

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2872

FISCAL
NOTE

BY DELEGATES ESPINOSA, UPSON, MOORE, WILSON,

ZATEZALO, HOUSEHOLDER, DEAN, BLAIR, FOLK,

MCGEEHAN AND STORCH

[Introduced March 9, 2017; Referred

to the Committee on Finance.]

1 A BILL to amend and reenact §29-22A-10d and §29-22A-10e of the Code of West Virginia, 1931,
 2 as amended, all relating to changes in distribution of net terminal income, excess net
 3 terminal income and excess lottery fund.

Be it enacted by the Legislature of West Virginia:

1 That §29-22A-10d and §29-22A-10e of the Code of West Virginia, 1931, as amended, be
 2 amended and reenacted, all to read as follows:

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

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

1 (a) Notwithstanding any provision of subsection (b), section ten of this article to the
 2 contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, the commission
 3 may transfer up to \$9 million as actual costs and expenses to the Licensed Racetrack
 4 Modernization Fund.

5 (b) Notwithstanding any provision of subsection (c), section ten of this article to the
 6 contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, each
 7 distribution, except those distributions to be made pursuant to subdivisions (1), (2), (3), (4), (5)
 8 and (7), subsection (c), section ten of this article, shall be reduced by one hundred percent.
 9 Payments shall not be made pursuant to section ten of this article, other than those excepted by
 10 this subsection, and are made in lieu thereof in an amount to be determined by appropriation from
 11 the state Excess Lottery Revenue Fund.

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

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

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

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

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

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

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

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

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

1 (a) Notwithstanding any provision of subsection (a), section ten-b of this article to the
2 contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, each
3 distribution, except those distributions to be made pursuant to subdivisions (1), (2), (3), (4), (5)
4 and (7), subsection (a), section ten-b of this article, shall be reduced by one hundred percent.
5 Payments shall not be made pursuant to section ten-b of this article, other than those excepted
6 by this subsection, and are made in lieu thereof in an amount to be determined by appropriation
7 from the state Excess Lottery Revenue Fund.

8 (b) The total amount of reductions resulting from subsection (a) of this section shall be
9 paid into the state Excess Lottery Revenue Fund created in section eighteen-a, article twenty-two
10 of this chapter. For the fiscal year beginning July 1, 2014, and each fiscal year thereafter,
11 distributions to be made pursuant to subdivisions (2) and (5), subsection (a), section ten-b of this
12 article shall be reduced by ten percent, and the amounts resulting from the reduction shall be paid

13 into the state Excess Lottery Revenue Fund.

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

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

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

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

35 ~~(2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision~~
36 ~~of paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision~~
37 ~~of this code to the contrary, if the budget shortfall, as determined by the state Budget Office as of~~
38 ~~December 1, 2015, is greater than \$100 million, then the Governor may, by Executive Order,~~

39 ~~redirect deposits of revenues derived from net terminal income imposed under this article, for any~~
40 ~~period commencing after February 29, 2016 and ending before July 1, 2016, to the General~~
41 ~~Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter~~
42 ~~twenty-three of this code or in any other provision of this code.~~

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

NOTE: The purpose of this bill is to allocate a certain amount of net and excess terminal income from racetrack video lottery distributed to licensed racetrack purse funds once the Workers' Compensation Debt Reduction Fund is paid for in its entirety as originally intended in the 2005 enabling legislation and in current code §29-22A-10b(a)(9).

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