

# **WEST VIRGINIA LEGISLATURE**

**2016 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 641**

BY SENATOR HALL

[Originating in the Committee on Finance; reported on

February 24, 2016]

1 A BILL to amend and reenact §19-23-10, §19-23-12b, §19-23-13 and §19-23-13c of the Code of  
2 West Virginia, 1931, as amended; to amend said code by adding thereto a new section,  
3 designated §19-23-10a; to amend and reenact §29-22-18a of said code; to amend and  
4 reenact §29-22A-7, §29-22A-8, §29-22A-10, §29-22A-10b, §29-22A-10d and §29-22A-  
5 10e of said code; and to amend and reenact §29-22C-7, §29-22C-8, §29-22C-27 and  
6 §29-22C-27a of said code, all relating to horse and dog racing and lottery; transferring  
7 certain revenues derived from racetrack video lottery and racetrack table games from  
8 special fund established for greyhound racetrack licensees to State Excess Lottery  
9 Revenue Fund; defunding West Virginia Greyhound Breeding Development Fund and  
10 Licensed Racetrack Modernization Fund and transferring money so dedicated to State  
11 Excess Lottery Revenue Fund for appropriation by the Legislature; amending rules related  
12 to recall elections for video lottery and racetrack table games; eliminating requirement that  
13 video lottery licensees at dog tracks must hold a racing license to renew video lottery  
14 license or racetrack table games license; and eliminating requirement that video lottery  
15 licensees at dog tracks must hold a racing license to conduct simulcast racing.

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

1 That §19-23-10, §19-23-12b, §19-23-13 and §19-23-13c of the Code of West Virginia,  
2 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a  
3 new section, designated §19-23-10a; that §29-22-18a of said code be amended and reenacted;  
4 that §29-22A-7, §29-22A-8, §29-22A-10, §29-22A-10b, §29-22A-10d and §29-22A-10e of said  
5 code be amended and reenacted; and that §29-22C-7, §29-22C-8, §29-22C-27 and §29-22C-27a  
6 of said code be amended and reenacted, all to read as follows:

## **CHAPTER 19. AGRICULTURE.**

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

PART VII. TAXATION OF HORSE AND DOG RACING AND PARI-MUTUEL WAGERING; DISPOSITION  
OF REVENUES.

**§19-23-10. Daily license tax; pari-mutuel pools tax; how taxes paid; alternate tax; credits.**

1           (a) Any racing association conducting thoroughbred racing at any horse racetrack in this  
2 state shall pay each day upon which horse races are run a daily license tax of \$250. Any racing  
3 association conducting harness racing at any horse racetrack in this state shall pay each day  
4 upon which horse races are run a daily license tax of \$150. Any racing association conducting  
5 dog races shall pay each day upon which dog races are run a daily license tax of \$150. In the  
6 event thoroughbred racing, harness racing, dog racing or any combination of the foregoing are  
7 conducted on the same day at the same racetrack by the same racing association, only one daily  
8 license tax in the amount of \$250 shall be paid for that day. Any daily license tax shall not apply  
9 to any local, county or state fair, horse show or agricultural or livestock exposition at which horse  
10 racing is conducted for not more than six days.

11           (b) Any racing association licensed by the Racing Commission to conduct thoroughbred  
12 racing and permitting and conducting pari-mutuel wagering under the provisions of this article  
13 shall, in addition to the daily license tax set forth in subsection (a) of this section, pay to the Racing  
14 Commission, from the commission deducted each day by the licensee from the pari-mutuel pools  
15 on thoroughbred racing a tax calculated on the total daily contribution of all pari-mutuel pools  
16 conducted or made at any and every thoroughbred race meeting of the licensee licensed under  
17 the provisions of this article. The tax, on the pari-mutuel pools conducted or made each day during  
18 the months of January, February, March, October, November and December, shall be calculated  
19 at four-tenths of one percent of the pool; and, on the pari-mutuel pools conducted or made each  
20 day during all other months, shall be calculated at one and four-tenths percent of the pool:  
21 *Provided*, That out of the amount realized from the three tenths of one percent decrease in the  
22 tax effective for fiscal year 1991 and thereafter, which decrease correspondingly increases the

23 amount of commission retained by the licensee, the licensee shall annually expend or dedicate:  
24 (i) One half of the realized amount for capital improvements in its barn area at the track, subject  
25 to the Racing Commission's prior approval of the plans for the improvements; and (ii) the  
26 remaining one half of the realized amount for capital improvements as the licensee may determine  
27 appropriate at the track. The term "capital improvement" shall be as defined by the Internal  
28 Revenue Code: *Provided, however,* That any racing association operating a horse racetrack in  
29 this state having an average daily pari-mutuel pool on horse racing of \$280,000 or less per day  
30 for the race meetings of the preceding calendar year shall, in lieu of payment of the pari-mutuel  
31 pool tax, calculated as in this subsection, be permitted to conduct pari-mutuel wagering at the  
32 horse racetrack on the basis of a daily pari-mutuel pool tax fixed as follows: On the daily pari-  
33 mutuel pool not exceeding \$300,000 the daily pari-mutuel pool tax shall be \$1,000 plus the  
34 otherwise applicable percentage rate imposed by this subsection of the daily pari-mutuel pool, if  
35 any, in excess of \$300,000: *Provided further,* That upon the effective date of the reduction of the  
36 daily pari-mutuel pool tax to \$1,000 from the former \$2,000, the association or licensee shall daily  
37 deposit \$500 into the special fund for regular purses established by subdivision (1), subsection  
38 (b), section nine of this article: *And provided further,* That if an association or licensee qualifying  
39 for the foregoing alternate tax conducts more than one racing performance, each consisting of up  
40 to thirteen races in a calendar day, the association or licensee shall pay both the daily license tax  
41 imposed in subsection (a) of this section and the alternate tax in this subsection for each  
42 performance: *And provided further,* That a licensee qualifying for the foregoing alternate tax is  
43 excluded from participation in the fund established by section thirteen-b of this article: *And*  
44 *provided further,* That this exclusion shall not apply to any thoroughbred racetrack at which the  
45 licensee has participated in the West Virginia Thoroughbred Development Fund for more than  
46 four consecutive years prior to December 31, 1992.

47 (c) Any racing association licensed by the Racing Commission to conduct harness racing  
48 and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in

49 addition to the daily license tax required under subsection (a) of this section, pay to the Racing  
50 Commission, from the commission deducted each day by the licensee from the pari-mutuel pools  
51 on harness racing, as a tax, three percent of the first \$100,000 wagered, or any part thereof; four  
52 percent of the next \$150,000; and five and three-fourths percent of all over that amount wagered  
53 each day in all pari-mutuel pools conducted or made at any and every harness race meeting of  
54 the licensee licensed under the provisions of this article.

55 (d) Any racing association licensed by the Racing Commission to conduct dog racing and  
56 permitting and conducting pari-mutuel wagering under the provisions of this article shall, in  
57 addition to the daily license tax required under subsection (a) of this section, pay to the Racing  
58 Commission, from the commission deducted each day by the licensee from the pari-mutuel pools  
59 on dog racing, as a tax, four percent of the first \$50,000 or any part thereof of the pari-mutuel  
60 pools, five percent of the next \$50,000 of the pari-mutuel pools, six percent of the next \$100,000  
61 of the pari-mutuel pools, seven percent of the next \$150,000 of the pari-mutuel pools, and eight  
62 percent of all over \$350,000 wagered each day: *Provided*, That the licensee shall deduct daily  
63 from the pari-mutuel tax an amount equal to one tenth of one percent of the daily pari-mutuel  
64 pools in dog racing in fiscal year 1990; fifteen hundredths of one percent in fiscal year 1991; two  
65 tenths of one percent in fiscal year 1992; one quarter of one percent in fiscal year 1993; and three  
66 tenths of one percent in fiscal year 1994 and every fiscal year thereafter. The amounts deducted  
67 shall be paid to the Racing Commission to be deposited by the Racing Commission in a banking  
68 institution of its choice in a special account to be known as West Virginia Racing Commission-  
69 Special Account-West Virginia Greyhound Breeding Development Fund. The purpose of the fund  
70 is to promote better breeding, training track facilities and racing of greyhounds in the state through  
71 awards and purses to bona fide resident registered greyhound owners of accredited West Virginia  
72 whelped greyhounds. In order to participate and be eligible to receive an award or purse through  
73 the fund, the registered greyhound owner must have an appropriate license from the Racing  
74 Commission to race in West Virginia. The registered greyhound dam at the time of breeding must

75 be wholly or solely owned or leased by a bona fide resident or residents of West Virginia. The  
76 accredited West Virginia whelped greyhound must be wholly or solely owned by a bona fide  
77 resident or residents of this state. To qualify as a bona fide resident of West Virginia, a registered  
78 greyhound owner may not claim residency in any other state. A registered greyhound owner must  
79 prove bona fide residency by providing to the commission personal income tax returns filed in the  
80 State of West Virginia for the most recent tax year and the three previous tax years, has real or  
81 personal property in this state on which the owner has paid real or personal property taxes during  
82 the most recent tax year and the previous three tax years and an affidavit stating that the owner  
83 claims no other state of residency. The Racing Commission shall maintain a registry for West  
84 Virginia bred greyhounds. The moneys shall be expended by the Racing Commission for purses  
85 for stake races, training track facilities, supplemental purse awards, administration, promotion,  
86 education and greyhound adoption programs involving West Virginia whelped dogs, owned by  
87 residents of this state under rules promulgated by the Racing Commission. The Racing  
88 Commission shall pay out of the Greyhound Breeding Development Fund to each of the licensed  
89 dog racing tracks the sum of \$75,000 for the fiscal year ending June 30, 1994. The licensee shall  
90 deposit the sum into the special fund for regular purses established under the provisions of section  
91 nine of this article. The funds shall be expended solely for the purpose of supplementing regular  
92 purses under rules promulgated by the Racing Commission.

93 Supplemental purse awards will be distributed as follows: Supplemental purses shall be  
94 paid directly to the registered greyhound owner of an accredited greyhound.

95 The registered greyhound owner of accredited West Virginia whelped greyhounds that  
96 earn points at any West Virginia meet will receive a bonus award calculated at the end of each  
97 month as a percentage of the fund dedicated to the owners as purse supplements, which shall be  
98 a minimum of fifty percent of the total moneys deposited into the West Virginia Greyhound  
99 Breeding Development Fund monthly.

100 The total amount of the fund available for the owners' awards shall be distributed

101 according to the ratio of points earned by an accredited greyhound to the total amount earned in  
102 races by all accredited West Virginia whelped greyhounds for that month as a percentage of the  
103 funds dedicated to the owners' purse supplements. The point value at all greyhound tracks shall  
104 be the same as approved by the Racing Commission to be effective April 1, 2007. The West  
105 Virginia Greyhound Owners and Breeders Association shall submit a list of any additions or  
106 deletions to the registry of accredited West Virginia whelped greyhounds on the first of each  
107 month. The Racing Commission shall not require anyone to be a member of a particular  
108 association in order to participate in the West Virginia Greyhound Breeding Development Fund.

109         The registered greyhound owner of an accredited West Virginia whelped greyhound shall  
110 file a purse distribution form with the Racing Commission for a percentage of his or her dog's  
111 earnings to be paid directly to the registered greyhound owner or owners of the greyhound.  
112 Distribution shall be made on the fifteenth day of each month for the preceding month's  
113 achievements.

114         In no event shall points earned at a meet held at a track which did not make contributions  
115 to the West Virginia Greyhound Breeding Development Fund out of the daily pool on the day the  
116 meet was held qualify or count toward eligibility for supplemental purse awards.

117         Any balance in the purse supplement funds after all distributions have been made for the  
118 year revert to the general account of the fund for distribution in the following year: *Provided*, That  
119 not more than \$2 million from the balance in the Purse Supplemental Fund shall be used for the  
120 construction and maintenance of two dog training track facilities if such be approved by the Racing  
121 Commission: *Provided, however*, That not more than \$1 million may be allocated for the  
122 construction and maintenance of each training track: *Provided further*, That both training track  
123 facilities must be located in West Virginia. The West Virginia Racing Commission shall be  
124 authorized to promulgate rules governing dog training tracks: *And provided further*, That the  
125 Racing Commission shall: (1) Provide a process in its rules for competitive bidding of the  
126 construction or maintenance, or both, of the training tracks; and (2) set standards to assure that

127 only the actual costs of construction and maintenance shall be paid out of the foregoing fund.

128           In an effort to further promote the breeding of quality West Virginia whelped greyhounds,  
129 a bonus purse supplement shall be established in the amount of \$50,000 per annum, to be paid  
130 in equal quarterly installments of \$12,500 per quarter using the same method to calculate and  
131 distribute these funds as the regular supplemental purse awards. This bonus purse supplement  
132 is for three years only, commencing on July 1, 1993, and ending June 30, 1996. This money  
133 would come from the current existing balance in the Greyhound Development Fund.

134           Each pari-mutuel greyhound track shall provide stakes races for accredited West Virginia  
135 whelped greyhounds: *Provided*, That each pari-mutuel track shall have one juvenile and one open  
136 stake race annually. Each pari-mutuel dog track shall provide at least three restricted races for  
137 accredited West Virginia whelped greyhounds per race card: *Provided, however*, That sufficient  
138 dogs are available. To assure breeders of accredited West Virginia whelped greyhounds an  
139 opportunity to participate in the West Virginia Greyhound Breeding Development Fund the West  
140 Virginia Racing Commission by July 1, each year shall establish and announce the minimum  
141 number of accredited West Virginia whelped greyhounds that greyhound racing kennels at West  
142 Virginia dog tracks must have on their racing active list during the calendar year following such  
143 action. The minimum number may vary from dog track to dog track. The minimum number shall  
144 be established after consultation with the West Virginia Greyhound Owners and Breeders  
145 Association and kennel owners and operators. Factors to be considered in establishing this  
146 minimum number shall be the number of individually registered accredited West Virginia whelped  
147 greyhounds whelped in the previous two years. The number of all greyhounds seeking  
148 qualification at each West Virginia dog track, the ratio of active running greyhounds to housed  
149 number of greyhounds at each West Virginia dog track, and the size and number of racing kennels  
150 at each West Virginia dog track. Any greyhound racing kennel not having the minimum number  
151 of accredited West Virginia whelped greyhounds determined by the West Virginia Racing  
152 Commission on their active list shall only be permitted to race the maximum allowable number on



153 the active list less the number of accredited West Virginia whelped greyhounds below the  
154 established minimum number. Consistent violations of this minimum requirement may be  
155 reviewed by the Racing Commission and may constitute cause for denial or revocation of a  
156 kennel's racing license. The Racing Commission shall oversee and approve racing schedules  
157 and purse amounts.

158         Ten percent of the deposits into the Greyhound Breeding Development Fund beginning  
159 July 1, 1993 and continuing each year thereafter, shall be withheld by the Racing Commission  
160 and placed in a special revenue account hereby created in the State Treasury called the  
161 "administration, promotion, education, capital improvement and greyhound adoption programs to  
162 include spaying and neutering account". The Racing Commission is authorized to expend the  
163 moneys deposited in the administration, promotion, education, capital improvement and  
164 greyhound adoption programs to include spaying and neutering account at such times and in such  
165 amounts as the commission determines to be necessary for purposes of administering and  
166 promoting the greyhound development program: *Provided*, That beginning with fiscal year 1995  
167 and in each fiscal year thereafter in which the commission anticipates spending any money from  
168 the account, the commission shall submit to the executive department during the budget  
169 preparation period prior to the Legislature convening before that fiscal year for inclusion in the  
170 executive budget document and budget bill, the recommended expenditures, as well as requests  
171 of appropriations for the purpose of administration, promotion, education, capital improvement  
172 and greyhound adoption programs to include spaying and neutering. The commission shall make  
173 an annual report to the Legislature on the status of the administration, promotion, education,  
174 capital improvement and greyhound adoption programs to include spaying and neutering account,  
175 including the previous year's expenditures and projected expenditures for the next year.

176         The Racing Commission, for the fiscal year 1994 only, may expend up to \$35,000 from  
177 the West Virginia Greyhound Breeding Development Fund to accomplish the purposes of this  
178 section without strictly following the requirements in the previous paragraph.

179 (e) All daily license and pari-mutuel pools tax payments required under the provisions of  
180 this section shall be made to the Racing Commission or its agent after the last race of each day  
181 of each horse or dog race meeting, and the pari-mutuel pools tax payments shall be made from  
182 all contributions to all pari-mutuel pools to each and every race of the day.

183 (f) Every association or licensee subject to the provisions of this article, including the  
184 changed provisions of sections nine and ten of this article, shall annually submit to the Racing  
185 Commission and the Legislature financial statements, including a balance sheet, income  
186 statement, statement of change in financial position and an audit of any electronic data system  
187 used for pari-mutuel tickets and betting, prepared in accordance with generally accepted auditing  
188 standards, as certified by an experienced public accountant or a certified public accountant.

189 (g) The provisions of this section relating to the West Virginia Greyhound Breeding  
190 Development Fund are hereby altered and amended by the provisions of section ten-a of this  
191 article as enacted during the 2016 regular legislative session.

**§19-23-10a. Transfer of present and future moneys required to be deposited in West  
Virginia Greyhound Breeding Development Fund.**

1 Notwithstanding any provision of this code to the contrary, effective July 1, 2016, any  
2 money in the West Virginia Racing Commission-Special Account-West Virginia Greyhound  
3 Breeding Development Fund created in section ten of this article shall be transferred by the  
4 Racing Commission to the State Excess Lottery Revenue Fund created in section eighteen-a,  
5 article twenty-two, chapter twenty-nine of this code. Effective July 1, 2016, any money directed  
6 to be deposited into the Greyhound Breeding Development Fund under sections ten, twelve-b,  
7 thirteen and thirteen-c, article twenty-three, chapter nineteen of this code; section eighteen-a,  
8 article twenty-two, chapter twenty-nine of this code; sections ten and ten-b, article twenty-two-a,  
9 chapter twenty-nine of this code; and section twenty-seven, article twenty-two-c, chapter twenty-  
10 nine of this code shall instead be deposited into the Excess Lottery Revenue Fund for  
11 appropriation by the Legislature.

**§19-23-12b. Televised racing days; merging of pari-mutuel wagering pools.**

1 (a) For the purposes of this section:

2 (1) "Televised racing day" means a calendar day, assigned by the commission, at a  
3 licensed racetrack on which pari-mutuel betting is conducted on horse or dog races run at other  
4 racetracks in this state or at racetracks outside of this state which are broadcast by television at  
5 a licensed racetrack and which day or days have had the prior written approval of the  
6 representative of the majority of the owners and trainers who hold permits required by section two  
7 of this article; and

8 (2) "Host racing association" means any person who, pursuant to a license or other  
9 permission granted by the host governmental entity, conducts the horse or dog race upon which  
10 wagers are placed.

11 (b) A licensee conducting not less than two hundred twenty live racing dates for each  
12 horse or dog race meeting may, with the prior approval of the State Racing Commission, contract  
13 with any legal wagering entity in this state or in any other governmental jurisdiction to receive  
14 telecasts and accept wagers on races conducted by the legal wagering entity: *Provided*, That at  
15 those thoroughbred racetracks the licensee, in applying for racing dates, shall apply for not less  
16 than two hundred ten live racing dates for each horse race meeting: *Provided, however*, That at  
17 those thoroughbred racetracks that have participated in the West Virginia Thoroughbred  
18 Development Fund for a period of more than four consecutive calendar years prior to December  
19 31, 1992, the licensee may apply for not less than one hundred fifty-nine live racing dates during  
20 the calendar year 1997. If, thereafter, for reasons beyond the licensee's control, related to adverse  
21 weather conditions, unforeseen casualty occurrences or a shortage of thoroughbred horses  
22 eligible to compete for purses, the licensee concludes that this number of racing days cannot be  
23 attained, the licensee may file a request with the Racing Commission to reduce the authorized  
24 live racing days. Upon receipt of the request the Racing Commission shall within seventy-two  
25 hours of the receipt of the request notify the licensee and the representative of a majority of the

26 owners and trainers at the requesting track and the representative of the majority of the mutuel  
27 clerks at the requesting track that such request has been received and that if no objection to the  
28 request is received within ten days of the notification the request will be approved: *Provided*  
29 *further*, That the commission shall give consideration to whether there existed available  
30 unscheduled potential live racing dates following the adverse weather or casualty and prior to the  
31 end of the race meeting which could be used as new live racing dates in order to maintain the full  
32 live racing schedule previously approved by the Racing Commission. If an objection is received  
33 by the commission within the time limits, the commission shall, within thirty days of receipt of such  
34 objection, set a hearing on the question of reducing racing days, which hearing shall be conducted  
35 at a convenient place in the county in which the requesting racetrack is located. The commission  
36 shall hear from all parties concerned and, based upon testimony and documentary evidence  
37 presented at the hearing, shall determine the required number of live racing days: *And provided*  
38 *further*, That the commission shall not reduce the number of live racing days below one hundred  
39 eighty-five days for a horse race meeting unless the licensee requesting such reduction has: (i)  
40 Filed with the commission a current financial statement, which shall be subject to independent  
41 audit; and (ii) met the burden of proving that just cause exists for such requested reduction in live  
42 racing days. The telecasts may be received and wagers accepted at any location authorized by  
43 the provisions of section twelve-a of this article. The contract must receive the approval of the  
44 representative of the majority of the owners and trainers who hold permits required by section two  
45 of this article at the receiving thoroughbred racetrack.

46 (c) The commission may allow the licensee to commingle its wagering pools with the  
47 wagering pools of the host racing association. If the pools are commingled, the wagering at the  
48 licensee's racetrack must be on tabulating equipment capable of issuing pari-mutuel tickets and  
49 be electronically linked with the equipment at the sending racetrack. Subject to the approval of  
50 the commission, the types of betting, licensee commissions and distribution of winnings on pari-  
51 mutuel pools of the sending licensee racetrack are those in effect at the licensee racetrack.

52 Breakage for pari-mutuel pools on a televised racing day must be calculated in accordance with  
53 the law or rules governing the sending racetrack and must be distributed in a manner agreed to  
54 between the licensee and the sending racetrack. For the televised racing services it provides, the  
55 host racing association shall receive a fee to be paid by the receiving licensee racetrack which  
56 shall be in an amount to be agreed upon by the receiving licensee racetrack and the host racing  
57 association.

58 (d) The commission may assign televised racing days at any time. When a televised racing  
59 day is assigned, the commission shall assign either a steward or an Auditor to preside over the  
60 televised races at the licensee racetrack.

61 (e) (1) From the licensee commissions authorized by subsection (c) of this section, the  
62 licensee shall pay one tenth of one percent of each commission into the General Fund of the  
63 county, in which the racetrack is located and at which the wagering occurred and there is imposed  
64 and the licensee shall pay, for each televised racing day on which the total pari-mutuel pool  
65 exceeds \$100,000, the greater of either: (i) The total of the daily license tax and the pari-mutuel  
66 pools tax required by section ten of this article; or (ii) a daily license tax of \$1,250. For each  
67 televised racing day on which the total pari-mutuel pool is \$100,000, the licensee shall pay a daily  
68 license tax of \$500 plus an additional license tax of \$100 for each \$10,000, or part thereof, that  
69 the pari-mutuel pool exceeds \$50,000, but does not exceed \$100,000. The calculation of the total  
70 pari-mutuel pool for purposes of this subsection shall include only one half of all wagers placed  
71 at a licensed racetrack in this state on televised races conducted at another licensed racetrack  
72 within this state. Payments of the tax imposed by this section are subject to the requirements of  
73 subsection (e), section ten of this article.

74 (2) From the licensee commissions authorized by subsection (c) of this section, after  
75 payments are made in accordance with the provisions of subdivision (1) of this subsection, the  
76 licensee shall pay, for each televised racing day, one fourth of one percent of the total pari-mutuel  
77 pools for and on behalf of all employees of the licensed racing association by making a deposit

78 into a special fund to be established by the Racing Commission and to be used for payments into  
79 the pension plan for all employees of the licensed racing association.

80 (3) From the licensee commissions authorized by subsection (c) of this section, after  
81 payments are made in accordance with the provisions of subdivisions (1) and (2) of this  
82 subsection, thoroughbred licensees shall pay, one-half percent of net simulcast income and for  
83 each televised racing day on or after July 1, 1997, an additional five and one-half percent of net  
84 simulcast income into the West Virginia Thoroughbred Development Fund established by the  
85 Racing Commission according to section thirteen-b of this article: *Provided*, That no licensee  
86 qualifying for the alternate tax provisions of subsection (b), section ten of this article shall be  
87 required to make the payments unless the licensee has participated in the West Virginia  
88 Thoroughbred Development Fund for a period of more than four consecutive calendar years prior  
89 to December 31, 1992. For the purposes of this section, the term "net simulcast income" means  
90 the total commission deducted each day by the licensee from the pari-mutuel pools on simulcast  
91 horse or dog races, less direct simulcast expenses, including, but not limited to, the cost of  
92 simulcast signals, telecommunication costs and decoder costs.

93 (f) After deducting the tax and other payments required by subsection (e) of this section,  
94 the amount required to be paid under the terms of the contract with the host racing association  
95 and the cost of transmission, the horse racing association shall make a deposit equal to fifty  
96 percent of the remainder into the purse fund established under the provisions of subdivision (1),  
97 subsection (b), section nine of this article. After deducting the tax and other payments required  
98 by subsection (e) of this section, dog racetracks shall pay an amount equal to two tenths of one  
99 percent of the daily simulcast pari-mutuel pool to the West Virginia Racing Commission Special  
100 Account-West Virginia Greyhound Breeding Development Fund.

101 (g) The provisions of the Federal Interstate Horseracing Act of 1978, also known as Public  
102 Law 95-515, Section 3001-3007 of Title 15, U. S. Code, as amended, controls in determining the  
103 intent of this section.

104 (h) The provisions of this section relating to the West Virginia Greyhound Breeding  
105 Development Fund are hereby altered and amended by the provisions of section ten-a of this  
106 article as enacted during the 2016 regular legislative session.

**§19-23-13. Disposition of funds for payment of outstanding and unredeemed pari-mutuel tickets; publication of notice; irredeemable tickets; payment of past obligations.**

1 (a) All moneys held by any licensee for the payment of outstanding and unredeemed pari-  
2 mutuel tickets, if not claimed within ninety days after the close of a horse or dog race meeting or  
3 the televised racing day, as the case may be, in connection with which the tickets were issued,  
4 shall be turned over by the licensee to the Racing Commission within fifteen days after the  
5 expiration of the ninety-day period, and the licensee shall give any information required by the  
6 Racing Commission concerning the outstanding and unredeemed tickets. The moneys shall be  
7 deposited by the Racing Commission in a banking institution of its choice in a special account to  
8 be known as West Virginia Racing Commission Special Account - Unredeemed Pari-Mutuel  
9 Tickets. Notice of the amount, date and place of each deposit shall be given by the Racing  
10 Commission, in writing, to the State Treasurer. The Racing Commission shall then cause to be  
11 published a notice to the holders of the outstanding and unredeemed pari-mutuel tickets, notifying  
12 them to present their unredeemed tickets for payment at the principal office of the Racing  
13 Commission within ninety days from the date of the publication of the notice. The notice shall be  
14 published within fifteen days following the receipt of the outstanding and unredeemed pari-mutuel  
15 ticket moneys by the commission from the licensee as a Class I legal advertisement in compliance  
16 with the provisions of article three, chapter fifty-nine of this code, and the publication area for the  
17 publication shall be the county in which the horse or dog race meeting was held and the county  
18 in which the televised racing day wagering was conducted in this state.

19 (b) Any outstanding and unredeemed pari-mutuel tickets that are not presented for  
20 payment within ninety days from the date of the publication of the notice are thereafter  
21 irredeemable, and the moneys theretofore held for the redemption of the pari-mutuel tickets shall

22 become the property of the Racing Commission and shall be expended as provided in  
23 subsections (c) and (d) of this section. The Racing Commission shall maintain separate accounts  
24 for each licensee and shall record in each separate account the moneys turned over by the  
25 licensee and the amount expended at the licensee's track for the purposes set forth in this  
26 subsection.

27 (c) In the fiscal year beginning on July 1, 2010, the Racing Commission shall keep  
28 separate the unredeemed pari-mutuel tickets received from each of the two licensee horse  
29 racetracks.

30 (1) The unredeemed pari-mutuel tickets attributable to each licensee horse racetrack  
31 together with funds distributed pursuant to section eighteen-a, article twenty-two, chapter twenty-  
32 nine of this code shall be used for claims received pursuant to this subsection by the Racing  
33 Commission each calendar quarter: *Provided*, That the first distribution after the effective date of  
34 amendments to this section made during the 2010 regular legislative session shall not occur until  
35 February 2011 and then each calendar quarter thereafter. Any claims made pursuant to this  
36 subsection must be submitted to the Racing Commission no later than fifteen days after the race  
37 where the funds are awarded. The funds in the two special accounts - unredeemed pari-mutuel  
38 tickets shall be distributed based on claims received from each horse racetrack as follows:

39 (A) To the owner of the winning horse in any horse race at a horse race meeting held or  
40 conducted by any licensee: *Provided*, That the owner of the horse is at the time of the horse race  
41 a bona fide resident of this state, a sum equal to ten percent of the purse won by the horse at that  
42 race: *Provided, however*, That in the event there are more than ten races in any performance,  
43 the award to the resident owner of the winning horse will be that fractional share of the purse with  
44 a numerator of one and a denominator representing the number of races on the day of the  
45 performance. The commission may require proof that the owner was, at the time of the race, a  
46 bona fide resident of this state. Upon proof by the owner that he or she filed a personal income  
47 tax return in this state for the previous two years and that he or she owned real or personal



48 property in this state and paid taxes in this state on real or personal property for the previous two  
49 years, he or she shall be presumed to be a bona fide resident of this state; and

50 (B) To the breeder (that is, the owner of the mare) of the winning horse in any horse race  
51 at a horse race meeting held or conducted by any licensee: *Provided*, That the mare foaled in  
52 this state, a sum equal to ten percent of the purse won by the horse: *Provided, however*, That in  
53 the event there are more than ten races in any performance, the award to the breeder will be that  
54 fractional share of the purse with a numerator of one and a denominator representing the number  
55 of races on the day of the performance; and

56 (C) To the owner of the stallion which sired the winning horse in any horse race at a horse  
57 race meeting held or conducted by any licensee: *Provided*, That the mare which foaled the  
58 winning horse was served by a stallion standing and registered in this state, a sum equal to ten  
59 percent of the purse won by the horse: *Provided, however*, That in the event there are more than  
60 ten races in any performance, the award to the owner of the stallion will be percentage of the  
61 purse based upon the fractional share represented by the number of races on the day of the  
62 performance.

63 (2) If in any calendar quarter insufficient funds are available in each licensee horse  
64 racetrack's special account - unredeemed pari-mutuel tickets administered by the Racing  
65 Commission for payments pursuant to subdivision (1), payments shall be made on a pro rata  
66 basis pursuant to paragraphs (A), (B) and (C) of subdivision (1) of this subsection of the claims  
67 submitted from races won at each horse racetrack. Once payments on each claim are made,  
68 whether in full or on a pro rata basis, no further obligation for payment is created by this  
69 subdivision. Claims received after the deadline are not valid.

70 (3) If after paying any claims pursuant to this subsection and funds remain in the accounts,  
71 those funds shall carry over to the next calendar quarter. If in any quarter the surplus in either  
72 account reaches a balance of \$1 million, then that surplus balance shall be placed in to the regular

73 purse fund of that licensee horse racetrack whose unredeemed pari-mutuel account achieves the  
74 surplus.

75 (d) Any unredeemed pari-mutuel tickets received from licensee dog racetracks shall be  
76 combined into a single balance and distributed quarterly to the West Virginia Racing Commission  
77 special account - West Virginia Greyhound Breeding Development Fund. The deposit made  
78 pursuant to this subsection does not create a continuing obligation of payment except to the extent  
79 that there are unredeemed pari-mutuel tickets from the licensee dog racetracks.

80 (e) The amendments to this section made during the 2010 regular legislative session shall  
81 become effective July 1, 2010.

82 (f) The Racing Commission shall satisfy obligations of the prior enactment of this section  
83 for all claims received on purses won on or before June 30, 2010. Claimants must submit all  
84 claims on or before July 15, 2010 for verification by the Racing Commission. Claims received  
85 after July 15, 2010 are not valid.

86 (1) A transfer of \$2.5 million from the State Excess Lottery Revenue Fund available on the  
87 last day of the fiscal year which began July 1, 2009 shall be made to the nonappropriated fund  
88 with the State Treasurer known as the Unredeemed Pari-Mutuel Tickets Fund. The Racing  
89 Commission shall also transfer to the account with the State Treasurer moneys from the Racing  
90 Commission special accounts - unredeemed pari-mutuel tickets for deposits received in each of  
91 those accounts that have been credited with unredeemed pari-mutuel tickets for races completed  
92 at any licensee racetrack as of June 30, 2010, and any other monies appropriated by the  
93 Legislature. Unredeemed pari-mutuel tickets for races completed after June 30, 2010 must  
94 remain in the special accounts - unredeemed pari-mutuel tickets to satisfy future payments  
95 pursuant to this section.

96 (2) The Racing Commission is authorized to pay claims received for races completed on  
97 or before June 30, 2010 without regard to date of deposit or date of claim. Claims shall be paid  
98 in date order, with the oldest claims being paid first, until all claims have been satisfied. All

99 payments made pursuant to this subsection for claims received on purses won on or before June  
100 30, 2010 shall extinguish any further obligation by the state with respect to those claims.

101 (g) The commission shall submit to the Legislative Auditor a quarterly report and  
102 accounting of the income and expenditures in the special account created by this section known  
103 as the West Virginia Racing Commission special account - unredeemed pari-mutuel tickets.

104 (h) Nothing contained in this article shall prohibit one person from qualifying for all or more  
105 than one of the aforesaid awards or for awards under section thirteen-b of this article.

106 (i) The cost of publication of the notice provided for in this section shall be paid from the  
107 funds in the hands of the State Treasurer collected from the pari-mutuel pools' tax provided for in  
108 section ten of this article, when not otherwise provided in the budget; but no such costs shall be  
109 paid unless an itemized account thereof, under oath, be first filed with the State Auditor.

110 (j) The Racing Commission is authorized to promulgate emergency rules, prior to  
111 September 1, 2010, to incorporate the revisions to this article enacted during the 2010 regular  
112 legislative session.

113 (k) The provisions of this section relating to the West Virginia Greyhound Breeding  
114 Development Fund are hereby altered and amended by the provisions of section ten-a of this  
115 article as enacted during the 2016 regular legislative session.

**§19-23-13c. Expenditure of racetrack video lottery distribution.**

1 (a) Funds received by the Racing Commission pursuant to subdivision (6), subsection (c),  
2 section ten, article twenty-two-a, chapter twenty-nine of this code, and subdivision (5), subsection  
3 (a), section ten-b, article twenty-two-a, chapter twenty-nine of this code, after the effective date of  
4 this section together with the balance in the bank account previously established by the  
5 commission to receive those funds shall be deposited in a banking institution of its choice in a  
6 special account to be known as West Virginia Racing Commission Racetrack Video Lottery  
7 Account. Notice of the amount, date and place of each deposit shall be given by the Racing  
8 Commission, in writing, to the State Treasurer.

9 (b) Funds in this account shall be allocated and expended as follows:

10 (1) For each fiscal year, the first \$800,000 deposited in the separate account plus the  
11 amount then remaining of the June 30, 1997, balance in the separate account previously  
12 established for the West Virginia breeders classic under section thirteen of this article, shall be  
13 used by the commission for promotional activities, advertising, administrative costs and purses  
14 for the West Virginia Thoroughbred Breeders Classic, which shall give equal consideration to all  
15 horses qualifying under the West Virginia breeders program for each stake race, based solely on  
16 the horses= sex, age and earnings.

17 (2) For each fiscal year, the next \$200,000 deposited into the separate account shall be  
18 used by the commission for promotional activities and purses for open stake races for a race  
19 event to be known as the West Virginia Derby to be held at a thoroughbred racetrack which does  
20 not participate in the West Virginia Breeders Classic.

21 (3) For each fiscal year, once the amounts provided in subdivisions (1) and (2) of this  
22 subsection have been deposited into separate bank accounts for use in connection with the West  
23 Virginia Thoroughbred Breeders Classics and the West Virginia Derby, the commission shall  
24 return to each racetrack all additional amounts deposited which originate during that fiscal year  
25 from each respective racetrack pursuant to subdivision (6), subsection (c), section ten, article  
26 twenty-two-a, chapter twenty-nine of this code, which returned excess funds shall be used as  
27 follows:

28 (A) For each dog racetrack, one half of the returned excess funds shall be used for capital  
29 improvements at the racetrack and one half of the returned excess funds shall be deposited into  
30 the West Virginia Racing Commission Special Account - West Virginia Greyhound Breeding  
31 Development Fund.

32 (B) At those thoroughbred racetracks that have participated in the West Virginia  
33 Thoroughbred Development Fund for a period of more than four consecutive calendar years prior  
34 to December 31, 1992, one half of the returned excess funds shall be used for capital

35 improvements at the licensee=s racetrack and one half of the returned excess funds shall be  
36 equally divided between the West Virginia Thoroughbred Breeders Classic and the West Virginia  
37 Thoroughbred Development Fund.

38 (C) At those thoroughbred horse racetracks which do not participate in the West Virginia  
39 Breeders Classic, one half of the returned excess funds shall be used for capital improvements  
40 at the licensee=s racetrack and one half of the returned excess funds shall be used for purses for  
41 the open stakes race event known as the West Virginia Derby.

42 (c) All expenditures that are funded under this section must be approved in writing by the  
43 West Virginia Racing Commission before the funds are expended for any of the purposes  
44 authorized by this section.

45 (d) The provisions of this section relating to the West Virginia Greyhound Breeding  
46 Development Fund are hereby altered and amended by the provisions of section ten-a of this  
47 article as enacted during the 2016 regular legislative session.

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

### **ARTICLE 22. STATE LOTTERY ACT.**

#### **§29-22-18a. State Excess Lottery Revenue Fund.**

1 (a) The State Lottery Fund in the State Treasury which is designated and known as the  
2 State Excess Lottery Revenue Fund is continued. The fund consists of all appropriations to the  
3 fund and all interest earned from investment of the fund and any gifts, grants or contributions  
4 received by the fund. All revenues received under the provisions of sections ten-b and ten-c,  
5 article twenty-two-a of this chapter and under article twenty-two-b of this chapter, except the  
6 amounts due the commission under subdivision (1), subsection (a), section one thousand four  
7 hundred eight, article twenty-two-b of this chapter, shall be deposited in the State Treasury and  
8 placed into the State Excess Lottery Revenue Fund. The revenue shall be disbursed in the  
9 manner provided in this section for the purposes stated in this section and shall not be treated by

10 the State Auditor and the State Treasurer as part of the general revenue of the state.

11 (b) For the fiscal year beginning July 1, 2002, the commission shall deposit: (1) \$65 million  
12 into the subaccount of the State Excess Lottery Revenue Fund hereby created in the State  
13 Treasury to be known as the General Purpose Account to be expended pursuant to appropriation  
14 of the Legislature; (2) \$10 million into the Education Improvement Fund for appropriation by the  
15 Legislature to the PROMISE Scholarship Fund created in section seven, article seven, chapter  
16 eighteen-c of this code; (3) \$19 million into the Economic Development Project Fund created in  
17 subsection (e) of this section for the issuance of revenue bonds and to be spent in accordance  
18 with the provisions of said subsection; (4) \$20 million into the School Building Debt Service Fund  
19 created in section six, article nine-d, chapter eighteen of this code for the issuance of revenue  
20 bonds; (5) \$40 million into the West Virginia Infrastructure Fund created in section nine, article  
21 fifteen-a, chapter thirty-one of this code to be spent in accordance with the provisions of said  
22 article; (6) \$10 million into the Higher Education Improvement Fund for Higher Education; and (7)  
23 \$5 million into the State Park Improvement Fund for Park Improvements. For the fiscal year  
24 beginning July 1, 2003, the commission shall deposit: (1) \$65 million into the General Purpose  
25 Account to be expended pursuant to appropriation of the Legislature; (2) \$17 million into the  
26 Education Improvement Fund for appropriation by the Legislature to the PROMISE Scholarship  
27 Fund created in section seven, article seven, chapter eighteen-c of this code; (3) \$19 million into  
28 the Economic Development Project Fund created in subsection (e) of this section for the issuance  
29 of revenue bonds and to be spent in accordance with the provisions of said subsection; (4) \$20  
30 million into the School Building Debt Service Fund created in section six, article nine-d, chapter  
31 eighteen of this code for the issuance of revenue bonds; (5) \$40 million into the West Virginia  
32 Infrastructure Fund created in section nine, article fifteen-a, chapter thirty-one of this code to be  
33 spent in accordance with the provisions of said article; (6) \$10 million into the Higher Education  
34 Improvement Fund for Higher Education; and (7) \$7 million into the State Park Improvement Fund  
35 for Park Improvements.

36 (c) For the fiscal year beginning July 1, 2004, and subsequent fiscal years through the  
37 fiscal year ending June 30, 2009, the commission shall deposit: (1) \$65 million into the General  
38 Purpose Account to be expended pursuant to appropriation of the Legislature; (2) \$27 million into  
39 the Education Improvement Fund for appropriation by the Legislature to the PROMISE  
40 Scholarship Fund created in section seven, article seven, chapter eighteen-c of this code; (3) \$19  
41 million into the Economic Development Project Fund created in subsection (e) of this section for  
42 the issuance of revenue bonds and to be spent in accordance with the provisions of said  
43 subsection; (4) \$19 million into the School Building Debt Service Fund created in section six,  
44 article nine-d, chapter eighteen of this code for the issuance of revenue bonds: *Provided*, That for  
45 the fiscal year beginning July 1, 2008, and subsequent fiscal years, no moneys shall be deposited  
46 in the School Building Debt Service Fund pursuant to this subsection and instead \$19 million shall  
47 be deposited into the Excess Lottery School Building Debt Service Fund; (5) \$40 million into the  
48 West Virginia Infrastructure Fund created in section nine, article fifteen-a, chapter thirty-one of  
49 this code to be spent in accordance with the provisions of said article; (6) \$10 million into the  
50 Higher Education Improvement Fund for Higher Education; and (7) \$5 million into the State Park  
51 Improvement Fund for Park Improvements. No portion of the distributions made as provided in  
52 this subsection and subsection (b) of this section, except distributions made in connection with  
53 bonds issued under subsection (e) of this section, may be used to pay debt service on bonded  
54 indebtedness until after the Legislature expressly authorizes issuance of the bonds and payment  
55 of debt service on the bonds through statutory enactment or the adoption of a concurrent  
56 resolution by both houses of the Legislature. Until subsequent legislative enactment or adoption  
57 of a resolution that expressly authorizes issuance of the bonds and payment of debt service on  
58 the bonds with funds distributed under this subsection and subsection (b) of this section, except  
59 distributions made in connection with bonds issued under subsection (d) of this section, the  
60 distributions may be used only to fund capital improvements that are not financed by bonds and  
61 only pursuant to appropriation of the Legislature.

62 (d) For the fiscal year beginning July 1, 2009, and subsequent fiscal years, the commission  
63 shall deposit: (1) \$65 million into the General Purpose Account to be expended pursuant to  
64 appropriation of the Legislature; (2) \$29 million into the Education Improvement Fund for  
65 appropriation by the Legislature to the PROMISE Scholarship Fund created in section seven,  
66 article seven, chapter eighteen-c of this code; (3) \$19 million into the Economic Development  
67 Project Fund created in subsection (e) of this section for the issuance of revenue bonds and to  
68 be spent in accordance with the provisions of said subsection; (4) \$19 million into the Excess  
69 Lottery School Building Debt Service Fund created in section six, article nine-d, chapter eighteen  
70 of this code; (5) \$40 million into the West Virginia Infrastructure Fund created in section nine,  
71 article fifteen-a, chapter thirty-one of this code to be spent in accordance with the provisions of  
72 said article; (6) \$10 million into the Higher Education Improvement Fund for Higher Education;  
73 and (7) \$5 million into the State Park Improvement Fund for Park Improvements. No portion of  
74 the distributions made as provided in this subsection and subsection (b) of this section, except  
75 distributions made in connection with bonds issued under subsection (e) of this section, may be  
76 used to pay debt service on bonded indebtedness until after the Legislature expressly authorizes  
77 issuance of the bonds and payment of debt service on the bonds through statutory enactment or  
78 the adoption of a concurrent resolution by both houses of the Legislature. Until subsequent  
79 legislative enactment or adoption of a resolution that expressly authorizes issuance of the bonds  
80 and payment of debt service on the bonds with funds distributed under this subsection and  
81 subsection (b) of this section, except distributions made in connection with bonds issued under  
82 subsection (e) of this section, the distributions may be used only to fund capital improvements  
83 that are not financed by bonds and only pursuant to appropriation of the Legislature.

84 (e) The Legislature finds and declares that in order to attract new business, commerce  
85 and industry to this state, to retain existing business and industry providing the citizens of this  
86 state with economic security and to advance the business prosperity of this state and the  
87 economic welfare of the citizens of this state, it is necessary to provide public financial support for



88 constructing, equipping, improving and maintaining economic development projects, capital  
89 improvement projects and infrastructure which promote economic development in this state.

90 (1) The West Virginia Economic Development Authority created and provided for in article  
91 fifteen, chapter thirty-one of this code shall, by resolution, in accordance with the provisions of  
92 this article and article fifteen, chapter thirty-one of this code, and upon direction of the Governor,  
93 issue revenue bonds of the Economic Development Authority in no more than two series to pay  
94 for all or a portion of the cost of constructing, equipping, improving or maintaining projects under  
95 this section or to refund the bonds at the discretion of the authority. Any revenue bonds issued on  
96 or after July 1, 2002, which are secured by State Excess Lottery revenue proceeds shall mature  
97 at a time or times not exceeding thirty years from their respective dates. The principal of and the  
98 interest and redemption premium, if any, on the bonds shall be payable solely from the special  
99 fund provided in this section for the payment.

100 (2) The special revenue fund named the Economic Development Project Fund into which  
101 shall be is deposited the amounts to be deposited in the fund as specified in subsections (b), (c)  
102 and (d) of this section is continued. The Economic Development Project Fund shall consist of all  
103 such moneys, all appropriations to the fund, all interest earned from investment of the fund and  
104 any gifts, grants or contributions received by the fund. All amounts deposited in the fund shall be  
105 pledged to the repayment of the principal, interest and redemption premium, if any, on any  
106 revenue bonds or refunding revenue bonds authorized by this section, including any and all  
107 commercially customary and reasonable costs and expenses which may be incurred in  
108 connection with the issuance, refunding, redemption or defeasance of the bonds. The West  
109 Virginia Economic Development Authority may further provide in the resolution and in the trust  
110 agreement for priorities on the revenues paid into the Economic Development Project Fund that  
111 are necessary for the protection of the prior rights of the holders of bonds issued at different times  
112 under the provisions of this section. The bonds issued pursuant to this subsection shall be  
113 separate from all other bonds which may be or have been issued, from time to time, under the

114 provisions of this article.

115 (3) After the West Virginia Economic Development Authority has issued bonds authorized  
116 by this section and after the requirements of all funds have been satisfied, including any coverage  
117 and reserve funds established in connection with the bonds issued pursuant to this subsection,  
118 any balance remaining in the Economic Development Project Fund may be used for the  
119 redemption of any of the outstanding bonds issued under this subsection which, by their terms,  
120 are then redeemable or for the purchase of the outstanding bonds at the market price, but not to  
121 exceed the price, if any, at which redeemable, and all bonds redeemed or purchased shall be  
122 immediately canceled and shall not again be issued.

123 (4) Bonds issued under this subsection shall state on their face that the bonds do not  
124 constitute a debt of the State of West Virginia; that payment of the bonds, interest and charges  
125 thereon cannot become an obligation of the State of West Virginia; and that the bondholders'  
126 remedies are limited in all respects to the Special Revenue Fund established in this subsection  
127 for the liquidation of the bonds.

128 (5) The West Virginia Economic Development Authority shall expend the bond proceeds  
129 from the revenue bond issues authorized and directed by this section for projects certified under  
130 the provision of this subsection: *Provided*, That the bond proceeds shall be expended in  
131 accordance with the requirements and provisions of article five-a, chapter twenty-one of this code  
132 and either article twenty-two or twenty-two-a, chapter five of this code, as the case may be:  
133 *Provided, however*, That if the bond proceeds are expended pursuant to article twenty-two-a,  
134 chapter five of this code and if the Design-Build Board created under said article determines that  
135 the execution of a design-build contract in connection with a project is appropriate pursuant to the  
136 criteria set forth in said article and that a competitive bidding process was used in selecting the  
137 design builder and awarding the contract, the determination shall be conclusive for all purposes  
138 and shall be considered to satisfy all the requirements of said article.

139 (6) For the purpose of certifying the projects that will receive funds from the bond

140 proceeds, a committee is hereby established and comprised of the Governor, or his or her  
141 designee, the Secretary of the Department of Revenue, the Executive Director of the West  
142 Virginia Development Office and six persons appointed by the Governor: *Provided*, That at least  
143 one citizen member must be from each of the state's three congressional districts. The committee  
144 shall meet as often as necessary and make certifications from bond proceeds in accordance with  
145 this subsection. The committee shall meet within thirty days of the effective date of this section.

146 (7) Applications for grants submitted on or before July 1, 2002, shall be considered refiled  
147 with the committee. Within ten days from the effective date of this section as amended in the year  
148 2003, the lead applicant shall file with the committee any amendments to the original application  
149 that may be necessary to properly reflect changes in facts and circumstances since the  
150 application was originally filed with the committee.

151 (8) When determining whether or not to certify a project, the committee shall take into  
152 consideration the following:

153 (A) The ability of the project to leverage other sources of funding;

154 (B) Whether funding for the amount requested in the grant application is or reasonably  
155 should be available from commercial sources;

156 (C) The ability of the project to create or retain jobs, considering the number of jobs, the  
157 type of jobs, whether benefits are or will be paid, the type of benefits involved and the  
158 compensation reasonably anticipated to be paid persons filling new jobs or the compensation  
159 currently paid to persons whose jobs would be retained;

160 (D) Whether the project will promote economic development in the region and the type of  
161 economic development that will be promoted;

162 (E) The type of capital investments to be made with bond proceeds and the useful life of  
163 the capital investments; and

164 (F) Whether the project is in the best interest of the public.

165 (9) A grant may not be awarded to an individual or other private person or entity. Grants

166 may be awarded only to an agency, instrumentality or political subdivision of this state or to an  
167 agency or instrumentality of a political subdivision of this state.

168 The project of an individual or private person or entity may be certified to receive a low-  
169 interest loan paid from bond proceeds. The terms and conditions of the loan, including, but not  
170 limited to, the rate of interest to be paid and the period of the repayment, shall be determined by  
171 the Economic Development Authority after considering all applicable facts and circumstances.

172 (10) Prior to making each certification, the committee shall conduct at least one public  
173 hearing, which may be held outside of Kanawha County. Notice of the time, place, date and  
174 purpose of the hearing shall be published in at least one newspaper in each of the three  
175 congressional districts at least fourteen days prior to the date of the public hearing.

176 (11) The committee may not certify a project unless the committee finds that the project is  
177 in the public interest and the grant will be used for a public purpose. For purposes of this  
178 subsection, projects in the public interest and for a public purpose include, but are not limited to:

179 (A) Sports arenas, fields, parks, stadiums and other sports and sports-related facilities;

180 (B) Health clinics and other health facilities;

181 (C) Traditional infrastructure, such as water and wastewater treatment facilities, pumping  
182 facilities and transmission lines;

183 (D) State-of-the-art telecommunications infrastructure;

184 (E) Biotechnical incubators, development centers and facilities;

185 (F) Industrial parks, including construction of roads, sewer, water, lighting and other  
186 facilities;

187 (G) Improvements at state parks, such as construction, expansion or extensive renovation  
188 of lodges, cabins, conference facilities and restaurants;

189 (H) Railroad bridges, switches and track extension or spurs on public or private land  
190 necessary to retain existing businesses or attract new businesses;

191 (I) Recreational facilities, such as amphitheaters, walking and hiking trails, bike trails,

192 picnic facilities, restrooms, boat docking and fishing piers, basketball and tennis courts, and  
193 baseball, football and soccer fields;

194 (J) State-owned buildings that are registered on the National Register of Historic Places;

195 (K) Retail facilities, including related service, parking and transportation facilities,  
196 appropriate lighting, landscaping and security systems to revitalize decaying downtown areas;  
197 and

198 (L) Other facilities that promote or enhance economic development, educational  
199 opportunities or tourism opportunities thereby promoting the general welfare of this state and its  
200 residents.

201 (12) Prior to the issuance of bonds under this subsection, the committee shall certify to  
202 the Economic Development Authority a list of those certified projects that will receive funds from  
203 the proceeds of the bonds. Once certified, the list may not thereafter be altered or amended other  
204 than by legislative enactment.

205 (13) If any proceeds from sale of bonds remain after paying costs and making grants and  
206 loans as provided in this subsection, the surplus may be deposited in an account in the State  
207 Treasury known as the Economic Development Project Bridge Loan Fund administered by the  
208 Economic Development Authority created in article fifteen, chapter thirty-one of this code.  
209 Expenditures from the fund are not authorized from collections but are to be made only in  
210 accordance with appropriation by the Legislature and in accordance with the provisions of article  
211 three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter five-  
212 a of this code. Loan repayment amounts, including the portion attributable to interest, shall be  
213 paid into the fund created in this subdivision.

214 (f) If the commission receives revenues in an amount that is not sufficient to fully comply  
215 with the requirements of subsections (b), (c), (d) and (i) of this section, the commission shall first  
216 make the distribution to the Economic Development Project Fund; second, make the distribution  
217 or distributions to the other funds from which debt service is to be paid; third, make the distribution

218 to the Education Improvement Fund for appropriation by the Legislature to the PROMISE  
219 Scholarship Fund; and fourth, make the distribution to the General Purpose Account: *Provided,*  
220 That, subject to the provisions of this subsection, to the extent the revenues are not pledged in  
221 support of revenue bonds which are or may be issued, from time to time, under this section, the  
222 revenues shall be distributed on a pro rata basis.

223 (g) Each fiscal year, the commission shall, after meeting the requirements of subsections  
224 (b), (c), (d) and (i) of this section and after transferring to the State Lottery Fund created under  
225 section eighteen of this article an amount equal to any transfer from the State Lottery Fund to the  
226 Excess Lottery Fund pursuant to subsection (f), section eighteen of this article, deposit fifty  
227 percent of the amount by which annual gross revenue deposited in the State Excess Lottery  
228 Revenue Fund exceeds \$225 million in a fiscal year in a separate account in the State Lottery  
229 Fund to be available for appropriation by the Legislature.

230 (h) When bonds are issued for projects under subsection (d) (e) of this section or for the  
231 School Building Authority, infrastructure, higher education or park improvement purposes  
232 described in this section that are secured by profits from lotteries deposited in the State Excess  
233 Lottery Revenue Fund, the Lottery Director shall allocate first to the Economic Development  
234 Project Fund an amount equal to one tenth of the projected annual principal, interest and coverage  
235 requirements on any and all revenue bonds issued, or to be issued as certified to the Lottery  
236 Director; and second, to the fund or funds from which debt service is paid on bonds issued under  
237 this section for the School Building Authority, infrastructure, higher education and park  
238 improvements an amount equal to one tenth of the projected annual principal, interest and  
239 coverage requirements on any and all revenue bonds issued, or to be issued as certified to the  
240 lottery director. In the event there are insufficient funds available in any month to transfer the  
241 amounts required pursuant to this subsection, the deficiency shall be added to the amount  
242 transferred in the next succeeding month in which revenues are available to transfer the  
243 deficiency.

244 (i) Prior to the distributions provided in subsection (d) of this section, the Lottery  
245 Commission shall deposit into the General Revenue Fund amounts necessary to provide  
246 reimbursement for the refundable credit allowable under section twenty-one, article twenty-one,  
247 chapter eleven of this code.

248 (j)(1) The Legislature considers the following as priorities in the expenditure of any surplus  
249 revenue funds:

250 (A) Providing salary and/or increment increases for professional educators and public  
251 employees;

252 (B) Providing adequate funding for the Public Employees Insurance Agency; and

253 (C) Providing funding to help address the shortage of qualified teachers and substitutes in  
254 areas of need, both in number of teachers and in subject matter areas.

255 (2) The provisions of this subsection may not be construed by any court to require any  
256 appropriation or any specific appropriation or level of funding for the purposes set forth in this  
257 subsection.

258 (k) The Legislature further directs the Governor to focus resources on the creation of a  
259 prescription drug program for senior citizens by pursuing a Medicaid waiver to offer prescription  
260 drug services to senior citizens; by investigating the establishment of purchasing agreements with  
261 other entities to reduce costs; by providing discount prices or rebate programs for seniors; by  
262 coordinating programs offered by pharmaceutical manufacturers that provide reduced cost or free  
263 drugs; by coordinating a collaborative effort among all state agencies to ensure the most efficient  
264 and cost-effective program possible for the senior citizens of this state; and by working closely  
265 with the state's congressional delegation to ensure that a national program is implemented. The  
266 Legislature further directs that the Governor report his or her progress back to the Joint Committee  
267 on Government and Finance on an annual basis until a comprehensive program has been fully  
268 implemented.

269 (l) After all of the expenditures in subsections (a) through (i) of this section have been

270 satisfied in any fiscal year, the next \$2 million shall be distributed as follows:

271 (1) On the last day of the fiscal year that begins on July 1, 2010, and for each fiscal year  
272 thereafter, forty-six percent shall be placed in the general purse fund of a thoroughbred racetrack  
273 licensee that did not participate in the Thoroughbred Development Fund for at least four  
274 consecutive calendar years prior to December 31, 1992, for payment of regular purses;

275 (2) Forty-three and one-half percent shall be distributed to the Racing Commission special  
276 account - unredeemed pari-mutuel tickets established on behalf of a thoroughbred racetrack  
277 licensee that did participate in the Thoroughbred Development Fund for at least four consecutive  
278 calendar years prior to December 31, 1992;

279 (3) Five and one-half percent shall be distributed to the Racing Commission special  
280 account - unredeemed pari-mutuel tickets established on behalf of a thoroughbred racetrack  
281 licensee that did not participate in the Thoroughbred Development Fund for at least four  
282 consecutive calendar years prior to December 31, 1992; and

283 (4) Five percent shall be distributed to the West Virginia Racing Commission Special  
284 Account - Greyhound Breeding Development Fund.

1 (m) The provisions of this section relating to the West Virginia Greyhound Breeding  
2 Development Fund are hereby altered and amended by the provisions of section ten-a, article  
3 twenty-three, chapter nineteen of this code as enacted during the 2016 regular legislative session.

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

**§29-22A-7. License and permit qualifications; individual qualifications; applicant required to furnish information; waiver of liability; oath or affirmation; duty to provide accurate and material information.**

1 (a) No video lottery license or permit may be granted unless the commission has  
2 determined that the applicant satisfies all of the following qualifications:

3 (1) An applicant for a video lottery license must hold a valid racing license granted by the  
4 West Virginia Racing Commission under provisions of article twenty-three, chapter nineteen of



5 this code: Provided, That an applicant that held a valid dog racing license prior to January 1, 1994,  
6 shall not be required to hold a current racing license to renew its video lottery license; Provided,  
7 however, That, notwithstanding any provision of this article or of article twenty-three, chapter  
8 nineteen of this code to the contrary, an applicant that held a valid dog racing license prior to  
9 January 1, 1994, shall not be required to hold a current racing license to conduct simulcast racing  
10 pursuant to the provisions of article twenty-three, chapter nineteen, of this code.

11 (2) An applicant must be a person of good character and integrity.

12 (3) An applicant must be a person whose background, including criminal record, reputation  
13 and associations, does not pose a threat to the security and integrity of the lottery or to the public  
14 interest of the state. All new applicants for licenses and permits issued by the commission shall  
15 furnish fingerprints for a national criminal records check by the Criminal Identification Bureau of  
16 the West Virginia State Police and the Federal Bureau of Investigation. The fingerprints shall be  
17 furnished by all persons required to be named in the application and shall be accompanied by a  
18 signed authorization for the release of information by the Criminal Investigation Bureau and the  
19 Federal Bureau of Investigation. The commission may require any applicant seeking the renewal  
20 of a license or permit to furnish fingerprints for a national criminal records check by the Criminal  
21 Identification Bureau of the West Virginia State Police and the Federal Bureau of Investigation. A  
22 person who has been convicted of any violation of article twenty-two of this chapter or of this  
23 article or of any crime related to theft, bribery, gambling or involving moral turpitude is not eligible  
24 for any license or permit. The commission shall revoke the license or permit of any person who is  
25 convicted of any such crime after a license or permit is granted.

26 (4) An applicant must be a person who demonstrates the business ability and experience  
27 necessary to establish, operate and maintain the business for which a video lottery license or  
28 permit application is made.

29 (5) An applicant must be a person who has secured adequate financing for the business  
30 for which a video lottery license or permit application is made. The commission shall determine

31 whether financing is from a source which meets the qualifications of this section and is adequate  
32 to support the successful performance of the duties and responsibilities of the licensed racetrack  
33 or permit holder. An applicant for a video lottery license shall disclose all financing or refinancing  
34 arrangements for the purchase, lease or other acquisition of video lottery terminals and  
35 associated equipment in the degree of detail requested by the commission. A licensed racetrack  
36 shall request commission approval of any change in financing or lease arrangements at least  
37 thirty days before the effective date of the change.

38 (6) A racetrack applying for a video lottery license or a license renewal must present to  
39 the commission evidence of the existence of an agreement, regarding the proceeds from video  
40 lottery terminals, between the applicant and the representative of a majority of the horse owners  
41 and trainers, ~~the representative of a majority of the pari-mutuel clerks and the representative of a~~  
42 ~~majority of the breeders or the representative of a majority of the kennel owners~~ for the applicable  
43 racetrack who hold permits required by section two, article twenty-three, chapter nineteen of this  
44 code.

45 (7) A racetrack applying for a video lottery license or a license renewal must file with the  
46 commission a copy of any current or proposed agreement between the applicant and any  
47 manufacturer for the sale, lease or other assignment to the racetrack of video lottery terminals,  
48 the electronic computer components of the terminals, the random number generator of the  
49 terminals, or the cabinet in which it is housed. Once filed with the commission, the agreement is  
50 a public document subject to the provisions of article one, chapter twenty-nine-b of this code.

51 (b) No video lottery license or permit may be granted to an applicant until the commission  
52 determines that each person who has control of the applicant meets all applicable qualifications  
53 of subsection (a) of this section. The following persons are considered to have control of an  
54 applicant:

55 (1) Each person associated with a corporate applicant, including any corporate holding  
56 company, parent company or subsidiary company of the applicant, but not including a bank or

57 other licensed lending institution which holds a mortgage or other lien acquired in the ordinary  
58 course of business, who has the ability to control the activities of the corporate applicant or elect  
59 a majority of the board of directors of that corporation.

60 (2) Each person associated with a noncorporate applicant who directly or indirectly holds  
61 any beneficial or proprietary interest in the applicant or who the commission determines to have  
62 the ability to control the applicant.

63 (3) Key personnel of an applicant, including any executive, employee or agent, having the  
64 power to exercise significant influence over decisions concerning any part of the applicant's  
65 business operation.

66 (c) Applicants must furnish all information, including financial data and documents,  
67 certifications, consents, waivers, individual history forms and other materials requested by the  
68 commission for purposes of determining qualifications for a license or permit. No video lottery  
69 license or permit may be granted to an applicant who fails to provide information and  
70 documentation requested by the commission. The burden of proving qualification for any video  
71 lottery license or permit is on the applicant.

72 (d) Each applicant bears all risks of adverse public notice, embarrassment, criticism,  
73 damages or financial loss which may result from any disclosure or publication of any material or  
74 information obtained by the commission pursuant to action on an application. The applicant shall,  
75 as a part of its application, expressly waive any and all claims against the commission, the State  
76 of West Virginia and the employees of either for damages as a result of any background  
77 investigation, disclosure or publication relating to an application for a video lottery license or  
78 permit.

79 (e) All application, registration and disclosure forms and other documents submitted to the  
80 commission by or on behalf of the applicant for purposes of determining qualification for a video  
81 lottery license or permit shall be sworn to or affirmed before an officer qualified to administer  
82 oaths.

83 (f) An applicant who knowingly fails to reveal any fact material to qualification or who  
84 knowingly submits false or misleading material information is ineligible for a video lottery license  
85 or permit.

**§29-22A-8. Form of application; local option elections; issuance of license; notice of incomplete application; notice of license or permit denial, suspension or revocation; procedure for review of license or permit denial, suspension or revocation; fees, renewal fees and renewal dates; bonding; renewal of licenses and permits; notice of change affecting license or permit; license or permit not transferrable or assignable.**

1 (a) The commission shall determine the form of applications to be used and shall not  
2 consider incomplete applications. The commission may consider an application when the  
3 applicant has completed and executed all forms and documents required by the commission and  
4 all application fees and costs have been paid.

5 (b) The question of whether video lottery games shall be permitted at pari-mutuel  
6 racetracks shall be determined by local option election in each county in which a pari-mutuel  
7 racetrack is located. The local option election on this question may be placed on the ballot in each  
8 county at any general election. The county commission of the county in which the racetrack is  
9 located shall give notice to the public of the election by publication of the notice as a Class II-0  
10 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this  
11 code, and the publication area for the publication shall be the county in which the election is to be  
12 held. The date of the last publication of the notice shall fall on a date within the period of the  
13 fourteen consecutive days next preceding the election.

14 On the local option election ballot shall be printed the following:

15 Shall West Virginia Lottery Commission video lottery games be permitted within an area  
16 at the [name of racetrack] in which pari-mutuel betting is authorized by law?

17  Yes  No

18 (Place a cross mark in the square opposite your choice.)

19 The ballots shall be counted, returns made and canvassed as in general elections, and  
20 the results certified by the commissioners of election to the county commission. The county  
21 commission shall, without delay, certify the result of the election to the commission.

22 (c) Upon receipt of the results of the election from the county commission, and if a majority  
23 has voted Ayes@, the commission shall issue the requested license if the applicant is otherwise  
24 qualified for the license. If a majority has voted Ano@, the commission shall notify the applicant  
25 of the results, the application shall be denied, and another election on the issue shall not be held  
26 for a period of two years: *Provided*, That for purposes of this section, the term Atwo years@ means  
27 the interval between a general election and the next general election, and in no event shall it  
28 mean or encompass a period of time in excess of one hundred four weeks. If a majority has voted  
29 Ayes@, another local option election on the issue shall not be held for a period of five years. A  
30 local option election may thereafter be held if a written petition of qualified voters residing within  
31 the county equal to at least ~~five~~ twenty percent of the number of persons who were registered to  
32 vote in the next preceding general election is received by the county commission of the county in  
33 which the horse or dog racetrack is located. The petition may be in any number of counterparts.

34 The petition shall be in the following form:

35 Petition For Local Option Election

36 We, the undersigned legally qualified voters, resident within the county of  
37 \_\_\_\_\_, do hereby petition that a special election be held within the county of  
38 \_\_\_\_\_ upon the following question: Shall West Virginia Lottery Commission video  
39 lottery games be permitted within an area at the [name of racetrack] in which pari-mutuel betting  
40 is authorized by law?

41 Name Address Date  
42 (Post office or street address)

43 (d) The commission may not issue any license or permit until background investigations  
44 are concluded. The commission shall make an affirmative determination that the applicant is  
45 qualified and the applicable license or permit fees have been paid prior to issuing any license or  
46 permit.

47 (e) The commission shall notify the applicant if an application is incomplete and the  
48 notification shall state the deficiencies in the application.

49 (f) The commission shall notify applicants in writing of the denial, suspension or revocation  
50 of a permit or license and the reasons for the denial, suspension or revocation in accordance with  
51 the provisions of section fifteen of this article.

52 (g) An applicant may request a hearing to review a license or permit denial, suspension  
53 or revocation in accordance with section fifteen of this article.

54 (h) The following license or permit fees shall be paid annually by each licensed racetrack,  
55 or permitted manufacturer, service technician, floor attendant or validation manager:

56	(1) Racetrack.....	\$1,000
57	(2) Manufacturer .....	\$10,000
58	(3) Service technician .....	\$100
59	(4) Validation manager .....	\$50
60	(5) Floor attendant .....	\$50

61 The fees shall be paid to the commission at the time of license or permit application and  
62 on or before July 1, of each year thereafter, at which time the license or permit may be renewed.

63 (i) An applicant for a video lottery license shall, prior to the issuance of the license, post a  
64 bond or irrevocable letter of credit in a manner and in an amount established by the commission.  
65 The bond shall be issued by a surety company authorized to transact business in West Virginia  
66 and the company shall be approved by the Insurance Commissioner of this state as to solvency  
67 and responsibility.

68 (j) The commission shall renew video lottery licenses and permits annually as of July 1, of

69 each year, if each person seeking license or permit renewal submits the applicable renewal fee,  
70 completes all renewal forms provided by the commission, and continues to meet all qualifications  
71 for a license or permit.

72 (k) License and permit holders shall notify the commission of any proposed change of  
73 ownership or control of the license or permit holder and of all other transactions or occurrences  
74 relevant to license or permit qualification. In order for a license or permit to remain in effect,  
75 commission approval is required prior to completion of any proposed change of ownership or  
76 control of a license or permit holder.

77 (l) A license or permit is a privilege personal to the license or permit holder and is not a  
78 legal right. A license or permit granted or renewed pursuant to this article may not be transferred  
79 or assigned to another person, nor may a license or a permit be pledged as collateral. The  
80 purchaser or successor of any license or permit holder shall independently qualify for a license or  
81 permit. The sale of more than five percent of a license or permit holder=s voting stock, or more  
82 than five percent of the voting stock of a corporation which controls the license or permit holder  
83 or the sale of a license or permit holder=s assets, other than those bought and sold in the ordinary  
84 course of business, or any interest therein, to any person not already determined to have met the  
85 qualifications of section seven of this article voids the license unless the sale has been approved  
86 in advance by the commission.

**§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 any  
10 proposed account changes in order to assure the uninterrupted electronic transfer of funds. From  
11 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, the term Actual  
19 costs and expenses@ may include transfers of up to \$10 million in surplus allocations for each  
20 fiscal year, as calculated by the commission when it has closed its books for the fiscal year, to  
21 the Licensed Racetrack Modernization Fund created by subdivision (2), subsection (b) of this  
22 section. For all fiscal years beginning on or after July 1, 2001, the commission shall not receive  
23 an amount of gross terminal income in excess of the amount of gross terminal income received  
24 during the fiscal year ending on June 30, 2001, but four percent of any amount of gross terminal  
25 income received in excess of the amount of gross terminal income received during the fiscal year  
26 ending on June 30, 2001, shall be deposited into the fund established in section eighteen-a, article



27 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, the commission shall deposit such amounts as are available according to subdivision (1),  
31 subsection (b) of this section into a separate facility modernization account maintained within the  
32 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 \$2 expended by a licensed racetrack for  
36 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 Afacility 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. Notwithstanding any  
46 provision of this section or section ten-d of this article to the contrary, the commission shall  
47 transfer no additional moneys to the Licensed Racetrack Modernization Fund on or after the  
48 effective date of the amendments to this section by the Legislature during its 2016 regular session:  
49 Provided, That a licensed racetrack may, pursuant to the provisions of this subsection (b) and the  
50 rules of the commission, seek recoupment for facility modernization improvements ordered before  
51 the effective date of this amendment. Any money remaining in the Licensed Racetrack

52 Modernization Fund for which recoupment has not been requested by a licensed racetrack  
53 pursuant to the provisions of this subsection shall be deposited into the Excess Lottery Revenue  
54 Fund for appropriation by the Legislature.

55 (c) The amount resulting after the deductions required by subsection (b) of this section  
56 constitutes net terminal income that shall be divided as set out in this subsection. For all fiscal  
57 years beginning on or after July 1, 2001, any amount of net terminal income received in excess  
58 of the amount of net terminal income received during the fiscal year ending on June 30, 2001,  
59 shall be divided as set out in section ten-b of this article. The licensed racetrack's share is in lieu  
60 of all lottery agent commissions and is considered to cover all costs and expenses required to be  
61 expended by the licensed racetrack in connection with video lottery operations. The division shall  
62 be made as follows:

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

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

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

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

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

76 (ii) The municipalities of the county shall receive fifty percent of the excess amount, said  
77 fifty percent to be divided among the municipalities on a per capita basis as determined by the

78 most recent decennial United States census of population; and

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

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

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

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

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

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

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

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

100 (8)(A) The Tourism Promotion Fund established in section twelve, article two, chapter five-  
101 b of this code shall receive three percent of the net terminal income: *Provided*, That for the fiscal  
102 year beginning July 1, 2003, the Tourism Commission shall transfer from the Tourism Promotion  
103 Fund \$5 million of the three percent of the net terminal income described in this section and

104 section ten-b of this article into the fund administered by the West Virginia Economic Development  
105 Authority pursuant to section seven, article fifteen, chapter thirty-one of this code, \$5 million into  
106 the Capitol Renovation and Improvement Fund administered by the Department of Administration  
107 pursuant to section six, article four, chapter five-a of this code and \$5 million into the Tax  
108 Reduction and Federal Funding Increased Compliance Fund; and

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

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

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

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

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

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

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

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

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

148 (A) For the fiscal year beginning July 1, 2003, the veterans memorial program shall receive  
149 one percent of the net terminal income until sufficient moneys have been received to complete  
150 the veterans memorial on the grounds of the State Capitol Complex in Charleston, West Virginia.  
151 The moneys shall be deposited in the State Treasury in the Division of Culture and History Special  
152 Fund created under section three, article one-i, chapter twenty-nine of this code: *Provided*, That  
153 only after sufficient moneys have been deposited in the fund to complete the veterans memorial  
154 and to pay in full the annual bonded indebtedness on the veterans memorial, not more than  
155 \$20,000 of the one percent of net terminal income provided in this subdivision shall be deposited

156 into a special revenue fund in the State Treasury, to be known as the John F. "Jack" Bennett  
157 Fund. The moneys in this fund shall be expended by the Division of Veterans Affairs to provide  
158 for the placement of markers for the graves of veterans in perpetual cemeteries in this state. The  
159 Division of Veterans Affairs shall promulgate legislative rules pursuant to the provisions of article  
160 three, chapter twenty-nine-a of this code specifying the manner in which the funds are spent,  
161 determine the ability of the surviving spouse to pay for the placement of the marker and setting  
162 forth the standards to be used to determine the priority in which the veterans grave markers will  
163 be placed in the event that there are not sufficient funds to complete the placement of veterans  
164 grave markers in any one year, or at all. Upon payment in full of the bonded indebtedness on the  
165 veterans memorial, \$100,000 of the one percent of net terminal income provided in this  
166 subdivision shall be deposited in the special fund in the Division of Culture and History created  
167 under section three, article one-i, chapter twenty-nine of this code and be expended by the  
168 Division of Culture and History to establish a West Virginia veterans memorial archives within the  
169 Cultural Center to serve as a repository for the documents and records pertaining to the veterans  
170 memorial, to restore and maintain the monuments and memorial on the capitol grounds: *Provided,*  
171 *however,* That \$500,000 of the one percent of net terminal income shall be deposited in the State  
172 Treasury in a special fund of the Department of Administration, created under section five, article  
173 four, chapter five-a of this code, to be used for construction and maintenance of a parking garage  
174 on the State Capitol Complex; and the remainder of the one percent of net terminal income shall  
175 be deposited in equal amounts in the Capitol Dome and Improvements Fund created under  
176 section two, article four, chapter five-a of this code and Cultural Facilities and Capitol Resources  
177 Matching Grant Program Fund created under section three, article one of this chapter.

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

179 (i) Five hundred thousand dollars of the one percent of net terminal income shall be  
180 deposited in the State Treasury in a special fund of the Department of Administration, created  
181 under section five, article four, chapter five-a of this code, to be used for construction and

182 maintenance of a parking garage on the State Capitol Complex; and

183 (ii) The remainder of the one percent of net terminal income and all of the one percent of  
184 net terminal income described in paragraph (B), subdivision (9), subsection (a), section ten-b of  
185 this article shall be distributed as follows: The net terminal income shall be deposited in equal  
186 amounts into the Capitol Dome and Capitol Improvements Fund created under section two, article  
187 four, chapter five-a of this code and the Cultural Facilities and Capitol Resources Matching Grant  
188 Program Fund created under section three, article one, chapter twenty-nine of this code until a  
189 total of \$1,500,000 is deposited into the Cultural Facilities and Capitol Resources Matching Grant  
190 Program Fund; thereafter, the remainder shall be deposited into the Capitol Dome and Capitol  
191 Improvements Fund.

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

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

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

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

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

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



234           (j) The provisions of this section relating to the West Virginia Greyhound Breeding  
235 Development Fund are hereby altered and amended by the provisions of section ten-a, article  
236 twenty-three, chapter nineteen of this code as enacted during the 2016 regular legislative session.

**§29-22A-10b. Distribution of excess net terminal income.**

1           (a) For all years beginning on or after July 1, 2001, any amount of net terminal income  
2 generated annually by a licensed racetrack in excess of the amount of net terminal income  
3 generated by that licensed racetrack during the fiscal year ending on June 30, 2001, shall be  
4 divided as follows:

5           (1) The commission shall receive forty-one percent of net terminal income, which the  
6 commission shall deposit in the State Excess Lottery Revenue Fund created in section eighteen-  
7 a, article twenty-two of this chapter;

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

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

14           (A) Any amount by which the total amount under this section and subdivision (3),  
15 subsection (c), section ten of this article is in excess of the two percent received during fiscal year  
16 1999 by a county in which a racetrack is located that has participated in the West Virginia  
17 Thoroughbred Development Fund since on or before January 1, 1999, shall be divided as follows:

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

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

22           (B) Any amount by which the total amount under this section and subdivision (3),

23 subsection (c), section ten of this article is in excess of the two percent received during fiscal year  
24 1999 by a county in which a racetrack other than a racetrack described in paragraph (A) of this  
25 proviso is located and where the racetrack has been located in a municipality within the county  
26 since on or before January 1, 1999, shall be divided, if applicable, as follows:

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

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

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

31 (4) One half of one percent of net terminal income shall be paid for and on behalf of all  
32 employees of the licensed racing association by making a deposit into a special fund to be  
33 established by the Racing Commission to be used for payment into the pension plan for all  
34 employees of the licensed racing association;

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

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

42 (7) A licensee shall receive forty-two percent of net terminal income;

43 (8) The tourism promotion fund established in section twelve, article two, chapter five-b of  
44 this code shall receive three percent of the net terminal income: *Provided*, That for each fiscal  
45 year beginning after June 30, 2004, this three percent of net terminal income shall be distributed  
46 pursuant to the provisions of paragraph (B), subdivision (8), subsection (c), section ten of this  
47 article;

48 (9) (A) On and after July 1, 2005, four percent of net terminal income shall be deposited

49 into the Workers= Compensation Debt Reduction Fund created in section five, article two-d,  
50 chapter twenty-three of this code: *Provided*, That in any fiscal year when the amount of money  
51 generated by this subdivision together with the total allocation transferred by the operation of  
52 subdivision (9), subsection (c), section ten of this article totals \$11 million, all subsequent  
53 distributions under this subdivision (9) during that fiscal year shall be deposited in the special fund  
54 established by the licensee and used for payment of regular purses in addition to other amounts  
55 provided in article twenty-three, chapter nineteen of this code;

56 (B) The deposit of the four percent of net terminal income into the Worker=s Compensation  
57 Debt Reduction Fund pursuant to this subdivision shall expire and not be imposed with respect to  
58 these funds, which shall be deposited in the special fund established by the licensee and used  
59 for payment of regular purses in addition to the other amounts provided in article twenty-three,  
60 chapter nineteen of this code on and after the first day of the month following the month in which  
61 the Governor certifies to the Legislature that: (i) The revenue bonds issued pursuant to article  
62 two-d, chapter twenty-three of this code have been retired or payment of the debt service is  
63 provided for; and (ii) that an independent certified actuary has determined that the unfunded  
64 liability of the Old Fund, as defined in chapter twenty-three of this code, has been paid or provided  
65 in its entirety; and

66 (10) (A) One percent of the net terminal income shall be deposited in equal amounts in  
67 the Capitol Dome and Improvements Fund created under section two, article four, chapter five-a  
68 of this code and cultural facilities and Capitol Resources Matching Grant Program Fund created  
69 under section three, article one of this chapter; and

70 (B) Notwithstanding any provision of paragraph (A) of this subdivision to the contrary, for  
71 each fiscal year beginning after June 30, 2004, this one percent of net terminal income shall be  
72 distributed pursuant to the provisions of subparagraph (ii), paragraph (B), subdivision (9),  
73 subsection (c), section ten of this article.

74 (b) The commission may establish orderly and effective procedures for the collection and  
75 distribution of funds under this section in accordance with the provisions of this section and section  
76 ten of this article.

77 (c) The provisions of this section relating to the West Virginia Greyhound Breeding  
78 Development Fund are hereby altered and amended by the provisions of section ten-a, article  
79 twenty-three, chapter nineteen of this code as enacted during the 2016 regular legislative session.

**§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 beginning July 1, 2014, and each fiscal year thereafter, the commission  
3 may transfer up to \$9 million as actual costs and expenses to the Licensed Racetrack  
4 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. For  
9 fiscal year beginning July 1, 2016, and each fiscal year thereafter, the distribution to the special  
10 fund established by the licensee, and used for payment of regular purses, pursuant to subdivision  
11 (2), subsection (c), section ten of this article shall only include amounts to be distributed to each  
12 thoroughbred racetrack video lottery licensee for the payment of regular racetrack purses.  
13 Payments shall not be made pursuant to section ten of this article, other than those excepted by  
14 this subsection, and are made in lieu thereof in an amount to be determined by appropriation from  
15 the State Excess Lottery Revenue Fund.

16 (c) The total amount of reductions resulting from subsection (b) of this section shall be  
17 paid into the State Excess Lottery Revenue Fund, created by section eighteen-a, article twenty-  
18 two of this chapter. For the fiscal year beginning July 1, 2014, and each fiscal year thereafter,

19 distributions to be made pursuant to subdivisions (2) and (5), subsection (c), section ten of this  
20 article shall be reduced by ten percent, and the amounts resulting from the reduction shall be paid  
21 into the State Excess Lottery Revenue Fund.

22 (d) Notwithstanding any other provision of this code to the contrary, for the fiscal year  
23 beginning July 1, 2014, and each fiscal year thereafter, moneys deposited to the State Excess  
24 Lottery Revenue Fund pursuant to this section shall be expended by the lottery in accordance  
25 with appropriations.

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

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

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

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

1 (a) Notwithstanding any provision of subsection (a), section ten-b of this article to the

2 contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, each  
3 distribution, except those distributions to be made pursuant to subdivisions (1), (2), (3), (4), (5)  
4 and (7), subsection (a), section ten-b of this article, shall be reduced by one hundred percent. For  
5 fiscal year beginning July 1, 2016, and each fiscal year thereafter, the distribution to the special  
6 fund established by the licensee, and used for payment of regular purses, pursuant to subdivision  
7 (2), subsection (a), section ten-b of this article shall only include amounts to be distributed to each  
8 thoroughbred racetrack video lottery licensee for the payment of regular racetrack purses.  
9 Payments shall not be made pursuant to section ten-b of this article, other than those excepted  
10 by this subsection, and are made in lieu thereof in an amount to be determined by appropriation  
11 from the State Excess Lottery Revenue Fund.

12 (b) The total amount of reductions resulting from subsection (a) of this section shall be  
13 paid into the State Excess Lottery Revenue Fund created in 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 (a), section ten-b 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 (c) 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 (d) 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 (e) 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 ~~(f) Notwithstanding the provisions of paragraph (B), subdivision (9), subsection (a), section~~  
32 ~~ten-b 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 (a),~~  
36 ~~section ten-b of this article shall expire and those funds shall remain in the state Excess Lottery~~  
37 ~~Revenue Fund subject to appropriation~~

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

### **§29-22C-7. Local option election.**

1 (a) No racetrack may be licensed under this article to operate West Virginia Lottery table  
2 games until a local option election is held in the county in which pari-mutuel wagers are received  
3 at a racetrack licensed under article twenty-three, chapter nineteen of this code and the voters of  
4 that county voting on the question approve having West Virginia Lottery table games at the  
5 racetrack.

6 (b) The county commission shall place the question on the ballot upon the receipt of a  
7 written notice from a licensed racetrack located within that county requesting that the question be  
8 placed on the ballot.

9 (c) The county commission of the county in which table games would be located shall give  
10 notice to the public of the election by publication of the notice as a Class II-0 legal advertisement  
11 in compliance with the provisions of article three, chapter fifty-nine of this code and the publication  
12 area for the publication shall be the county in which the election is to be held. The date of the last  
13 publication of the notice shall fall on a date at least thirty days preceding the day of the election.

14 A local option election shall be effective even though the date of the order of the county  
15 commission setting the election or the date of publication of notice of the election is prior to the  
16 effective date of this article if the election is otherwise held in accordance with the provisions of  
17 this section.

18 (d) On the local option election ballot shall be printed the following:

19 Shall West Virginia Lottery table games be permitted at the [name of licensed racetrack]?

20  Yes  No

21 (Place a cross mark in the square next to your choice.)

22 (e) The local option election shall be held in conjunction with the next primary or general  
23 election scheduled more than ninety days following receipt by the county commission of the notice  
24 required by this section or at a special election: *Provided*, That upon written request by the  
25 licensed racetrack that a special election be called, the county commission shall order a special  
26 election to be held on the question within ninety days after the receipt by the county commission  
27 of that request. The county commission may require the licensed racetrack to pay the entire cost  
28 incurred by the county to hold the special election. Approval shall be by a majority of the voters  
29 casting votes at the election on the question of approval or disapproval of West Virginia Lottery  
30 table games at a licensed racetrack.

31 (f) If the majority votes against allowing table games at a licensed racetrack, no election  
32 on the issue shall be held for a period of one hundred four weeks. A local option election may  
33 thereafter be held in the manner provided in this section. The process to hold another election on  
34 the question shall start anew, as if no prior request for an election on the question had been filed  
35 with county commission and as if there had been no prior election on the question.

36 (g) If the majority votes for allowing West Virginia Lottery table games at a licensed  
37 racetrack facility in a county, another local option election on the issue shall not be held for a  
38 period of five years. A local option election may thereafter be held if a written petition of qualified  
39 voters residing within the county equal to at least ~~five~~ twenty percent of the number of persons



40 who were registered to vote in the next preceding general election is received by the county  
41 commission of the county in which the horse or dog racetrack is located. The petition may be in  
42 any number of counterparts. The petition shall be in the following form:

43           Petition For Local Option Election

44           We, the undersigned legally qualified voters, resident within the County of  
45 \_\_\_\_\_, do hereby petition that a special election be held within the County of  
46 \_\_\_\_\_ upon the following question: Shall West Virginia Lottery table games be  
47 permitted at the [name of racetrack]?

48           Name	Address	Date
49		(Post office or street address)

**§29-22C-8. License to operate a racetrack with West Virginia Lottery table games.**

1           (a) *Racetrack table games licenses.* — The commission may issue up to four racetrack  
2 table games licenses to operate West Virginia Lottery table games in accordance with the  
3 provisions of this article. The Legislature intends that no more than four licenses to operate a  
4 racetrack with West Virginia Lottery table games in this state shall be permitted in any event.

5           (b) *Grant of license.* — Upon the passage of a local option election in a county in  
6 accordance with the provisions of section seven of this article, the commission shall immediately  
7 grant a West Virginia Lottery table games license, and a license for the right to conduct West  
8 Virginia Lottery table games as assignee to the intellectual property rights of the state, to allow  
9 the licensee to conduct West Virginia table games at the licensed pari-mutuel racetrack identified  
10 on the local option election ballot, provided that racetrack holds a valid racetrack video lottery  
11 license issued by the commission pursuant to article twenty-two-a of this chapter and a valid  
12 racing license granted by the West Virginia Racing Commission pursuant to the provision of article  
13 twenty-three, chapter nineteen of this code and has otherwise met the requirements for licensure  
14 under the provisions of this article and the rules of the commission: Provided, That a racetrack

15 that held a valid dog racing license prior to January 1, 1994, shall not be required to hold a current  
16 racing license.

17 (c) *Location.* — A racetrack table games license authorizes the operation of West Virginia  
18 Lottery table games on the grounds of the particular licensed facility identified in the racetrack  
19 video lottery license issued pursuant to article twenty-two-a and the license to conduct horse or  
20 dog racing issued pursuant to article twenty-three, chapter nineteen of this code.

21 (d) *Floor plan submission requirement.* — Prior to commencing the operation of any table  
22 games in a designated gaming area, a racetrack table games licensee shall submit to the  
23 commission for its approval a detailed floor plan depicting the location of the designated gaming  
24 area in which table games gaming equipment will be located and its proposed arrangement of the  
25 table games gaming equipment. Any floor plan submission that satisfies the requirements of the  
26 rules promulgated by the commission shall be considered approved by the commission unless  
27 the racetrack table games licensee is notified in writing to the contrary within one month of filing  
28 a detailed floor plan.

29 (e) *Management service contracts.* —

30 (1) *Approval.* — A racetrack table games licensee may not enter into any management  
31 service contract that would permit any person other than the licensee to act as the commission=s  
32 agent in operating West Virginia Lottery table games unless the management service contract is:  
33 (A) With a person licensed under this article to provide management services; (B) is in writing;  
34 and (C) the contract has been approved by the commission.

35 (2) *Material change.* — The licensed racetrack table games licensee shall submit any  
36 material change in a management service contract previously approved by the commission to the  
37 commission for its approval or rejection before the material change may take effect.

38 (3) *Prohibition on assignment or transfer.* — A management services contract may not be  
39 assigned or transferred to a third party.

40 (4) *Other commission approvals and licenses.* — The duties and responsibilities of a

41 management services provider under a management services contract may not be assigned,  
42 delegated, subcontracted or transferred to a third party to perform without the prior approval of  
43 the commission. Third parties must be licensed under this article before providing service. The  
44 commission may by rule clarify application of this subdivision and provide exceptions to its  
45 application. The commission shall license and require the display of West Virginia Lottery game  
46 logos on appropriate game surfaces and other gaming items and locations as the commission  
47 considers appropriate.

48 (f) *Coordination of licensed activities.* — In order to coordinate various licensed activities  
49 within racetrack facilities, the following provisions apply to licensed racetrack facilities:

50 (1) The provisions of this article and of article twenty-two-a of this chapter shall be  
51 interpreted to allow West Virginia Lottery table games and racetrack video lottery operations  
52 under those articles to be harmoniously conducted in the same designated gaming area.

53 (2) On the effective date of this article, the provisions of section twenty-three of this article  
54 apply to all video lottery games conducted within a racetrack facility, notwithstanding any  
55 inconsistent provisions contained in article twenty-two-a of this chapter to the contrary.

56 (3) On and after the effective date of this article, vacation of the premises after service of  
57 beverages ceases is not required, notwithstanding to the contrary any inconsistent provisions of  
58 this code or inconsistent rules promulgated by the Alcohol Beverage Control Commissioner with  
59 respect to hours of sale of those beverages, or required vacation of the premises.

60 (g) *Fees, expiration date and renewal.* —

61 (1) An initial racetrack table games license fee of \$1,500,000 shall be paid to the  
62 commission at the time of issuance of the racetrack table games license, regardless of the number  
63 of months remaining in the license year for which it is issued. All licenses expire at the end of the  
64 day on June 30 each year.

65 (2) The commission shall annually renew a racetrack table games license as of July 1, of  
66 each year provided the licensee:

67 (A) Successfully renews its racetrack video lottery license under article twenty-two-a of  
68 this chapter before July 1;

69 (B) Pays to the commission the annual license renewal fee of \$2,500,000 required by this  
70 section at the time it files its application for renewal of its license under article twenty-two-a of this  
71 chapter; and

72 (C) During the current license year, the licensee complied with all provisions of this article,  
73 all rules adopted by the commission and all final orders of the commission applicable to the  
74 licensee.

75 (3) *Annual license surcharge for failure to construct hotel on premises.* — It is the intent  
76 of the Legislature that each racetrack for which a racetrack table games license has been issued  
77 be or become a destination tourism resort facility. To that end, it is important that each racetrack  
78 for which a racetrack table games license has been issued operate a hotel with significant  
79 amenities. Therefore, in addition to all other taxes and fees required by the provisions of this  
80 article, there is hereby imposed, upon each racetrack for which a racetrack table games license  
81 has been issued an annual license surcharge, payable to the commission in the amount of  
82 \$2,500,000 if that racetrack does not operate a hotel on its racing property that contains at least  
83 one hundred fifty guest rooms with significant amenities within three years of the passage of the  
84 local option election in its county authorizing table games at the racetrack, provided the time for  
85 completion of the hotel shall be extended by the same number of days as the completion of the  
86 hotel is delayed by a force majeure events or conditions beyond the reasonable control of the  
87 racetrack licensee. The surcharge shall be paid upon each renewal of its racetrack table games  
88 license made after the expiration of the three year period, and may be extended by the above  
89 force majeure events or conditions, until the racetrack opens a qualifying hotel.

90 (4) If the licensee fails to apply to renew its license under article twenty-three, chapter  
91 nineteen and article twenty-two-a, chapter twenty-nine of this code until after the license expires,  
92 the commission shall renew its license under this article at the time it renews its license under

93 article twenty-two-a of this chapter provided the licensee has paid the annual license fee required  
94 by this section and during the preceding license year the licensee complied with all provisions of  
95 this article, all rules adopted by the commission and all final orders of the commission applicable  
96 to the licensee.

97 (h) *Facility qualifications.* — A racetrack table games licensee shall demonstrate that the  
98 racetrack with West Virginia Lottery table games will: (1) Be accessible to disabled individuals in  
99 accordance with applicable federal and state laws; (2) be licensed in accordance with this article,  
100 and all other applicable federal, state and local laws; and (3) meet any other qualifications  
101 specified in rules adopted by the commission.

102 (i) *Surety bond.* — A racetrack table games licensee shall execute a surety bond to be  
103 given to the state to guarantee the licensee faithfully makes all payments in accordance with the  
104 provisions of this article and rules promulgated by the commission. The surety bond shall be:

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

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

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

112 (j) *Authorization.* — A racetrack table games license authorizes the licensee act as an  
113 agent of the commission in operating an unlimited amount of West Virginia Lottery table games  
114 while the license is active, subject to subsection (d) of this section. A racetrack table games  
115 license is not transferable or assignable and cannot be sold or pledged as collateral.

116 (k) *Audits.* — When applying for a license and annually thereafter prior to license renewal,  
117 a racetrack table games licensee shall submit to the commission an annual audit, by a certified  
118 public accountant, of the financial transactions and condition of the licensee=s total operations.

119 The audit shall be made in accordance with generally accepted accounting principles and  
120 applicable federal and state laws.

121 (l) *Commission office space.* — A racetrack table games licensee shall provide to the  
122 commission, at no cost to the commission, suitable office space at the racetrack facility for the  
123 commission to perform the duties required of it by this article and the rules of the commission.

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

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

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

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

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

17 (2) Transfer two and one-half percent of adjusted gross receipts from all thoroughbred  
18 racetracks with West Virginia Lottery table games to the special funds established by each  
19 thoroughbred racetrack table games licensees for the payment of regular racetrack purses, the

20 amount being divided on a pro rata basis between the special funds of each thoroughbred  
21 racetrack table games licensee and transfer two and one-half percent of adjusted gross receipts  
22 from all greyhound racetracks with West Virginia Lottery table games to the special funds  
23 established by each greyhound racetrack table games licensees for the payment of regular  
24 racetrack purses, the amount being divided equally between the special funds of each greyhound  
25 racetrack table games licensee;

26 (3) Transfer two percent of the adjusted gross receipts from all licensed racetracks to the  
27 West Virginia Thoroughbred Development Fund created under section thirteen-b, article twenty-  
28 three, chapter nineteen of this code and the West Virginia Greyhound Breeding Development  
29 Fund created under section ten, article twenty-three, chapter nineteen of this code. The total  
30 amount transferred under this subdivision shall be divided pro rata among the development funds  
31 for each racetrack table games licensee based on relative adjusted receipts from each racetrack.  
32 The amounts transferred to these funds may not be used for the benefit of any person or activity  
33 other than at or associated with a racetrack table games licensee;

34 (4) Transfer one percent of the adjusted gross receipts from each licensed racetrack to  
35 the county commissions of the counties where racetracks with West Virginia Lottery table games  
36 are located. County commissions may pledge this money to make payments on lottery revenue  
37 bonds issued pursuant to article two-h, chapter thirteen of this code. The one percent transferred  
38 under this subdivision shall be divided pro rata among the counties with a racetrack with West  
39 Virginia Lottery table games based on relative adjusted gross receipts from each county=s  
40 racetrack: *Provided*, That the county board of education of a growth county, as that term is defined  
41 in section three, article twenty, chapter seven of this code, which has enacted the Local Powers  
42 Act, and in which county a racetrack is located that has participated in the West Virginia  
43 Thoroughbred Development Fund since on or before January 1, 1991, shall receive the one  
44 percent of adjusted gross receipts as provided in this subdivision for the purpose of public  
45 projects, as defined in section two, article two-h, chapter thirteen of this code or to make payments

46 on lottery revenue bonds issued to finance public projects;

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

52 (A) One half of the amounts transferred under this subdivision shall be allocated to the  
53 municipalities within each county having a racetrack table games licensee, based on relative  
54 adjusted gross receipts from West Virginia Lottery table games from those racetracks and the  
55 total amount allocated to the municipalities within a county shall be divided pro rata among the  
56 municipalities based on each municipality=s population determined at the most recent United  
57 States decennial census of population: *Provided, That:* (i) For each allocation, when a municipality  
58 is physically located in two or more counties, only that portion of its population residing in the  
59 county where the authorized table games are located shall be considered; (ii) a single municipality  
60 in a county where West Virginia Lottery racetrack table games are played may not receive a total  
61 share under this paragraph that is in excess of seventy-five percent of the total distribution under  
62 this paragraph for the county in which the municipality is located; and (iii) a municipality receiving  
63 moneys under this paragraph may not receive an amount which is less than that received by a  
64 municipality under provisions of subdivision (4), subsection (d) of this section; and

65 (B) One half of the amounts transferred under this subdivision shall be allocated pro rata  
66 to the municipalities within all the counties, having a racetrack table games licensee based on  
67 each municipality=s population determined at the most recent United States decennial census of  
68 population: *Provided, That:* (i) A municipality which received funds above its pro rata share  
69 pursuant to subpart (iii), paragraph (A) of this subdivision may not receive an allocation under this  
70 paragraph; (ii) for each allocation, when a municipality is physically located in two or more



71 counties, only that portion of its population residing in the county where the authorized table  
72 games are located shall be considered; and (iii) a single municipality in a county where West  
73 Virginia Lottery racetrack games are played may not receive a total share under this paragraph  
74 that is in excess of twenty-five percent of the total transfers under this paragraph: *Provided,*  
75 *however,* That the county board of education of a growth county, as that term is defined in section  
76 three, article twenty, chapter seven of this code, which has enacted the Local Powers Act, and in  
77 which county a racetrack is located that has participated in the West Virginia Thoroughbred  
78 Development Fund since on or before January 1, 1991, shall receive the two percent of adjusted  
79 gross receipts as provided in this subdivision for the purpose of public projects, as defined in  
80 section two, article two-h, chapter thirteen of this code, or to make payments on lottery revenue  
81 bonds issued to finance the public projects;

82 (6) Transfer one half of one percent of the adjusted gross receipts to the governing bodies  
83 of municipalities in which a racetrack table games licensee is located. The municipalities shall  
84 each receive an equal share of the total amount allocated under this subdivision: *Provided,* That  
85 distribution under this subdivision may not be made to any municipality which did not have a  
86 licensed racetrack within its municipal boundaries as they existed on January 1, 2007: *Provided,*  
87 *however,* That if no racetrack table games licensee is located within a municipality, a transfer may  
88 not be made under this subdivision. The municipality may pledge this money to make payments  
89 on lottery revenue bonds issued pursuant to article two-h, chapter thirteen of this code; and

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

92 (c) Beginning with the fiscal year following the licensing of every licensed racetrack to offer  
93 West Virginia Lottery racetrack table games under this article, subsection (b) of this section shall  
94 be superseded and replaced by this subsection for distribution of the balances in the fund  
95 established by subsection (a) of this section. From the gross amounts deposited into the fund, the  
96 commission shall:

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

99           (2) Transfer two and one-half percent of adjusted gross receipts from all thoroughbred  
100 racetracks with West Virginia Lottery table games to the special funds established by each  
101 thoroughbred racetrack table games licensee for the payment of regular racetrack purses, the  
102 amount being divided on a pro rata basis between the special funds of each thoroughbred  
103 racetrack table games licensee and transfer two and one-half percent of adjusted gross receipts  
104 from all greyhound racetracks with West Virginia Lottery table games to the special funds  
105 established by each greyhound racetrack table games licensee for the payment of regular  
106 racetrack purses, the amount being divided equally between the special funds of each greyhound  
107 racetrack table games licensee;

108           (3) Transfer two percent of the adjusted gross receipts from all licensed racetracks to the  
109 West Virginia Thoroughbred Development Fund created under section thirteen-b, article twenty-  
110 three, chapter nineteen of this code and the West Virginia Greyhound Breeding Development  
111 Fund created under section ten, article twenty-three, chapter nineteen of this code. The total  
112 amount transferred under this subdivision shall be divided pro rata among the development funds  
113 for each racetrack table games licensee based on relative adjusted receipts from each racetrack.  
114 The amounts transferred to these funds may not be used for the benefit of any person or activity  
115 other than at or associated with a racetrack table games licensee;

116           (4) Transfer two percent of the adjusted gross receipts from each licensed racetrack to the  
117 county commissions of the counties where racetracks with West Virginia Lottery table games are  
118 located. The money transferred under this subdivision shall be divided pro rata among the  
119 counties with a racetrack with West Virginia Lottery table games based on relative adjusted gross  
120 receipts from each county=s racetrack: *Provided*, That the county board of education of a growth  
121 county, as that term is defined in section three, article twenty, chapter seven of this code, which  
122 has enacted the Local Powers Act, and in which a racetrack is located that has participated in the

123 West Virginia Thoroughbred Development Fund since on or before January 1, 1991, shall receive  
124 one half of that county=s share of adjusted gross receipts as provided in this subdivision for the  
125 purpose of capital improvements;

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

129 (A) One half of the money transferred by this subdivision shall be allocated to the  
130 municipalities within each county, other than a county described in paragraph (C) of this  
131 subdivision, having a racetrack table games licensee based on relative adjusted gross receipts  
132 from West Virginia Lottery table games from those racetracks and the total amount allocated to  
133 the municipalities within a county shall be divided pro rata among the municipalities based on  
134 each municipality=s population determined at the most recent United States decennial census of  
135 population: *Provided*, That: (i) For each allocation, when a municipality is physically located in two  
136 or more counties, only that portion of its population residing in the county where the authorized  
137 table games are located shall be considered; (ii) a single municipality in a county where West  
138 Virginia Lottery racetrack table games are played may not receive a total share under this  
139 paragraph that is in excess of seventy-five percent of the total distribution under this paragraph  
140 for the county in which the municipality is located; and (iii) a municipality receiving moneys under  
141 this paragraph may not receive an amount which is less than that received by a municipality under  
142 provisions of subdivision (4), subsection (d) of this section.

143 (B) One half of the money transferred under this subdivision shall be allocated pro rata to  
144 the municipalities within all the counties, other than a county described in paragraph (C) of this  
145 subdivision, having a racetrack table games licensee based on each municipality=s population  
146 determined at the most recent United States decennial census of population: *Provided*, That: (i)  
147 A municipality which received funds above its pro rata share pursuant to subparagraph (iii),

148 paragraph (A) of this subdivision shall not receive an allocation under this paragraph; (ii) for each  
149 allocation, when a municipality is physically located in two or more counties, only that portion of  
150 its population residing in the county where the authorized table games are located shall be  
151 considered; and (iii) a single municipality in a county where West Virginia Lottery racetrack games  
152 are played may not receive a total share under this paragraph that is in excess of twenty-five  
153 percent of the total transfers under this paragraph.

154 (C) Notwithstanding the provisions of paragraphs (A) and (B) of this subdivision, when a  
155 racetrack is located in a growth county, as that term is defined in section three, article twenty,  
156 chapter seven of this code, which has enacted the Local Powers Act, and in which county a  
157 racetrack is located that has participated in the West Virginia Thoroughbred Development Fund  
158 since on or before January 1, 1991, the county board of education shall receive two thirds of the  
159 share of adjusted gross receipts from West Virginia Lottery table games from the racetrack in the  
160 county as provided in this subdivision and the municipalities within the county shall share the  
161 remaining one third of the total amount allocated as provided in this paragraph. The municipal  
162 one-third share shall be divided pro rata among the municipalities based on each municipality=s  
163 population determined at the most recent United States decennial census of population. All money  
164 transferred under this paragraph shall be used by the county board of education and by the  
165 municipalities for the purpose of capital improvements;

166 (6) Transfer one half of one percent of the adjusted gross receipts to the governing bodies  
167 of municipalities in which a racetrack table games licensee is located. The municipalities shall  
168 each receive an equal share of the total amount allocated under this subdivision: *Provided*, That  
169 distribution under this subdivision may not be made to any municipality that did not have a  
170 licensed racetrack within its municipal boundaries as they existed on January 1, 2007: *Provided*,  
171 *however*, That if no racetrack table games licensee is located within a municipality, a transfer may  
172 not be made under this subdivision; and

173 (7) Distribute the remaining amounts, hereinafter referred to as the net amounts in the

174 Racetrack Table Games Funds, in accordance with the provisions of subsection (d) of this section.

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

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

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

184 (3) Transfer ten percent, to be divided and paid in equal shares, to each county  
185 commission in the state that is not eligible to receive a distribution under subdivision (4),  
186 subsection (b) of this section: *Provided*, That funds transferred to county commissions under this  
187 subdivision shall be used only to pay regional jail expenses and the costs of infrastructure  
188 improvements and other capital improvements: *Provided, however*, That up to fifty percent of  
189 these funds may be pledged to make payments on lottery revenue bonds issued pursuant to  
190 article two-h, chapter thirteen of this code; and

191 (4) Transfer ten percent, to be divided and paid in equal shares, to the governing bodies  
192 of each municipality in the state that is not eligible to receive a distribution under subdivisions (5)  
193 and (6), subsection (b) of this section: *Provided*, That funds transferred to municipalities under  
194 this subdivision shall be used only to pay for debt reduction in municipal police and fire pension  
195 funds and the costs of infrastructure improvements and other capital improvements: *Provided*,  
196 *however*, That up to fifty percent of these funds may be pledged to make payments on lottery  
197 revenue bonds issued pursuant to article two-h, chapter thirteen of this code.

198 (e) All expenses of the commission incurred in the administration and enforcement of this  
199 article shall be paid from the Racetrack Table Games Fund, including reimbursement of state law-

200 enforcement agencies for services performed at the request of the commission pursuant to this  
201 article. The commission=s expenses associated with a particular racetrack with authorized table  
202 games under this article may not exceed three percent of the total annual adjusted gross receipts  
203 received from that licensee=s operation of table games under this article, including, but not limited  
204 to, all license fees or other amounts attributable to the licensee=s operation of table games under  
205 this article, except as provided in subdivision (2), subsection (a) of this section. However, for the  
206 fiscal year following the licensing of every licensed racetrack to offer West Virginia lottery  
207 racetrack table games under this article and for the fiscal year thereafter, the commission=s  
208 expenses associated with a particular racetrack with authorized table games under this article  
209 may not exceed four percent of the total annual adjusted gross receipts received from that  
210 licensee=s operation of table games under this article, including, but not limited to, all license fees  
211 or other amounts attributable to the licensee=s operation of table games under this article, except  
212 as provided in subdivision (2), subsection (a) of this section. These expenses shall either be  
213 allocated to the racetrack with West Virginia Lottery table games for which the expense is  
214 incurred, if practicable, or be treated as general expenses related to all racetrack table games  
215 facilities and be allocated pro rata among the racetrack table games facilities based on the ratio  
216 that annual adjusted gross receipts from operation of table games at each racetrack with West  
217 Virginia Lottery table games bears to total annual adjusted gross receipts from operation of table  
218 games at all racetracks with West Virginia Lottery table games during the fiscal year of the state.  
219 From this allowance, the commission shall transfer at least \$100,000 but not more than \$500,000  
220 into the Compulsive Gambling Treatment Fund created in section nineteen, article twenty-two-a  
221 of this chapter.

222 (f) The provisions of this section relating to the West Virginia Greyhound Breeding  
223 Development Fund are hereby altered and amended by the provisions of section ten-a, article  
224 twenty-three, chapter nineteen of this code as enacted during the 2016 regular legislative session.

**§29-22C-27a. Changes in distribution of adjusted gross receipts; distributions from excess lottery fund.**

1 (a) Notwithstanding any provision of section twenty-seven of this article to the contrary,  
2 for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, the distribution directed  
3 pursuant to subdivision (1), subsection (d) of that section shall be reduced by one hundred  
4 percent. For fiscal year beginning July 1, 2016, and each fiscal year thereafter, the distribution to  
5 the special fund established by the licensee, and used for payment of regular purses, pursuant to  
6 subdivision (2), subsection (c), section twenty-seven of this article shall only include amounts to  
7 be distributed to each thoroughbred racetrack table games licensee for the payment of regular  
8 racetrack purses.

9 (b) The total amount of reductions resulting from subsection (a) of this section shall be  
10 paid into the State Excess Lottery Revenue Fund created in section eighteen-a, article twenty-  
11 two of this chapter. For the fiscal year beginning July 1, 2014, and each fiscal year thereafter,  
12 distributions to be made pursuant to subdivisions (2) and (3), subsection (c), section twenty-seven  
13 of this article shall be reduced by ten percent, and the amounts resulting from the reduction shall  
14 be paid into the State Excess Lottery Revenue Fund.

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

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

24 (e) Notwithstanding any other provision of this code to the contrary, after payment of debt

25 service from the State Excess Lottery Revenue Fund, all other distributions required by section  
26 eighteen-a, article twenty-two of this chapter and the distributions appropriated pursuant to this  
27 section shall be paid on a pro rata basis.