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WEST VIRGINIA LEGISLATURE

SEVENTY-NINTH LEGISLATURE

REGULAR SESSION, 2010

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 337

(SENATORS SNYDER, UNGER AND
KESSLER, *original sponsors*)

[Passed March 13, 2010; in effect ninety days from passage.]

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CLERK OF SENATE
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 337

(SENATORS SNYDER, UNGER AND KESSLER, *original sponsors*)

[Passed March 13, 2010; in effect ninety days from passage.]

AN ACT to amend and reenact §19-23-10, §19-23-13 and §19-23-13b of the Code of West Virginia, 1931, as amended; to amend and reenact §29-22-18a of said code; and to amend and reenact §29-22C-27 of said code, all relating to receipts and expenditures of moneys in the conduct of the racing industry in the state generally; providing as an additional purpose for which certain moneys may be used the purpose of greyhound adoption programs to include spaying and neutering; modifying the distribution of funds derived from horse racetrack unredeemed pari-mutuel tickets and other sources to owners, breeders and owners of sires of certain winning horses; providing for the deposit of surplus funds held for those purposes into horse racetrack regular purse funds; removing provisions requiring that certain unexpended balances be paid to certain horse racetrack licensees and expended for certain purposes; combining and distributing funds derived from dog racetrack unredeemed pari-mutuel tickets into the greyhound breeding develop-

ment fund; removing authority for racing commission to expend certain excess moneys as purse money, to supplement purses and to establish stakes races and racing handicaps; removing requirements that certain moneys from unredeemed pari-mutuel tickets be allocated and paid by the racing commission into the greyhound breeding development fund, into a special account to be used for certain stakes races, into a trust to provide health and disability benefits to eligible active or disabled West Virginia jockeys, and into an unspecified trust administered by an organization representative of jockeys; providing for the payment of claims received on purses won on or before June 30, 2010; transferring a specified amount of funds from the state excess lottery revenue fund and additional amounts from certain special accounts to pay for those claims; extinguishing obligation of the state for payments made on certain claims; removing the requirement that a certain racing commission report to the legislative auditor include certain information; authorizing the racing commission to promulgate emergency rules; specifying which racing secretary is to be a member of a certain committee; removing expired requirements for the submission of a report; providing for the contingent distribution of an annual amount from the state excess lottery revenue fund into a certain thoroughbred racetrack purse fund, into certain thoroughbred racetrack unredeemed pari-mutuel tickets accounts, and into a certain greyhound breeding development fund; and changing the allocation of a certain distribution from the lottery racetrack table games fund to the purse funds of the thoroughbred racetracks from an equal allocation among the tracks to a pro rata distribution.

Be it enacted by the Legislature of West Virginia:

That §19-23-10, §19-23-13 and §19-23-13b of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §29-22-18a of said code be amended and reenacted; and

that §29-22C-27 of said code be amended and reenacted, all to read as follows:

CHAPTER 19. AGRICULTURE.

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
2 racing at any horse racetrack in this state shall pay each
3 day upon which horse races are run a daily license tax of
4 \$250. Any racing association conducting harness racing at
5 any horse racetrack in this state shall pay each day upon
6 which horse races are run a daily license tax of \$150. Any
7 racing association conducting dog races shall pay each day
8 upon which dog races are run a daily license tax of \$150.
9 In the event thoroughbred racing, harness racing, dog
10 racing or any combination of the foregoing are conducted
11 on the same day at the same racetrack by the same racing
12 association, only one daily license tax in the amount of
13 \$250 shall be paid for that day. Any daily license tax shall
14 not apply to any local, county or state fair, horse show or
15 agricultural or livestock exposition at which horse racing
16 is conducted for not more than six days.

17 (b) Any racing association licensed by the Racing
18 Commission to conduct thoroughbred racing and permit-
19 ting and conducting pari-mutuel wagering under the
20 provisions of this article shall, in addition to the daily
21 license tax set forth in subsection (a) of this section, pay to
22 the Racing Commission, from the commission deducted
23 each day by the licensee from the pari-mutuel pools on
24 thoroughbred racing a tax calculated on the total daily
25 contribution of all pari-mutuel pools conducted or made
26 at any and every thoroughbred race meeting of the licensee
27 licensed under the provisions of this article. The tax, on
28 the pari-mutuel pools conducted or made each day during

29 the months of January, February, March, October, Novem-
30 ber and December, shall be calculated at four- tenths of
31 one percent of the pool; and, on the pari-mutuel pools
32 conducted or made each day during all other months, shall
33 be calculated at one and four-tenths percent of the pool:
34 *Provided*, That out of the amount realized from the three
35 tenths of one percent decrease in the tax effective for fiscal
36 year 1991 and thereafter, which decrease correspondingly
37 increases the amount of commission retained by the
38 licensee, the licensee shall annually expend or dedicate: (i)
39 One half of the realized amount for capital improvements
40 in its barn area at the track, subject to the Racing Commis-
41 sion's prior approval of the plans for the improvements;
42 and (ii) the remaining one half of the realized amount for
43 capital improvements as the licensee may determine
44 appropriate at the track. The term "capital improvement"
45 shall be as defined by the Internal Revenue Code: *Pro-*
46 *vided, however*, That any racing association operating a
47 horse racetrack in this state having an average daily pari-
48 mutuel pool on horse racing of \$280,000 or less per day for
49 the race meetings of the preceding calendar year shall, in
50 lieu of payment of the pari-mutuel pool tax, calculated as
51 in this subsection, be permitted to conduct pari-mutuel
52 wagering at the horse racetrack on the basis of a daily
53 pari-mutuel pool tax fixed as follows: On the daily pari-
54 mutuel pool not exceeding \$300,000 the daily pari-mutuel
55 pool tax shall be \$1,000 plus the otherwise applicable
56 percentage rate imposed by this subsection of the daily
57 pari-mutuel pool, if any, in excess of \$300,000: *Provided*
58 *further*, That upon the effective date of the reduction of
59 the daily pari-mutuel pool tax to \$1,000 from the former
60 \$2,000, the association or licensee shall daily deposit \$500
61 into the special fund for regular purses established by
62 subdivision (1), subsection (b), section nine of this article:
63 *And provided further*, That if an association or licensee
64 qualifying for the foregoing alternate tax conducts more
65 than one racing performance, each consisting of up to

66 thirteen races in a calendar day, the association or licensee
67 shall pay both the daily license tax imposed in subsection
68 (a) of this section and the alternate tax in this subsection
69 for each performance: *And provided further*, That a
70 licensee qualifying for the foregoing alternate tax is
71 excluded from participation in the fund established by
72 section thirteen-b of this article: *And provided further*,
73 That this exclusion shall not apply to any thoroughbred
74 racetrack at which the licensee has participated in the
75 West Virginia Thoroughbred Development Fund for more
76 than four consecutive years prior to December 31, 1992.

77 (c) Any racing association licensed by the Racing Com-
78 mission to conduct harness racing and permitting and
79 conducting pari-mutuel wagering under the provisions of
80 this article shall, in addition to the daily license tax
81 required under subsection (a) of this section, pay to the
82 Racing Commission, from the commission deducted each
83 day by the licensee from the pari-mutuel pools on harness
84 racing, as a tax, three percent of the first \$100,000 wag-
85 ered, or any part thereof; four percent of the next
86 \$150,000; and five and three-fourths percent of all over
87 that amount wagered each day in all pari-mutuel pools
88 conducted or made at any and every harness race meeting
89 of the licensee licensed under the provisions of this article.

90 (d) Any racing association licensed by the Racing
91 Commission to conduct dog racing and permitting and
92 conducting pari-mutuel wagering under the provisions of
93 this article shall, in addition to the daily license tax
94 required under subsection (a) of this section, pay to the
95 Racing Commission, from the commission deducted each
96 day by the licensee from the pari-mutuel pools on dog
97 racing, as a tax, four percent of the first \$50,000 or any
98 part thereof of the pari-mutuel pools, five percent of the
99 next \$50,000 of the pari-mutuel pools, six percent of the
100 next \$100,000 of the pari-mutuel pools, seven percent of
101 the next \$150,000 of the pari-mutuel pools, and eight

102 percent of all over \$350,000 wagered each day: *Provided,*
103 That the licensee shall deduct daily from the pari-mutuel
104 tax an amount equal to one tenth of one percent of the
105 daily pari-mutuel pools in dog racing in fiscal year 1990;
106 fifteen hundredths of one percent in fiscal year 1991; two
107 tenths of one percent in fiscal year 1992; one quarter of
108 one percent in fiscal year 1993; and three tenths of one
109 percent in fiscal year 1994 and every fiscal year thereafter.
110 The amounts deducted shall be paid to the Racing Com-
111 mission to be deposited by the Racing Commission in a
112 banking institution of its choice in a special account to be
113 known as "West Virginia Racing Commission-Special
114 Account-West Virginia Greyhound Breeding Development
115 Fund". The purpose of the fund is to promote better
116 breeding, training track facilities and racing of grey-
117 hounds in the state through awards and purses to bona
118 fide resident registered greyhound owners of accredited
119 West Virginia whelped greyhounds. In order to participate
120 and be eligible to receive an award or purse through the
121 fund, the registered greyhound owner must have an
122 appropriate license from the Racing Commission to race in
123 West Virginia. The registered greyhound dam at the time
124 of breeding must be wholly or solely owned or leased by a
125 bona fide resident or residents of West Virginia. The
126 accredited West Virginia whelped greyhound must be
127 wholly or solely owned by a bona fide resident or residents
128 of this state. To qualify as a bona fide resident of West
129 Virginia, a registered greyhound owner may not claim
130 residency in any other state. A registered greyhound
131 owner must prove bona fide residency by providing to the
132 commission personal income tax returns filed in the State
133 of West Virginia for the most recent tax year and the three
134 previous tax years, has real or personal property in this
135 state on which the owner has paid real or personal prop-
136 erty taxes during the most recent tax year and the previ-
137 ous three tax years and an affidavit stating that the owner
138 claims no other state of residency. The Racing Commis-

139 sion shall maintain a registry for West Virginia bred
140 greyhounds. The moneys shall be expended by the Racing
141 Commission for purses for stake races, training track
142 facilities, supplemental purse awards, administration,
143 promotion, education and greyhound adoption programs
144 involving West Virginia whelped dogs, owned by residents
145 of this state under rules promulgated by the Racing
146 Commission. The Racing Commission shall pay out of the
147 greyhound breeding development fund to each of the
148 licensed dog racing tracks the sum of \$75,000 for the fiscal
149 year ending June 30, 1994. The licensee shall deposit the
150 sum into the special fund for regular purses established
151 under the provisions of section nine of this article. The
152 funds shall be expended solely for the purpose of supple-
153 menting regular purses under rules promulgated by the
154 Racing Commission.

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

158 The registered greyhound owner of accredited West
159 Virginia whelped greyhounds that earn points at any West
160 Virginia meet will receive a bonus award calculated at the
161 end of each month as a percentage of the fund dedicated
162 to the owners as purse supplements, which shall be a
163 minimum of fifty percent of the total moneys deposited
164 into the West Virginia Greyhound Breeding Development
165 fund monthly.

166 The total amount of the fund available for the owners'
167 awards shall be distributed according to the ratio of points
168 earned by an accredited greyhound to the total amount
169 earned in races by all accredited West Virginia whelped
170 greyhounds for that month as a percentage of the funds
171 dedicated to the owners' purse supplements. The point
172 value at all greyhound tracks shall be the same as ap-
173 proved by the Racing Commission to be effective April 1,

174 2007. The West Virginia Greyhound Owners and Breeders
175 Association shall submit a list of any additions or dele-
176 tions to the registry of accredited West Virginia whelped
177 greyhounds on the first of each month. The Racing
178 Commission shall not require anyone to be a member of a
179 particular association in order to participate in the West
180 Virginia Greyhound Breeding Development Fund.

181 The registered greyhound owner of an accredited West
182 Virginia whelped greyhound shall file a purse distribution
183 form with the Racing Commission for a percentage of his
184 or her dog's earnings to be paid directly to the registered
185 greyhound owner or owners of the greyhound. Distribu-
186 tion shall be made on the fifteenth day of each month for
187 the preceding month's achievements.

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

193 Any balance in the purse supplement funds after all
194 distributions have been made for the year revert to the
195 general account of the fund for distribution in the follow-
196 ing year: *Provided*, That not more than \$2 million from the
197 balance in the purse supplemental fund shall be used for
198 the construction and maintenance of two dog training
199 track facilities if such be approved by the Racing Commis-
200 sion: *Provided, however*, That not more than \$1 million
201 may be allocated for the construction and maintenance of
202 each training track: *Provided further*, That both training
203 track facilities must be located in West Virginia. The West
204 Virginia Racing Commission shall be authorized to
205 promulgate rules governing dog training tracks: *And*
206 *provided further*, That the Racing Commission shall: (1)
207 Provide a process in its rules for competitive bidding of
208 the construction or maintenance, or both, of the training

209 tracks; and (2) set standards to assure that only the actual
210 costs of construction and maintenance shall be paid out of
211 the foregoing fund.

212 In an effort to further promote the breeding of quality
213 West Virginia whelped greyhounds, a bonus purse supple-
214 ment shall be established in the amount of \$50,000 per
215 annum, to be paid in equal quarterly installments of
216 \$12,500 per quarter using the same method to calculate
217 and distribute these funds as the regular supplemental
218 purse awards. This bonus purse supplement is for three
219 years only, commencing on July 1, 1993, and ending June
220 30, 1996. This money would come from the current
221 existing balance in the greyhound development fund.

222 Each pari-mutuel greyhound track shall provide stakes
223 races for accredited West Virginia whelped greyhounds:
224 *Provided*, That each pari-mutuel track shall have one
225 juvenile and one open stake race annually. Each pari-
226 mutuel dog track shall provide at least three restricted
227 races for accredited West Virginia whelped greyhounds
228 per race card: *Provided, however*, That sufficient dogs are
229 available. To assure breeders of accredited West Virginia
230 whelped greyhounds an opportunity to participate in the
231 West Virginia Greyhound Breeding Development Fund the
232 West Virginia Racing Commission by July 1, each year
233 shall establish and announce the minimum number of
234 accredited West Virginia whelped greyhounds that grey-
235 hound racing kennels at West Virginia dog tracks must
236 have on their racing active list during the calendar year
237 following such action. The minimum number may vary
238 from dog track to dog track. The minimum number shall
239 be established after consultation with the West Virginia
240 Greyhound Owners and Breeders Association and kennel
241 owners and operators. Factors to be considered in estab-
242 lishing this minimum number shall be the number of
243 individually registered accredited West Virginia whelped
244 greyhounds whelped in the previous two years. The

245 number of all greyhounds seeking qualification at each
246 West Virginia dog track, the ratio of active running
247 greyhounds to housed number of greyhounds at each West
248 Virginia dog track, and the size and number of racing
249 kennels at each West Virginia dog track. Any greyhound
250 racing kennel not having the minimum number of accred-
251 ited West Virginia whelped greyhounds determined by the
252 West Virginia Racing Commission on their active list shall
253 only be permitted to race the maximum allowable number
254 on the active list less the number of accredited West
255 Virginia whelped greyhounds below the established
256 minimum number. Consistent violations of this minimum
257 requirement may be reviewed by the Racing Commission
258 and may constitute cause for denial or revocation of a
259 kennel's racing license. The Racing Commission shall
260 oversee and approve racing schedules and purse amounts.

261 Ten percent of the deposits into the greyhound breeding
262 development fund beginning July 1, 1993 and continuing
263 each year thereafter, shall be withheld by the Racing
264 Commission and placed in a special revenue account
265 hereby created in the State Treasury called the "adminis-
266 tration, promotion, education, capital improvement and
267 greyhound adoption programs to include spaying and
268 neutering account". The Racing Commission is authorized
269 to expend the moneys deposited in the administration,
270 promotion, education, capital improvement and grey-
271 hound adoption programs to include spaying and neuter-
272 ing account at such times and in such amounts as the
273 commission determines to be necessary for purposes of
274 administering and promoting the greyhound development
275 program: *Provided*, That beginning with fiscal year 1995
276 and in each fiscal year thereafter in which the commission
277 anticipates spending any money from the account, the
278 commission shall submit to the executive department
279 during the budget preparation period prior to the Legisla-
280 ture convening before that fiscal year for inclusion in the

281 executive budget document and budget bill, the recom-
282 mended expenditures, as well as requests of appropria-
283 tions for the purpose of administration, promotion,
284 education, capital improvement and greyhound adoption
285 programs to include spaying and neutering. The commis-
286 sion shall make an annual report to the Legislature on the
287 status of the administration, promotion, education, capital
288 improvement and greyhound adoption programs to include
289 spaying and neutering account, including the previous
290 year's expenditures and projected expenditures for the
291 next year.

292 The Racing Commission, for the fiscal year 1994 only,
293 may expend up to \$35,000 from the West Virginia Grey-
294 hound Breeding Development Fund to accomplish the
295 purposes of this section without strictly following the
296 requirements in the previous paragraph.

297 (e) All daily license and pari-mutuel pools tax payments
298 required under the provisions of this section shall be made
299 to the Racing Commission or its agent after the last race of
300 each day of each horse or dog race meeting, and the pari-
301 mutuel pools tax payments shall be made from all contri-
302 butions to all pari-mutuel pools to each and every race of
303 the day.

304 (f) Every association or licensee subject to the provisions
305 of this article, including the changed provisions of sections
306 nine and ten of this article, shall annually submit to the
307 Racing Commission and the Legislature financial state-
308 ments, including a balance sheet, income statement,
309 statement of change in financial position and an audit of
310 any electronic data system used for pari-mutuel tickets
311 and betting, prepared in accordance with generally
312 accepted auditing standards, as certified by an experi-
313 enced public accountant or a certified public accountant.

**§19-23-13. Disposition of funds for payment of outstanding
and unredeemed pari-mutuel tickets; publica-**

**tion of notice; irredeemable tickets; payment of
past obligations.**

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

31 (b) Any outstanding and unredeemed pari-mutuel tickets
32 that are not presented for payment within ninety days
33 from the date of the publication of the notice are thereaf-
34 ter irredeemable, and the moneys theretofore held for the

35 redemption of the pari-mutuel tickets shall become the
36 property of the racing commission and shall be expended
37 as provided in subsections (c) and (d) of this section. The
38 racing commission shall maintain separate accounts for
39 each licensee and shall record in each separate account the
40 moneys turned over by the licensee and the amount
41 expended at the licensee's track for the purposes set forth
42 in this subsection.

43 (c) In the fiscal year beginning on July 1, 2010, the racing
44 commission shall keep separate the unredeemed pari-
45 mutuel tickets received from each of the two licensee horse
46 racetracks.

47 (1) The unredeemed pari-mutuel tickets attributable to
48 each licensee horse racetrack together with funds distrib-
49 uted pursuant to section eighteen-a, article twenty-two,
50 chapter twenty-nine of this code shall be used for claims
51 received pursuant to this subsection by the Racing Com-
52 mission each calendar quarter: *Provided*, That the first
53 distribution after the effective date of amendments to this
54 section made during the 2010 regular legislative session
55 shall not occur until February 2011 and then each calen-
56 dar quarter thereafter. Any claims made pursuant to this
57 subsection must be submitted to the racing commission no
58 later than fifteen days after the race where the funds are
59 awarded. The funds in the two special accounts - unre-
60 deemed pari-mutuel tickets shall be distributed based on
61 claims received from each horse racetrack as follows:

62 (A) To the owner of the winning horse in any horse race
63 at a horse race meeting held or conducted by any licensee:
64 *Provided*, That the owner of the horse is at the time of the
65 horse race a bona fide resident of this state, a sum equal to
66 ten percent of the purse won by the horse at that race:
67 *Provided, however*, That in the event there are more than
68 ten races in any performance, the award to the resident
69 owner of the winning horse will be that fractional share of

70 the purse with a numerator of one and a denominator
71 representing the number of races on the day of the perfor-
72 mance. The commission may require proof that the owner
73 was, at the time of the race, a bona fide resident of this
74 state. Upon proof by the owner that he or she filed a
75 personal income tax return in this state for the previous
76 two years and that he or she owned real or personal
77 property in this state and paid taxes in this state on real or
78 personal property for the previous two years, he or she
79 shall be presumed to be a bona fide resident of this state;
80 and

81 (B) To the breeder (that is, the owner of the mare) of the
82 winning horse in any horse race at a horse race meeting
83 held or conducted by any licensee: *Provided*, That the
84 mare foaled in this state, a sum equal to ten percent of the
85 purse won by the horse: *Provided, however*, That in the
86 event there are more than ten races in any performance,
87 the award to the breeder will be that fractional share of
88 the purse with a numerator of one and a denominator
89 representing the number of races on the day of the perfor-
90 mance; and

91 (C) To the owner of the stallion which sired the winning
92 horse in any horse race at a horse race meeting held or
93 conducted by any licensee: *Provided*, That the mare which
94 foaled the winning horse was served by a stallion standing
95 and registered in this state, a sum equal to ten percent of
96 the purse won by the horse: *Provided, however*, That in the
97 event there are more than ten races in any performance,
98 the award to the owner of the stallion will be percentage
99 of the purse based upon the fractional share represented
100 by the number of races on the day of the performance.

101 (2) If in any calendar quarter insufficient funds are
102 available in each licensee horse racetrack's special account
103 - unredeemed pari-mutuel tickets administered by the
104 Racing Commission for payments pursuant to subdivision

105 (1), payments shall be made on a pro rata basis pursuant
106 to paragraphs (A), (B) and (C) of subdivision (1) of this
107 subsection of the claims submitted from races won at each
108 horse racetrack. Once payments on each claim are made,
109 whether in full or on a pro rata basis, no further obligation
110 for payment is created by this subdivision. Claims re-
111 ceived after the deadline are not valid.

112 (3) If after paying any claims pursuant to this subsection
113 and funds remain in the accounts, those funds shall carry
114 over to the next calendar quarter. If in any quarter the
115 surplus in either account reaches a balance of \$1 million,
116 then that surplus balance shall be placed in to the regular
117 purse fund of that licensee horse racetrack whose unre-
118 deemed pari-mutuel account achieves the surplus.

119 (d) Any unredeemed pari-mutuel tickets received from
120 licensee dog racetracks shall be combined into a single
121 balance and distributed quarterly to the West Virginia
122 racing commission special account - West Virginia grey-
123 hound breeding development fund. The deposit made
124 pursuant to this subsection does not create a continuing
125 obligation of payment except to the extent that there are
126 unredeemed pari-mutuel tickets from the licensee dog
127 racetracks.

128 (e) The amendments to this section made during the 2010
129 regular legislative session shall become effective July 1,
130 2010.

131 (f) The Racing Commission shall satisfy obligations of
132 the prior enactment of this section for all claims received
133 on purses won on or before June 30, 2010. Claimants must
134 submit all claims on or before July 15, 2010 for verifica-
135 tion by the Racing Commission. Claims received after July
136 15, 2010 are not valid.

137 (1) A transfer of \$2.5 million from the State Excess
138 Lottery Revenue Fund available on the last day of the

139 fiscal year which began July 1, 2009 shall be made to the
140 nonappropriated fund with the State Treasurer known as
141 the Unredeemed Pari-Mutuel Tickets Fund. The Racing
142 Commission shall also transfer to the account with the
143 State Treasurer monies from the racing commission
144 special accounts - unredeemed pari-mutuel tickets for
145 deposits received in each of those accounts that have been
146 credited with unredeemed pari-mutuel tickets for races
147 completed at any licensee racetrack as of June 30, 2010,
148 and any other monies appropriated by the legislature.
149 Unredeemed pari-mutuel tickets for races completed after
150 June 30, 2010 must remain in the special accounts -
151 unredeemed pari-mutuel tickets to satisfy future payments
152 pursuant to this section.

153 (2) The Racing Commission is authorized to pay claims
154 received for races completed on or before June 30, 2010
155 without regard to date of deposit or date of claim. Claims
156 shall be paid in date order, with the oldest claims being
157 paid first, until all claims have been satisfied. All pay-
158 ments made pursuant to this subsection for claims re-
159 ceived on purses won on or before June 30, 2010 shall
160 extinguish any further obligation by the state with respect
161 to those claims.

162 (g) The commission shall submit to the legislative
163 auditor a quarterly report and accounting of the income
164 and expenditures in the special account created by this
165 section known as the West Virginia racing commission
166 special account - unredeemed pari-mutuel tickets.

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

171 (i) The cost of publication of the notice provided for in
172 this section shall be paid from the funds in the hands of
173 the state treasurer collected from the pari-mutuel pools'

174 tax provided for in section ten of this article, when not
175 otherwise provided in the budget; but no such costs shall
176 be paid unless an itemized account thereof, under oath, be
177 first filed with the state auditor.

178 (j) The racing commission is authorized to promulgate
179 emergency rules, prior to September 1, 2010, to incorpo-
180 rate the revisions to this article enacted during the 2010
181 regular legislative session.

**§19-23-13b. West Virginia Thoroughbred Development Fund;
distribution; restricted races; nonrestricted
purse supplements; preference for West Vir-
ginia accredited thoroughbreds.**

1 (a) The Racing Commission shall deposit moneys re-
2 quired to be withheld by an association or licensee in
3 subsection (b), section nine of this article in a banking
4 institution of its choice in a special account to be known
5 as “West Virginia Racing Commission Special Account –
6 West Virginia Thoroughbred Development Fund”: *Pro-*
7 *vided*, That after the West Virginia Lottery Commission
8 has divided moneys between the West Virginia Thorough-
9 bred Development Fund and the West Virginia Greyhound
10 Breeding Development Fund pursuant to the provisions of
11 sections ten and ten-b, article twenty-two-a, chapter
12 twenty-nine of this code, the Racing Commission shall,
13 beginning October 1, 2005, deposit the remaining moneys
14 required to be withheld from an association or licensee
15 designated to the Thoroughbred Development Fund under
16 the provisions of subsection (b), section nine of this article,
17 subdivision (3), subsection (e), section twelve-b of this
18 article, subsection (b), section twelve-c of this article,
19 paragraph (B), subdivision (3), subsection (b), section
20 thirteen-c of this article and sections ten and ten-b, article
21 twenty-two-a, chapter twenty-nine of this code into
22 accounts for each thoroughbred racetrack licensee with a
23 banking institution of its choice with a separate account

24 for each association or licensee. Each separate account
25 shall be a special account to be known as "West Virginia
26 Racing Commission Special Account - West Virginia
27 Thoroughbred Development Fund" and shall name the
28 licensee for which the special account has been estab-
29 lished: *Provided, however,* That the Racing Commission
30 shall deposit all moneys paid into the Thoroughbred
31 Development Fund by a thoroughbred racetrack licensee
32 that did not participate in the Thoroughbred Development
33 Fund for at least four consecutive calendar years prior to
34 December 31, 1992 from July 8, 2005 until the effective
35 date of the amendment to this section passed during the
36 fourth extraordinary session of the seventy-seventh
37 Legislature shall be paid into the purse fund of that
38 thoroughbred racetrack licensee: *Provided further,* That
39 the moneys paid into the Thoroughbred Development
40 Fund by a thoroughbred racetrack licensee that did not
41 participate in the Thoroughbred Development Fund for at
42 least four consecutive calendar years prior to December
43 31, 1992, shall be transferred into that licensee's purse
44 fund until April 1, 2006. Notice of the amount, date and
45 place of the deposits shall be given by the Racing Commis-
46 sion, in writing, to the State Treasurer. The purpose of the
47 funds is to promote better breeding and racing of thor-
48 oughbred horses in the state through awards and purses
49 for accredited breeders/raisers, sire owners and thorough-
50 bred race horse owners: *And provided further,* That five
51 percent of the deposits required to be withheld by an
52 association or licensee in subsection (b), section nine of
53 this article shall be placed in a special revenue account
54 hereby created in the state Treasury called the "Adminis-
55 tration and Promotion Account".

56 (b) The Racing Commission is authorized to expend the
57 moneys deposited in the administration and promotion
58 account at times and in amounts as the Commission
59 determines to be necessary for purposes of administering

60 and promoting the thoroughbred development program:
61 *Provided*, That during any fiscal year in which the Com-
62 mission anticipates spending any money from the account,
63 the Commission shall submit to the executive department
64 during the budget preparation period prior to the Legisla-
65 ture convening before that fiscal year for inclusion in the
66 executive budget document and budget bill the recom-
67 mended expenditures, as well as requests of appropria-
68 tions for the purpose of administration and promotion of
69 the program. The Commission shall make an annual
70 report to the Legislature on the status of the administra-
71 tion and promotion account, including the previous year's
72 expenditures and projected expenditures for the next year.

73 (c) The fund or funds and the account or accounts
74 established in subsection (a) of this section shall operate
75 on an annual basis.

76 (d) Funds in the Thoroughbred Development Fund or
77 funds in the separate accounts for each association or
78 licensee as provided in subsection (a) of this section shall
79 be expended for awards and purses except as otherwise
80 provided in this section. Annually, the first \$800,000 shall
81 be available for distribution for a minimum of fourteen
82 accredited stakes races at a racetrack which has partici-
83 pated in the West Virginia Thoroughbred Development
84 Fund for a period of more than four consecutive calendar
85 years prior to December 31, 1992. The weights for all
86 accredited stakes races shall be weight for age. One of the
87 stakes races shall be the West Virginia Futurity and the
88 second shall be the Frank Gall Memorial Stakes. For the
89 purpose of participating in the West Virginia Futurity
90 only, all mares, starting with the breeding season begin-
91 ning the first day of February through July 31, 2004, and
92 each successive breeding season thereafter shall be bred
93 back that year to an accredited West Virginia stallion only
94 which is registered with the West Virginia Thoroughbred
95 Breeders Association. The accredited stake races shall be

96 chosen by the committee set forth in subsection (f) of this
97 section.

98 (e) Awards and purses shall be distributed as follows:

99 (1) The breeders/raisers of accredited thoroughbred
100 horses that earn a purse at a participating West Virginia
101 meet shall receive a bonus award calculated at the end of
102 the year as a percentage of the fund dedicated to the
103 breeders/raisers, which shall be sixty percent of the fund
104 available for distribution in any one year. The total
105 amount available for the breeders'/raisers' awards shall be
106 distributed according to the ratio of purses earned by an
107 accredited race horse to the total amount earned in the
108 participating races by all accredited race horses for that
109 year as a percentage of the fund dedicated to the breed-
110 ers/raisers. However, no breeder/raiser may receive from
111 the fund dedicated to breeders'/raisers' awards an amount
112 in excess of the earnings of the accredited horse at West
113 Virginia meets. In addition, should a horse's breeder and
114 raiser qualify for the same award on the same horse, they
115 will each be awarded one half of the proceeds. The bonus
116 referred to in this subdivision may only be paid on the first
117 \$100,000 of any purse and not on any amounts in excess of
118 the first \$100,000.

119 (2) The owner of an accredited West Virginia sire of an
120 accredited thoroughbred horse that earns a purse in any
121 race at a participating West Virginia meet shall receive a
122 bonus award calculated at the end of the year as a per-
123 centage of the fund dedicated to sire owners, which shall
124 be fifteen percent of the fund available for distribution in
125 any one year. The total amount available for the sire
126 owners' awards shall be distributed according to the ratio
127 of purses earned by the progeny of accredited West
128 Virginia stallions in the participating races for a particular
129 stallion to the total purses earned by the progeny of all
130 accredited West Virginia stallions in the participating

131 races. However, no sire owner may receive from the fund
132 dedicated to sire owners an amount in excess of thirty-five
133 percent of the accredited earnings for each sire. The bonus
134 referred to in this subdivision shall only be paid on the
135 first \$100,000 of any purse and not on any amounts in
136 excess of the first \$100,000.

137 (3) The owner of an accredited thoroughbred horse that
138 earns a purse in any participating race at a West Virginia
139 meet shall receive a restricted purse supplement award
140 calculated at the end of the year, which shall be twenty-
141 five percent of the fund available for distribution in any
142 one year, based on the ratio of the earnings in the races of
143 a particular race horse to the total amount earned by all
144 accredited race horses in the participating races during
145 that year as a percentage of the fund dedicated to purse
146 supplements. However, the owners may not receive from
147 the fund dedicated to purse supplements an amount in
148 excess of thirty-five percent of the total accredited
149 earnings for each accredited race horse. The bonus
150 referred to in this subdivision shall only be paid on the
151 first \$100,000 of any purse and not on any amounts in
152 excess of the first \$100,000.

153 (4) In no event may purses earned at a meet held at a
154 track which did not make a contribution to the Thorough-
155 bred Development Fund out of the daily pool on the day
156 the meet was held qualify or count toward eligibility for
157 an award under this subsection.

158 (5) Any balance in the breeders/raisers, sire owners and
159 purse supplement funds after yearly distributions shall
160 first be used to fund the races established in subsection (f)
161 of this section. Any amount not so used shall revert into
162 the general account of the Thoroughbred Development
163 Fund for each racing association or licensee for distribu-
164 tion in the next year.

165 Distribution shall be made on the fifteenth day of each
166 February for the preceding year's achievements.

167 (f)(1) Each pari-mutuel thoroughbred horse track shall
168 provide at least one restricted race per racing day: *Pro-*
169 *vided*, That sufficient horses and funds are available. For
170 purposes of this subsection, there are sufficient horses if
171 there are at least seven single betting interests received for
172 the race: *Provided further*, That, if sufficient horses and
173 funds are available, any thoroughbred horse racetrack
174 whose licensee participated in the Thoroughbred Develop-
175 ment Fund for at least four consecutive calendar years
176 prior to December 31, 1992, shall provide two restricted
177 races per racing day, at least one of which may be split at
178 the discretion of the racing secretary. The restricted race
179 required by this section must be included in the first nine
180 races written in the condition book for that racing day.

181 (2) The restricted races established in this subsection
182 shall be administered by a three-member committee at
183 each track consisting of:

184 (A) The racing secretary at each track;

185 (B) A member appointed by the authorized representa-
186 tive of a majority of the owners and trainers at the thor-
187 oughbred track; and

188 (C) A member appointed by the West Virginia Thorough-
189 bred Breeders Association.

190 (3) Restricted races shall be funded by each racing
191 association from:

192 (A) Moneys placed in the General Purse Fund: *Provided*,
193 That a thoroughbred horse racetrack which did not
194 participate in the West Virginia Thoroughbred Develop-
195 ment Fund for a period of more than four consecutive
196 years prior to December 31, 1992, may fund restricted
197 races in an amount not to exceed \$1 million per year.

198 (B) Moneys as provided in subdivision (5), subsection (e)
199 of this section, which shall be placed in a special fund
200 called the "West Virginia Accredited Race Fund".

201 (4) The racing schedules, purse amounts and types of
202 races are subject to the approval of the West Virginia
203 Racing Commission.

204 (5) If less than seventy-five percent of the restricted
205 races required by this subsection fail to receive enough
206 entries to race, the Racing Commission shall, on a quar-
207 terly basis, dedicate funds in each fund back to the general
208 purse fund of the racing association or licensee: *Provided*,
209 That no moneys may be dedicated back to a General purse
210 fund if the dedication would leave less than \$250,000 in
211 the fund.

212 (g) As used in this section, "West Virginia bred-foal"
213 means a horse that was born in the State of West Virginia.

214 (h) To qualify for the West Virginia Accredited Race
215 Fund, the breeder must qualify under one of the following:

216 (1) The breeder of the West Virginia bred-foal is a West
217 Virginia resident;

218 (2) The breeder of the West Virginia bred-foal is not a
219 West Virginia resident, but keeps his or her breeding stock
220 in West Virginia year round; or

221 (3) The breeder of the West Virginia bred-foal is not a
222 West Virginia resident and does not qualify under subdivi-
223 sion (2) of this subsection, but either the sire of the West
224 Virginia bred-foal is a West Virginia stallion, or the mare
225 is covered only by a West Virginia accredited stallion or
226 stallions before December 31 of the calendar year follow-
227 ing the birth of that West Virginia bred-foal.

228 (i) From July 1, 2001, West Virginia accredited thor-
229 oughbred horses have preference for entry in all accredited

230 races at a thoroughbred race track at which the licensee
231 participates in the West Virginia Thoroughbred Develop-
232 ment Fund.

233 (j) Beginning July 1, 2006, any racing association
234 licensed by the Racing Commission to conduct thorough-
235 bred racing and permitting and conducting pari-mutuel
236 wagering under the provisions of this article must have a
237 West Virginia Thoroughbred Racing Breeders Program.

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

18 (b) For the fiscal year beginning July 1, 2002, the com-
19 mission shall deposit: (1) \$65 million into the subaccount
20 of the state Excess Lottery Revenue Fund hereby created
21 in the State Treasury to be known as the General Purpose

22 Account to be expended pursuant to appropriation of the
23 Legislature; (2) \$10 million into the Education Improve-
24 ment Fund for appropriation by the Legislature to the
25 PROMISE Scholarship Fund created in section seven,
26 article seven, chapter eighteen-c of this code; (3) \$19
27 million into the Economic Development Project Fund
28 created in subsection (e) of this section for the issuance of
29 revenue bonds and to be spent in accordance with the
30 provisions of said subsection; (4) \$20 million into the
31 School Building Debt Service Fund created in section six,
32 article nine-d, chapter eighteen of this code for the
33 issuance of revenue bonds; (5) \$40 million into the West
34 Virginia Infrastructure Fund created in section nine,
35 article fifteen-a, chapter thirty-one of this code to be spent
36 in accordance with the provisions of said article; (6) \$10
37 million into the Higher Education Improvement Fund for
38 Higher Education; and (7) \$5 million into the State Park
39 Improvement Fund for Park Improvements. For the fiscal
40 year beginning July 1, 2003, the commission shall deposit:
41 (1) \$65 million into the General Purpose Account to be
42 expended pursuant to appropriation of the Legislature; (2)
43 \$17 million into the Education Improvement Fund for
44 appropriation by the Legislature to the PROMISE Schol-
45 arship Fund created in section seven, article seven, chapter
46 eighteen-c of this code; (3) \$19 million into the Economic
47 Development Project Fund created in subsection (e) of this
48 section for the issuance of revenue bonds and to be spent
49 in accordance with the provisions of said subsection; (4)
50 \$20 million into the School Building Debt Service Fund
51 created in section six, article nine-d, chapter eighteen of
52 this code for the issuance of revenue bonds; (5) \$40 million
53 into the West Virginia Infrastructure Fund created in
54 section nine, article fifteen-a, chapter thirty-one of this
55 code to be spent in accordance with the provisions of said
56 article; (6) \$10 million into the Higher Education Improve-
57 ment Fund for Higher Education; and (7) \$7 million into
58 the State Park Improvement Fund for Park Improvements.

59 (c) For the fiscal year beginning July 1, 2004, and
60 subsequent fiscal years through the fiscal year ending June
61 30, 2009, the commission shall deposit: (1) \$65 million into
62 the General Purpose Account to be expended pursuant to
63 appropriation of the Legislature; (2) \$27 million into the
64 Education Improvement Fund for appropriation by the
65 Legislature to the PROMISE Scholarship Fund created in
66 section seven, article seven, chapter eighteen-c of this
67 code; (3) \$19 million into the Economic Development
68 Project Fund created in subsection (e) of this section for
69 the issuance of revenue bonds and to be spent in accor-
70 dance with the provisions of said subsection; (4) \$19
71 million into the School Building Debt Service Fund
72 created in section six, article nine-d, chapter eighteen of
73 this code for the issuance of revenue bonds: *Provided*, That
74 for the fiscal year beginning July 1, 2008, and subsequent
75 fiscal years, no moneys shall be deposited in the School
76 Building Debt Service Fund pursuant to this subsection
77 and instead \$19 million shall be deposited into the Excess
78 Lottery School Building Debt Service Fund; (5) \$40
79 million into the West Virginia Infrastructure Fund created
80 in section nine, article fifteen-a, chapter thirty-one of this
81 code to be spent in accordance with the provisions of said
82 article; (6) \$10 million into the Higher Education Improve-
83 ment Fund for Higher Education; and (7) \$5 million into
84 the State Park Improvement Fund for Park Improvements.
85 No portion of the distributions made as provided in this
86 subsection and subsection (b) of this section, except
87 distributions made in connection with bonds issued under
88 subsection (e) of this section, may be used to pay debt
89 service on bonded indebtedness until after the Legislature
90 expressly authorizes issuance of the bonds and payment of
91 debt service on the bonds through statutory enactment or
92 the adoption of a concurrent resolution by both houses of
93 the Legislature. Until subsequent legislative enactment or
94 adoption of a resolution that expressly authorizes issuance
95 of the bonds and payment of debt service on the bonds

96 with funds distributed under this subsection and subsec-
97 tion (b) of this section, except distributions made in
98 connection with bonds issued under subsection (d) of this
99 section, the distributions may be used only to fund capital
100 improvements that are not financed by bonds and only
101 pursuant to appropriation of the Legislature.

102 (d) For the fiscal year beginning July 1, 2009, and
103 subsequent fiscal years, the commission shall deposit: (1)
104 \$65 million into the General Purpose Account to be
105 expended pursuant to appropriation of the Legislature; (2)
106 \$29 million into the Education Improvement Fund for
107 appropriation by the Legislature to the PROMISE Schol-
108 arship Fund created in section seven, article seven, chapter
109 eighteen-c of this code; (3) \$19 million into the Economic
110 Development Project Fund created in subsection (e) of this
111 section for the issuance of revenue bonds and to be spent
112 in accordance with the provisions of said subsection; (4)
113 \$19 million into the Excess Lottery School Building Debt
114 Service Fund created in section six, article nine-d, chapter
115 eighteen of this code; (5) \$40 million into the West Virginia
116 Infrastructure Fund created in section nine, article fifteen-
117 a, chapter thirty-one of this code to be spent in accordance
118 with the provisions of said article; (6) \$10 million into the
119 Higher Education Improvement Fund for Higher Educa-
120 tion; and (7) \$5 million into the State Park Improvement
121 Fund for Park Improvements. No portion of the distribu-
122 tions made as provided in this subsection and subsection
123 (b) of this section, except distributions made in connection
124 with bonds issued under subsection (e) of this section, may
125 be used to pay debt service on bonded indebtedness until
126 after the Legislature expressly authorizes issuance of the
127 bonds and payment of debt service on the bonds through
128 statutory enactment or the adoption of a concurrent
129 resolution by both houses of the Legislature. Until
130 subsequent legislative enactment or adoption of a resolu-
131 tion that expressly authorizes issuance of the bonds and
132 payment of debt service on the bonds with funds distrib-

133 uted under this subsection and subsection (b) of this
134 section, except distributions made in connection with
135 bonds issued under subsection (e) of this section, the
136 distributions may be used only to fund capital improve-
137 ments that are not financed by bonds and only pursuant to
138 appropriation of the Legislature.

139 (e) The Legislature finds and declares that in order to
140 attract new business, commerce and industry to this state,
141 to retain existing business and industry providing the
142 citizens of this state with economic security and to ad-
143 vance the business prosperity of this state and the eco-
144 nomic welfare of the citizens of this state, it is necessary to
145 provide public financial support for constructing, equip-
146 ping, improving and maintaining economic development
147 projects, capital improvement projects and infrastructure
148 which promote economic development in this state.

149 (1) The West Virginia Economic Development Authority
150 created and provided for in article fifteen, chapter thirty-
151 one of this code shall, by resolution, in accordance with
152 the provisions of this article and article fifteen, chapter
153 thirty-one of this code, and upon direction of the Gover-
154 nor, issue revenue bonds of the Economic Development
155 Authority in no more than two series to pay for all or a
156 portion of the cost of constructing, equipping, improving
157 or maintaining projects under this section or to refund the
158 bonds at the discretion of the authority. Any revenue
159 bonds issued on or after July 1, 2002, which are secured by
160 state excess lottery revenue proceeds shall mature at a
161 time or times not exceeding thirty years from their respec-
162 tive dates. The principal of and the interest and redemp-
163 tion premium, if any, on the bonds shall be payable solely
164 from the special fund provided in this section for the
165 payment.

166 (2) The special revenue fund named the Economic
167 Development Project Fund into which shall be deposited
168 the amounts to be deposited in the fund as specified in

169 subsections (b), (c) and (d) of this section is continued. The
170 Economic Development Project Fund shall consist of all
171 such moneys, all appropriations to the fund, all interest
172 earned from investment of the fund and any gifts, grants
173 or contributions received by the fund. All amounts
174 deposited in the fund shall be pledged to the repayment of
175 the principal, interest and redemption premium, if any, on
176 any revenue bonds or refunding revenue bonds authorized
177 by this section, including any and all commercially
178 customary and reasonable costs and expenses which may
179 be incurred in connection with the issuance, refunding,
180 redemption or defeasance of the bonds. The West Virginia
181 Economic Development Authority may further provide in
182 the resolution and in the trust agreement for priorities on
183 the revenues paid into the Economic Development Project
184 Fund that are necessary for the protection of the prior
185 rights of the holders of bonds issued at different times
186 under the provisions of this section. The bonds issued
187 pursuant to this subsection shall be separate from all other
188 bonds which may be or have been issued, from time to
189 time, under the provisions of this article.

190 (3) After the West Virginia Economic Development
191 Authority has issued bonds authorized by this section and
192 after the requirements of all funds have been satisfied,
193 including any coverage and reserve funds established in
194 connection with the bonds issued pursuant to this subsec-
195 tion, any balance remaining in the Economic Development
196 Project Fund may be used for the redemption of any of the
197 outstanding bonds issued under this subsection which, by
198 their terms, are then redeemable or for the purchase of the
199 outstanding bonds at the market price, but not to exceed
200 the price, if any, at which redeemable, and all bonds
201 redeemed or purchased shall be immediately canceled and
202 shall not again be issued.

203 (4) Bonds issued under this subsection (4) shall state on
204 their face that the bonds do not constitute a debt of the

205 State of West Virginia; that payment of the bonds, interest
206 and charges thereon cannot become an obligation of the
207 State of West Virginia; and that the bondholders' remedies
208 are limited in all respects to the Special Revenue Fund
209 established in this subsection for the liquidation of the
210 bonds.

211 (5) The West Virginia Economic Development Authority
212 shall expend the bond proceeds from the revenue bond
213 issues authorized and directed by this section for projects
214 certified under the provision of this subsection: *Provided,*
215 That the bond proceeds shall be expended in accordance
216 with the requirements and provisions of article five-a,
217 chapter twenty-one of this code and either article twenty-
218 two or twenty-two-a, chapter five of this code, as the case
219 may be: *Provided, however,* That if the bond proceeds are
220 expended pursuant to article twenty-two-a, chapter five
221 of this code and if the Design-Build Board created under
222 said article determines that the execution of a design-
223 build contract in connection with a project is appropriate
224 pursuant to the criteria set forth in said article and that a
225 competitive bidding process was used in selecting the
226 design builder and awarding the contract, the determina-
227 tion shall be conclusive for all purposes and shall be
228 considered to satisfy all the requirements of said article.

229 (6) For the purpose of certifying the projects that will
230 receive funds from the bond proceeds, a committee is
231 hereby established and comprised of the Governor, or his
232 or her designee, the Secretary of the Department of
233 Revenue, the Executive Director of the West Virginia
234 Development Office and six persons appointed by the
235 Governor: *Provided,* That at least one citizen member
236 must be from each of the state's three congressional
237 districts. The committee shall meet as often as necessary
238 and make certifications from bond proceeds in accordance
239 with this subsection. The committee shall meet within
240 thirty days of the effective date of this section.

241 (7) Applications for grants submitted on or before July
242 1, 2002, shall be considered refiled with the committee.
243 Within ten days from the effective date of this section as
244 amended in the year 2003, the lead applicant shall file
245 with the committee any amendments to the original
246 application that may be necessary to properly reflect
247 changes in facts and circumstances since the application
248 was originally filed with the committee.

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

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

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

256 (C) The ability of the project to create or retain jobs,
257 considering the number of jobs, the type of jobs, whether
258 benefits are or will be paid, the type of benefits involved
259 and the compensation reasonably anticipated to be paid
260 persons filling new jobs or the compensation currently
261 paid to persons whose jobs would be retained;

262 (D) Whether the project will promote economic develop-
263 ment in the region and the type of economic development
264 that will be promoted;

265 (E) The type of capital investments to be made with
266 bond proceeds and the useful life of the capital invest-
267 ments; and

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

270 (9) A grant may not be awarded to an individual or other
271 private person or entity. Grants may be awarded only to
272 an agency, instrumentality or political subdivision of this

273 state or to an agency or instrumentality of a political
274 subdivision of this state.

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

282 (10) Prior to making each certification, the committee
283 shall conduct at least one public hearing, which may be
284 held outside of Kanawha County. Notice of the time,
285 place, date and purpose of the hearing shall be published
286 in at least one newspaper in each of the three congressio-
287 nal districts at least fourteen days prior to the date of the
288 public hearing.

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

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

296 (B) Health clinics and other health facilities;

297 (C) Traditional infrastructure, such as water and
298 wastewater treatment facilities, pumping facilities and
299 transmission lines;

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

301 (E) Biotechnical incubators, development centers and
302 facilities;

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

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

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

311 (I) Recreational facilities, such as amphitheaters,
312 walking and hiking trails, bike trails, picnic facilities,
313 restrooms, boat docking and fishing piers, basketball and
314 tennis courts, and baseball, football and soccer fields;

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

317 (K) Retail facilities, including related service, parking
318 and transportation facilities, appropriate lighting, land-
319 scaping and security systems to revitalize decaying
320 downtown areas; and

321 (L) Other facilities that promote or enhance economic
322 development, educational opportunities or tourism
323 opportunities thereby promoting the general welfare of
324 this state and its residents.

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

331 (13) If any proceeds from sale of bonds remain after
332 paying costs and making grants and loans as provided in
333 this subsection, the surplus may be deposited in an
334 account in the State Treasury known as the Economic
335 Development Project Bridge Loan Fund administered by
336 the Economic Development Authority created in article
337 fifteen, chapter thirty-one of this code. Expenditures from

338 the fund are not authorized from collections but are to be
339 made only in accordance with appropriation by the
340 Legislature and in accordance with the provisions of
341 article three, chapter twelve of this code and upon fulfill-
342 ment of the provisions of article two, chapter five-a of this
343 code. Loan repayment amounts, including the portion
344 attributable to interest, shall be paid into the fund created
345 in this subdivision.

346 (f) If the commission receives revenues in an amount that
347 is not sufficient to fully comply with the requirements of
348 subsections (b), (c), (d) and (i) of this section, the commis-
349 sion shall first make the distribution to the Economic
350 Development Project Fund; second, make the distribution
351 or distributions to the other funds from which debt service
352 is to be paid; third, make the distribution to the Education
353 Improvement Fund for appropriation by the Legislature to
354 the PROMISE Scholarship Fund; and fourth, make the
355 distribution to the General Purpose Account: *Provided,*
356 That, subject to the provisions of this subsection, to the
357 extent the revenues are not pledged in support of revenue
358 bonds which are or may be issued, from time to time,
359 under this section, the revenues shall be distributed on a
360 pro rata basis.

361 (g) Each fiscal year, the commission shall, after meeting
362 the requirements of subsections (b), (c), (d) and (i) of this
363 section and after transferring to the State Lottery Fund
364 created under section eighteen of this article an amount
365 equal to any transfer from the State Lottery Fund to the
366 Excess Lottery Fund pursuant to subsection (f), section
367 eighteen of this article, deposit fifty percent of the amount
368 by which annual gross revenue deposited in the State
369 Excess Lottery Revenue Fund exceeds \$225 million in a
370 fiscal year in a separate account in the State Lottery Fund
371 to be available for appropriation by the Legislature.

372 (h) When bonds are issued for projects under subsection
373 (d) (e) of this section or for the School Building Authority,

374 infrastructure, higher education or park improvement
375 purposes described in this section that are secured by
376 profits from lotteries deposited in the State Excess Lottery
377 Revenue Fund, the Lottery Director shall allocate first to
378 the Economic Development Project Fund an amount equal
379 to one tenth of the projected annual principal, interest and
380 coverage requirements on any and all revenue bonds
381 issued, or to be issued as certified to the Lottery Director;
382 and second, to the fund or funds from which debt service
383 is paid on bonds issued under this section for the School
384 Building Authority, infrastructure, higher education and
385 park improvements an amount equal to one tenth of the
386 projected annual principal, interest and coverage require-
387 ments on any and all revenue bonds issued, or to be issued
388 as certified to the Lottery Director. In the event there are
389 insufficient funds available in any month to transfer the
390 amounts required pursuant to this subsection, the defi-
391 ciency shall be added to the amount transferred in the
392 next succeeding month in which revenues are available to
393 transfer the deficiency.

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

400 (j)(1) The Legislature considers the following as priori-
401 ties in the expenditure of any surplus revenue funds:

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

404 (B) Providing adequate funding for the Public Employ-
405 ees Insurance Agency; and

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

409 (2) The provisions of this subsection may not be con-
410 strued by any court to require any appropriation or any
411 specific appropriation or level of funding for the purposes
412 set forth in this subsection.

413 (k) The Legislature further directs the Governor to focus
414 resources on the creation of a prescription drug program
415 for senior citizens by pursuing a Medicaid waiver to offer
416 prescription drug services to senior citizens; by investigat-
417 ing the establishment of purchasing agreements with other
418 entities to reduce costs; by providing discount prices or
419 rebate programs for seniors; by coordinating programs
420 offered by pharmaceutical manufacturers that provide
421 reduced cost or free drugs; by coordinating a collaborative
422 effort among all state agencies to ensure the most efficient
423 and cost-effective program possible for the senior citizens
424 of this state; and by working closely with the state's
425 congressional delegation to ensure that a national program
426 is implemented. The Legislature further directs that the
427 Governor report his or her progress back to the Joint
428 Committee on Government and Finance on an annual
429 basis until a comprehensive program has been fully
430 implemented.

431 (l) After all of the expenditures in subsections (a)
432 through (i) of this section have been satisfied in any fiscal
433 year, the next \$2 million shall be distributed as follows:

434 (1) On the last day of the fiscal year that begins on July
435 1, 2010 and for each fiscal year thereafter, forty-six
436 percent shall be placed in the general purse fund of a
437 thoroughbred racetrack licensee that did not participate
438 in the Thoroughbred Development Fund for at least four
439 consecutive calendar years prior to December 31, 1992 for
440 payment of regular purses;

441 (2) Forty-three and one half percent shall be distributed
442 to the racing commission special account - unredeemed
443 pari-mutual tickets established on behalf of a thorough-

444 bred racetrack licensee that did participate in the Thor-
445 oughbred Development Fund for at least four consecutive
446 calendar years prior to December 31, 1992;

447 (3) Five and one half percent shall be distributed to the
448 racing commission special account - unredeemed pari-
449 mutuel tickets established on behalf of a thoroughbred
450 racetrack licensee that did not participate in the Thor-
451 oughbred Development Fund for at least four consecutive
452 calendar years prior to December 31, 1992; and

453 (4) Five percent shall be distributed to the West Virginia
454 racing commission special account - greyhound breeding
455 development fund.

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

**§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
2 the West Virginia Lottery Racetrack Table Games Fund is
3 continued and all tax collected under this article shall be
4 deposited with the State Treasurer and placed in the West
5 Virginia Lottery Racetrack Table Games Fund. The fund
6 shall be an interest-bearing account with all interest or
7 other return earned on the money of the fund credited to
8 and deposited in the fund.

9 (2) Notwithstanding any provision of this article to the
10 contrary, all racetrack table games license fees received by
11 the commission pursuant to section eight of this article
12 shall be deposited into the Community-Based Service
13 Fund which is continued in the State Treasury. Moneys of
14 the fund shall be expended by the Bureau of Senior
15 Services upon appropriation of the Legislature solely for
16 the purpose of enabling the aged and disabled citizens of

17 this state to maintain their residency in the community-
18 based setting through the provision of home and
19 community-based services.

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

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

26 (2) Transfer two and one-half percent of adjusted gross
27 receipts from all thoroughbred racetracks with West
28 Virginia Lottery table games to the special funds estab-
29 lished by each thoroughbred racetrack table games
30 licensees for the payment of regular racetrack purses, the
31 amount being divided on a pro rata basis between the
32 special funds of each thoroughbred racetrack table games
33 licensee and transfer two and one-half percent of adjusted
34 gross receipts from all greyhound racetracks with West
35 Virginia Lottery table games to the special funds estab-
36 lished by each greyhound racetrack table games licensees
37 for the payment of regular racetrack purses, the amount
38 being divided equally between the special funds of each
39 greyhound racetrack table games licensee;

40 (3) Transfer two percent of the adjusted gross receipts
41 from all licensed racetracks to the West Virginia Thor-
42 oughbred Development Fund created under section
43 thirteen-b, article twenty-three, chapter nineteen of this
44 code and the West Virginia Greyhound Breeding Develop-
45 ment Fund created under section ten, article twenty-three,
46 chapter nineteen of this code. The total amount trans-
47 ferred under this subdivision shall be divided pro rata
48 among the development funds for each racetrack table
49 games licensee based on relative adjusted receipts from
50 each racetrack. The amounts transferred to these funds
51 may not be used for the benefit of any person or activity

52 other than at or associated with a racetrack table games
53 licensee;

54 (4) Transfer one percent of the adjusted gross receipts
55 from each licensed racetrack to the county commissions of
56 the counties where racetracks with West Virginia Lottery
57 table games are located. The one percent transferred
58 under this subdivision shall be divided pro rata among the
59 counties with a racetrack with West Virginia Lottery table
60 games based on relative adjusted gross receipts from each
61 county's racetrack: *Provided*, That the county board of
62 education of a growth county, as that term is defined in
63 section three, article twenty, chapter seven of this code,
64 which has enacted the Local Powers Act, and in which
65 county a racetrack is located that has participated in the
66 West Virginia Thoroughbred Development Fund since on
67 or before January 1, 1991, shall receive the one percent of
68 adjusted gross receipts as provided in this subdivision for
69 the purpose of capital improvements;

70 (5) Transfer two percent of the adjusted gross receipts
71 from each licensed racetrack to the governing bodies of
72 municipalities within counties where racetracks with West
73 Virginia Lottery table games are located, which shall be
74 allocated as follows:

75 (A) One half of the amounts transferred under this
76 subdivision shall be allocated to the municipalities within
77 each county having a racetrack table games licensee, based
78 on relative adjusted gross receipts from West Virginia
79 Lottery table games from those racetracks and the total
80 amount allocated to the municipalities within a county
81 shall be divided pro rata among the municipalities based
82 on each municipality's population determined at the most
83 recent United States decennial census of population:
84 *Provided*, That: (i) For each allocation, when a municipal-
85 ity is physically located in two or more counties, only that
86 portion of its population residing in the county where the

87 authorized table games are located shall be considered; (ii)
88 a single municipality in a county where West Virginia
89 Lottery racetrack table games are played may not receive
90 a total share under this paragraph that is in excess of
91 seventy-five percent of the total distribution under this
92 paragraph for the county in which the municipality is
93 located; and (iii) a municipality receiving moneys under
94 this paragraph may not receive an amount which is less
95 than that received by a municipality under provisions of
96 subdivision (4), subsection (d) of this section; and

97 (B) One half of the amounts transferred under this
98 subdivision shall be allocated pro rata to the municipali-
99 ties within all the counties, having a racetrack table games
100 licensee based on each municipality's population deter-
101 mined at the most recent United States decennial census
102 of population: *Provided*, That: (i) A municipality which
103 received funds above its pro rata share pursuant to
104 subpart (iii), paragraph (A) of this subdivision may not
105 receive an allocation under this paragraph; (ii) for each
106 allocation, when a municipality is physically located in
107 two or more counties, only that portion of its population
108 residing in the county where the authorized table games
109 are located shall be considered; and (iii) a single munic-
110 ipality in a county where West Virginia Lottery racetrack
111 games are played may not receive a total share under this
112 paragraph that is in excess of twenty-five percent of the
113 total transfers under this paragraph: *Provided, however*,
114 That the county board of education of a growth county, as
115 that term is defined in section three, article twenty,
116 chapter seven of this code, which has enacted the Local
117 Powers Act, and in which county a racetrack is located
118 that has participated in the West Virginia Thoroughbred
119 Development Fund since on or before January 1, 1991,
120 shall receive the two percent of adjusted gross receipts as
121 provided in this subdivision for the purpose of capital
122 improvements;

123 (6) Transfer one half of one percent of the adjusted gross
124 receipts to the governing bodies of municipalities in which
125 a racetrack table games licensee is located. The muni-
126 cipalities shall each receive an equal share of the total
127 amount allocated under this subdivision: *Provided*, That
128 distribution under this subdivision may not be made to
129 any municipality which did not have a licensed racetrack
130 within its municipal boundaries as they existed on Janu-
131 ary 1, 2007: *Provided, however*, That if no racetrack table
132 games licensee is located within a municipality, a transfer
133 may not be made under this subdivision; and

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

138 (c) Beginning with the fiscal year following the licensing
139 of every licensed racetrack to offer West Virginia lottery
140 racetrack table games under this article, subsection (b) of
141 this section shall be superseded and replaced by this
142 subsection for distribution of the balances in the fund
143 established by subsection (a) of this section. From the
144 gross amounts deposited into the fund, the commission
145 shall:

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

149 (2) Transfer two and one-half percent of adjusted gross
150 receipts from all thoroughbred racetracks with West
151 Virginia Lottery table games to the special funds estab-
152 lished by each thoroughbred racetrack table games
153 licensee for the payment of regular racetrack purses, the
154 amount being divided on a pro rata basis between the
155 special funds of each thoroughbred racetrack table games
156 licensee and transfer two and one-half percent of adjusted
157 gross receipts from all greyhound racetracks with West

158 Virginia Lottery table games to the special funds estab-
159 lished by each greyhound racetrack table games licensee
160 for the payment of regular racetrack purses, the amount
161 being divided equally between the special funds of each
162 greyhound racetrack table games licensee;

163 (3) Transfer two percent of the adjusted gross receipts
164 from all licensed racetracks to the West Virginia Thor-
165 oughbred Development Fund created under section
166 thirteen-b, article twenty-three, chapter nineteen of this
167 code and the West Virginia Greyhound Breeding Develop-
168 ment Fund created under section ten, article twenty-three,
169 chapter nineteen of this code. The total amount trans-
170 ferred under this subdivision shall be divided pro rata
171 among the development funds for each racetrack table
172 games licensee based on relative adjusted receipts from
173 each racetrack. The amounts transferred to these funds
174 may not be used for the benefit of any person or activity
175 other than at or associated with a racetrack table games
176 licensee;

177 (4) Transfer two percent of the adjusted gross receipts
178 from each licensed racetrack to the county commissions of
179 the counties where racetracks with West Virginia Lottery
180 table games are located. The money transferred under this
181 subdivision shall be divided pro rata among the counties
182 with a racetrack with West Virginia Lottery table games
183 based on relative adjusted gross receipts from each
184 county's racetrack: *Provided*, That the county board of
185 education of a growth county, as that term is defined in
186 section three, article twenty, chapter seven of this code,
187 which has enacted the Local Powers Act, and in which a
188 racetrack is located that has participated in the West
189 Virginia Thoroughbred Development Fund since on or
190 before January 1, 1991, shall receive one half of that
191 county's share of adjusted gross receipts as provided in
192 this subdivision for the purpose of capital improvements;

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

198 (A) One half of the money transferred by this subdivision
199 shall be allocated to the municipalities within each county,
200 other than a county described in paragraph (C) of this
201 subdivision, having a racetrack table games licensee based
202 on relative adjusted gross receipts from West Virginia
203 Lottery table games from those racetracks and the total
204 amount allocated to the municipalities within a county
205 shall be divided pro rata among the municipalities based
206 on each municipality's population determined at the most
207 recent United States decennial census of population:
208 *Provided, That:* (i) For each allocation, when a municipal-
209 ity is physically located in two or more counties, only that
210 portion of its population residing in the county where the
211 authorized table games are located shall be considered; (ii)
212 a single municipality in a county where West Virginia
213 Lottery racetrack table games are played may not receive
214 a total share under this paragraph that is in excess of
215 seventy-five percent of the total distribution under this
216 paragraph for the county in which the municipality is
217 located; and (iii) a municipality receiving moneys under
218 this paragraph may not receive an amount which is less
219 than that received by a municipality under provisions of
220 subdivision (4), subsection (d) of this section.

221 (B) One half of the money transferred under this subdivi-
222 sion shall be allocated pro rata to the municipalities
223 within all the counties, other than a county described in
224 paragraph (C) of this subdivision, having a racetrack table
225 games licensee based on each municipality's population
226 determined at the most recent United States decennial
227 census of population: *Provided, That:* (i) A municipality
228 which received funds above its pro rata share pursuant to

229 subparagraph (iii), paragraph (A) of this subdivision shall
230 not receive an allocation under this paragraph; (ii) for each
231 allocation, when a municipality is physically located in
232 two or more counties, only that portion of its population
233 residing in the county where the authorized table games
234 are located shall be considered; and (iii) a single munic-
235 ipality in a county where West Virginia Lottery racetrack
236 games are played may not receive a total share under this
237 paragraph that is in excess of twenty-five percent of the
238 total transfers under this paragraph.

239 (C) Notwithstanding the provisions of paragraphs (A)
240 and (B) of this subdivision, when a racetrack is located in
241 a growth county, as that term is defined in section three,
242 article twenty, chapter seven of this code, which has
243 enacted the Local Powers Act, and in which county a
244 racetrack is located that has participated in the West
245 Virginia Thoroughbred Development Fund since on or
246 before January 1, 1991, the county board of education
247 shall receive two thirds of the share of adjusted gross
248 receipts from West Virginia Lottery table games from the
249 racetrack in the county as provided in this subdivision and
250 the municipalities within the county shall share the
251 remaining one third of the total amount allocated as
252 provided in this paragraph. The municipal one-third share
253 shall be divided pro rata among the municipalities based
254 on each municipality's population determined at the most
255 recent United States decennial census of population. All
256 money transferred under this paragraph shall be used by
257 the county board of education and by the municipalities
258 for the purpose of capital improvements;

259 (6) Transfer one half of one percent of the adjusted gross
260 receipts to the governing bodies of municipalities in which
261 a racetrack table games licensee is located. The munic-
262 ipalities shall each receive an equal share of the total
263 amount allocated under this subdivision: *Provided*, That
264 distribution under this subdivision may not be made to

265 any municipality that did not have a licensed racetrack
266 within its municipal boundaries as they existed on Janu-
267 ary 1, 2007: *Provided, however,* That if no racetrack table
268 games licensee is located within a municipality, a transfer
269 may not be made under this subdivision; and

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

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

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

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

290 (3) Transfer ten percent, to be divided and paid in equal
291 shares, to each county commission in the state that is not
292 eligible to receive a distribution under subdivision (4),
293 subsection (b) of this section: *Provided,* That funds
294 transferred to county commissions under this subdivision
295 shall be used only to pay regional jail expenses and the
296 costs of infrastructure improvements and other capital
297 improvements; and

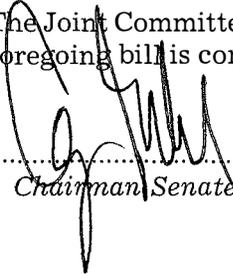
298 (4) Transfer ten percent, to be divided and paid in equal
299 shares, to the governing bodies of each municipality in the
300 state that is not eligible to receive a distribution under
301 subdivisions (5) and (6), subsection (b) of this section:
302 *Provided*, That funds transferred to municipalities under
303 this subdivision shall be used only to pay for debt reduc-
304 tion in municipal police and fire pension funds and the
305 costs of infrastructure improvements and other capital
306 improvements.

307 (e) All expenses of the commission incurred in the
308 administration and enforcement of this article shall be
309 paid from the Racetrack Table Games Fund, including
310 reimbursement of state law-enforcement agencies for
311 services performed at the request of the commission
312 pursuant to this article. The commission's expenses
313 associated with a particular racetrack with authorized
314 table games under this article may not exceed three
315 percent of the total annual adjusted gross receipts received
316 from that licensee's operation of table games under this
317 article, including, but not limited to, all license fees or
318 other amounts attributable to the licensee's operation of
319 table games under this article, except as provided in
320 subdivision (2), subsection (a) of this section. However, for
321 the fiscal year following the licensing of every licensed
322 racetrack to offer West Virginia lottery racetrack table
323 games under this article and for the fiscal year thereafter,
324 the commission's expenses associated with a particular
325 racetrack with authorized table games under this article
326 may not exceed four percent of the total annual adjusted
327 gross receipts received from that licensee's operation of
328 table games under this article, including, but not limited
329 to, all license fees or other amounts attributable to the
330 licensee's operation of table games under this article,
331 except as provided in subdivision (2), subsection (a) of this
332 section. These expenses shall either be allocated to the
333 racetrack with West Virginia Lottery table games for

334 which the expense is incurred, if practicable, or be treated
335 as general expenses related to all racetrack table games
336 facilities and be allocated pro rata among the racetrack
337 table games facilities based on the ratio that annual
338 adjusted gross receipts from operation of table games at
339 each racetrack with West Virginia Lottery table games
340 bears to total annual adjusted gross receipts from opera-
341 tion of table games at all racetracks with West Virginia
342 Lottery table games during the fiscal year of the state.
343 From this allowance, the commission shall transfer at least
344 \$100,000 but not more than \$500,000 into the Compulsive
345 Gambling Treatment Fund created in section nineteen,
346 article twenty-two-a of this chapter.

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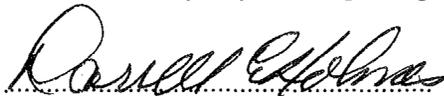
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman, Senate Committee

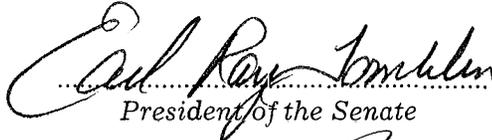

.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


.....
Clerk of the Senate


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Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within is appeared..... this the 2nd.....
Day of April....., 2010.


.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 23 2010

Time 11:40am