

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2839

FISCAL
NOTE

BY DELEGATES ESPINOSA, HOUSEHOLDER, HARDY AND

BIBBY

[INTRODUCED FEBRUARY 4, 2019; 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 making changes in distribution of racetrack video lottery net
3 terminal income, excess net terminal income and excess lottery fund.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

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

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

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

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

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

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

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

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

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

44 ~~(B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of~~
45 ~~paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision of~~

46 ~~this code to the contrary, the Governor may, by Executive Order, redirect one-half of the deposits~~
47 ~~of revenues derived from net terminal income imposed under this article, for any period~~
48 ~~commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund,~~
49 ~~instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of~~
50 ~~this code or in any other provision of this code, until certification of the Governor to the Legislature~~
51 ~~that an independent actuary has determined that the unfunded liability of the Old Fund, as defined~~
52 ~~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 §29-22A-10b(a) of this code to the contrary, for the
2 fiscal year beginning July 1, 2014, and each fiscal year thereafter, each distribution, except those
3 distributions to be made pursuant to §29-22A-10b(a)(1), §29-22A-10b(a)(2), §29-22A-10b(a)(3),
4 §29-22A-10b(a)(4), §29-22A-10b(a)(5), §29-22A-10b(a)(7), and §29-22A-10b(a)(9) of this code
5 shall be reduced by 100 percent. Payments shall not be made pursuant to §29-22A-10b of this
6 code, other than those excepted by this subsection, and are made in lieu thereof in an amount to
7 be determined by appropriation from the state Excess Lottery Revenue Fund.

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

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

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

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

42 ~~(B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of~~
43 ~~paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision~~

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

NOTE: The purpose of this bill is to make changes in distribution of racetrack video lottery net terminal income, excess net terminal income, and excess lottery fund.

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