, the
23 commission shall not receive an amount of gross terminal income in excess of the amount of
24 gross terminal income received during the fiscal year ending on June 30, 2001, but four percent
25 of any amount of gross terminal income received in excess of the amount of gross terminal income
26 received during the fiscal year ending on June 30, 2001 shall be deposited into the fund
27 established in section eighteen-a, article twenty-two of this chapter; and

28 (2) A Licensed Racetrack Modernization Fund is created within the lottery fund. For all
29 fiscal years beginning on or after July 1, 2011, and ending with the fiscal year beginning July 1,
30 ~~2020~~ 2015, the commission shall deposit such amounts as are available according to subdivision
31 (1), subsection (b) of this section into a separate facility modernization account maintained within
32 the Licensed Racetrack Modernization Fund for each racetrack. Each racetrack's share of each
33 year's deposit shall be calculated in the same ratio as each racetrack's apportioned contribution
34 to the four percent administrative costs and expenses allowance provided for in subdivision (1),

35 subsection (b) of this section for that year. For each two dollars expended by a licensed racetrack
36 for facility modernization improvements at the racetrack, having a useful life of three or more years
37 and placed in service after July 1, 2011, the licensed racetrack shall receive \$1 in recoupment
38 from its facility modernization account. If the licensed racetrack's facility modernization account
39 contains a balance in any fiscal year, the unexpended balance from that fiscal year will be
40 available for matching for one additional fiscal year, after which time, the remaining unused
41 balance carried forward shall revert to the lottery fund. For purposes of this section, the term
42 "facility modernization improvements" includes acquisitions of new and unused video lottery
43 terminals and related equipment. Video lottery terminals financed through the recoupment
44 provided in this subdivision must be retained by the licensee in its West Virginia licensed location
45 for a period of not less than five years from the date of initial installation.

46 (3) Notwithstanding any other provision of this code to the contrary, on the effective date
47 of the amendment and reenactment of this section during the regular session of the Legislature
48 in 2016, all unexpended moneys remaining in the Licensed Racetrack Modernization Fund
49 created by subdivision (2), subsection (b) of this section shall be transferred to the General
50 Revenue Fund of the state and the Licensed Racetrack Modernization Fund shall be closed.

51 (4) Notwithstanding any provision of subdivision (2), subsection (b) of this section to the
52 contrary, on the effective date of the amendment and reenactment of this section during the
53 regular session of the Legislature in 2016 and thereafter, no moneys shall be available to any
54 licensed racetrack for recoupment of that racetrack's expenditures for facility modernization
55 improvements, regardless of when such expenditures took place or whether unexpended
56 balances remain in the Licensed Racetrack Modernization Fund.

57 (c) The amount resulting after the deductions required by subsection (b) of this section
58 constitutes net terminal income that shall be divided as set out in this subsection. For all fiscal
59 years beginning on or after July 1, 2001, any amount of net terminal income received in excess
60 of the amount of net terminal income received during the fiscal year ending on June 30, 2001,

61 shall be divided as set out in section ten-b of this article. The licensed racetrack's share is in lieu
62 of all lottery agent commissions and is considered to cover all costs and expenses required to be
63 expended by the licensed racetrack in connection with video lottery operations. The division shall
64 be made as follows:

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

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

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

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

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

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

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

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

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

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

90 (4) One percent of net terminal income shall be paid for and on behalf of all employees of
91 the licensed racing association by making a deposit into a special fund to be established by the
92 Racing Commission to be used for payment into the pension plan for all employees of the licensed
93 racing association.

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

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

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

102 (8)(A) The Tourism Promotion Fund established in section twelve, article two, chapter five-
103 b of this code shall receive three percent of the net terminal income: *Provided*, That for the fiscal
104 year beginning July 1, 2003, the tourism commission shall transfer from the Tourism Promotion
105 Fund \$5 million of the three percent of the net terminal income described in this section and
106 section ten-b of this article into the fund administered by the West Virginia Economic Development
107 Authority pursuant to section seven, article fifteen, chapter thirty-one of this code, \$5 million into
108 the Capitol Renovation and Improvement Fund administered by the Department of Administration
109 pursuant to section six, article four, chapter five-a of this code and \$5 million into the Tax
110 Reduction and Federal Funding Increased Compliance Fund; and

111 (B) Notwithstanding any provision of paragraph (A) of this subdivision to the contrary, for
112 each fiscal year beginning after June 30, 2004, this three percent of net terminal income and the

113 three percent of net terminal income described in paragraph (B), subdivision (8), subsection (a),
114 section ten-b of this article shall be distributed as provided in this paragraph as follows:

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

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

121 (iii) 0.5 percent of the total amount of net terminal income described in this section and in
122 section ten-b of this article shall be deposited into the Research Challenge Fund created under
123 section ten, article one-b, chapter eighteen-b of this code;

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

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

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

139 (B) The deposit of the seven percent of net terminal income into the Worker's
140 Compensation Debt Reduction Fund pursuant to this subdivision shall expire and not be imposed
141 with respect to these funds and shall be deposited in the special fund established by the licensee
142 and used for payment of regular purses in addition to the other amounts provided for in article
143 twenty-three, chapter nineteen of this code, on and after the first day of the month following the
144 month in which the Governor certifies to the Legislature that: (i) The revenue bonds issued
145 pursuant to article two-d, chapter twenty-three of this code, have been retired or payment of the
146 debt service provided for; and (ii) that an independent certified actuary has determined that the
147 unfunded liability of the old fund, as defined in chapter twenty-three of this code, has been paid
148 or provided for in its entirety; and

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

150 (A) For the fiscal year beginning July 1, 2003, the veterans memorial program shall receive
151 one percent of the net terminal income until sufficient moneys have been received to complete
152 the veterans memorial on the grounds of the state Capitol Complex in Charleston, West Virginia.
153 The moneys shall be deposited in the State Treasury in the Division of Culture and History special
154 fund created under section three, article one-i, chapter twenty-nine of this code: *Provided, That*
155 only after sufficient moneys have been deposited in the fund to complete the veterans memorial
156 and to pay in full the annual bonded indebtedness on the veterans memorial, not more than
157 \$20,000 of the one percent of net terminal income provided for in this subdivision shall be
158 deposited into a special revenue fund in the State Treasury, to be known as the "John F. 'Jack'
159 Bennett Fund". The moneys in this fund shall be expended by the Division of Veterans Affairs to
160 provide for the placement of markers for the graves of veterans in perpetual cemeteries in this
161 state. The Division of Veterans Affairs shall promulgate legislative rules pursuant to the provisions
162 of article three, chapter twenty-nine-a of this code specifying the manner in which the funds are
163 spent, determine the ability of the surviving spouse to pay for the placement of the marker and
164 setting forth the standards to be used to determine the priority in which the veterans grave markers

165 will be placed in the event that there are not sufficient funds to complete the placement of veterans
166 grave markers in any one year, or at all. Upon payment in full of the bonded indebtedness on the
167 veterans memorial, \$100,000 of the one percent of net terminal income provided for in this
168 subdivision shall be deposited in the special fund in the Division of Culture and History created
169 under section three, article one-i, chapter twenty-nine of this code and be expended by the
170 Division of Culture and History to establish a West Virginia veterans memorial archives within the
171 Cultural Center to serve as a repository for the documents and records pertaining to the veterans
172 memorial, to restore and maintain the monuments and memorial on the capitol grounds:
173 *Provided, however,* That \$500,000 of the one percent of net terminal income shall be deposited
174 in the State Treasury in a special fund of the Department of Administration, created under section
175 five, article four, chapter five-a of this code, to be used for construction and maintenance of a
176 parking garage on the state Capitol Complex; and the remainder of the one percent of net terminal
177 income shall be deposited in equal amounts in the Capitol Dome and Improvements Fund created
178 under section two, article four, chapter five-a of this code and Cultural Facilities and Capitol
179 Resources Matching Grant Program Fund created under section three, article one of this chapter.

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

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

185 (ii) The remainder of the one percent of net terminal income and all of the one percent of
186 net terminal income described in paragraph (B), subdivision (9), subsection (a), section ten-b of
187 this article twenty-two-a shall be distributed as follows: The net terminal income shall be
188 deposited in equal amounts into the Capitol Dome and Capitol Improvements Fund created under
189 section two, article four, chapter five-a of this code and the Cultural Facilities and Capitol
190 Resources Matching Grant Program Fund created under section three, article one, chapter

191 twenty-nine of this code until a total of \$1,500,000 is deposited into the Cultural Facilities and
192 Capitol Resources Matching Grant Program Fund; thereafter, the remainder shall be deposited
193 into the Capitol Dome and Capitol Improvements Fund.

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

202 (e) The commission's central control computer shall keep accurate records of all income
203 generated by each video lottery terminal. The commission shall prepare and mail to the licensed
204 racetrack a statement reflecting the gross terminal income generated by the licensee's video
205 lottery terminals. Each licensed racetrack shall report to the commission any discrepancies
206 between the commission's statement and each terminal's mechanical and electronic meter
207 readings. The licensed racetrack is solely responsible for resolving income discrepancies
208 between actual money collected and the amount shown on the accounting meters or on the
209 commission's billing statement.

210 (f) Until an accounting discrepancy is resolved in favor of the licensed racetrack, the
211 commission may make no credit adjustments. For any video lottery terminal reflecting a
212 discrepancy, the licensed racetrack shall submit to the commission the maintenance log which
213 includes current mechanical meter readings and the audit ticket which contains electronic meter
214 readings generated by the terminal's software. If the meter readings and the commission's
215 records cannot be reconciled, final disposition of the matter shall be determined by the
216 commission. Any accounting discrepancies which cannot be otherwise resolved shall be resolved

217 in favor of the commission.

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

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

231 (i) The commission has the right to examine all accounts, bank accounts, financial
232 statements and records in a licensed racetrack's possession, under its control or in which it has
233 an interest and the licensed racetrack shall authorize all third parties in possession or in control
234 of the accounts or records to allow examination of any of those accounts or records by the
235 commission.

**§29-22A-10d. Changes in distribution of net terminal income; distributions from excess
lottery fund.**

1 (a) Notwithstanding any provision of subsection (b), section ten of this article to the
2 contrary, for the fiscal year years beginning July 1, 2014 ~~and each fiscal year thereafter~~ and July
3 1, 2015, the commission may transfer up to \$9 million as actual costs and expenses to the
4 Licensed Racetrack Modernization Fund.

5 (b) Notwithstanding any provision of subsection (c), section ten of this article to the

6 contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, each
7 distribution, except those distributions to be made pursuant to subdivisions (1), (2), (3), (4), (5)
8 and (7), subsection (c), section ten of this article, shall be reduced by one hundred percent.
9 Payments shall not be made pursuant to section ten of this article, other than those excepted by
10 this subsection, and are made in lieu thereof in an amount to be determined by appropriation from
11 the state Excess Lottery Revenue Fund.

12 (c) The total amount of reductions resulting from subsection (b) of this section shall be
13 paid into the state Excess Lottery Revenue Fund, created by section eighteen-a, article twenty-
14 two of this chapter. For the fiscal year beginning July 1, 2014, and each fiscal year thereafter,
15 distributions to be made pursuant to subdivisions (2) and (5), subsection (c), section ten of this
16 article shall be reduced by ten percent, and the amounts resulting from the reduction shall be paid
17 into the state Excess Lottery Revenue Fund.

18 (d) Notwithstanding any other provision of this code to the contrary, for the fiscal year
19 beginning July 1, 2014, and each fiscal year thereafter, moneys deposited to the state Excess
20 Lottery Revenue Fund pursuant to this section shall be expended by the Lottery in accordance
21 with appropriations.

22 (e) Prior to payment of any appropriation made pursuant to this section, debt service
23 payments payable from the state Excess Lottery Fund shall first be paid in accordance with the
24 provisions of sections eighteen-a, eighteen-d and eighteen-e, article twenty-two of this chapter
25 and in the priority as defined by subsection (c), section eighteen-f, article twenty-two of this
26 chapter.

27 (f) Notwithstanding any other provision of this code to the contrary, after payment of debt
28 service from the state Excess Lottery Revenue Fund, all other distributions required by section
29 eighteen-a, article twenty-two of this chapter and the distributions appropriated pursuant to this
30 section shall be paid on a pro rata basis.

31 (g) Notwithstanding the provisions of paragraph (B), subdivision (9), subsection (c),

32 section ten of this article, upon certification of the Governor to the Legislature that an independent
33 actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-
34 three of this code, has been paid or provided for in its entirety, the transfers made to the Workers'
35 Compensation Debt Reduction Fund pursuant to paragraph (A), subdivision (9), subsection (c),
36 section ten of this article shall expire and those funds shall remain in the state Excess Lottery
37 Revenue Fund subject to appropriation.

ARTICLE 25. AUTHORIZED GAMING FACILITY.

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

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

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

14 (c) A Historic Resort Hotel Modernization Fund is hereby created within the Historic Resort
15 Hotel Fund. For all fiscal years beginning on or after July 1, 2011, the commission shall deduct
16 two and one-half percent from gross terminal income received by the commission under section
17 twenty of this article for the fiscal year and deposit these amounts into a separate facility

18 modernization account maintained within the Historic Resort Hotel Modernization Fund for each
19 historic resort hotel. For each dollar expended by a historic resort hotel for video lottery or table
20 gaming facility modernization improvements at the historic resort hotel, having a useful life of
21 three or more years and placed in service after April 1, 2011, the historic resort hotel shall receive
22 \$1 in recoupment from its facility modernization account. For purposes of this section, the term
23 “video lottery or table gaming facility modernization improvements” include acquisition of
24 computer hardware and software, communications and Internet access equipment, security and
25 surveillance equipment, video lottery terminals and other electronic equipment or other equipment
26 designed to modernize the facility.

27 (d) Notwithstanding any other provision of this code to the contrary, on the effective date
28 of the amendment and reenactment of this section during the regular session of the Legislature
29 in 2016, all unexpended moneys remaining in the Historic Resort Hotel Modernization Fund
30 created by subsection (c) of this section shall be transferred to the General Revenue Fund of the
31 state and the Historic Resort Hotel Modernization Fund shall be closed.

32 (e) Notwithstanding any provision of subsection (c) of this section to the contrary, on the
33 effective date of the amendment and reenactment of this section during the regular session of the
34 Legislature in 2016 and thereafter, no moneys shall be available to any historic resort hotel for
35 recoupment of that historic resort hotel’s expenditures for video lottery or table gaming facility
36 modernization improvements, regardless of when such expenditures took place or whether
37 unexpended balances remain in the Historic Resort Hotel Modernization Fund.

38 ~~(d)~~ (f) The balance of the Historic Resort Hotel Fund shall become net income and shall
39 be divided as follows:

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

42 (2) Nineteen percent of the Historic Resort Hotel Fund net income shall be paid into the
43 State Debt Reduction Fund established in section twenty-seven, article twenty-two-c of this

44 chapter to be appropriated by the Legislature;

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

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

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

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

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

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

67 ~~(e)~~ (g) Notwithstanding any provision of this article to the contrary, all limited gaming facility
68 license fees and license renewal fees received by the commission pursuant to section nine of this
69 article shall be deposited into the Community Based Service Fund created in section twenty-

70 seven, article twenty-two-c of this chapter.

71 ~~(f)~~ (h) With the exception of the license fees and license renewal fees received by the
72 commission pursuant to section nine of this article, all revenues received from licensees and
73 license applicants under this article shall be retained by the commission as reimbursement for the
74 licensing process.

**§29-25-22b. Changes in distribution of adjusted gross receipts and additional income;
distributions from excess lottery fund.**

1 (a) Notwithstanding any provision of section twenty-two of this article to the contrary, for
2 the fiscal year beginning July 1, 2014, and each fiscal year thereafter, after payment of the
3 commission's expenses pursuant to subsection (b), section twenty-two of this article, each
4 distribution made in subsection (c), section twenty-two of this article from gross terminal income,
5 and each distribution of the balance of the Historic Resort Hotel Fund made in subsection ~~(d)~~ (f),
6 section twenty-two of this article, except subdivisions (4), (5) (6), (7) and (8) of that subsection,
7 shall be reduced by one hundred percent. Payments shall not be made pursuant to section
8 twenty-two of this article, other than those excepted by this subsection, and are made in lieu
9 thereof in an amount to be determined by appropriation from the state Excess Lottery Revenue
10 Fund.

11 (b) The total amount of reductions resulting from subsection (a) of this section shall be
12 paid into the state Excess Lottery Revenue Fund created in section eighteen-a, article twenty-two
13 of this chapter.

14 (c) Notwithstanding any other provision of this code to the contrary, for the fiscal year
15 beginning July 1, 2014, and each fiscal year thereafter, moneys deposited to the state Excess
16 Lottery Revenue Fund pursuant to this section shall be expended by the Lottery in accordance
17 with appropriations.

18 (d) Prior to payment of any appropriation made pursuant to this section, debt service
19 payments payable from the state Excess Lottery Fund shall first be paid in accordance with the

20 provisions of section eighteen-a, eighteen-d and eighteen-e, article twenty-two of this chapter and
21 in the priority as defined by subsection (c), section eighteen-f, article twenty-two of this chapter.

22 (e) Notwithstanding any other provision of this code to the contrary, after payment of debt
23 service from the state Excess Lottery Revenue Fund, all other distributions required by section
24 eighteen-a, article twenty-two of this chapter and the distributions appropriated pursuant to this
25 section shall be paid on a pro rata basis.

NOTE: The purpose of this bill is to end discretionary transfers to the Licensed Racetrack Modernization Fund. If this bill were enacted, these transfers of up to \$9 million annually, which were to be permitted through July 1, 2020, would no longer be permitted; the Licensed Racetrack Modernization Fund would be closed; and that fund's balance would be transferred to the General Revenue Fund of the state. The bill would also close the Historic Resort Hotel Modernization Fund and would transfer that fund's balance to the General Revenue Fund as well.

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

This bill shall be effective immediately upon passage.