

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

INTRODUCED

FISCAL
NOTE

House Bill 3075

BY DELEGATES GEARHEART, SMITH, ELLINGTON, FAST,
ROWAN, LONGANACRE, PAYNTER, JENNINGS,
BURKHAMMER AND MAZZOCCHI

[Introduced March 11, 2021; Referred to the
Committee on Finance]

1 A BILL to amend and reenact §17-3-1 of the Code of West Virginia, 1931, as amended; and to
2 amend and reenact §29-22A-10 and §29-22A-10d of said code, all relating to the
3 Racetrack Modernization Fund; transferring funds remaining in the Racetrack
4 Modernization Fund to the State Road Fund; and closing the Racetrack Modernization
5 Fund.

Be it enacted by the Legislature of West Virginia:

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 3. STATE ROAD FUND.

§17-3-1. What constitutes fund; payments into fund; use of money in fund.

1 (a) There shall be a State Road Fund, which shall consist of the proceeds of all state
2 license taxes imposed upon automobiles or other motor or steam driven vehicles; the registration
3 fees imposed upon all owners, chauffeurs, operators and dealers in automobiles or other motor
4 driven vehicles; all sums of money which may be donated to such fund; all proceeds derived from
5 the sale of state bonds issued pursuant to any resolution or act of the Legislature carrying into
6 effect the Better Roads Amendment to the Constitution of this state, adopted in November, 1964,
7 except that the proceeds from the sale of these bonds shall be kept in a separate and distinct
8 account in the State Road Fund; all proceeds from the sale of state bonds issued pursuant to any
9 resolution or act of the Legislature carrying into effect the Safe Roads Amendment of 1996 to the
10 Constitution of this state, adopted in November, 1996, except that the proceeds from the sale of
11 these bonds shall be kept in a separate and distinct account in the State Road Fund; all proceeds
12 from the sale of state bonds issued pursuant to any resolution or act of the Legislature carrying
13 into effect the Roads to Prosperity Amendment of 2017 to the Constitution of this state, adopted
14 in October, 2017, except that the proceeds from the sale of these bonds shall be kept in a separate
15 and distinct account in the State Road Fund; all moneys and funds appropriated to it by the
16 Legislature; and all moneys allotted or appropriated by the federal government to this state for

17 road construction and maintenance pursuant to any act of the Congress of the United States; the
 18 proceeds of all taxes imposed upon and collected from any person, firm or corporation and of all
 19 taxes or charges imposed upon and collected from any county, district or municipality for the
 20 benefit of the fund; the proceeds of all judgments, decrees or awards recovered and collected
 21 from any person, firm or corporation for damages done to, or sustained by, any of the state roads
 22 or parts thereof; all moneys recovered or received by reason of the violation of any contract
 23 respecting the building, construction or maintenance of any state road; all penalties and forfeitures
 24 imposed, recovered or received by reason thereof; transfers received from the West Virginia
 25 Lottery Commission pursuant to §29-22-10 and §29-22-10d; and any and all other moneys and
 26 funds appropriated to, imposed and collected for the benefit of such fund, or collected by virtue of
 27 any statute and payable to such fund: *Provided*, That notwithstanding any provisions of this code
 28 to the contrary, 50 cents of every license fee paid pursuant to the provisions of ~~subdivision (2),~~
 29 ~~subsection (a), section eight, article two, chapter seventeen-b of this code~~ §17B-2-8(a)(2) shall
 30 be paid to the special fund established pursuant to the provisions of ~~subsection (a), section twelve,~~
 31 ~~article two, chapter three of this code~~ §3-2-12a.

32 (b) When any money is collected from any of the sources aforesaid, it shall be paid into
 33 the State Treasury by the officer whose duty it is to collect and account for the same, and credited
 34 to the State Road Fund, and shall be used only for the purposes named in this chapter, which
 35 are: (a) To pay the principal and interest due on all state bonds issued for the benefit of said fund,
 36 and any costs related to the issuance thereof, and set aside and appropriated for that purpose;
 37 (b) to pay the expenses of the administration of the Division of Highways; and (c) to pay the cost
 38 of maintenance, construction, reconstruction and improvement of all state roads.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

§29-22A-10. Accounting and reporting; commission to provide communications protocol

data; distribution of net terminal income; remittance through electronic transfer of funds; establishment of accounts and nonpayment penalties; commission control of accounting for net terminal income; settlement of accounts; manual reporting and payment may be required; request for reports; examination of accounts and records.

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

6 (b) The gross terminal income of a licensed racetrack shall be remitted to the commission
7 through the electronic transfer of funds. Licensed racetracks shall furnish to the commission all
8 information and bank authorizations required to facilitate the timely transfer of moneys to the
9 commission. Licensed racetracks must provide the commission 30 days' advance notice of any
10 proposed account changes in order to assure the uninterrupted electronic transfer of funds. From
11 the gross terminal income remitted by the licensee to the commission:

12 (1) The commission shall deduct an amount sufficient to reimburse the commission for its
13 actual costs and expenses incurred in administering racetrack video lottery at the licensed
14 racetrack and the resulting amount after the deduction is the net terminal income. The amount
15 deducted for administrative costs and expenses of the commission may not exceed four percent
16 of gross terminal income: *Provided*, That any amounts deducted by the commission for its actual
17 costs and expenses that exceeds its actual costs and expenses shall be deposited into the State
18 Lottery Fund. For the fiscal years ending June 30, 2011 through June 30, 2020, the term "actual
19 costs and expenses" may include transfers of up to \$10 million in surplus allocations for each
20 fiscal year, as calculated by the commission when it has closed its books for the fiscal year, to
21 the Licensed Racetrack Modernization Fund created by ~~subdivision (2), subsection (b) of this~~

22 ~~section §29-22A-10(b)(2)~~. For all fiscal years beginning on or after July 1, 2001, the commission
23 shall not receive an amount of gross terminal income in excess of the amount of gross terminal
24 income received during the fiscal year ending on June 30, 2001, but four percent of any amount
25 of gross terminal income received in excess of the amount of gross terminal income received
26 during the fiscal year ending on June 30, 2001, shall be deposited into the fund established in
27 ~~section eighteen-a, article twenty-two of this chapter~~ §29-22-18a; and

28 (2) A Licensed Racetrack Modernization Fund is created within the lottery fund. For all
29 fiscal years beginning on or after July 1, 2011, and ending with the fiscal year beginning July 1,
30 2020, the commission shall deposit such amounts as are available according to ~~subdivision (1),~~
31 ~~subsection (b) of this section~~ §29-22A-10(b)(1) into a separate facility modernization account
32 maintained within the Licensed Racetrack Modernization Fund for each racetrack. Each
33 racetrack's share of each year's deposit shall be calculated in the same ratio as each racetrack's
34 apportioned contribution to the four percent administrative costs and expenses allowance
35 provided for in ~~subdivision (1), subsection (b) of this section~~ §29-22A-10(b)(1) for that year. For
36 each two dollars expended by a licensed racetrack for facility modernization improvements at the
37 racetrack, having a useful life of three or more years and placed in service after July 1, 2011, the
38 licensed racetrack shall receive \$1 in recoupment from its facility modernization account. If the
39 licensed racetrack's facility modernization account contains a balance in any fiscal year, the
40 unexpended balance from that fiscal year will be available for matching for one additional fiscal
41 year, after which time, the remaining unused balance carried forward shall revert to the lottery
42 fund. For purposes of this section, the term "facility modernization improvements" includes
43 acquisitions of new and unused video lottery terminals and related equipment. Video lottery
44 terminals financed through the recoupment provided in this subdivision must be retained by the
45 licensee in its West Virginia licensed location for a period of not less than five years from the date
46 of initial installation.

47 (3) Beginning July 1, 2022, the Racetrack Modernization Fund is hereby closed, and any

48 remaining balance shall be transferred by the Lottery Commission to the State Road Fund. For
49 fiscal year beginning July 1, 2021, the Lottery Commission shall transfer up to \$9 million from any
50 surplus allocation as calculated by the commission from those amounts deducted for actual costs
51 and expenses incurred pursuant to §29-22A-10(b)(1) that would otherwise be deposited into the
52 Racetrack Modernization Fund.

53 (c) The amount resulting after the deductions required by ~~subsection (b) of this section~~
54 §29-22A-10b constitutes net terminal income that shall be divided as set out in this subsection.
55 For all fiscal years beginning on or after July 1, 2001, any amount of net terminal income received
56 in excess of the amount of net terminal income received during the fiscal year ending on June 30,
57 2001, shall be divided as set out in section 10b of this article. The licensed racetrack's share is in
58 lieu of all lottery agent commissions and is considered to cover all costs and expenses required
59 to be expended by the licensed racetrack in connection with video lottery operations. The division
60 shall be made as follows:

61 (1) The commission shall receive 30 percent of net terminal income, which shall be paid
62 into the State Lottery Fund as provided in ~~section ten-a of this article~~ §29-22A-10a;

63 (2) Until July 1, 2005, 14 percent of net terminal income at a licensed racetrack shall be
64 deposited in the special fund established by the licensee, and used for payment of regular purses
65 in addition to other amounts provided for in ~~article twenty-three, chapter nineteen of this code~~
66 §19-23-1 et seq., on and after July 1, 2005, the rate shall be seven percent of net terminal income;

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

69 (A) Beginning July 1, 1999, and thereafter, any amount in excess of the two percent
70 received during the fiscal year 1999 by a county in which a racetrack is located that has
71 participated in the West Virginia Thoroughbred Development Fund since on or before January 1,
72 1999, shall be divided as follows:

73 (i) The county shall receive 50 percent of the excess amount; and

74 (ii) The municipalities of the county shall receive 50 percent of the excess amount, said
75 50 percent to be divided among the municipalities on a per capita basis as determined by the
76 most recent decennial United States census of population; and

77 (B) Beginning July 1, 1999, and thereafter, any amount in excess of the two percent
78 received during the fiscal year 1999 by a county in which a racetrack other than a racetrack
79 described in paragraph (A) of this proviso is located and where the racetrack has been located in
80 a municipality within the county since on or before January 1, 1999 shall be divided, if applicable,
81 as follows:

82 (i) The county shall receive 50 percent of the excess amount; and

83 (ii) The municipality shall receive 50 percent of the excess amount; and

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

86 (4) One percent of net terminal income shall be paid for and on behalf of all employees of
87 the licensed racing association by making a deposit into a special fund to be established by the
88 Racing Commission to be used for payment into the pension plan for all employees of the licensed
89 racing association;

90 (5) The West Virginia Thoroughbred Development Fund created under ~~section thirteen-b,~~
91 ~~article twenty-three, chapter nineteen of this code~~ §19-23-13b and the West Virginia Greyhound
92 Breeding Development Fund created under section 10 of said article shall receive an equal share
93 of a total of not less than one and one-half percent of the net terminal income;

94 (6) The West Virginia Racing Commission shall receive one percent of the net terminal
95 income which shall be deposited and used as provided in ~~section thirteen-c, article twenty-three,~~
96 ~~chapter nineteen of this code~~ §19-23-13c.

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

98 (8)(A) The Tourism Promotion Fund established in §5B-2-12 of this code shall receive
99 three percent of the net terminal income: *Provided*, That for the fiscal year beginning July 1, 2003,

100 the tourism commission shall transfer from the Tourism Promotion Fund \$5 million of the three
101 percent of the net terminal income described in this section and ~~section ten-b of this article~~ §29-
102 22A-10b into the fund administered by the West Virginia Economic Development Authority
103 pursuant to ~~section seven, article fifteen, chapter thirty-one of this code~~ §31-15-7, \$5 million into
104 the Capitol Renovation and Improvement Fund administered by the Department of Administration
105 pursuant to ~~section six, article four, chapter five-a of this code~~ §5A-4-6 and \$5 million into the Tax
106 Reduction and Federal Funding Increased Compliance Fund; and

107 (B) Notwithstanding any provision of paragraph (A) of this subdivision to the contrary, for
108 each fiscal year beginning after June 30, 2004, this three percent of net terminal income and the
109 three percent of net terminal income described in ~~paragraph (B), subdivision (8), subsection (a),~~
110 ~~section ten-b of this article~~ §29-22A-10(b)(a)(8)(B) shall be distributed as provided in this
111 paragraph as follows:

112 (i) 1.375 percent of the total amount of net terminal income described in this section and
113 in ~~section ten-b of this article~~ §29-22A-10b shall be deposited into the Tourism Promotion Fund
114 created under ~~section twelve, article two, chapter five-b of this code~~ §5B-2-12;

115 (ii) 0.375 percent of the total amount of net terminal income described in this section and
116 in ~~section ten-b of this article~~ §29-22A-10b shall be deposited into the Development Office
117 Promotion Fund created under ~~section three-b, article two, chapter five-b of this code~~ §5B-2-3b;

118 (iii) 0.5 percent of the total amount of net terminal income described in this section and in
119 ~~section ten-b of this article~~ §29-22A-10b shall be deposited into the Research Challenge Fund
120 created under ~~section ten, article one-b, chapter eighteen-b of this code~~ §18B-1B-10;

121 (iv) 0.6875 percent of the total amount of net terminal income described in this section and
122 in ~~section ten-b of this article~~ §29-22A-10b shall be deposited into the Capitol Renovation and
123 Improvement Fund administered by the Department of Administration pursuant to ~~section six,~~
124 ~~article four, chapter five-a of this code~~ §5A-4-6; and

125 (v) 0.0625 percent of the total amount of net terminal income described in this section and

126 in ~~section ten-b of this article~~ §29-22A-10b shall be deposited into the 2004 Capitol Complex
127 Parking Garage Fund administered by the Department of Administration pursuant to ~~section five-~~
128 ~~a, article four, chapter five-a of this code~~ §5A-4-5a;

129 (9)(A) On and after July 1, 2005, seven percent of net terminal income shall be deposited
130 into the Workers' Compensation Debt Reduction Fund created in ~~section five, article two-d,~~
131 ~~chapter twenty-three of this code~~ §23-2D-5: *Provided*, That in any fiscal year when the amount of
132 money generated by this subdivision totals \$11 million, all subsequent distributions under this
133 subdivision shall be deposited in the special fund established by the licensee and used for the
134 payment of regular purses in addition to the other amounts provided in ~~article twenty-three,~~
135 ~~chapter nineteen of this code~~ §19-23-1 et seq.;

136 (B) The deposit of the seven percent of net terminal income into the Worker's
137 Compensation Debt Reduction Fund pursuant to this subdivision shall expire and not be imposed
138 with respect to these funds and shall be deposited in the special fund established by the licensee
139 and used for payment of regular purses in addition to the other amounts provided in ~~article twenty-~~
140 ~~three, chapter nineteen of this code~~ §23-19-1 et seq., on and after the first day of the month
141 following the month in which the Governor certifies to the Legislature that: (i) The revenue bonds
142 issued pursuant to ~~article two-d, chapter twenty-three of this code~~ §23-2D-1 et seq., have been
143 retired or payment of the debt service provided for; and (ii) that an independent certified actuary
144 has determined that the unfunded liability of the old fund, as defined in ~~chapter twenty-three of~~
145 ~~this code~~ §23-1-1 et seq. has been paid or provided for in its entirety; and

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

147 (A) For the fiscal year beginning July 1, 2003, the veterans memorial program shall receive
148 one percent of the net terminal income until sufficient moneys have been received to complete
149 the veterans memorial on the grounds of the State Capitol Complex in Charleston, West Virginia.
150 The moneys shall be deposited in the State Treasury in the Division of Culture and History special
151 fund created under ~~section three, article one-i, chapter twenty-nine of this code~~ §29-11-3:

152 *Provided*, That only after sufficient moneys have been deposited in the fund to complete the
153 veterans memorial and to pay in full the annual bonded indebtedness on the veterans memorial,
154 not more than \$20,000 of the one percent of net terminal income provided in this subdivision shall
155 be deposited into a special revenue fund in the State Treasury, to be known as the “John F. ‘Jack’
156 Bennett Fund”. The moneys in this fund shall be expended by the Division of Veterans Affairs to
157 provide for the placement of markers for the graves of veterans in perpetual cemeteries in this
158 state. The Division of Veterans Affairs shall promulgate legislative rules pursuant to the provisions
159 of ~~article three, chapter twenty-nine-a of this code~~ §29-3-1 et seq. specifying the manner in which
160 the funds are spent, determine the ability of the surviving spouse to pay for the placement of the
161 marker and setting forth the standards to be used to determine the priority in which the veterans
162 grave markers will be placed in the event that there are not sufficient funds to complete the
163 placement of veterans grave markers in any one year, or at all. Upon payment in full of the bonded
164 indebtedness on the veterans memorial, \$100,000 of the one percent of net terminal income
165 provided in this subdivision shall be deposited in the special fund in the Division of Culture and
166 History created under ~~section three, article one-i, chapter twenty-nine of this code~~ §29-11-3 and
167 be expended by the Division of Culture and History to establish a West Virginia veterans memorial
168 archives within the Cultural Center to serve as a repository for the documents and records
169 pertaining to the veterans memorial, to restore and maintain the monuments and memorial on the
170 Capitol grounds: *Provided, however*, That \$500,000 of the one percent of net terminal income
171 shall be deposited in the State Treasury in a special fund of the Department of Administration,
172 created under ~~section five, article four, chapter five-a of this code~~ §5A-4-5, to be used for
173 construction and maintenance of a parking garage on the state Capitol Complex; and the
174 remainder of the one percent of net terminal income shall be deposited in equal amounts in the
175 Capitol Dome and Improvements Fund created under §5A-4-2 of this code and Cultural Facilities
176 and Capitol Resources Matching Grant Program Fund created under ~~section three, article one of~~
177 ~~this chapter~~ §29-1-3.

178 (B) For each fiscal year beginning after June 30, 2004:

179 (i) Five hundred thousand dollars of the one percent of net terminal income shall be
180 deposited in the State Treasury in a special fund of the Department of Administration, created
181 under ~~section five, article four, chapter five-a of this code~~ §5A-4-5, to be used for construction and
182 maintenance of a parking garage on the State Capitol Complex; and

183 (ii) The remainder of the one percent of net terminal income and all of the one percent of
184 net terminal income described in ~~paragraph (B), subdivision (9), subsection (a), section ten-b of~~
185 ~~this article~~ §29-22A-10(b)(a)(9)(B) shall be distributed as follows: The net terminal income shall
186 be deposited in equal amounts into the Capitol Dome and Capitol Improvements Fund created
187 under ~~section two, article four, chapter five-a of this code~~ §5A-4-2 and the Cultural Facilities and
188 Capitol Resources Matching Grant Program Fund created under ~~section three, article one,~~
189 ~~chapter twenty-nine of this code~~ §29-1-3 until a total of \$1,500,000 is deposited into the Cultural
190 Facilities and Capitol Resources Matching Grant Program Fund; thereafter, the remainder shall
191 be deposited into the Capitol Dome and Capitol Improvements Fund.

192 (d) Each licensed racetrack shall maintain in its account an amount equal to or greater
193 than the gross terminal income from its operation of video lottery machines, to be electronically
194 transferred by the commission on dates established by the commission. Upon a licensed
195 racetrack's failure to maintain this balance, the commission may disable all of a licensed
196 racetrack's video lottery terminals until full payment of all amounts due is made. Interest shall
197 accrue on any unpaid balance at a rate consistent with the amount charged for state income tax
198 delinquency under chapter 11 of this code. The interest shall begin to accrue on the date payment
199 is due to the commission.

200 (e) The commission's central control computer shall keep accurate records of all income
201 generated by each video lottery terminal. The commission shall prepare and mail to the licensed
202 racetrack a statement reflecting the gross terminal income generated by the licensee's video
203 lottery terminals. Each licensed racetrack shall report to the commission any discrepancies

204 between the commission's statement and each terminal's mechanical and electronic meter
205 readings. The licensed racetrack is solely responsible for resolving income discrepancies
206 between actual money collected and the amount shown on the accounting meters or on the
207 commission's billing statement.

208 (f) Until an accounting discrepancy is resolved in favor of the licensed racetrack, the
209 commission may make no credit adjustments. For any video lottery terminal reflecting a
210 discrepancy, the licensed racetrack shall submit to the commission the maintenance log which
211 includes current mechanical meter readings and the audit ticket which contains electronic meter
212 readings generated by the terminal's software. If the meter readings and the commission's
213 records cannot be reconciled, final disposition of the matter shall be determined by the
214 commission. Any accounting discrepancies which cannot be otherwise resolved shall be resolved
215 in favor of the commission.

216 (g) Licensed racetracks shall remit payment by mail if the electronic transfer of funds is
217 not operational or the commission notifies licensed racetracks that remittance by this method is
218 required. The licensed racetracks shall report an amount equal to the total amount of cash
219 inserted into each video lottery terminal operated by a licensee, minus the total value of game
220 credits which are cleared from the video lottery terminal in exchange for winning redemption
221 tickets, and remit the amount as generated from its terminals during the reporting period. The
222 remittance shall be sealed in a properly addressed and stamped envelope and deposited in the
223 United States mail no later than noon on the day when the payment would otherwise be completed
224 through electronic funds transfer.

225 (h) Licensed racetracks may, upon request, receive additional reports of play transactions
226 for their respective video lottery terminals and other marketing information not considered
227 confidential by the commission. The commission may charge a reasonable fee for the cost of
228 producing and mailing any report other than the billing statements.

229 (i) The commission has the right to examine all accounts, bank accounts, financial

230 statements and records in a licensed racetrack's possession, under its control or in which it has
231 an interest and the licensed racetrack shall authorize all third parties in possession or in control
232 of the accounts or records to allow examination of any of those accounts or records by the
233 commission.

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

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

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

24 (e) Prior to payment of any appropriation made pursuant to this section, debt service
25 payments payable from the State Excess Lottery Fund shall first be paid in accordance with the
26 provisions of ~~sections eighteen a, eighteen d and eighteen e, article twenty two of this chapter~~
27 §29-22-18a, §29-22-18d and §29-22-18e and in the priority as defined by ~~subsection (c), section~~
28 ~~eighteen f, article twenty two of this chapter~~ §29-22-18(f)(c).

29 (f) Notwithstanding any other provision of this code to the contrary, after payment of debt
30 service from the State Excess Lottery Revenue Fund, all other distributions required by ~~section~~
31 ~~eighteen a, article twenty two of this chapter~~ §29-22-18a and the distributions appropriated
32 pursuant to this section shall be paid on a pro rata basis.

33 (g)(1) Except as provided in subdivision (2) of this subsection, notwithstanding the
34 provisions of ~~paragraph (B), subdivision (9), subsection (c), section ten of this article~~ §29-22A-
35 10(c)(9)(B), upon certification of the Governor to the Legislature that an independent actuary has
36 determined that the unfunded liability of the Old Fund, as defined in chapter 23 of this code, has
37 been paid or provided for in its entirety, the transfers made to the Workers' Compensation Debt
38 Reduction Fund pursuant to paragraph (A), subdivision (9), subsection (c), section ten of this article
39 shall expire and those funds shall remain in the State Excess Lottery Revenue Fund subject to
40 appropriation.

41 (2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision
42 of ~~paragraph (B), subdivision (9), subsection (c), section ten of this article~~ §29-22A-10(c)(9)(B) or
43 any other provision of this code to the contrary, if the budget shortfall, as determined by the state
44 Budget Office as of December 1, 2015, is greater than \$100 million, then the Governor may, by

45 Executive Order, redirect deposits of revenues derived from net terminal income imposed under
46 this article, for any period commencing after February 29, 2016 and ending before July 1, 2016, to
47 the General Revenue Fund, instead of to the funds otherwise mandated in this article, in §23-2D-
48 1 *et seq.* or in any other provision of this code.

49 (B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of
50 ~~paragraph (B), subdivision (9), subsection (c), section ten of this article §29-22A-10(c)(9)(B) or any~~
51 other provision of this code to the contrary, the Governor may, by Executive Order, redirect one-
52 half of the deposits of revenues derived from net terminal income imposed under this article, for
53 any period commencing after June 30, 2016, and ending before July 1, 2017, to the General
54 Revenue Fund, instead of to the funds otherwise mandated in this article, in ~~article two-d, chapter~~
55 ~~twenty-three of this code or in any other provision of this code §23-2D-1 *et seq.* ,~~ until certification
56 of the Governor to the Legislature that an independent actuary has determined that the unfunded
57 liability of the Old Fund, as defined in chapter 23 of this code, has been paid or provided for in its
58 entirety.

NOTE: The purpose of this bill is to transfer funds remaining in the Racetrack Modernization Fund to the State Road Fund and closing the Racetrack Modernization 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.