

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2927

**FISCAL
NOTE**

BY DELEGATES FRICH AND BUTLER

[Introduced March 10, 2017; Referred
to the Committee on Finance.]

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-10, §29-22A-10b, §29-22A-10d and §29-22A-10e of said
 5 code; and to amend and reenact §29-22C-8, §29-22C-27 and §29-22C-27a of said code,
 6 all relating to transferring certain revenues derived from racetrack video lottery and
 7 racetrack table games from the special fund established for greyhound racetrack licensees
 8 to the State Excess Lottery Revenue Fund; defunding the West Virginia Greyhound
 9 Breeding Development Fund and transferring money dedicated to the Greyhound
 10 Breeding Development Fund to the State Excess Lottery Revenue Fund for appropriation
 11 by the Legislature; and eliminating the requirement that video lottery licensee must hold a
 12 racing license to renew video lottery license or racetrack table games license.

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-10, §29-22A-10b, §29-22A-10d and §29-22a-10e of said code be
 5 amended and reenacted; and that §29-22C-8, §29-22C-27 and §29-22C-27a of said code be
 6 amended and reenacted, all to read as follows:

CHAPTER 19. AGRICULTURE.

PART VII. TAXATION OF HORSE AND DOG RACING AND PARI-MUTUEL

WAGERING; DISPOSITION OF REVENUES.

ARTICLE 23. HORSE AND DOG RACING.

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

54 provisions of this article.

55 (c) Any racing association licensed by the Racing Commission to conduct harness racing
56 and 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 harness racing, as a tax, three percent of the first \$100,000 wagered, or any part thereof; four
60 percent of the next \$150,000; and five and three-fourths percent of all over that amount wagered
61 each day in all pari-mutuel pools conducted or made at any and every harness race meeting of
62 the licensee licensed under the provisions of this article.

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

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

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

103 The registered greyhound owner of accredited West Virginia whelped greyhounds that
104 earn points at any West Virginia meet will receive a bonus award calculated at the end of each
105 month as a percentage of the fund dedicated to the owners as purse supplements, which shall be

106 a minimum of fifty percent of the total moneys deposited into the West Virginia Greyhound
107 Breeding Development Fund monthly.

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

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

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

125 Any balance in the purse supplement funds after all distributions have been made for the
126 year revert to the general account of the fund for distribution in the following year: *Provided*, That
127 not more than \$2 million from the balance in the Purse Supplemental Fund shall be used for the
128 construction and maintenance of two dog training track facilities if such be approved by the Racing
129 Commission: *Provided, however*, That not more than \$1 million may be allocated for the
130 construction and maintenance of each training track: *Provided further*, That both training track
131 facilities must be located in West Virginia. The West Virginia Racing Commission shall be

132 authorized to promulgate rules governing dog training tracks: *And provided further*, That the
133 Racing Commission shall: (1) Provide a process in its rules for competitive bidding of the
134 construction or maintenance, or both, of the training tracks; and (2) set standards to assure that
135 only the actual costs of construction and maintenance shall be paid out of the foregoing fund.

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

142 Each pari-mutuel greyhound track shall provide stakes races for accredited West Virginia
143 whelped greyhounds: *Provided*, That each pari-mutuel track shall have one juvenile and one open
144 stake race annually. Each pari-mutuel dog track shall provide at least three restricted races for
145 accredited West Virginia whelped greyhounds per race card: *Provided, however*, That sufficient
146 dogs are available. To assure breeders of accredited West Virginia whelped greyhounds an
147 opportunity to participate in the West Virginia Greyhound Breeding Development Fund the West
148 Virginia Racing Commission by July 1, each year shall establish and announce the minimum
149 number of accredited West Virginia whelped greyhounds that greyhound racing kennels at West
150 Virginia dog tracks must have on their racing active list during the calendar year following such
151 action. The minimum number may vary from dog track to dog track. The minimum number shall
152 be established after consultation with the West Virginia Greyhound Owners and Breeders
153 Association and kennel owners and operators. Factors to be considered in establishing this
154 minimum number shall be the number of individually registered accredited West Virginia whelped
155 greyhounds whelped in the previous two years. The number of all greyhounds seeking
156 qualification at each West Virginia dog track, the ratio of active running greyhounds to housed
157 number of greyhounds at each West Virginia dog track, and the size and number of racing kennels

158 at each West Virginia dog track. Any greyhound racing kennel not having the minimum number
159 of accredited West Virginia whelped greyhounds determined by the West Virginia Racing
160 Commission on their active list shall only be permitted to race the maximum allowable number on
161 the active list less the number of accredited West Virginia whelped greyhounds below the
162 established minimum number. Consistent violations of this minimum requirement may be
163 reviewed by the Racing Commission and may constitute cause for denial or revocation of a
164 kennel's racing license. The Racing Commission shall oversee and approve racing schedules and
165 purse amounts.

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

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

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

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

197 (g) The provisions of this section relating to the Greyhound Breeding Development Fund
198 are hereby altered and amended by the provisions of section ten-a of this article as enacted during
199 the 2017 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, 2017, 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 racing
4 commission to the State Excess Lottery Revenue Fund created in section eighteen-a, article
5 twenty-two, chapter twenty-nine of this code. Effective July 1, 2017, any money directed to be
6 deposited into the Greyhound Breeding Development Fund under code sections ten, twelve-b,
7 thirteen and thirteen-c of 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
102 Public Law 95-515, Section 3001-3007 of Title 15, U.S. Code, as amended, controls in
103 determining the intent of this section.

104 (h) The provisions of this section relating to the Greyhound Breeding Development Fund
105 are hereby altered and amended by the provisions of section ten-a of this article as enacted during
106 the 2017 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 \$2,500,000 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 moneys 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 Greyhound Breeding Development Fund
114 are hereby altered and amended by the provisions of section ten-a of this article as enacted during
115 the 2017 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 Greyhound Breeding Development Fund
46 are hereby altered and amended by the provisions of section ten-a of this article as enacted during
47 the 2017 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 the
74 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
101 which shall be is deposited the amounts to be deposited in the fund as specified in subsections
102 (b), (c) and (d) of this section is continued. The Economic Development Project Fund shall consist
103 of all such moneys, all appropriations to the fund, all interest earned from investment of the fund
104 and any gifts, grants or contributions received by the fund. All amounts deposited in the fund shall
105 be 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-mutual 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.

285 (m) The provisions of this section relating to the Greyhound Breeding Development Fund
286 are hereby altered and amended by the provisions of section ten-a, article twenty-three, chapter
287 nineteen of this code as enacted during the 2017 legislative session.

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

**§29-22A-7. License and permit qualification 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 or its predecessor in interest must, prior to
4 January 1, 1994, have held a valid racing license granted by the West Virginia Racing
5 Commission under provisions of article twenty-three, chapter nineteen of this code; Provided,
6 That, an applicant shall not be required to hold a current racing license to renew its video lottery
7 license.

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

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

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

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

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

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

42 ~~(7)~~ (6) A racetrack applying for a video lottery license or a license renewal must file with
43 the commission a copy of any current or proposed agreement between the applicant and any
44 manufacturer for the sale, lease or other assignment to the racetrack of video lottery terminals,
45 the electronic computer components of the terminals, the random number generator of the
46 terminals, or the cabinet in which it is housed. Once filed with the commission, the agreement is
47 a public document subject to the provisions of article one, chapter twenty-nine-b of this code.

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

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

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

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

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

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

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

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

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

§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 year's
33 deposit shall be calculated in the same ratio as each racetrack's apportioned contribution to the
34 four percent administrative costs and expenses allowance provided for in subdivision (1),
35 subsection (b) of this section for that year. For each two dollars expended by a licensed racetrack
36 for facility modernization improvements at the racetrack, having a useful life of three or more years
37 and placed in service after July 1, 2011, the licensed racetrack shall receive \$1 in recoupment
38 from its facility modernization account. If the licensed racetrack's facility modernization account
39 contains a balance in any fiscal year, the unexpended balance from that fiscal year will be
40 available for matching for one additional fiscal year, after which time, the remaining unused
41 balance carried forward shall revert to the Lottery Fund. For purposes of this section, the term
42 "facility modernization improvements" includes acquisitions of new and unused video lottery
43 terminals and related equipment. Video lottery terminals financed through the recoupment

44 provided in this subdivision must be retained by the licensee in its West Virginia licensed location
45 for a period of not less than five years from the date of initial installation.

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

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

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

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

62 (A) Beginning July 1, 1999, and thereafter, any amount in excess of the two percent
63 received during the fiscal year 1999 by a county in which a racetrack is located that has
64 participated in the West Virginia Thoroughbred Development Fund since on or before January 1,
65 1999, shall be divided as follows:

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

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

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

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

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

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

79 (4) One percent of net terminal income shall be paid for and on behalf of all employees of
80 the Licensed Racing Association by making a deposit into a special fund to be established by the
81 Racing Commission to be used for payment into the pension plan for all employees of the
82 Licensed Racing Association;

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

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

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

91 (8)(A) The Tourism Promotion Fund established in section twelve, article two, chapter five-
92 b of this code shall receive three percent of the net terminal income: *Provided*, That for the fiscal
93 year beginning July 1, 2003, the tourism commission shall transfer from the Tourism Promotion
94 Fund \$5 million of the three percent of the net terminal income described in this section and
95 section ten-b of this article into the fund administered by the West Virginia Economic Development

96 Authority pursuant to section seven, article fifteen, chapter thirty-one of this code, \$5 million into
97 the Capitol Renovation and Improvement Fund administered by the Department of Administration
98 pursuant to section six, article four, chapter five-a of this code and \$5 million into the Tax
99 Reduction and Federal Funding Increased Compliance Fund; and

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

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

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

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

113 (iv) 0.6875 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 Capitol Renovation and Improvement
115 Fund administered by the Department of Administration pursuant to section six, article four,
116 chapter five-a of this code; and

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

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

122 into the Workers' Compensation Debt Reduction Fund created in section five, article two-d,
123 chapter twenty-three of this code: *Provided*, That in any fiscal year when the amount of money
124 generated by this subdivision totals \$11 million, all subsequent distributions under this subdivision
125 shall be deposited in the special fund established by the licensee and used for the payment of
126 regular purses in addition to the other amounts provided in article twenty-three, chapter nineteen
127 of this code;

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

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

139 (A) For the fiscal year beginning July 1, 2003, the veterans memorial program shall receive
140 one percent of the net terminal income until sufficient moneys have been received to complete
141 the veterans memorial on the grounds of the state Capitol Complex in Charleston, West Virginia.
142 The moneys shall be deposited in the State Treasury in the Division of Culture and History Special
143 Fund created under section three, article one-i, chapter twenty-nine of this code: *Provided*, That
144 only after sufficient moneys have been deposited in the fund to complete the veterans memorial
145 and to pay in full the annual bonded indebtedness on the veterans memorial, not more than
146 \$20,000 of the one percent of net terminal income provided in this subdivision shall be deposited
147 into a Special Revenue Fund in the State Treasury, to be known as the "John F. 'Jack' Bennett

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

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

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

174 (ii) The remainder of the one percent of net terminal income and all of the one percent of
175 net terminal income described in paragraph (B), subdivision (9), subsection (a), section ten-b of
176 this article shall be distributed as follows: The net terminal income shall be deposited in equal
177 amounts into the Capitol Dome and Capitol Improvements Fund created under section two, article
178 four, chapter five-a of this code and the Cultural Facilities and Capitol Resources Matching Grant
179 Program Fund created under section three, article one, chapter twenty-nine of this code until a
180 total of \$1,500,000 is deposited into the Cultural Facilities and Capitol Resources Matching Grant
181 Program Fund; thereafter, the remainder shall be deposited into the Capitol Dome and Capitol
182 Improvements Fund.

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

191 (e) The commission's central control computer shall keep accurate records of all income
192 generated by each video lottery terminal. The commission shall prepare and mail to the licensed
193 racetrack a statement reflecting the gross terminal income generated by the licensee's video
194 lottery terminals. Each licensed racetrack shall report to the commission any discrepancies
195 between the commission's statement and each terminal's mechanical and electronic meter
196 readings. The licensed racetrack is solely responsible for resolving income discrepancies
197 between actual money collected and the amount shown on the accounting meters or on the
198 commission's billing statement.

199 (f) Until an accounting discrepancy is resolved in favor of the licensed racetrack, the

200 commission may make no credit adjustments. For any video lottery terminal reflecting a
201 discrepancy, the licensed racetrack shall submit to the commission the maintenance log which
202 includes current mechanical meter readings and the audit ticket which contains electronic meter
203 readings generated by the terminal's software. If the meter readings and the commission's records
204 cannot be reconciled, final disposition of the matter shall be determined by the commission. Any
205 accounting discrepancies which cannot be otherwise resolved shall be resolved in favor of the
206 commission.

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

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

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

225 (j) The provisions of this section relating to the Greyhound Breeding Development Fund

226 are hereby altered and amended by the provisions of section ten-a, article twenty-three, chapter
227 nineteen of this code as enacted during the 2017 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 Greyhound Breeding Development Fund
78 are hereby altered and amended by the provisions of section ten-a, article twenty-three, chapter
79 nineteen of this code as enacted during the 2017 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, 2017, 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. Payments shall not be made pursuant to section
13 ten of this article, other than those excepted by this subsection, and are made in lieu thereof in
14 an amount to be determined by appropriation from the State Excess Lottery Revenue Fund.

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

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

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

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

34 (g)(1) Except as provided in subdivision (2) of this subsection, notwithstanding the
35 provisions of paragraph (B), subdivision (9), subsection (c), section ten of this article, upon
36 certification of the Governor to the Legislature that an independent actuary has determined that
37 the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been
38 paid or provided for in its entirety, the transfers made to the Workers' Compensation Debt
39 Reduction Fund pursuant to paragraph (A), subdivision (9), subsection (c), section ten of this
40 article shall expire and those funds shall remain in the State Excess Lottery Revenue Fund subject
41 to appropriation.

42 (2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision
43 of paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision
44 of this code to the contrary, if the budget shortfall, as determined by the state budget office as of
45 December 1, 2015, is greater than \$100 million, then the Governor may, by executive order,
46 redirect deposits of revenues derived from net terminal income imposed under this article, for any

47 period commencing after February 29, 2016 and ending before July 1, 2016, to the General
48 Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter
49 twenty-three of this code or in any other provision of this code.

50 (B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of
51 paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision of
52 this code to the contrary, the Governor may, by executive order, redirect one-half of the deposits
53 of revenues derived from net terminal income imposed under this article, for any period
54 commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund,
55 instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of
56 this code or in any other provision of this code, until certification of the Governor to the Legislature
57 that an independent actuary has determined that the unfunded liability of the Old Fund, as defined
58 in chapter twenty three of this code, has been paid or provided for in its entirety.

**§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, 2017, 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 may only include amounts to be distributed to each
8 thoroughbred racetrack video lottery licensee. Payments shall not be made pursuant to section
9 ten-b of this article, other than those excepted by this subsection, and are made in lieu thereof in
10 an amount to be determined by appropriation from the State Excess Lottery Revenue Fund.

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

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

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

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

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

30 (f)(1) Except as provided in subdivision (2) of this subsection, notwithstanding the
31 provisions of paragraph (B), subdivision (9), subsection (a), section ten-b of this article, upon
32 certification of the Governor to the Legislature that an independent actuary has determined that
33 the unfunded liability of the Old Fund, as defined in chapter twenty-three of this code, has been
34 paid or provided for in its entirety, the transfers made to the Workers' Compensation Debt
35 Reduction Fund pursuant to paragraph (A), subdivision (9), subsection (a), section ten-b of this
36 article shall expire and those funds shall remain in the State Excess Lottery Revenue Fund subject
37 to appropriation.

38 (2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision

39 of paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision
40 of this code to the contrary, if the budget shortfall, as determined by the state budget office as of
41 December 1, 2015, is greater than \$100 million, then the Governor may, by executive order,
42 redirect deposits of revenues derived from net terminal income imposed under this article, for any
43 period commencing after February 29, 2016 and ending before July 1, 2016, to the General
44 Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter
45 twenty-three of this code or in any other provision of this code.

46 (B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of
47 paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision
48 of this code to the contrary, the Governor may, by executive order, redirect one-half of the deposits
49 of revenues derived from net terminal income imposed under this article, for any period
50 commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund,
51 instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of
52 this code or in any other provision of this code, until certification of the Governor to the Legislature
53 that an independent actuary has determined that the unfunded liability of the Old Fund, as defined
54 in chapter twenty three of this code, has been paid or provided for in its entirety.

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

§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 ~~racetrack license granted by the West Virginia Racing Commission pursuant to the provisions of~~
13 ~~article twenty-three, chapter nineteen of this code~~ and has otherwise met the requirements for
14 licensure under the provisions of this article and the rules of the commission.

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

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

27 (e) Management service contracts. --

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

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

36 (3) Prohibition on assignment or transfer. -- A management services contract may not be
37 assigned or transferred to a third party.

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

46 (f) Coordination of licensed activities. -- In order to coordinate various licensed activities
47 within racetrack facilities, the following provisions apply to licensed racetrack facilities:

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

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

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

58 (g) Fees, expiration date and renewal. --

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

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

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

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

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

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

85 licensee. The surcharge shall be paid upon each renewal of its racetrack table games license
86 made after the expiration of the three year period, and may be extended by the above force
87 majeure events or conditions, until the racetrack opens a qualifying hotel.

88 (4) If the licensee fails to apply to renew its license under article twenty-three, chapter
89 nineteen and article twenty-two-a, chapter twenty-nine of this code until after the license expires,
90 the commission shall renew its license under this article at the time it renews its license under
91 article twenty-two-a of this chapter provided the licensee has paid the annual license fee required
92 by this section and during the preceding license year the licensee complied with all provisions of
93 this article, all rules adopted by the commission and all final orders of the commission applicable
94 to the licensee.

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

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

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

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

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

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

114 (k) Audits. -- When applying for a license and annually thereafter prior to license renewal,
115 a racetrack table games licensee shall submit to the commission an annual audit, by a certified
116 public accountant, of the financial transactions and condition of the licensee's total operations.
117 The audit shall be made in accordance with generally accepted accounting principles and
118 applicable federal and state laws.

119 (l) Commission office space. -- A racetrack table games licensee shall provide to the
120 commission, at no cost to the commission, suitable office space at the racetrack facility for the
121 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
41 defined in section three, article twenty, chapter seven of this code, which has enacted the Local
42 Powers 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,
96 the 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
136 two 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
164 money transferred under this paragraph shall be used by the county board of education and by
165 the 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 Greyhound Breeding Development Fund
223 are hereby altered and amended by the provisions of section ten-a, article twenty-three, chapter
224 nineteen of this code as enacted during the 2017 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, 2017, 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.

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

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

18 (d) Prior to payment of any appropriation made pursuant to this section, debt service
19 payments payable from the State Excess Lottery Fund shall first be paid in accordance with the
20 provisions of sections eighteen-a, eighteen-d and eighteen-e, article twenty-two of this chapter

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

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

NOTE: The purpose of this bill is to transfer all the funds now existing or created in the future in the Greyhound Breeding Development Fund to the Excess Lottery Revenue Fund.

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