

FILED

2006 JUN 28 P 2: 24

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 2006



ENROLLED

House Bill No. 106

(By Mr. Speaker, Mr. Kiss, and Delegate Trump)
[By Request of the Executive]



Passed June 14, 2006

In Effect from Passage

HB 106

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E N R O L L E D

H. B. 106

(BY MR. SPEAKER, MR. KISS, AND DELEGATE TRUMP)
[BY REQUEST OF THE EXECUTIVE]

[Passed June 14, 2006; in effect from passage.]

AN ACT to amend and reenact §29-22-18 of the Code of West Virginia, 1931, as amended, to amend and reenact §29-22A-10 of said code, and to amend and reenact §29-22B-1408 of said code, all relating to surplus administrative funds of the state lottery commission; creating the Revenue Center Construction Fund; authorizing the deposit of certain lottery administrative funds into the fund for the construction of a new state office building; and providing for authorization to expend money in the fund.

Be it enacted by the Legislature of West Virginia:

That §29-22-18 of the Code of West Virginia, 1931, as amended, be amended and reenacted, that §29-22A-10 of said code be amended and reenacted, and that §29-22B-1408 of said code be amended and reenacted, all to read as follows:

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 22. STATE LOTTERY ACT.

§29-22-18. State lottery fund; appropriations and deposits; not part of general revenue; no transfer of state funds after initial appropriation; use and repayment of initial appropriation; allocation of fund for prizes, net profit and expenses; surplus; state lottery education fund; state lottery senior citizens fund; allocation and appropriation of net profits; Revenue Center Construction Fund.

1 (a) There is hereby continued a special revenue fund in the
2 state treasury which shall be designated and known as the "state
3 lottery fund". The fund consists of all appropriations to the fund
4 and all interest earned from investment of the fund and any
5 gifts, grants or contributions received by the fund. All revenues
6 received from the sale of lottery tickets, materials and games
7 shall be deposited with the state treasurer and placed into the
8 "state lottery fund". The revenue shall be disbursed in the
9 manner provided in this section for the purposes stated in this
10 section and shall not be treated by the auditor and treasurer as
11 part of the general revenue of the state.

12 (b) No appropriation, loan or other transfer of state funds
13 may be made to the commission or lottery fund after the initial
14 appropriation.

15 (c) A minimum annual average of forty-five percent of the
16 gross amount received from each lottery shall be allocated and
17 disbursed as prizes.

18 (d) Not more than fifteen percent of the gross amount
19 received from each lottery may be allocated to and may be
20 disbursed as necessary for fund operation and administration
21 expenses: Provided, That for the period beginning the first day
22 of January, two thousand two, through the thirtieth day of June,
23 two thousand three, not more than seventeen percent of the
24 gross amount received from each lottery shall be allocated to

25 and may be disbursed as necessary for fund operation and
26 administration expenses.

27 (e) The excess of the aggregate of the gross amount
28 received from all lotteries over the sum of the amounts allo-
29 cated by subsections (c) and (d) of this section shall be allo-
30 cated as net profit. In the event that the percentage allotted for
31 operations and administration generates a surplus, the surplus
32 shall be allowed to accumulate to an amount not to exceed two
33 hundred fifty thousand dollars. On a monthly basis, the director
34 shall report to the joint committee on government and finance
35 of the Legislature any surplus in excess of two hundred fifty
36 thousand dollars and remit to the state treasurer the entire
37 amount of those surplus funds in excess of two hundred fifty
38 thousand dollars which shall be allocated as net profit: *Pro-*
39 *vided*, That at the close of each of the fiscal years ending the
40 thirtieth day of June two thousand six, two thousand seven, two
41 thousand eight, two thousand nine, two thousand ten and two
42 thousand eleven, the portion of the fifteen percent allowance for
43 fund operation and administration expenses provided in
44 subsection (d) of this section that remains unspent for fund
45 operation and administrative expenses of the lottery in each
46 respective fiscal year, not to exceed twenty million dollars in
47 any fiscal year, shall be transferred to the Revenue Center
48 Construction Fund created by subsection (I) of this section for
49 the purpose of constructing a state office building.

50 (f) After first satisfying the requirements for funds dedi-
51 cated to the school building debt service fund in subsection (h)
52 of this section to retire the bonds authorized to be issued
53 pursuant to section eight, article nine-d, chapter eighteen of this
54 code, and then satisfying the requirements for funds dedicated
55 to the education, arts, sciences and tourism debt service fund in
56 subsection (I) of this section to retire the bonds authorized to be
57 issued pursuant to section eleven-a, article six, chapter five of
58 this code, any and all remaining funds in the state lottery fund

59 shall be made available to pay debt service in connection with
60 any revenue bonds issued pursuant to section eighteen-a of this
61 article, if and to the extent needed for such purpose from time
62 to time. The Legislature shall annually appropriate all of the
63 remaining amounts allocated as net profits in subsection (e) of
64 this section, in such proportions as it considers beneficial to the
65 citizens of this state, to: (1) The lottery education fund created
66 in subsection (g) of this section; (2) the school construction
67 fund created in section six, article nine-d, chapter eighteen of
68 this code; (3) the lottery senior citizens fund created in subsec-
69 tion (j) of this section; and (4) the division of natural resources
70 created in section three, article one, chapter twenty of this code
71 and the West Virginia development office as created in section
72 one, article two, chapter five-b of this code, in accordance with
73 subsection (k) of this section. No transfer to any account other
74 than the school building debt service account, the education,
75 arts, sciences and tourism debt service fund, the economic
76 development project fund created under section eighteen-a,
77 article twenty-two, chapter twenty-nine of this code, or any
78 fund from which debt service is paid under subsection (c),
79 section eighteen-a of this article, may be made in any period of
80 time in which a default exists in respect to debt service on
81 bonds issued by the school building authority, the state building
82 commission, the economic development authority or which are
83 otherwise secured by lottery proceeds. No additional transfer
84 may be made to any account other than the school building debt
85 service account and the education, arts, sciences and tourism
86 debt service fund when net profits for the preceding twelve
87 months are not at least equal to one hundred fifty percent of
88 debt service on bonds issued by the school building authority
89 and the state building commission which are secured by net
90 profits.

91 (g) There is hereby continued a special revenue fund in the
92 state treasury which shall be designated and known as the
93 "lottery education fund." The fund shall consist of the amounts

94 allocated pursuant to subsection (f) of this section, which shall
95 be deposited into the lottery education fund by the state
96 treasurer. The lottery education fund shall also consist of all
97 interest earned from investment of the lottery education fund
98 and any other appropriations, gifts, grants, contributions or
99 moneys received by the lottery education fund from any source.
100 The revenues received or earned by the lottery education fund
101 shall be disbursed in the manner provided below and may not
102 be treated by the auditor and treasurer as part of the general
103 revenue of the state. Annually, the Legislature shall appropriate
104 the revenues received or earned by the lottery education fund to
105 the state system of public and higher education for these
106 educational programs it considers beneficial to the citizens of
107 this state.

108 (h) On or before the twenty-eighth day of each month, as
109 long as revenue bonds or refunding bonds are outstanding, the
110 lottery director shall allocate to the school building debt service
111 fund created pursuant to the provisions of section six, article
112 nine-d, chapter eighteen of this code, as a first priority from the
113 net profits of the lottery for the preceding month, an amount
114 equal to one tenth of the projected annual principal, interest and
115 coverage ratio requirements on any and all revenue bonds and
116 refunding bonds issued, or to be issued, on or after the first day
117 of April, one thousand nine hundred ninety-four, as certified to
118 the lottery director in accordance with the provisions of section
119 six, article nine-d, chapter eighteen of this code. In no event
120 shall the monthly amount allocated exceed one million eight
121 hundred thousand dollars, nor may the total allocation of the net
122 profits to be paid into the school building debt service fund, as
123 provided in this section, in any fiscal year exceed the lesser of
124 the principal and interest requirements certified to the lottery
125 director or eighteen million dollars. In the event there are
126 insufficient funds available in any month to transfer the amount
127 required to be transferred pursuant to this subsection to the
128 school debt service fund, the deficiency shall be added to the

129 amount transferred in the next succeeding month in which
130 revenues are available to transfer the deficiency. A lien on the
131 proceeds of the state lottery fund up to a maximum amount
132 equal to the projected annual principal, interest and coverage
133 ratio requirements, not to exceed twenty-seven million dollars
134 annually, may be granted by the school building authority in
135 favor of the bonds it issues which are secured by the net lottery
136 profits.

137 When the school improvement bonds, secured by profits
138 from the lottery and deposited in the school debt service fund,
139 mature, the profits shall become available for debt service on
140 additional school improvement bonds as a first priority from the
141 net profits of the lottery or may at the discretion of the authority
142 be placed into the school construction fund created pursuant to
143 the provisions of section six, article nine-d, chapter eighteen of
144 this code.

145 (i) Beginning on or before the twenty-eighth day of July,
146 one thousand nine hundred ninety-six, and continuing on or
147 before the twenty-eighth day of each succeeding month
148 thereafter, as long as revenue bonds or refunding bonds are
149 outstanding, the lottery director shall allocate to the education,
150 arts, sciences and tourism debt service fund created pursuant to
151 the provisions of section eleven-a, article six, chapter five of
152 this code, as a second priority from the net profits of the lottery
153 for the preceding month, an amount equal to one tenth of the
154 projected annual principal, interest and coverage ratio require-
155 ments on any and all revenue bonds and refunding bonds
156 issued, or to be issued, on or after the first day of April, one
157 thousand nine hundred ninety-six, as certified to the lottery
158 director in accordance with the provisions of that section. In no
159 event may the monthly amount allocated exceed one million
160 dollars nor may the total allocation paid into the education, arts,
161 sciences and tourism debt service fund, as provided in this
162 section, in any fiscal year exceed the lesser of the principal and

163 interest requirements certified to the lottery director or ten
164 million dollars. In the event there are insufficient funds
165 available in any month to transfer the amount required pursuant
166 to this subsection to the education, arts, sciences and tourism
167 debt service fund, the deficiency shall be added to the amount
168 transferred in the next succeeding month in which revenues are
169 available to transfer the deficiency. A second-in-priority lien on
170 the proceeds of the state lottery fund up to a maximum amount
171 equal to the projected annual principal, interest and coverage
172 ratio requirements, not to exceed fifteen million dollars
173 annually, may be granted by the state building commission in
174 favor of the bonds it issues which are secured by the net lottery
175 profits.

176 When the bonds, secured by profits from the lottery and
177 deposited in the education, arts, sciences and tourism debt
178 service fund, mature, the profits shall become available for debt
179 service on additional bonds as a second priority from the net
180 profits of the lottery.

181 (j) There is hereby continued a special revenue fund in the
182 state treasury which shall be designated and known as the
183 "lottery senior citizens fund." The fund shall consist of the
184 amounts allocated pursuant to subsection (f) of this section,
185 which amounts shall be deposited into the lottery senior citizens
186 fund by the state treasurer. The lottery senior citizens fund shall
187 also consist of all interest earned from investment of the lottery
188 senior citizens fund and any other appropriations, gifts, grants,
189 contributions or moneys received by the lottery senior citizens
190 fund from any source. The revenues received or earned by the
191 lottery senior citizens fund shall be distributed in the manner
192 provided below and may not be treated by the auditor or
193 treasurer as part of the general revenue of the state. Annually,
194 the Legislature shall appropriate the revenues received or
195 earned by the lottery senior citizens fund to such senior citizens
196 medical care and other programs as it considers beneficial to
197 the citizens of this state.

198 (k) The division of natural resources and the West Virginia
199 development office, as appropriated by the Legislature, may use
200 the amounts allocated to them pursuant to subsection (f) of this
201 section for one or more of the following purposes: (1) The
202 payment of any or all of the costs incurred in the development,
203 construction, reconstruction, maintenance or repair of any
204 project or recreational facility, as these terms are defined in
205 section four, article five, chapter twenty of this code, pursuant
206 to the authority granted to it under article five, chapter twenty
207 of this code; (2) the payment, funding or refunding of the
208 principal of, interest on or redemption premiums on any bonds,
209 security interests or notes issued by the parks and recreation
210 section of the division of natural resources under article five,
211 chapter twenty of this code; or (3) the payment of any advertis-
212 ing and marketing expenses for the promotion and development
213 of tourism or any tourist facility or attraction in this state.

214 (l)(1) A special revenue account in the state treasury is
215 hereby created as of the twenty-first day of June, two thousand
216 six, which is designated and known as the "Revenue Center
217 Construction Fund." The Fund shall consist of the amounts
218 allocated to the Fund pursuant to subsection (e) of this section;
219 section ten, article twenty-two-a of this chapter; and section one
220 thousand four hundred eight, article twenty-two-b of this
221 chapter, which amounts shall be deposited into the Fund by the
222 state treasurer. In no fiscal year shall the transfer from these
223 three sources total more than twenty million dollars in the
224 aggregate. The Fund shall also consist of all interest earned
225 from investment of the Fund and any other appropriations, gifts,
226 grants, contributions or moneys received by the Fund from any
227 source. The revenues received or earned by the Fund shall be
228 used by the State Lottery Commission to construct a new state
229 office building subject to the provisions of subdivision (2) of
230 this subsection.

231 (2) No moneys of the Revenue Center Construction Fund
232 may be expended except upon appropriation of the Legislature
233 and until: (A) the Capitol Building Commission has approved
234 and submitted to the Secretary of Administration a comprehen-
235 sive long term master plan for the capital improvement and
236 development of the state capitol complex; (B) a copy of the
237 master plan has been provided to the Joint Committee on
238 Finance and Administration; and thereafter, (C) the Legislature
239 by concurrent resolution authorizes construction of a new state
240 office building and the expenditure of moneys from the fund for
241 that purpose.

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

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

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

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

13 tracks must provide the commission thirty days' advance notice
14 of any proposed account changes in order to assure the uninter-
15 rupted electronic transfer of funds. From the gross terminal
16 income remitted by the licensee to the commission, the com-
17 mission shall deduct an amount sufficient to reimburse the
18 commission for its actual costs and expenses incurred in
19 administering racetrack video lottery at the licensed racetrack,
20 and the resulting amount after the deduction is the net terminal
21 income. The amount deducted for administrative costs and
22 expenses of the commission may not exceed four percent of
23 gross terminal income: *Provided*, That any amounts deducted
24 by the commission for its actual costs and expenses that
25 exceeds its actual costs and expenses shall be deposited into the
26 state lottery fund. For the fiscal years ending the thirtieth day of
27 June, two thousand six, two thousand seven, two thousand
28 eight, two thousand nine, two thousand ten and two thousand
29 eleven, the term "actual costs and expenses" shall include
30 transfers of no more than twenty million dollars in any year to
31 the Revenue Center Construction Fund created by subsection
32 (1), section eighteen, article twenty-two of this chapter for the
33 purpose of constructing a state office building. For all fiscal
34 years beginning on or after the first day of July, two thousand
35 one, the commission shall not receive an amount of gross
36 terminal income in excess of the amount of gross terminal
37 income received during the fiscal year ending on the thirtieth
38 day of June, two thousand one, but four percent of any amount
39 of gross terminal income received in excess of the amount of
40 gross terminal income received during the fiscal year ending on
41 the thirtieth day of June, two thousand one, shall be deposited
42 into the fund established in section eighteen-a, article twenty-
43 two of this chapter.

44 (c) Net terminal income shall be divided as set out in this
45 subsection. For all fiscal years beginning on or after the first
46 day of July, two thousand one, any amount of net terminal
47 income received in excess of the amount of net terminal income

48 received during the fiscal year ending on the thirtieth day of
49 June, two thousand one, shall be divided as set out in section
50 ten-b of this article. The licensed racetrack's share is in lieu of
51 all lottery agent commissions and is considered to cover all
52 costs and expenses required to be expended by the licensed
53 racetrack in connection with video lottery operations. The
54 division shall be made as follows:

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

58 (2) Until the first day of July, two thousand five, fourteen
59 percent of net terminal income at a licensed racetrack shall be
60 deposited in the special fund established by the licensee, and
61 used for payment of regular purses in addition to other amounts
62 provided for in article twenty-three, chapter nineteen of this
63 code, on and after the first day of July, two thousand five, the
64 rate shall be seven percent of net terminal income;

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

68 (A) Beginning the first day of July, one thousand nine
69 hundred ninety-nine, and thereafter, any amount in excess of
70 the two percent received during the fiscal year one thousand
71 nine hundred ninety-nine by a county in which a racetrack is
72 located that has participated in the West Virginia thoroughbred
73 development fund since on or before the first day of January,
74 one thousand nine hundred ninety-nine shall be divided as
75 follows:

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

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

83 (B) Beginning the first day of July, one thousand nine
84 hundred ninety-nine, and thereafter, any amount in excess of
85 the two percent received during the fiscal year one thousand
86 nine hundred ninety-nine by a county in which a racetrack other
87 than a racetrack described in paragraph (A) of this proviso is
88 located and where the racetrack has been located in a munici-
89 pality within the county since on or before the first day of
90 January, one thousand nine hundred ninety-nine shall be
91 divided, if applicable, as follows:

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

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

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

99 (4) One percent of net terminal income shall be paid for and
100 on behalf of all employees of the licensed racing association by
101 making a deposit into a special fund to be established by the
102 racing commission to be used for payment into the pension plan
103 for all employees of the licensed racing association;

104 (5) The West Virginia thoroughbred development fund
105 created under section thirteen-b, article twenty-three, chapter
106 nineteen of this code and the West Virginia greyhound breeding
107 development fund created under section ten of said article shall

108 receive an equal share of a total of not less than one and one-
109 half percent of the net terminal income;

110 (6) The West Virginia racing commission shall receive one
111 percent of the net terminal income which shall be deposited and
112 used as provided in section thirteen-c, article twenty-three,
113 chapter nineteen of this code.

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

116 (8)(A) The tourism promotion fund established in section
117 twelve, article two, chapter five-b of this code shall receive
118 three percent of the net terminal income: Provided, That for the
119 fiscal year beginning the first day of July, two thousand three,
120 the tourism commission shall transfer from the tourism promo-
121 tion fund five million dollars of the three percent of the net
122 terminal income described in this section and section ten-b of
123 this article into the fund administered by the West Virginia
124 economic development authority pursuant to section seven,
125 article fifteen, chapter thirty-one of this code, five million
126 dollars into the capitol renovation and improvement fund
127 administered by the department of administration pursuant to
128 section six, article four, chapter five-a of this code and five
129 million dollars into the tax reduction and federal funding
130 increased compliance fund; and

131 (B) Notwithstanding any provision of paragraph (A) of this
132 subdivision to the contrary, for each fiscal year beginning after
133 the thirtieth day of June, two thousand four, this three percent
134 of net terminal income and the three percent of net terminal
135 income described in paragraph (B), subdivision (8), subsection
136 (a), section ten-b of this article shall be distributed as provided
137 in this paragraph as follows:

138 (i) 1.375 percent of the total amount of net terminal income
139 described in this section and in section ten-b of this article shall

140 be deposited into the tourism promotion fund created under
141 section twelve, article two, chapter five-b of this code;

142 (ii) 0.375 percent of the total amount of net terminal
143 income described in this section and in section ten-b of this
144 article shall be deposited into the development office promotion
145 fund created under section three-b, article two, chapter five-b of
146 this code;

147 (iii) 0.5 percent of the total amount of net terminal income
148 described in this section and in section ten-b of this article shall
149 be deposited into the research challenge fund created under
150 section ten, article one-b, chapter eighteen-b of this code;

151 (iv) 0.6875 percent of the total amount of net terminal
152 income described in this section and in section ten-b of this
153 article shall be deposited into the capitol renovation and
154 improvement fund administered by the department of adminis-
155 tration pursuant to section six, article four, chapter five-a of this
156 code; and

157 (v) 0.0625 percent of the total amount of net terminal
158 income described in this section and in section ten-b of this
159 article shall be deposited into the 2004 capitol complex parking
160 garage fund administered by the department of administration
161 pursuant to section five-a, article four, chapter five-a of this
162 code;

163 (9)(A) On and after the first day of July, two thousand five,
164 seven percent of net terminal income shall be deposited into the
165 workers' compensation debt reduction fund created in section
166 five, article two-d, chapter twenty-three of this code: Provided,
167 That in any fiscal year when the amount of money generated by
168 this subdivision totals eleven million dollars, all subsequent
169 distributions under this subdivision shall be deposited in the
170 special fund established by the licensee and used for the
171 payment of regular purses in addition to the other amounts

172 provided for in article twenty-three, chapter nineteen of this
173 code;

174 (B) The deposit of the seven percent of net terminal income
175 into the worker's compensation debt reduction fund pursuant to
176 this subdivision shall expire and not be imposed with respect to
177 these funds and shall be deposited in the special fund estab-
178 lished by the licensee and used for payment of regular purses in
179 addition to the other amounts provided for in article twenty-
180 three, chapter nineteen of this code, on and after the first day of
181 the month following the month in which the governor certifies
182 to the legislature that: (i) The revenue bonds issued pursuant to
183 article two-d, chapter twenty-three of this code, have been
184 retired or payment of the debt service provided for, and (ii) that
185 an independent certified actuary has determined that the
186 unfunded liability of the old fund, as defined in chapter twenty-
187 three of this code, has been paid or provided for in its entirety;
188 and

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

191 (A) For the fiscal year beginning the first day of July, two
192 thousand three, the veterans memorial program shall receive
193 one percent of the net terminal income until sufficient moneys
194 have been received to complete the veterans memorial on the
195 grounds of the state capitol complex in Charleston, West
196 Virginia. The moneys shall be deposited in the state treasury in
197 the division of culture and history special fund created under
198 section three, article one-I, chapter twenty-nine of this code:
199 Provided, That only after sufficient moneys have been depos-
200 ited in the fund to complete the veterans memorial and to pay
201 in full the annual bonded indebtedness on the veterans memo-
202 rial, not more than twenty thousand dollars of the one percent
203 of net terminal income provided for in this subdivision shall be
204 deposited into a special revenue fund in the state treasury, to be
205 known as the "John F. 'Jack' Bennett Fund". The moneys in

206 this fund shall be expended by the division of veterans affairs
207 to provide for the placement of markers for the graves of
208 veterans in perpetual cemeteries in this state. The division of
209 veterans affairs shall promulgate legislative rules pursuant to
210 the provisions of article three, chapter twenty-nine-a of this
211 code specifying the manner in which the funds are spent,
212 determine the ability of the surviving spouse to pay for the
213 placement of the marker and setting forth the standards to be
214 used to determine the priority in which the veterans grave
215 markers will be placed in the event that there are not sufficient
216 funds to complete the placement of veterans grave markers in
217 any one year, or at all. Upon payment in full of the bonded
218 indebtedness on the veterans memorial, one hundred thousand
219 dollars of the one percent of net terminal income provided for
220 in this subdivision shall be deposited in the special fund in the
221 division of culture and history created under section three,
222 article one-I, chapter twenty-nine of this code and be expended
223 by the division of culture and history to establish a West
224 Virginia veterans memorial archives within the cultural center
225 to serve as a repository for the documents and records pertain-
226 ing to the veterans memorial, to restore and maintain the
227 monuments and memorial on the capitol grounds: Provided,
228 however, That five hundred thousand dollars of the one percent
229 of net terminal income shall be deposited in the state treasury
230 in a special fund of the department of administration, created
231 under section five, article four, chapter five-a of this code, to be
232 used for construction and maintenance of a parking garage on
233 the state capitol complex; and the remainder of the one percent
234 of net terminal income shall be deposited in equal amounts in
235 the capitol dome and improvements fund created under section
236 two, article four, chapter five-a of this code and cultural
237 facilities and capitol resources matching grant program fund
238 created under section three, article one of this chapter.

239 (B) For each fiscal year beginning after the thirtieth day of
240 June, two thousand four:

241 (i) Five hundred thousand dollars of the one percent of net
242 terminal income shall be deposited in the state treasury in a
243 special fund of the department of administration, created under
244 section five, article four, chapter five-a of this code, to be used
245 for construction and maintenance of a parking garage on the
246 state capitol complex; and

247 (ii) The remainder of the one percent of net terminal
248 income and all of the one percent of net terminal income
249 described in paragraph (B), subdivision (9), subsection (a),
250 section ten-b of this article twenty-two-a shall be distributed as
251 follows: The net terminal income shall be deposited in equal
252 amounts into the capitol dome and capitol improvements fund
253 created under section two, article four, chapter five-a of this
254 code and the cultural facilities and capitol resources matching
255 grant program fund created under section three, article one,
256 chapter twenty-nine of this code until a total of one million five
257 hundred thousand dollars is deposited into the cultural facilities
258 and capitol resources matching grant program fund; thereafter,
259 the remainder shall be deposited into the capitol dome and
260 capitol improvements fund.

261 (d) Each licensed racetrack shall maintain in its account an
262 amount equal to or greater than the gross terminal income from
263 its operation of video lottery machines, to be electronically
264 transferred by the commission on dates established by the
265 commission. Upon a licensed racetrack's failure to maintain
266 this balance, the commission may disable all of a licensed
267 racetrack's video lottery terminals until full payment of all
268 amounts due is made. Interest shall accrue on any unpaid
269 balance at a rate consistent with the amount charged for state
270 income tax delinquency under chapter eleven of this code. The
271 interest shall begin to accrue on the date payment is due to the
272 commission.

273 (e) The commission's central control computer shall keep
274 accurate records of all income generated by each video lottery

275 terminal. The commission shall prepare and mail to the licensed
276 racetrack a statement reflecting the gross terminal income
277 generated by the licensee's video lottery terminals. Each
278 licensed racetrack shall report to the commission any discrepan-
279 cies between the commission's statement and each terminal's
280 mechanical and electronic meter readings. The licensed
281 racetrack is solely responsible for resolving income discrepan-
282 cies between actual money collected and the amount shown on
283 the accounting meters or on the commission's billing statement.

284 (f) Until an accounting discrepancy is resolved in favor of
285 the licensed racetrack, the commission may make no credit
286 adjustments. For any video lottery terminal reflecting a discrep-
287 ancy, the licensed racetrack shall submit to the commission the
288 maintenance log which includes current mechanical meter
289 readings and the audit ticket which contains electronic meter
290 readings generated by the terminal's software. If the meter
291 readings and the commission's records cannot be reconciled,
292 final disposition of the matter shall be determined by the
293 commission. Any accounting discrepancies which cannot be
294 otherwise resolved shall be resolved in favor of the commis-
295 sion.

296 (g) Licensed racetracks shall remit payment by mail if the
297 electronic transfer of funds is not operational or the commission
298 notifies licensed racetracks that remittance by this method is
299 required. The licensed racetracks shall report an amount equal
300 to the total amount of cash inserted into each video lottery
301 terminal operated by a licensee, minus the total value of game
302 credits which are cleared from the video lottery terminal in
303 exchange for winning redemption tickets, and remit the amount
304 as generated from its terminals during the reporting period. The
305 remittance shall be sealed in a properly addressed and stamped
306 envelope and deposited in the United States mail no later than
307 noon on the day when the payment would otherwise be com-
308 pleted through electronic funds transfer.

309 (h) Licensed racetracks may, upon request, receive addi-
310 tional reports of play transactions for their respective video
311 lottery terminals and other marketing information not consid-
312 ered confidential by the commission. The commission may
313 charge a reasonable fee for the cost of producing and mailing
314 any report other than the billing statements.

315 (i) The commission has the right to examine all accounts,
316 bank accounts, financial statements and records in a licensed
317 racetrack's possession, under its control or in which it has an
318 interest and the licensed racetrack shall authorize all third
319 parties in possession or in control of the accounts or records to
320 allow examination of any of those accounts or records by the
321 commission.

ARTICLE 22B. LIMITED VIDEO LOTTERY.

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

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

3 (1) The commission shall deposit two percent of gross
4 terminal income into the state lottery fund for the commission's
5 costs and expenses incurred in administering this article. From
6 this amount, not less than one hundred fifty thousand dollars
7 nor more than one million dollars per fiscal year, as determined
8 by the commission each year, shall be transferred to the
9 compulsive gambling treatment fund created in section 29-22A-
10 19 of this chapter. In the event that the percentage allotted
11 under this subsection for the commission's costs and expenses
12 incurred in administering this article generates a surplus, the
13 surplus shall be allowed to accumulate to an amount not to
14 exceed two hundred fifty thousand dollars. On a monthly basis,
15 the director shall report to the joint committee on government
16 and finance of the Legislature any surplus in excess of two

17 hundred fifty thousand dollars and remit to the state treasurer
18 the entire amount of those surplus funds in excess of two
19 hundred fifty thousand dollars to be deposited in the fund
20 established in section 29-22-18a of this chapter: *Provided*, That
21 at the close of each of the fiscal years ending the thirtieth day
22 of June two thousand six, two thousand seven, two thousand
23 eight, two thousand nine, two thousand ten and two thousand
24 eleven, the portion of the two percent allowance for administra-
25 tive expenses provided in this subdivision (1) that remains
26 unspent for costs and expenses incurred in administering this
27 article, not to exceed twenty million dollars in any fiscal year,
28 shall be transferred to the Revenue Center Construction Fund
29 created by subsection (1) of section eighteen, article twenty-two
30 of this chapter for the purpose of constructing a state office
31 building.

32 (2) Gross profits are determined by deducting the percent-
33 age described in subdivision (1) of this subsection, from gross
34 terminal income.

35 (3) The commission shall receive thirty percent of gross
36 profits as defined in subdivision (2) of this subsection except as
37 otherwise provided in this subdivision. On the first day of June,
38 2002, the commission shall calculate the aggregate average
39 daily gross terminal income for all operating video lottery
40 terminal during the preceding three month period. Thereafter,
41 the commission shall make the calculation on the first day of
42 the month preceding the months of October, January, April and
43 July of each year. So long as the aggregate average gross
44 terminal income per day for the operating video lottery termi-
45 nals does not exceed sixty dollars, the commission's share of
46 gross profits shall continue to be thirty percent for the succeed-
47 ing quarter of the year beginning the first day of July. Begin-
48 ning on the first day of July, 2002 and the first days of October,
49 January, April and July in 2002 and thereafter, if the commis-
50 sion's calculation of aggregate average daily gross terminal

51 income per video lottery terminal yields an amount greater than
52 sixty dollars, one of the following schedules apply: If the
53 amount is greater than sixty dollars per day but not greater than
54 eighty dollars per day, the commission's share of gross profits
55 for the ensuing quarter beginning the first day of the quarter of
56 the year described in this subdivision shall be thirty-four
57 percent; if the amount is greater than eighty dollars per day but
58 not greater than one hundred dollars per day, the commission's
59 share of gross profits for the ensuing quarter beginning the first
60 day of the quarter of the year described in this subdivision shall
61 be thirty-eight percent; if the amount is greater than one
62 hundred dollars per day but not greater than one hundred twenty
63 dollars per day, the commission's share of gross profits for the
64 ensuing quarter beginning the first day of the quarter of the year
65 described in this subdivision shall be forty-two percent; if the
66 amount is greater than one hundred twenty dollars per day but
67 not greater than one hundred forty dollars per day, the commis-
68 sion's share of gross profits for the ensuing quarter beginning
69 the first day of the quarter of the year described in this subdivi-
70 sion shall be forty-six percent; if the amount is greater than one
71 hundred forty dollars per day, the commission's share of gross
72 profits for the ensuing quarter beginning the first day of the
73 quarter of the year described in this subdivision shall be fifty
74 percent. This amount shall be known as net terminal income.

75 (b) Net terminal income shall be distributed by the commis-
76 sion as follows:

77 (1)(A) Beginning the first day of July, 2002, a county and
78 the incorporated municipalities within that county shall receive
79 two percent of the net terminal income generated by limited
80 video lottery terminals located within the county;

81 (B) From this two percent of net terminal income, each
82 municipality shall receive a share that bears the same propor-
83 tion to the total two percent of net terminal income as the

84 population of the municipality bears to the total population of
85 the county as determined by the most recent decennial United
86 States census of population, and the county shall receive the
87 remaining portion of the two percent of net terminal income;
88 and

89 (2) Any remaining funds shall be deposited into the state
90 excess lottery revenue fund established in section eighteen-a,
91 article twenty-two of this chapter.

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

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



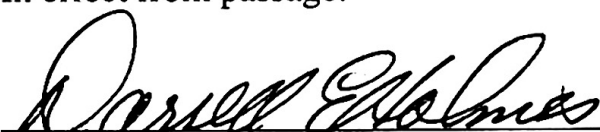
 Chairman Senate Committee



 Chairman House Committee

Originating in the House.

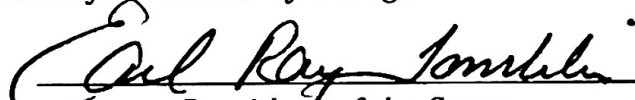
In effect from passage.



 Clerk of the Senate



 Clerk of the House of Delegates



 President of the Senate



 Speaker of the House of Delegates

The within is approved this the 28th
 day of June, 2006.



 Governor

PRESENTED TO THE
GOVERNOR

JUN 19 2006

Time 10:15 AM