

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Originating**

### **House Bill 3309**

BY DELEGATES BARRETT, HARDY, STORCH, HOWELL,

PETHTEL, WILLIAMS, ROWE AND CRISS

[Originating in the Committee on Finance; reported on

March 25, 2021]



1 A BILL to amend the Code of West Virginia, 1931, as amended; by adding thereto a new section,  
2 designated §29-22B-1305; and to amend and reenact §29-22B-1408 of the code, all  
3 relating to creating and funding a Video Lottery Terminals Modernization Fund to provide  
4 funds from which each person authorized to own and operate one or more limited video  
5 lottery terminals in this state may recoup costs to replace the limited video lottery  
6 terminals; and requiring retention of refinanced terminals at a location in the state for a  
7 minimum specified period.

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

**ARTICLE 22B. LIMITED VIDEO LOTTERY.**

**PART XIII.**

**MAINTENANCE AND REPAIR OF VIDEO LOTTERY TERMINALS; VIDEO LOTTERY  
TERMINAL MODERNIZATION FUND.**

**§29-22B-1305. Video lottery terminal modernization fund.**

1 (a) A Video Lottery Terminals Modernization Fund is created within the excess lottery fund  
2 established in §29-22-18a of this code. For all fiscal years beginning on or after July 1, 2021, the  
3 commission shall deposit such amounts as are available according to §29-22B-1408 of this code  
4 into the Video Lottery Terminals Modernization Fund as required by that section. For each \$2  
5 expended by a person holding a permit that authorizes the licensee to own or lease video lottery  
6 terminals from a licensed manufacturer to replace one or more of the video lottery terminals for  
7 placement in this state beginning on or after July 1, 2021, the person shall receive \$1 in  
8 recoupment from the Video Lottery Terminals Modernization Fund: *Provided*, That the maximum  
9 amount each such person may receive from each year's deposit may not exceed the ratio of the  
10 person's apportioned contribution to the two percent administrative costs and expenses allowance  
11 provided for in §29-22B-1408 of this code for that year. If the person's apportioned contribution  
12 contains a balance at the end of any fiscal year, the unexpended balance from that fiscal year will

13 be available to the person for matching in the ensuing fiscal year. Video lottery terminals financed  
14 through the recoupment provided in this section must be retained by the person in a West Virginia  
15 licensed location for a period of not less than five years from the date of initial installation.

#### PART XIV.

#### NET TERMINAL INCOME AND DISTRIBUTION OF REVENUES.

##### **§29-22B-1408. Distribution of state's share of gross terminal income.**

1 (a) The state's share of gross terminal income is calculated as follows:

2 (1) The commission shall deposit two percent of gross terminal income into the State  
3 Lottery Fund for the commission's costs and expenses incurred in administering this article. From  
4 this amount, not less than \$150,000 nor more than \$1 million per fiscal year, as determined by  
5 the commission each year, shall be transferred to the Compulsive Gambling Treatment Fund  
6 created in §29-22A-19 of this code. In the event that the percentage allotted under this subsection  
7 for the commission's costs and expenses incurred in administering this article generates a  
8 surplus, the surplus shall be allowed to accumulate to an amount not to exceed \$250,000. On a  
9 monthly basis, the director shall report to the Joint Committee on Government and Finance of the  
10 Legislature any surplus in excess of \$250,000 and remit to the State Treasurer the entire amount  
11 of those surplus funds in excess of \$250,000 to be deposited in the fund established in §29-22-  
12 18a of this code: *Provided*, That at the close of ~~each of the fiscal years ending June 30, 2006,~~  
13 ~~2007, 2008, 2009, 2010 and 2011~~ June 30, 2021, and each fiscal year thereafter, the portion of  
14 the two percent allowance for administrative expenses provided in this subdivision ~~(1)~~ that  
15 remains unspent for costs and expenses incurred in administering this article, ~~not to exceed \$20~~  
16 ~~million in any fiscal year~~, shall be transferred to the ~~Revenue Center Construction~~ Video Lottery  
17 Terminals Modernization Fund created by ~~§29-22-18(1)~~ §29-22B-1305 of this code ~~for the purpose~~  
18 ~~of constructing a state office building.~~

19           (2) Gross profits are determined by deducting the percentage described in subdivision (1)  
20 of this subsection, from gross terminal income.

21           (3) The commission shall receive 30 percent of gross profits as defined in subdivision (2)  
22 of this subsection except as otherwise provided in this subdivision. On June 1, 2002, the  
23 commission shall calculate the aggregate average daily gross terminal income for all operating  
24 video lottery terminals during the preceding three month period. Thereafter, the commission shall  
25 make the calculation on the first day of the month preceding the months of October, January,  
26 April, and July of each year. So long as the aggregate average gross terminal income per day for  
27 the operating video lottery terminals does not exceed \$60, the commission's share of gross profits  
28 shall continue to be 30 percent for the succeeding quarter of the year beginning July 1. Beginning  
29 on July 1, 2002 and the first days of October, January, April, and July in 2002 and thereafter, if  
30 the commission's calculation of aggregate average daily gross terminal income per video lottery  
31 terminal yields an amount greater than \$60, one of the following schedules apply: If the amount  
32 is greater than \$60 per day but not greater than \$80 per day, the commission's share of gross  
33 profits for the ensuing quarter beginning the first day of the quarter of the year described in this  
34 subdivision shall be 34 percent; if the amount is greater than \$80 per day but not greater than  
35 \$100 per day, the commission's share of gross profits for the ensuing quarter beginning the first  
36 day of the quarter of the year described in this subdivision shall be 38 percent; if the amount is  
37 greater than \$100 per day but not greater than \$120 per day, the commission's share of gross  
38 profits for the ensuing quarter beginning the first day of the quarter of the year described in this  
39 subdivision shall be 42 percent; if the amount is greater than \$120 per day but not greater than  
40 \$140 per day, the commission's share of gross profits for the ensuing quarter beginning the first  
41 day of the quarter of the year described in this subdivision shall be 46 percent; if the amount is  
42 greater than \$140 per day, the commission's share of gross profits for the ensuing quarter  
43 beginning the first day of the quarter of the year described in this subdivision shall be 50 percent:

44 *Provided*, That effective July 1, 2019, the commission's share of gross profits shall be 50 percent.

45 This amount shall be known as net terminal income.

46 (b) Net terminal income shall be distributed by the commission as follows:

47 (1)(A) Beginning July 1, 2002, a county and the incorporated municipalities within that  
48 county shall receive two percent of the net terminal income generated by limited video lottery  
49 terminals located within the county;

50 (B) From this two percent of net terminal income, each municipality shall receive a share  
51 that bears the same proportion to the total two percent of net terminal income as the population  
52 of the municipality bears to the total population of the county as determined by the most recent  
53 decennial United States census of population, and the county shall receive the remaining portion  
54 of the two percent of net terminal income; and

55 (2) Any remaining funds shall be deposited into the state excess lottery revenue fund  
56 established in §29-22-18a of this code.

57 (c) The licensed operators and limited video lottery retailers shall receive the balance of  
58 gross terminal income remaining after deduction of the state's share as calculated pursuant to  
59 this section.

NOTE: The purpose of this bill is to create and fund a new Video Lottery Terminals Modernization Fund to provide funds from which each person authorized under this article to own and operate one or more Limited Video Lottery terminals in this state may recoup 50% of the cost to replace the video lottery terminals.

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