

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

House Bill 4640

By Delegates Espinosa, W. Clark and Akers

[Originating in the Committee on Finance;

Reported on February 12, 2024]

1 A BILL to amend and reenact §29-22A-10d and §29-22A-10e of the Code of West Virginia, 1931,
2 as amended; and to amend and reenact §29-22C-27a of said code, all relating to changes
3 in distribution of racetrack video lottery net terminal income, racetrack video lottery excess
4 net terminal income, and lottery racetrack table games adjusted gross receipts; restoring
5 distributions to purse funds and development funds that have previously been redirected
6 since 2014; and removing obsolete provisions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

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

1 (a) Notwithstanding any provision of §29-22A-10(b) of this code to the contrary, for the
2 fiscal year beginning July 1, 2014, and each fiscal year thereafter, the commission may transfer up
3 to \$9 million as actual costs and expenses to the Licensed Racetrack Modernization Fund.

4 (b) Notwithstanding any provision of §29-22A-10(c) of this code to the contrary, for the
5 fiscal year beginning July 1, 2014, and each fiscal year thereafter, each distribution, except those
6 distributions to be made pursuant to §29-22A-10(c) (1), (2), (3), (4), (5) and (7) of this code, shall
7 be reduced by 100 percent. Payments shall may not be made pursuant to §29-22A-10 of this code,
8 other than those excepted by this subsection, and are made in lieu thereof in an amount to be
9 determined by appropriation from the State Excess Lottery Revenue Fund.

10 (c) The total amount of reductions resulting from subsection (b) of this section shall be paid
11 into the State Excess Lottery Revenue Fund, created by §29-22-18a of this code. ~~For the fiscal~~
12 ~~year beginning July 1, 2014, and each fiscal year thereafter, distributions to be made pursuant to~~
13 ~~subdivisions (2) and (5), subsection (c), section ten of this article shall be reduced by ten percent,~~
14 ~~and the amounts resulting from the reduction shall be paid into the State Excess Lottery Revenue~~
15 ~~Fund~~

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

20 (e) Prior to payment of any appropriation made pursuant to this section, debt service
21 payments payable from the State Excess Lottery Fund shall first be paid in accordance with the
22 provisions of §29-22-18a, §29-22-18d, and §29-22-18e of this code and in the priority as defined
23 by §29-22-18f(c) of this code.

24 (f) Notwithstanding any other provision of this code to the contrary, after payment of debt
25 service from the State Excess Lottery Revenue Fund, all other distributions required by section
26 §29-22-18a of this code and the distributions appropriated pursuant to this section shall be paid on
27 a pro rata basis.

28 ~~(g)(1) Except as provided in subdivision (2) of this subsection, notwithstanding the~~
29 ~~provisions of §29-22A-10(c)(9)(B) of this code, upon certification of the Governor to the Legislature~~
30 ~~that an independent actuary has determined that the unfunded liability of the Old Fund, as defined~~
31 ~~in chapter 23 of this code, has been paid or provided for in its entirety, the transfers made to the~~
32 ~~Workers' Compensation Debt Reduction Fund pursuant to §29-22A-10(c)(9)(A) of this code shall~~
33 ~~expire and those funds shall remain in the State Excess Lottery Revenue Fund subject to~~
34 ~~appropriation.~~

35 ~~(2)(A) Notwithstanding any provision of §29-22A-10(c)(9)(B) of this code or any other~~
36 ~~provision of this code to the contrary, if the budget shortfall, as determined by the state Budget~~
37 ~~Office as of December 1, 2015, is greater than \$100 million, then the Governor may, by Executive~~
38 ~~Order, redirect deposits of revenues derived from net terminal income imposed under this article,~~
39 ~~for any period commencing after February 29, 2016 and ending before July 1, 2016, to the General~~
40 ~~Revenue Fund, instead of to the funds otherwise mandated in this article, in §23-2D-1 et seq. of~~
41 ~~this code or in any other provision of this code.~~

42 ~~(B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of~~
43 ~~§29-22A-10(c)(9)(B) of this code or any other provision of this code to the contrary, the Governor~~
44 ~~may, by Executive Order, redirect one-half of the deposits of revenues derived from net terminal~~
45 ~~income imposed under this article, for any period commencing after June 30, 2016, and ending~~
46 ~~before July 1, 2017, to the General Revenue Fund, instead of to the funds otherwise mandated in~~
47 ~~this article, in §23-2D-1 et seq. of this code or in any other provision of this code, until certification~~
48 ~~of the Governor to the Legislature that an independent actuary has determined that the unfunded~~
49 ~~liability of the Old Fund, as defined in chapter 23 of this code, has been paid or provided for in its~~
50 ~~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 §29-22A-~~
2 ~~10b(a) of this code to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year~~
3 ~~thereafter, each distribution, except those distributions to be made pursuant to §29-22A-10b(a)~~
4 ~~(1), (2), (3), (4), (5) and (7) of this code, shall be reduced by 100 percent. Payments shall not be~~
5 ~~made pursuant to §29-22A-10b of this code, other than those excepted by this subsection, and are~~
6 ~~made in lieu thereof in an amount to be determined by appropriation from the State Excess Lottery~~
7 ~~Revenue Fund.~~

8 ~~(b) The total amount of reductions resulting from subsection (a) of this section shall be paid~~
9 ~~into the State Excess Lottery Revenue Fund created in §29-22-18a of this code. For the fiscal year~~
10 ~~beginning July 1, 2014, and each fiscal year thereafter, distributions to be made pursuant to~~
11 ~~subdivisions (2) and (5), subsection (a), section ten-b of this article shall be reduced by ten~~
12 ~~percent, and the amounts resulting from the reduction shall be paid into the State Excess Lottery~~
13 ~~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 §29-22-18a, §29-22-18d, and §29-22-18e of this code and in the priority as defined by §29-22-
21 18f(c) of this code.

22 (e) Notwithstanding any other provision of this code to the contrary, after payment of debt
23 service from the State Excess Lottery Revenue Fund, all other distributions required by §29-22-
24 18a of this code and the distributions appropriated pursuant to this section shall be paid on a pro
25 rata basis.

26 ~~(f)(1) Except as provided in subdivision (2) of this subsection, notwithstanding the~~
27 ~~provisions of §29-22A-10b(a)(9)(B) of this code, upon certification of the Governor to the~~
28 ~~Legislature that an independent actuary has determined that the unfunded liability of the Old Fund,~~
29 ~~as defined in chapter 23 of this code, has been paid or provided for in its entirety, the transfers~~
30 ~~made to the Workers' Compensation Debt Reduction Fund pursuant to §29-22A-10b(a)(9)(A) of~~
31 ~~this code shall expire and those funds shall remain in the State Excess Lottery Revenue Fund~~
32 ~~subject to appropriation.~~

33 ~~(2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision~~
34 ~~of §29-22A-10b(a)(9)(B) of this code or any other provision of this code to the contrary, if the~~
35 ~~budget shortfall, as determined by the state Budget Office as of December 1, 2015, is greater than~~
36 ~~\$100 million, then the Governor may, by Executive Order, redirect deposits of revenues derived~~
37 ~~from net terminal income imposed under this article, for any period commencing after February 29,~~
38 ~~2016 and ending before July 1, 2016, to the General Revenue Fund, instead of to the funds~~
39 ~~otherwise mandated in this article, in §23-2D-1 et seq. of this code or in any other provision of this~~
40 ~~code.~~

41 ~~(B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of~~
42 ~~§29-22A-10b(a)(9)(B) of this code or any other provision of this code to the contrary, the Governor~~
43 ~~may, by Executive Order, redirect one-half of the deposits of revenues derived from net terminal~~
44 ~~income imposed under this article, for any period commencing after June 30, 2016, and ending~~
45 ~~before July 1, 2017, to the General Revenue Fund, instead of to the funds otherwise mandated in~~
46 ~~this article, in §23-2D-1 et seq. of this code or in any other provision of this code, until certification~~
47 ~~of the Governor to the Legislature that an independent actuary has determined that the unfunded~~
48 ~~liability of the Old Fund, as defined in chapter 23 of this code, has been paid or provided for in its~~
49 ~~entirety.~~

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

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

1 (a) Notwithstanding any provision of §29-22C-27 of this code to the contrary, for the fiscal
2 year beginning July 1, 2014, and each fiscal year thereafter, the distribution directed pursuant to
3 subdivision (1), subsection (d) of that section §29-22C-27(d)(1) of this code shall be reduced by
4 100 percent.

5 (b) The total amount of reductions resulting from subsection (a) of this section shall be paid
6 into the State Excess Lottery Revenue Fund created in §29-22-18a of this code. ~~For the fiscal year~~
7 ~~beginning July 1, 2014, and each fiscal year thereafter, distributions to be made pursuant to~~
8 ~~subdivisions (2) and (3), subsection (c), section twenty-seven of this article shall be reduced by ten~~
9 ~~percent, and the amounts resulting from the reduction shall be paid into the State Excess Lottery~~
10 ~~Revenue Fund~~

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

15 (d) Prior to payment of any appropriation made pursuant to this section, debt service
16 payments payable from the State Excess Lottery Fund shall first be paid in accordance with the
17 provisions of §29-22-18a, §29-22-18d, and §29-22-18e of this code and in the priority as defined
18 by §29-22-18f(c) of this code.

19 (e) Notwithstanding any other provision of this code to the contrary, after payment of debt
20 service from the State Excess Lottery Revenue Fund, all other distributions required by §29-22-
21 18a of this code and the distributions appropriated pursuant to this section shall be paid on a pro
22 rata basis.