

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 3031**

By Delegates Kirby, Longanacre, Brooks, Toney,  
Butler, Thorne, Chiarelli, Pinson, Steele, and Foster

[Introduced ; Referred  
to the Committee on]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §11-21-12n; to amend and reenact §19-23-3, §19-23-7, §19-23-10, §19-23-  
3 12b, §19-23-13, and §19-23-13c of said code; to amend said code by adding thereto a new  
4 section, designated §19-23-10a; to amend and reenact §29-22-18a of said code; to amend  
5 and reenact §29-22A-3, §29-22A-7, §29-22A-10, §29-22A-10b, §29-22A-10d, §29-22A-  
6 10e, and §29-22A-12 of said code; and to amend and reenact §29-22C-3, §29-22C-8, §29-  
7 22C-10, §29-22C-27, and §29-22C-27a of said code, all relating generally to horse and  
8 dog racing lottery; modifying certain definitions; discontinuing the West Virginia Racing  
9 Commission special account known as the West Virginia Greyhound Breeding  
10 Development Fund; transferring all moneys in the West Virginia Greyhound Breeding  
11 Development Fund to the State Excess Lottery Revenue Fund for appropriation by the  
12 Legislature; requiring that upon transfer of moneys from the West Virginia Greyhound  
13 Breeding Development Fund to the State Excess Lottery Revenue Fund, a certain amount  
14 be withheld and deposited in the special account known as the Administration, Promotion,  
15 Education, Capital Improvement and Greyhound Adoption Programs to include Spaying  
16 and Neutering Account; requiring that all moneys previously required to be directed to the  
17 West Virginia Greyhound Breeding Development Fund be redirected to the State Excess  
18 Lottery Revenue Fund for appropriation by the Legislature; requiring that all moneys  
19 previously required to be directed into any fund or paid for the purposes of funding purses,  
20 awards, or providing any other funding for greyhound races to be redirected to the State  
21 Excess Lottery Revenue Fund for appropriation by the Legislature; eliminating the  
22 requirement that an applicant for a dog racing license race a minimum number of dates to  
23 qualify for such a license; eliminating the requirement that an applicant for a dog racing  
24 license race a minimum number of dates to contract to receive telecasts and accept  
25 wagers; providing that a dog racetrack is required to hold a racing license to conduct  
26 simulcast racing regardless of whether the racetrack continues to conduct live dog racing;

27 authorizing the West Virginia Racing Commission to promulgate rules, including  
28 emergency rules, regarding licensure of dog racetracks conducting only simulcast racing;  
29 eliminating the requirement that a video lottery licensee at a dog track must hold a racing  
30 license to renew a video lottery license or racetrack table games license; requiring the  
31 Lottery Commission to transfer a percentage of gross terminal revenue derived from  
32 racetrack video lottery at thoroughbred tracks, and deducted for administrative costs and  
33 expenses, to the Racing Commission's General Administrative Account; eliminating the  
34 requirement that an applicant for a video lottery license or license renewal at a dog  
35 racetrack must provide evidence of the existence of an agreement regarding proceeds  
36 from video lottery terminals with certain parties; providing that a percentage of net terminal  
37 income originating at thoroughbred racetracks will be deposited in the West Virginia  
38 Thoroughbred Development Fund; permitting a dog racetrack to continue to operate  
39 operational video lottery and racetrack table games in a location where live racing was  
40 previously conducted; eliminating the requirement that a racetrack table games licensee at  
41 a dog racetrack must race a minimum number of dates; providing a one-time credit toward  
42 personal income taxes for the adoption of displaced greyhounds; and requiring that a  
43 certain amount of money be withheld and deposited into a special revenue account known  
44 as the Displaced Workers Employment Retraining Fund to assist with the retraining of  
45 workers directly impacted by the termination of greyhound racing.

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 11. TAXATION.**

### **ARTICLE 21. PERSONAL INCOME TAX.**

#### **§11-21-12n. Credit for greyhound dog adoption.**

1 For taxable years beginning on or after January 1, 2023, any state resident that adopts a  
2 greyhound dog acquired from a licensed greyhound breeder in this state, either directly from the

3 licensed breeder or from a humane society or other nonprofit organization promoting the adoption  
 4 of displaced greyhound dogs, is entitled to a one-time credit against the taxes imposed by the  
 5 provisions of this article in the amount of \$500: *Provided, That this tax credit expires effective*  
 6 January 1, 2025.

**CHAPTER 19. AGRICULTURE.**

Part II. Definitions; West Virginia Racing Commissioner – Organization and Operation.

**ARTICLE 23. HORSE AND DOG RACING.**

**§19-23-3.**

**Definitions.**

1 Unless the context clearly requires a different meaning, as used in this article:

2 (1) "Horse racing" means any type of horse racing, including, but not limited to,  
 3 thoroughbred racing and harness racing;

4 (2) "Thoroughbred racing" means flat or running type horse racing in which each horse  
 5 participating is a thoroughbred and mounted by a jockey;

6 (3) "Harness racing" means horse racing in which the horses participating are harnessed  
 7 to a sulky, carriage, or other vehicle and does not include any form of horse racing in which the  
 8 horses are mounted by jockeys;

9 (4) "Horse race meeting" means the whole period of time for which a license is required by  
 10 the provisions of §19-23-1 of this code;

11 (5) "Dog racing" means any type of dog racing, including, but not limited to, greyhound  
 12 racing;

13 (6) "Purse" means any purse, stake or award for which a horse or dog race is run;

14 (7) "Racing association" or "person" means any individual, partnership, firm, association,  
 15 corporation, or other entity or organization of whatever character or description;

16 (8) "Applicant" means any racing association making application for a license under the  
 17 provisions of this article or any person making application for a permit under the provisions of this

18 article or any person making application for a construction permit under the provisions of this  
19 article;

20 ~~(9)~~ "License" means the license required by the provisions of §19-23-1 of this code or the  
21 license required to conduct televised racing pursuant to §19-23-12b of this code;

22 ~~(10)~~ "Permit" means the permit required by the provisions of §19-23-2 of this code;

23 ~~(11)~~ "Construction permit" means the construction permit required by the provisions of §19-  
24 23-18 of this code;

25 ~~(12)~~ "Licensee" means any racing association holding a license required by the provisions  
26 of §19-23-1 of this code and issued under the provisions of this article;

27 ~~(13)~~ "Permit holder" means any person holding a permit required by the provisions of §19-  
28 23-2 of this code and issued under the provisions of this article;

29 ~~(14)~~ "Construction permit holder" means any person holding a construction permit required  
30 by the provisions of §19-23-18 of this code and issued under the provisions of this article;

31 ~~(15)~~ "Hold or conduct" includes "assist, aid, or abet in holding or conducting";

32 ~~(16)~~ "Racing Commission" means the West Virginia Racing Commission;

33 ~~(17)~~ "Stewards" means the steward or stewards representing the Racing Commission, the  
34 steward or stewards representing a licensee, and any other steward or stewards whose duty it is to  
35 supervise any horse or dog race meeting, all as may be provided by reasonable rules of the  
36 Racing Commission which rules shall specify the number of stewards to be appointed, the method  
37 and manner of their appointment, and their powers, authority, and duties;

38 ~~(18)~~ "Pari-mutuel" means a mutuel or collective pool that can be divided among those who  
39 have contributed their wagers to one central agency, the odds to be reckoned in accordance to the  
40 collective amounts wagered upon each contestant running in a horse or dog race upon which the  
41 pool is made, but the total to be divided among the first three contestants on the basis of the  
42 number of wagers on these;

43 ~~(19)~~ "Pari-mutuel clerk" means any employee of a licensed racing association who is

44 responsible for the collection of wagers, the distribution of moneys for winning pari-mutuel tickets,  
45 verification of the validity of pari-mutuel tickets, and accounting for pari-mutuel funds;

46 ~~(20)~~ "Pool" means a combination of interests in a joint wagering enterprise or a stake in  
47 such enterprise;

48 ~~(21)~~ "Legitimate breakage" is the percentage left over in the division of a pool;

49 ~~(22)~~ "To the dime" means that wagers shall be figured and paid to the dime;

50 ~~(23)~~ "Code" means the Code of West Virginia, 1931, as heretofore and hereinafter  
51 amended;

52 ~~(24)~~ "Accredited thoroughbred horse" means a thoroughbred horse that is registered with  
53 the West Virginia Thoroughbred Breeders Association and that is:

54 (A) Foaled in West Virginia; or

55 (B) Sired by an accredited West Virginia sire; or

56 (C) As a yearling, finished 12 consecutive months of verifiable residence in the state,  
57 except for 30 days' grace:

58 (i) For the horse to be shipped to and from horse sales where the horse is officially entered  
59 in the sales catalogue of a recognized thoroughbred sales company, or

60 ~~(ii) For obtaining veterinary services, documented by veterinary reports;~~

61 ~~(25)~~ "Accredited West Virginia sire" is a sire that is permanently domiciled in West Virginia,  
62 stands a full season in West Virginia, and is registered with the West Virginia Thoroughbred  
63 Breeders Association;

64 ~~(26)~~ "Breeder of an accredited West Virginia horse" is the owner of the foal at the time it  
65 was born in West Virginia;

66 ~~(27)~~ "Raiser of an accredited West Virginia horse" is the owner of the yearling at the time it  
67 finished 12 consecutive months of verifiable residence in the state. During the period, the raiser  
68 will be granted one month of grace for his or her horse to be shipped to and from thoroughbred  
69 sales where the horse is officially entered in the sales catalogue of a recognized thoroughbred

70 sales company. In the event the yearling was born in another state and transported to this state,  
71 this definition does not apply after the December 31, 2007, to any pari-mutuel racing facility  
72 located in Jefferson County nor shall it apply after the December 31, 2012, and thereafter to any  
73 pari-mutuel racing facility located in Hancock County. Prior to the horse being shipped out of the  
74 state for sales, the raiser must notify the Racing Commission of his or her intentions;

75 ~~(28)~~ The "owner of an accredited West Virginia sire" is the owner of record at the time the  
76 offspring is conceived;

77 ~~(29)~~ The "owner of an accredited West Virginia horse" means the owner at the time the  
78 horse earned designated purses to qualify for restricted purse supplements provided in §19-23-  
79 13b of this code;

80 ~~(30)~~ "Registered greyhound owner" means an owner of a greyhound that is registered with  
81 the National Greyhound Association;

82 ~~(34)~~ "Fund" means the West Virginia Thoroughbred Development Fund established in §19-  
83 23-13b of this code; and

84 ~~(32)~~ "Regular purse" means both regular purses and stakes purses.

#### Part V. License and Permit Procedures.

#### **§19-23-7. Application for license; forms; time for filing; disclosure required; verification; bond; application for permit.**

1 (a) Any racing association desiring to hold or conduct a horse or dog race meeting, where  
2 the pari-mutuel system of wagering is permitted and conducted, during any calendar year, shall file  
3 with the Racing Commission an application for a license to hold or conduct such horse or dog race  
4 meeting. A separate application shall be filed for each separate license sought for each horse or  
5 dog race meeting which such applicant proposes to hold or conduct. The Racing Commission  
6 shall prescribe blank forms to be used in making such application. Such application shall be filed  
7 on or before a day to be fixed by the Racing Commission and shall disclose, but not be limited to,  
8 the following:

- 9 (1) If the applicant be an individual, the full name and address of the applicant;
- 10 (2) If the applicant be a partnership, firm, or association, the full name and address of each  
11 partner or member thereof, the name of the partnership, firm, or association, and its post-office  
12 address;
- 13 (3) If the applicant be a corporation, its name, the state of its incorporation, its post-office  
14 address, the full name and address of each officer and director thereof, and if a foreign  
15 corporation, whether it is qualified to do business in this state;
- 16 (4) The dates, totaling not less than 200, such applicant intends to hold or conduct such  
17 horse or dog race meeting (which may be on any day including Sundays): Provided, That effective  
18 July 1, 2023, and thereafter, an applicant is not required to race any minimum number of dates in  
19 order to qualify for a license to hold a dog race meeting;
- 20 (5) The location of the horse or dog racetrack, place, or enclosure where such applicant  
21 proposes to hold or conduct such horse or dog race meeting;
- 22 (6) Whether the applicant, any partner, member, officer, or director has previously applied  
23 for a license under the provisions of this article or for a similar license in this or any other state, and  
24 if so, whether such license was issued or refused, and, if issued, whether it was ever suspended or  
25 revoked; and
- 26 (7) Such other information as the Racing Commission may reasonably require which may  
27 include information relating to any criminal record of the applicant, if an individual, or of each  
28 partner or member, if a partnership, firm, or association, or of each officer and director, if a  
29 corporation.
- 30 (b) Such application shall be verified by the oath or affirmation of the applicant for such  
31 license, if an individual, or if the applicant is a partnership, firm, association, or corporation, by a  
32 partner, member or officer thereof, as the case may be. When required by the Racing  
33 Commission, an applicant for a license shall also furnish evidence satisfactory to the Racing  
34 Commission of such applicant's ability to pay all taxes due the state, purses, salaries of officials



35 and other expenses incident to the horse or dog race meeting for which a license is sought. In the  
36 event the applicant is not able to furnish such satisfactory evidence of such applicant's ability to  
37 pay such expenses and fees, the Racing Commission may require bond or other adequate  
38 security before the requested license is issued.

39 (c) Any person desiring to obtain a permit, as required by the provisions of §19-23-2 of this  
40 code, shall make application therefor on a form prescribed by the Racing Commission. The  
41 application for any such permit shall be accompanied by the fee prescribed therefor by the Racing  
42 Commission. Each applicant for a permit shall set forth in the application such information as the  
43 Racing Commission shall reasonably require.

#### Part VII. Taxation of Horse and Dog Racing and Pari-Mutuel Wagering; Disposition of Revenues.

##### **§19-23-10. Daily license tax; pari-mutuel pools tax; how taxes paid; alternate tax; credits.**

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

11 (b) Any racing association licensed by the Racing Commission to conduct thoroughbred  
12 racing and permitting and conducting pari-mutuel wagering under the provisions of this article  
13 shall, in addition to the daily license tax set forth in subsection (a) of this section, pay to the Racing

14 Commission, from the commission deducted each day by the licensee from the pari-mutuel pools  
15 on thoroughbred racing a tax calculated on the total daily contribution of all pari-mutuel pools  
16 conducted or made at any and every thoroughbred race meeting of the licensee licensed under  
17 the provisions of this article. The tax, on the pari-mutuel pools conducted or made each day during  
18 the months of January, February, March, October, November, and December, shall be calculated  
19 at four tenths of one percent of the pool; and, on the pari-mutuel pools conducted or made each  
20 day during all other months, shall be calculated at one and four-tenths percent of the pool:  
21 *Provided*, That out of the amount realized from the three tenths of one percent decrease in the tax  
22 effective for fiscal year 1991 and thereafter, which decrease correspondingly increases the  
23 amount of commission retained by the licensee, the licensee shall annually expend or dedicate: (i)  
24 One half of the realized amount for capital improvements in its barn area at the track, subject to the  
25 Racing Commission's prior approval of the plans for the improvements; and (ii) the remaining one  
26 half of the realized amount for capital improvements as the licensee may determine appropriate at  
27 the track. The term "capital improvement" shall be as defined by the Internal Revenue Code:  
28 *Provided, however*, That any racing association operating a horse racetrack in this state having an  
29 average daily pari-mutuel pool on horse racing of \$280,000 or less per day for the race meetings of  
30 the preceding calendar year shall, in lieu of payment of the pari-mutuel pool tax, calculated as in  
31 this subsection, be permitted to conduct pari-mutuel wagering at the horse racetrack on the basis  
32 of a daily pari-mutuel pool tax fixed as follows: On the daily pari-mutuel pool not exceeding  
33 \$300,000 the daily pari-mutuel pool tax shall be \$1,000 plus the otherwise applicable percentage  
34 rate imposed by this subsection of the daily pari-mutuel pool, if any, in excess of \$300,000:  
35 *Provided further*, That upon the effective date of the reduction of the daily pari-mutuel pool tax to  
36 \$1,000 from the former \$2,000, the association or licensee shall daily deposit \$500 into the special  
37 fund for regular purses established by §19-23-9(b)(1) of this code: *And provided further*, That if an  
38 association or licensee qualifying for the foregoing alternate tax conducts more than one racing  
39 performance, each consisting of up to 13 races in a calendar day, the association or licensee shall

40 pay both the daily license tax imposed in subsection (a) of this section and the alternate tax in this  
41 subsection for each performance: *And provided further*, That a licensee qualifying for the foregoing  
42 alternate tax is excluded from participation in the fund established by §19-23-13b of this code: *And*  
43 *provided further*, That this exclusion shall not apply to any thoroughbred racetrack at which the  
44 licensee has participated in the West Virginia Thoroughbred Development Fund for more than four  
45 consecutive years prior to December 31, 1992.

46 (c) Any racing association licensed by the Racing Commission to conduct harness racing  
47 and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in  
48 addition to the daily license tax required under subsection (a) of this section, pay to the Racing  
49 Commission, from the commission deducted each day by the licensee from the pari-mutuel pools  
50 on harness racing, as a tax, three percent of the first \$100,000 wagered, or any part thereof; four  
51 percent of the next \$150,000; and five and three-fourths percent of all over that amount wagered  
52 each day in all pari-mutuel pools conducted or made at any and every harness race meeting of the  
53 licensee licensed under the provisions of this article.

54 (d) Any racing association licensed by the Racing Commission to conduct dog racing and  
55 permitting and conducting pari-mutuel wagering under the provisions of this article shall, in  
56 addition to the daily license tax required under subsection (a) of this section, pay to the Racing  
57 Commission, from the commission deducted each day by the licensee from the pari-mutuel pools  
58 on dog racing, as a tax, four percent of the first \$50,000 or any part thereof of the pari-mutuel  
59 pools, five percent of the next \$50,000 of the pari-mutuel pools, six percent of the next \$100,000 of  
60 the pari-mutuel pools, seven percent of the next \$150,000 of the pari-mutuel pools, and eight  
61 percent of all over \$350,000 wagered each day: *Provided*, That the licensee shall deduct daily  
62 from the pari-mutuel tax an amount equal to one tenth of one percent of the daily pari-mutuel pools  
63 in dog racing in fiscal year 1990; fifteen hundredths of one percent in fiscal year 1991; two tenths of  
64 one percent in fiscal year 1992; one quarter of one percent in fiscal year 1993; and three tenths of  
65 one percent in fiscal year 1994 and every fiscal year thereafter. The amounts deducted shall be

66 paid to the Racing Commission to be deposited by the Racing Commission in a banking institution  
67 of its choice in a special account to be known as the West Virginia Racing Commission-Special  
68 Account-West Virginia Greyhound Breeding Development Fund: Provided, however, That  
69 effective July 1, 2023, and thereafter, the amounts deducted and any other moneys required by  
70 this section to be deposited in the West Virginia Greyhound Breeding Development Fund shall  
71 instead be deposited in the State Excess Lottery Revenue Fund pursuant to the provisions of §19-  
72 23-10a of this code: Provided further, That effective July 1, 2023, and thereafter, any expenditures  
73 from the West Virginia Greyhound Breeding Development Fund required by this section shall be  
74 discontinued: And provided further, That effective July 1, 2023, and thereafter, all amounts  
75 required by this section to be deposited into any fund or paid for the purpose of funding purses,  
76 awards, or providing any other funding for dog races shall be discontinued pursuant to §19-23-10a  
77 of this code. The purpose of the West Virginia Greyhound Breeding Development Fund is to  
78 promote better breeding, training track facilities, and racing of greyhounds in the state through  
79 awards and purses to bona fide resident registered greyhound owners of accredited West Virginia  
80 whelped greyhounds. In order to participate and be eligible to receive an award or purse through  
81 the fund, the registered greyhound owner must have an appropriate license from the Racing  
82 Commission to race in West Virginia. The registered greyhound dam at the time of breeding must  
83 be wholly or solely owned or leased by a bona fide resident or residents of West Virginia. The  
84 accredited West Virginia whelped greyhound must be wholly or solely owned by a bona fide  
85 resident or residents of this state. To qualify as a bona fide resident of West Virginia, a registered  
86 greyhound owner may not claim residency in any other state. A registered greyhound owner must  
87 prove bona fide residency by providing to the commission personal income tax returns filed in the  
88 State of West Virginia for the most recent tax year and the three previous tax years, has real or  
89 personal property in this state on which the owner has paid real or personal property taxes during  
90 the most recent tax year and the previous three tax years and an affidavit stating that the owner  
91 claims no other state of residency. The Racing Commission shall maintain a registry for West

92 Virginia bred greyhounds. The moneys shall be expended by the Racing Commission for purses  
93 for stake races, training track facilities, supplemental purse awards, administration, promotion,  
94 education, and greyhound adoption programs involving West Virginia whelped dogs, owned by  
95 residents of this state under rules promulgated by the Racing Commission. The Racing  
96 Commission shall pay out of the greyhound breeding development fund to each of the licensed  
97 dog racing tracks the sum of \$75,000 for the fiscal year ending June 30, 1994. The licensee shall  
98 deposit the sum into the special fund for regular purses established under the provisions of §19-  
99 23-9 of this code. The funds shall be expended solely for the purpose of supplementing regular  
100 purses under rules promulgated by the Racing Commission.

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

103 The registered greyhound owner of accredited West Virginia whelped greyhounds that  
104 earn points at any West Virginia meet will receive a bonus award calculated at the end of each  
105 month as a percentage of the fund dedicated to the owners as purse supplements, which shall be  
106 a minimum of 50 percent of the total moneys deposited into the West Virginia Greyhound Breeding  
107 Development Fund monthly.

108 The total amount of the fund available for the owners' awards shall be distributed according  
109 to the ratio of points earned by an accredited greyhound to the total amount earned in races by all  
110 accredited West Virginia whelped greyhounds for that month as a percentage of the funds  
111 dedicated to the owners' purse supplements. The point value at all greyhound tracks shall be the  
112 same as approved by the Racing Commission to be effective April 1, 2007. The West Virginia  
113 Greyhound Owners and Breeders Association shall submit a list of any additions or deletions to  
114 the registry of accredited West Virginia whelped greyhounds on the first of each month. The  
115 Racing Commission shall not require anyone to be a member of a particular association in order to  
116 participate in the West Virginia Greyhound Breeding Development Fund.

117 The registered greyhound owner of an accredited West Virginia whelped greyhound shall

118 file a purse distribution form with the Racing Commission for a percentage of his or her dog's  
119 earnings to be paid directly to the registered greyhound owner or owners of the greyhound.  
120 Distribution shall be made on the 15th day of each month for the preceding month's achievements.

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

124 Any balance in the purse supplement funds after all distributions have been made for the  
125 year revert to the general account of the fund for distribution in the following year: *Provided*, That  
126 not more than \$2 million from the balance in the purse supplemental fund shall be used for the  
127 construction and maintenance of two dog training track facilities if such be approved by the Racing  
128 Commission: *Provided, however*, That not more than \$1 million may be allocated for the  
129 construction and maintenance of each training track: *Provided further*, That both training track  
130 facilities must be located in West Virginia. The West Virginia Racing Commission shall be  
131 authorized to promulgate rules governing dog training tracks: *And provided further*, That the  
132 Racing Commission shall: (1) Provide a process in its rules for competitive bidding of the  
133 construction or maintenance, or both, of the training tracks; and (2) set standards to assure that  
134 only the actual costs of construction and maintenance shall be paid out of the foregoing fund.

135 In an effort to further promote the breeding of quality West Virginia whelped greyhounds, a  
136 bonus purse supplement shall be established in the amount of \$50,000 per annum, to be paid in  
137 equal quarterly installments of \$12,500 per quarter using the same method to calculate and  
138 distribute these funds as the regular supplemental purse awards. This bonus purse supplement is  
139 for three years only, commencing on July 1, 1993, and ending June 30, 1996. This money would  
140 come from the current existing balance in the greyhound development fund.

141 Each pari-mutuel greyhound track shall provide stakes races for accredited West Virginia  
142 whelped greyhounds: *Provided*, That each pari-mutuel track shall have one juvenile and one open  
143 stake race annually. Each pari-mutuel dog track shall provide at least three restricted races for

144 accredited West Virginia whelped greyhounds per race card: *Provided, however,* That sufficient  
145 dogs are available. To assure breeders of accredited West Virginia whelped greyhounds an  
146 opportunity to participate in the West Virginia Greyhound Breeding Development Fund the West  
147 Virginia Racing Commission by July 1 each year shall establish and announce the minimum  
148 number of accredited West Virginia whelped greyhounds that greyhound racing kennels at West  
149 Virginia dog tracks must have on their racing active list during the calendar year following such  
150 action. The minimum number may vary from dog track to dog track. The minimum number shall be  
151 established after consultation with the West Virginia Greyhound Owners and Breeders  
152 Association and kennel owners and operators. Factors to be considered in establishing this  
153 minimum number shall be the number of individually registered accredited West Virginia whelped  
154 greyhounds whelped in the previous two years. The number of all greyhounds seeking  
155 qualification at each West Virginia dog track, the ratio of active running greyhounds to housed  
156 number of greyhounds at each West Virginia dog track, and the size and number of racing kennels  
157 at each West Virginia dog track. Any greyhound racing kennel not having the minimum number of  
158 accredited West Virginia whelped greyhounds determined by the West Virginia Racing  
159 Commission on their active list shall only be permitted to race the maximum allowable number on  
160 the active list less the number of accredited West Virginia whelped greyhounds below the  
161 established minimum number. Consistent violations of this minimum requirement may be  
162 reviewed by the Racing Commission and may constitute cause for denial or revocation of a  
163 kennel's racing license. The Racing Commission shall oversee and approve racing schedules and  
164 purse amounts.

165         Ten percent of the deposits into the Greyhound Breeding Development Fund beginning  
166 July 1, 1993 and continuing each year thereafter, shall be withheld by the Racing Commission and  
167 placed in a special revenue account hereby created in the State Treasury called the  
168 Administration, Promotion, Education, Capital Improvement and Greyhound Adoption Programs  
169 to Include Spaying and Neutering Account. The Racing Commission is authorized to expend the

170 moneys deposited in the Administration, Promotion, Education, Capital Improvement and  
171 Greyhound Adoption Programs to Include Spaying and Neutering Account at such times and in  
172 such amounts as the commission determines to be necessary for purposes of administering and  
173 promoting the greyhound development program: *Provided*, That beginning with fiscal year 1995  
174 and in each fiscal year thereafter in which the commission anticipates spending any money from  
175 the account, the commission shall submit to the executive department during the budget  
176 preparation period prior to the Legislature convening before that fiscal year for inclusion in the  
177 Executive Budget Document and Budget Bill, the recommended expenditures, as well as requests  
178 of appropriations for the purpose of administration, promotion, education, capital improvement,  
179 and greyhound adoption programs to include spaying and neutering. The commission shall make  
180 an annual report to the Legislature on the status of the Administration, Promotion, Education,  
181 Capital Improvement and Greyhound Adoption Programs to Include Spaying and Neutering  
182 Account, including the previous year's expenditures and projected expenditures for the next year.

183         The Racing Commission, for the fiscal year 1994 only, may expend up to \$35,000 from the  
184 West Virginia Greyhound Breeding Development Fund to accomplish the purposes of this section  
185 without strictly following the requirements in the previous paragraph.

186         (e) All daily license and pari-mutuel pools tax payments required under the provisions of  
187 this section shall be made to the Racing Commission or its agent after the last race of each day of  
188 each horse or dog race meeting, and the pari-mutuel pools tax payments shall be made from all  
189 contributions to all pari-mutuel pools to each and every race of the day.

190         (f) Every association or licensee subject to the provisions of this article, including the  
191 changed provisions of §19-23-9 and §19-23-10 of this code, shall annually submit to the Racing  
192 Commission and the Legislature financial statements, including a balance sheet, income  
193 statement, statement of change in financial position, and an audit of any electronic data system  
194 used for pari-mutuel tickets and betting, prepared in accordance with generally accepted auditing  
195 standards, as certified by an experienced public accountant or a certified public accountant.



**§19-23-10a. West Virginia Greyhound Breeding Development Fund; transfer of current funds and future deposits.**

1        (a) Notwithstanding any other provision of this code, effective July 1, 2023, the West  
2 Virginia Greyhound Breeding Development Fund created in §19-23-10 of this code is  
3 discontinued. On or before July 1, 2023, all amounts remaining in the West Virginia Greyhound  
4 Breeding Development Fund shall be transferred to the State Excess Lottery Revenue Fund  
5 created in §29-22-18a of this code for appropriation by the Legislature: *Provided*, That \$1 million  
6 shall be withheld by the Racing Commission and placed in the special revenue account called the  
7 Administration, Promotion, Education, Capital Improvement and Greyhound Adoption Programs  
8 to include Spaying and Neutering Account created in §19-23-10(d) of this code, to be allocated  
9 specifically to facilitate care for and adoption of, or placement in no-kill animal shelters of,  
10 accredited West Virginia whelped greyhounds actively running at each West Virginia dog track:  
11 *Provided, however*, That \$3 million shall be withheld by the Racing Commission and placed in a  
12 special revenue account hereby created in the State Treasury called the Displaced Racing  
13 Workers Employment Retraining Fund, which is to be allocated by Workforce West Virginia for the  
14 retraining of any workers with a direct relationship to the greyhound racing industry who are  
15 displaced as a direct result of the termination of the West Virginia Greyhound Breeding  
16 Development Fund, as verified by the Racing Commission. Any funds remaining in either the  
17 Administration, Promotion, Education, Capital Improvement and Greyhound Adoption Programs  
18 to include Spaying and Neutering Account or the Displaced Racing Workers Employment  
19 Retraining Fund as of June 30, 2024, shall thereafter be transferred into the State Excess Lottery  
20 Revenue Fund for appropriation by the Legislature.

21        (b) Notwithstanding any other provision of this code, effective July 1, 2023, and thereafter,  
22 all amounts required to be deposited into the West Virginia Greyhound Breeding Development  
23 Fund prior to the enactment of this section shall, in lieu thereof, be deposited into the State Excess  
24 Lottery Revenue Fund for appropriation by the Legislature: *Provided*, That net terminal lottery

25 income shall be distributed as provided in §29-22A-10(c)(5) and §29-22A-10b(a)(5) of this code.

26 (c) Notwithstanding any other provision of this code to the contrary, effective July 1, 2023,  
27 and thereafter, all amounts required to be deposited into any fund or paid for the purpose of  
28 funding purses, awards or providing any other funding for greyhound races shall, in lieu thereof, be  
29 deposited into the State Excess Lottery Fund for appropriation by the Legislature.

**§19-23-12b. Televised racing days; merging of pari-mutuel wagering pools.**

1 (a) For the purposes of this section:

2 (1) "Televised racing day" means a calendar day, assigned by the commission, at a  
3 licensed racetrack on which pari-mutuel betting is conducted on horse or dog races run at other  
4 racetracks in this state or at racetracks outside of this state which are broadcast by television at a  
5 licensed racetrack and which day or days have had the prior written approval of the representative  
6 of the majority of the owners and trainers who hold permits required by §19-23-2 of this code; and

7 (2) "Host racing association" means any person who, pursuant to a license or other  
8 permission granted by the host governmental entity, conducts the horse or dog race upon which  
9 wagers are placed.

10 (b) (1) A licensee conducting not less than 220 live racing dates for each horse or dog race  
11 meeting may, with the prior approval of the State Racing Commission, contract with any legal  
12 wagering entity in this state or in any other governmental jurisdiction to receive telecasts and  
13 accept wagers on races conducted by the legal wagering entity: *Provided, That effective July 1,*  
14 2023, and thereafter, a licensee that was licensed prior to January 1, 1994, to conduct dog racing  
15 is not required to conduct a minimum number of live racing dates to contract with a legal wagering  
16 entity in this state or in any other governmental jurisdiction to receive telecasts and accept wagers  
17 on dog and horse races: *Provided, however,* That at those thoroughbred racetracks the licensee,  
18 in applying for racing dates, shall apply for not less than 210 live racing dates for each horse race  
19 meeting: *Provided further,* That at those thoroughbred racetracks that have participated in the  
20 West Virginia Thoroughbred Development Fund for a period of more than four consecutive

21 calendar years prior to December 31, 1992, the licensee may apply for not less than 159 live  
22 racing dates during the calendar year 1997. If, thereafter, for reasons beyond the licensee's  
23 control, related to adverse weather conditions, unforeseen casualty occurrences, or a shortage of  
24 thoroughbred horses eligible to compete for purses, the licensee concludes that this number of  
25 racing days cannot be attained, the licensee may file a request with the Racing Commission to  
26 reduce the authorized live racing days. Upon receipt of the request the Racing Commission shall  
27 within 72 hours of the receipt of the request notify the licensee and the representative of a majority  
28 of the owners and trainers at the requesting track and the representative of the majority of the  
29 mutuel clerks at the requesting track that such request has been received and that if no objection  
30 to the request is received within 10 days of the notification the request will be approved: *And*  
31 *provided further*, That the commission shall give consideration to whether there existed available  
32 unscheduled potential live racing dates following the adverse weather or casualty and prior to the  
33 end of the race meeting which could be used as new live racing dates in order to maintain the full  
34 live racing schedule previously approved by the Racing Commission. If an objection is received by  
35 the commission within the time limits, the commission shall, within 30 days of receipt of such  
36 objection, set a hearing on the question of reducing racing days, which hearing shall be conducted  
37 at a convenient place in the county in which the requesting racetrack is located. The commission  
38 shall hear from all parties concerned and, based upon testimony and documentary evidence  
39 presented at the hearing, shall determine the required number of live racing days: *And provided*  
40 *further*, That the commission shall not reduce the number of live racing days below 185 days for a  
41 horse race meeting unless the licensee requesting such reduction has: (i) Filed with the  
42 commission a current financial statement, which shall be subject to independent audit; and (ii) met  
43 the burden of proving that just cause exists for such requested reduction in live racing days. The  
44 telecasts may be received and wagers accepted at any location authorized by the provisions of  
45 §19-23-12a of this code. The contract must receive the approval of the representative of the  
46 majority of the owners and trainers who hold permits required by §19-23-2 of this code at the

47 receiving thoroughbred racetrack.

48 (2) A facility that was licensed prior to January 1, 1994, to conduct dog racing is required to  
49 hold a racing license to receive telecasts and accept wagers on dog and horse races, regardless  
50 of whether the facility continues to conduct live dog racing.

51 (3) The commission shall have the authority to promulgate rules, including emergency  
52 rules, in accordance with §29A-3-1 et seq. of this code, as it deems necessary to implement and  
53 efficiently administer the requirement of subdivision (2) of this subsection: *Provided*, That the rules  
54 are to be consistent with the rules promulgated for pari-mutuel wagering on televised races at live  
55 racetracks.

56 (c) The commission may allow the licensee to commingle its wagering pools with the  
57 wagering pools of the host racing association. If the pools are commingled, the wagering at the  
58 licensee's racetrack must be on tabulating equipment capable of issuing pari-mutuel tickets and  
59 be electronically linked with the equipment at the sending racetrack. Subject to the approval of the  
60 commission, the types of betting, licensee commissions, and distribution of winnings on pari-  
61 mutuel pools of the sending licensee racetrack are those in effect at the licensee racetrack.  
62 Breakage for pari-mutuel pools on a televised racing day must be calculated in accordance with  
63 the law or rules governing the sending racetrack and must be distributed in a manner agreed to  
64 between the licensee and the sending racetrack. For the televised racing services it provides, the  
65 host racing association shall receive a fee to be paid by the receiving licensee racetrack which  
66 shall be in an amount to be agreed upon by the receiving licensee racetrack and the host racing  
67 association.

68 (d) The commission may assign televised racing days at any time. When a televised racing  
69 day is assigned, the commission shall assign either a steward or an auditor to preside over the  
70 televised races at the licensee racetrack.

71 (e) (1) From the licensee commissions authorized by subsection (c) of this section, the  
72 licensee shall pay one tenth of one percent of each commission into the general fund of the county,

73 in which the racetrack is located and at which the wagering occurred and there is imposed and the  
74 licensee shall pay, for each televised racing day on which the total pari-mutuel pool exceeds  
75 \$100,000, the greater of either: (i) The total of the daily license tax and the pari-mutuel pools tax  
76 required by §19-23-10 of this code; or (ii) a daily license tax of \$1,250. For each televised racing  
77 day on which the total pari-mutuel pool is \$100,000, the licensee shall pay a daily license tax of  
78 \$500 plus an additional license tax of \$100 for each \$10,000, or part thereof, that the pari-mutuel  
79 pool exceeds \$50,000, but does not exceed \$100,000. The calculation of the total pari-mutuel pool  
80 for purposes of this subsection shall include only one half of all wagers placed at a licensed  
81 racetrack in this state on televised races conducted at another licensed racetrack within this state.  
82 Payments of the tax imposed by this section are subject to the requirements of §19-23-10(e) of this  
83 code.

84 (2) From the licensee commissions authorized by subsection (c) of this section, after  
85 payments are made in accordance with the provisions of subdivision (1) of this subsection, the  
86 licensee shall pay, for each televised racing day, one-fourth of one percent of the total pari-mutuel  
87 pools for and on behalf of all employees of the licensed racing association by making a deposit into  
88 a special fund to be established by the Racing Commission and to be used for payments into the  
89 pension plan for all employees of the licensed racing association.

90 (3) From the licensee commissions authorized by subsection (c) of this section, after  
91 payments are made in accordance with the provisions of subdivisions (1) and (2) of this  
92 subsection, thoroughbred licensees shall pay, one-half percent of net simulcast income and for  
93 each televised racing day on or after July 1, 1997, an additional five and one-half percent of net  
94 simulcast income into the West Virginia Thoroughbred Development Fund established by the  
95 Racing Commission according to §19-23-13b of this code: *Provided*, That no licensee qualifying  
96 for the alternate tax provisions of §19-23-10(b) of this code shall be required to make the  
97 payments unless the licensee has participated in the West Virginia Thoroughbred Development  
98 Fund for a period of more than four consecutive calendar years prior to December 31, 1992. For

99 the purposes of this section, the term "net simulcast income" means the total commission  
100 deducted each day by the licensee from the pari-mutuel pools on simulcast horse or dog races,  
101 less direct simulcast expenses, including, but not limited to, the cost of simulcast signals,  
102 telecommunication costs and decoder costs.

103 (f) After deducting the tax and other payments required by subsection (e) of this section,  
104 the amount required to be paid under the terms of the contract with the host racing association and  
105 the cost of transmission, the horse racing association shall make a deposit equal to 50 percent of  
106 the remainder into the purse fund established under the provisions of §19-23-9(b)(1) of this code.  
107 After deducting the tax and other payments required by subsection (e) of this section, dog  
108 racetracks shall pay an amount equal to two tenths of one percent of the daily simulcast pari-  
109 mutuel pool to the West Virginia Racing Commission Special Account-West Virginia Greyhound  
110 Breeding Development Fund: Provided, That effective July 1, 2023, and thereafter, the amount  
111 required to be paid to the West Virginia Greyhound Breeding Development Fund by this  
112 subsection shall instead be paid to the State Excess Lottery Revenue Fund pursuant to §19-23-  
113 10a of this code.

114 (g) The provisions of the Federal Interstate Horseracing Act of 1978, also known as Public  
115 Law 95-515, Section 3001-3007 of Title 15, U.S. Code, as amended, controls in determining the  
116 intent of this section.

Part VIII. Disposition of Funds for Payment of Outstanding and Unredeemed Pari-  
Mutuel Tickets; Irredeemable Tickets; Awards.

**§19-23-13. Disposition of funds for payment of outstanding and unredeemed pari-mutuel  
tickets; publication of notice; irredeemable tickets; payment of past obligations.**

1 (a) All moneys held by any licensee for the payment of outstanding and unredeemed pari-  
2 mutuel tickets, if not claimed within 90 days after the close of a horse or dog race meeting or the  
3 televised racing day, as the case may be, in connection with which the tickets were issued, shall be

4 turned over by the licensee to the Racing Commission within 15 days after the expiration of the 90-  
5 day period, and the licensee shall give any information required by the Racing Commission  
6 concerning the outstanding and unredeemed tickets. The moneys shall be deposited by the  
7 Racing Commission in a banking institution of its choice in a special account to be known as West  
8 Virginia Racing Commission Special Account - Unredeemed Pari-Mutuel Tickets. Notice of the  
9 amount, date and place of each deposit shall be given by the Racing Commission, in writing, to the  
10 State Treasurer. The Racing Commission shall then cause to be published a notice to the holders  
11 of the outstanding and unredeemed pari-mutuel tickets, notifying them to present their  
12 unredeemed tickets for payment at the principal office of the Racing Commission within 90 days  
13 from the date of the publication of the notice. The notice shall be published within 15 days following  
14 the receipt of the outstanding and unredeemed pari-mutuel ticket moneys by the commission from  
15 the licensee as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.*  
16 of this code, and the publication area for the publication shall be the county in which the horse or  
17 dog race meeting was held and the county in which the televised racing day wagering was  
18 conducted in this state.

19 (b) Any outstanding and unredeemed pari-mutuel tickets that are not presented for  
20 payment within 90 days from the date of the publication of the notice are thereafter irredeemable,  
21 and the moneys theretofore held for the redemption of the pari-mutuel tickets shall become the  
22 property of the Racing Commission and shall be expended as provided in subsections (c) and (d)  
23 of this section. The Racing Commission shall maintain separate accounts for each licensee and  
24 shall record in each separate account the moneys turned over by the licensee and the amount  
25 expended at the licensee's track for the purposes set forth in this subsection.

26 (c) In the fiscal year beginning on July 1, 2010, the Racing Commission shall keep  
27 separate the unredeemed pari-mutuel tickets received from each of the two licensee horse  
28 racetracks.

29 (1) The unredeemed pari-mutuel tickets attributable to each licensee horse racetrack

30 together with funds distributed pursuant to §29-22-18a of this code shall be used for claims  
31 received pursuant to this subsection by the Racing Commission each calendar quarter: *Provided*,  
32 That the first distribution after the effective date of amendments to this section made during the  
33 2010 regular legislative session shall not occur until February 2011 and then each calendar  
34 quarter thereafter. Any claims made pursuant to this subsection must be submitted to the Racing  
35 Commission no later than 15 days after the race where the funds are awarded. The funds in the  
36 two special accounts - unredeemed pari-mutuel tickets shall be distributed based on claims  
37 received from each horse racetrack as follows:

38 (A) To the owner of the winning horse in any horse race at a horse race meeting held or  
39 conducted by any licensee: *Provided*, That the owner of the horse is at the time of the horse race a  
40 bona fide resident of this state, a sum equal to 10 percent of the purse won by the horse at that  
41 race: *Provided, however*, That in the event there are more than 10 races in any performance, the  
42 award to the resident owner of the winning horse will be that fractional share of the purse with a  
43 numerator of one and a denominator representing the number of races on the day of the  
44 performance. The commission may require proof that the owner was, at the time of the race, a  
45 bona fide resident of this state. Upon proof by the owner that he or she filed a personal income tax  
46 return in this state for the previous two years and that he or she owned real or personal property in  
47 this state and paid taxes in this state on real or personal property for the previous two years, he or  
48 she shall be presumed to be a bona fide resident of this state; and

49 (B) To the breeder (that is, the owner of the mare) of the winning horse in any horse race at  
50 a horse race meeting held or conducted by any licensee: *Provided*, That the mare foaled in this  
51 state, a sum equal to 10 percent of the purse won by the horse: *Provided, however*, That in the  
52 event there are more than 10 races in any performance, the award to the breeder will be that  
53 fractional share of the purse with a numerator of one and a denominator representing the number  
54 of races on the day of the performance; and

55 (C) To the owner of the stallion which sired the winning horse in any horse race at a horse



56 race meeting held or conducted by any licensee: *Provided*, That the mare which foaled the  
57 winning horse was served by a stallion standing and registered in this state, a sum equal to 10  
58 percent of the purse won by the horse: *Provided, however*, That in the event there are more than  
59 10 races in any performance, the award to the owner of the stallion will be a percentage of the  
60 purse based upon the fractional share represented by the number of races on the day of the  
61 performance.

62 (2) If in any calendar quarter insufficient funds are available in each licensee horse  
63 racetrack's special account - unredeemed pari-mutuel tickets administered by the Racing  
64 Commission for payments pursuant to subdivision (1) of this subsection, payments shall be made  
65 on a pro rata basis pursuant to paragraphs (A), (B), and (C), subdivision (1), of this subsection of  
66 the claims submitted from races won at each horse racetrack. Once payments on each claim are  
67 made, whether in full or on a pro rata basis, no further obligation for payment is created by this  
68 subdivision. Claims received after the deadline are not valid.

69 (3) If after paying any claims pursuant to this subsection and funds remain in the accounts,  
70 those funds shall carry over to the next calendar quarter. If in any quarter the surplus in either  
71 account reaches a balance of \$1 million, then that surplus balance shall be placed in to the regular  
72 purse fund of that licensee horse racetrack whose unredeemed pari-mutuel account achieves the  
73 surplus.

74 (d) Any unredeemed pari-mutuel tickets received from licensee dog racetracks shall be  
75 combined into a single balance and distributed quarterly to the West Virginia Racing Commission  
76 Special Account - West Virginia Greyhound Breeding Development Fund: *Provided, That effective*  
77 July 1, 2023, and thereafter, the balance shall instead be distributed to the State Excess Lottery  
78 Revenue Fund pursuant to §19-23-10a of this code. The deposit made pursuant to this subsection  
79 does not create a continuing obligation of payment except to the extent that there are unredeemed  
80 pari-mutuel tickets from the licensee dog racetracks.

81 (e) The amendments to this section made during the 2010 regular legislative session shall

82 become effective July 1, 2010.

83 (f) The Racing Commission shall satisfy obligations of the prior enactment of this section  
84 for all claims received on purses won on or before June 30, 2010. Claimants must submit all claims  
85 on or before July 15, 2010, for verification by the Racing Commission. Claims received after July  
86 15, 2010, are not valid.

87 (1) A transfer of \$2.5 million from the State Excess Lottery Revenue Fund available on the  
88 last day of the fiscal year which began July 1, 2009, shall be made to the nonappropriated fund  
89 with the State Treasurer known as the Unredeemed Pari-Mutuel Tickets Fund. The Racing  
90 Commission shall also transfer to the account with the State Treasurer moneys from the Racing  
91 Commission Special Accounts - Unredeemed Pari-Mutuel Tickets for deposits received in each of  
92 those accounts that have been credited with unredeemed pari-mutuel tickets for races completed  
93 at any licensee racetrack as of June 30, 2010, and any other moneys appropriated by the  
94 Legislature. Unredeemed pari-mutuel tickets for races completed after June 30, 2010, must  
95 remain in the special accounts - unredeemed pari-mutuel tickets to satisfy future payments  
96 pursuant to this section.

97 (2) The Racing Commission is authorized to pay claims received for races completed on or  
98 before June 30, 2010, without regard to date of deposit or date of claim. Claims shall be paid in  
99 date order, with the oldest claims being paid first, until all claims have been satisfied. All payments  
100 made pursuant to this subsection for claims received on purses won on or before June 30, 2010,  
101 shall extinguish any further obligation by the state with respect to those claims.

102 (g) The commission shall submit to the Legislative Auditor a quarterly report and  
103 accounting of the income and expenditures in the special account created by this section known  
104 as the West Virginia Racing Commission Special Account - Unredeemed Pari-mutuel Tickets.

105 (h) Nothing contained in this article shall prohibit one person from qualifying for all or more  
106 than one of the aforesaid awards or for awards under §19-23-13b of this code.

107 (i) The cost of publication of the notice provided for in this section shall be paid from the

108 funds in the hands of the State Treasurer collected from the pari-mutuel pools' tax provided for in  
109 §19-23-10 of this code, when not otherwise provided in the budget; but no such costs shall be paid  
110 unless an itemized account thereof, under oath, be first filed with the State Auditor.

111 (j) The Racing Commission is authorized to promulgate emergency rules, prior to  
112 September 1, 2010, to incorporate the revisions to this article enacted during the 2010 regular  
113 legislative session.

Part IX. Disposition of Permit Fees, Registration Fees, and Fines.

**§19-23-13c. Expenditure of racetrack video lottery distribution.**

1 (a) Funds received by the Racing Commission pursuant to §29-22A-10(c)(6) of this code,  
2 and §29-22A-10b(a)(5) of this code, after the effective date of this section together with the  
3 balance in the bank account previously established by the commission to receive those funds shall  
4 be deposited in a banking institution of its choice in a special account to be known as the West  
5 Virginia Racing Commission Racetrack Video Lottery Account. Notice of the amount, date, and  
6 place of each deposit shall be given by the Racing Commission, in writing, to the State Treasurer.

7 (b) Funds in this account shall be allocated and expended as follows:

8 (1) For each fiscal year, the first \$800,000 deposited in the separate account plus the  
9 amount then remaining of the June 30, 1997, balance in the separate account previously  
10 established for the West Virginia breeders classic under §19-23-13 of this code, shall be used by  
11 the commission for promotional activities, advertising, administrative costs, and purses for the  
12 West Virginia Thoroughbred Breeders Classic, which shall give equal consideration to all horses  
13 qualifying under the West Virginia breeders program for each stake race, based solely on the  
14 horses' sex, age, and earnings.

15 (2) For each fiscal year, the next \$200,000 deposited into the separate account shall be  
16 used by the commission for promotional activities and purses for open stake races for a race event  
17 to be known as the West Virginia Derby to be held at a thoroughbred racetrack which does not  
18 participate in the West Virginia Breeders Classic.

19           (3) For each fiscal year, once the amounts provided in subdivisions (1) and (2) of this  
20 subsection have been deposited into separate bank accounts for use in connection with the West  
21 Virginia Thoroughbred Breeders Classics and the West Virginia Derby, the commission shall  
22 return to each racetrack all additional amounts deposited which originate during that fiscal year  
23 from each respective racetrack pursuant to §29-22A-10(c)(6) of this code, which returned excess  
24 funds shall be used as follows:

25           (A) For each dog racetrack, one half of the returned excess funds shall be used for capital  
26 improvements at the racetrack and one half of the returned excess funds shall be deposited into  
27 the West Virginia Racing Commission Special Account - West Virginia Greyhound Breeding  
28 Development Fund: Provided, That effective July 1, 2023, and thereafter, the funds required by  
29 this paragraph to be deposited in the West Virginia Racing Commission Special Account – West  
30 Virginia Greyhound Breeding Development Fund shall instead be deposited in the State Excess  
31 Lottery Revenue Fund pursuant to §19-23-10a of this code.

32           (B) At those thoroughbred racetracks that have participated in the West Virginia  
33 Thoroughbred Development Fund for a period of more than four consecutive calendar years prior  
34 to December 31, 1992, one half of the returned excess funds shall be used for capital  
35 improvements at the licensee's racetrack and one half of the returned excess funds shall be  
36 equally divided between the West Virginia Thoroughbred Breeders Classic and the West Virginia  
37 Thoroughbred Development Fund.

38           (C) At those thoroughbred horse racetracks which do not participate in the West Virginia  
39 Breeders Classic, one half of the returned excess funds shall be used for capital improvements at  
40 the licensee's racetrack and one half of the returned excess funds shall be used for purses for the  
41 open stakes race event known as the West Virginia Derby.

42           (c) All expenditures that are funded under this section must be approved in writing by the  
43 West Virginia Racing Commission before the funds are expended for any of the purposes  
44 authorized by this section.

## 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 is designated and known as the  
 2 State Excess Lottery Revenue Fund is continued. The fund consists of all appropriations to the  
 3 fund and all interest earned from investment of the fund and any gifts, grants, or contributions  
 4 received by the fund. All revenues received under the provisions of §29-22A-10b and §29-22A-  
 5 10c of this code and under §29-22B-101 *et seq.* of this code, except the amounts due the  
 6 commission under §29-22B-1408(a)(1) of this code, shall be deposited in the State Treasury and  
 7 placed into the State Excess Lottery Revenue Fund. The revenue shall be disbursed in the  
 8 manner provided in this section for the purposes stated in this section and shall not be treated by  
 9 the State Auditor and the State Treasurer as part of the general revenue of the state.

10            (b) For the fiscal year beginning July 1, 2002, the commission shall deposit: (1) \$65 million  
 11 into the subaccount of the State Excess Lottery Revenue Fund hereby created in the State  
 12 Treasury to be known as the General Purpose Account to be expended pursuant to appropriation  
 13 of the Legislature; (2) \$10 million into the Education Improvement Fund for appropriation by the  
 14 Legislature to the PROMISE Scholarship Fund created in §18C-7-7 of this code; (3) \$19 million  
 15 into the Economic Development Project Fund created in subsection (e) of this section for the  
 16 issuance of revenue bonds and to be spent in accordance with the provisions of said subsection;  
 17 (4) \$20 million into the School Building Debt Service Fund created in §18-9D-6 of this code for the  
 18 issuance of revenue bonds; (5) \$40 million into the West Virginia Infrastructure Fund created in  
 19 §31-15A-9 of this code to be spent in accordance with the provisions of said article; (6) \$10 million  
 20 into the Higher Education Improvement Fund for higher education; and (7) \$5 million into the State  
 21 Park Improvement Fund for park improvements. For the fiscal year beginning July 1, 2003, the  
 22 commission shall deposit: (1) \$65 million into the General Purpose Account to be expended

23 pursuant to appropriation of the Legislature; (2) \$17 million into the Education Improvement Fund  
24 for appropriation by the Legislature to the PROMISE Scholarship Fund created in §18C-7-7 of this  
25 code; (3) \$19 million into the Economic Development Project Fund created in subsection (e) of this  
26 section for the issuance of revenue bonds and to be spent in accordance with the provisions of  
27 said subsection; (4) \$20 million into the School Building Debt Service Fund created in §18-9D-6 of  
28 this code for the issuance of revenue bonds; (5) \$40 million into the West Virginia Infrastructure  
29 Fund created in §31-15A-9 of this code to be spent in accordance with the provisions of said  
30 article; (6) \$10 million into the Higher Education Improvement Fund for higher education; and (7)  
31 \$7 million into the State Park Improvement Fund for park improvements.

32 (c) For the fiscal year beginning July 1, 2004, and subsequent fiscal years through the  
33 fiscal year ending June 30, 2009, the commission shall deposit: (1) \$65 million into the General  
34 Purpose Account to be expended pursuant to appropriation of the Legislature; (2) \$27 million into  
35 the Education Improvement Fund for appropriation by the Legislature to the PROMISE  
36 Scholarship Fund created in §18C-7-7 of this code; (3) \$19 million into the Economic Development  
37 Project Fund created in subsection (e) of this section for the issuance of revenue bonds and to be  
38 spent in accordance with the provisions of said subsection; (4) \$19 million into the School Building  
39 Debt Service Fund created in §18-9D-6 of this code for the issuance of revenue bonds: *Provided,*  
40 That for the fiscal year beginning July 1, 2008, and subsequent fiscal years, no moneys shall be  
41 deposited in the School Building Debt Service Fund pursuant to this subsection and instead \$19  
42 million shall be deposited into the Excess Lottery School Building Debt Service Fund; (5) \$40  
43 million into the West Virginia Infrastructure Fund created in §31-15A-9 of this code to be spent in  
44 accordance with the provisions of said article; (6) \$10 million into the Higher Education  
45 Improvement Fund for higher education; and (7) \$5 million into the State Park Improvement Fund  
46 for park improvements. No portion of the distributions made as provided in this subsection and  
47 subsection (b) of this section, except distributions made in connection with bonds issued under  
48 subsection (e) of this section, may be used to pay debt service on bonded indebtedness until after

49 the Legislature expressly authorizes issuance of the bonds and payment of debt service on the  
50 bonds through statutory enactment or the adoption of a concurrent resolution by both houses of  
51 the Legislature. Until subsequent legislative enactment or adoption of a resolution that expressly  
52 authorizes issuance of the bonds and payment of debt service on the bonds with funds distributed  
53 under this subsection and subsection (b) of this section, except distributions made in connection  
54 with bonds issued under subsection (d) of this section, the distributions may be used only to fund  
55 capital improvements that are not financed by bonds and only pursuant to appropriation of the  
56 Legislature.

57 (d) For the fiscal year beginning July 1, 2009, and subsequent fiscal years, the commission  
58 shall deposit: (1) \$65 million into the General Purpose Account to be expended pursuant to  
59 appropriation of the Legislature; (2) \$29 million into the Education Improvement Fund for  
60 appropriation by the Legislature to the PROMISE Scholarship Fund created in §18C-7-7 of this  
61 code; (3) \$19 million into the Economic Development Project Fund created in subsection (e) of this  
62 section for the issuance of revenue bonds and to be spent in accordance with the provisions of  
63 said subsection; (4) \$19 million into the Excess Lottery School Building Debt Service Fund created  
64 in §18-9D-6 of this code; (5) \$40 million into the West Virginia Infrastructure Fund created in §31-  
65 15A-9 of this code to be spent in accordance with the provisions of said article; (6) \$10 million into  
66 the Higher Education Improvement Fund for higher education; and (7) \$5 million into the State  
67 Park Improvement Fund for park improvements. No portion of the distributions made as provided  
68 in this subsection and subsection (b) of this section, except distributions made in connection with  
69 bonds issued under subsection (e) of this section, may be used to pay debt service on bonded  
70 indebtedness until after the Legislature expressly authorizes issuance of the bonds and payment  
71 of debt service on the bonds through statutory enactment or the adoption of a concurrent  
72 resolution by both houses of the Legislature. Until subsequent legislative enactment or adoption of  
73 a resolution that expressly authorizes issuance of the bonds and payment of debt service on the  
74 bonds with funds distributed under this subsection and subsection (b) of this section, except

75 distributions made in connection with bonds issued under subsection (e) of this section, the  
76 distributions may be used only to fund capital improvements that are not financed by bonds and  
77 only pursuant to appropriation of the Legislature.

78 (e) The Legislature finds and declares that in order to attract new business, commerce,  
79 and industry to this state, to retain existing business and industry providing the citizens of this state  
80 with economic security, and to advance the business prosperity of this state and the economic  
81 welfare of the citizens of this state, it is necessary to provide public financial support for  
82 constructing, equipping, improving, and maintaining economic development projects, capital  
83 improvement projects, and infrastructure which promote economic development in this state.

84 (1) The West Virginia Economic Development Authority created and provided for in §31-  
85 15-1 *et seq.* of this code shall, by resolution, in accordance with the provisions of this article and  
86 §31-15-1 *et seq.* of this code, and upon direction of the Governor, issue revenue bonds of the  
87 Economic Development Authority in no more than two series to pay for all or a portion of the cost of  
88 constructing, equipping, improving, or maintaining projects under this section or to refund the  
89 bonds at the discretion of the authority. Any revenue bonds issued on or after July 1, 2002, which  
90 are secured by state excess lottery revenue proceeds shall mature at a time or times not  
91 exceeding 30 years from their respective dates. The principal of and the interest and redemption  
92 premium, if any, on the bonds shall be payable solely from the special fund provided in this section  
93 for the payment.

94 (2) The special revenue fund named the Economic Development Project Fund into which  
95 shall be deposited the amounts to be deposited in the fund as specified in subsections (b), (c), and  
96 (d) of this section is continued. The Economic Development Project Fund shall consist of all such  
97 moneys, all appropriations to the fund, all interest earned from investment of the fund, and any  
98 gifts, grants, or contributions received by the fund. All amounts deposited in the fund shall be  
99 pledged to the repayment of the principal, interest, and redemption premium, if any, on any  
100 revenue bonds or refunding revenue bonds authorized by this section, including any and all



101 commercially customary and reasonable costs and expenses which may be incurred in  
102 connection with the issuance, refunding, redemption, or defeasance of the bonds. The West  
103 Virginia Economic Development Authority may further provide in the resolution and in the trust  
104 agreement for priorities on the revenues paid into the Economic Development Project Fund that  
105 are necessary for the protection of the prior rights of the holders of bonds issued at different times  
106 under the provisions of this section. The bonds issued pursuant to this subsection shall be  
107 separate from all other bonds which may be or have been issued, from time to time, under the  
108 provisions of this article.

109 (3) After the West Virginia Economic Development Authority has issued bonds authorized  
110 by this section and after the requirements of all funds have been satisfied, including any coverage  
111 and reserve funds established in connection with the bonds issued pursuant to this subsection,  
112 any balance remaining in the Economic Development Project Fund may be used for the  
113 redemption of any of the outstanding bonds issued under this subsection which, by their terms, are  
114 then redeemable for the purchase of the outstanding bonds at the market price, but not to exceed  
115 the price, if any, at which redeemable, and all bonds redeemed or purchased shall be immediately  
116 canceled and shall not again be issued.

117 (4) Bonds issued under this subsection shall state on their face that the bonds do not  
118 constitute a debt of the State of West Virginia; that payment of the bonds, interest, and charges  
119 thereon cannot become an obligation of the State of West Virginia; and that the bondholders'  
120 remedies are limited in all respects to the Special Revenue Fund established in this subsection for  
121 the liquidation of the bonds.

122 (5) The West Virginia Economic Development Authority shall expend the bond proceeds  
123 from the revenue bond issues authorized and directed by this section for projects certified under  
124 the provision of this subsection: *Provided*, That the bond proceeds shall be expended in  
125 accordance with the requirements and provisions of §21-5A-1 *et seq.* of this code and either §5-  
126 22-1 *et seq.* or §5-22A-1 *et seq.* of this code, as the case may be: *Provided, however*, That if the

127 bond proceeds are expended pursuant to §5-22A-1 *et seq.* of this code and if the Design-Build  
128 Board created under said article determines that the execution of a design-build contract in  
129 connection with a project is appropriate pursuant to the criteria set forth in said article and that a  
130 competitive bidding process was used in selecting the design builder and awarding the contract,  
131 the determination shall be conclusive for all purposes and shall be considered to satisfy all the  
132 requirements of said article.

133 (6) For the purpose of certifying the projects that will receive funds from the bond proceeds,  
134 a committee is hereby established and comprised of the Governor, or his or her designee, the  
135 Secretary of the Department of Revenue, the Executive Director of the West Virginia Development  
136 Office, and six persons appointed by the Governor: *Provided*, That at least one citizen member  
137 must be from each of the state's three congressional districts. The committee shall meet as often  
138 as necessary and make certifications from bond proceeds in accordance with this subsection. The  
139 committee shall meet within 30 days of the effective date of this section.

140 (7) Applications for grants submitted on or before July 1, 2002, shall be considered refiled  
141 with the committee. Within 10 days from the effective date of this section, as amended in the year  
142 2003, the lead applicant shall file with the committee any amendments to the original application  
143 that may be necessary to properly reflect changes in facts and circumstances since the application  
144 was originally filed with the committee.

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

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

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

150 (C) The ability of the project to create or retain jobs, considering the number of jobs, the  
151 type of jobs, whether benefits are or will be paid, the type of benefits involved, and the  
152 compensation reasonably anticipated to be paid persons filling new jobs or the compensation

153 currently paid to persons whose jobs would be retained;

154 (D) Whether the project will promote economic development in the region and the type of  
155 economic development that will be promoted;

156 (E) The type of capital investments to be made with bond proceeds and the useful life of  
157 the capital investments; and

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

159 (9) A grant may not be awarded to an individual or other private person or entity. Grants  
160 may be awarded only to an agency, instrumentality, or political subdivision of this state or to an  
161 agency or instrumentality of a political subdivision of this state.

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

166 (10) Prior to making each certification, the committee shall conduct at least one public  
167 hearing, which may be held outside of Kanawha County. Notice of the time, place, date, and  
168 purpose of the hearing shall be published in at least one newspaper in each of the three  
169 congressional districts at least 14 days prior to the date of the public hearing.

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

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

174 (B) Health clinics and other health facilities;

175 (C) Traditional infrastructure, such as water and wastewater treatment facilities, pumping  
176 facilities, and transmission lines;

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

178 (E) Biotechnical incubators, development centers, and facilities;

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

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

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

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

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

189 (K) Retail facilities, including related service, parking and transportation facilities,  
190 appropriate lighting, landscaping, and security systems to revitalize decaying downtown areas;  
191 and

192 (L) Other facilities that promote or enhance economic development, educational  
193 opportunities, or tourism opportunities thereby promoting the general welfare of this state and its  
194 residents.

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

199 (13) If any proceeds from sale of bonds remain after paying costs and making grants and  
200 loans as provided in this subsection, the surplus may be deposited in an account in the State  
201 Treasury known as the Economic Development Project Bridge Loan Fund administered by the  
202 Economic Development Authority created in §31-15-1 *et seq.* of this code. Expenditures from the  
203 fund are not authorized from collections but are to be made only in accordance with appropriation  
204 by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon

205 fulfillment of the provisions of §5A-2-1 *et seq.* of this code. Loan repayment amounts, including the  
206 portion attributable to interest, shall be paid into the fund created in this subdivision.

207 (f) If the commission receives revenues in an amount that is not sufficient to fully comply  
208 with the requirements of subsections (b), (c), (d), (i), and (m) of this section, the commission shall  
209 first make the distribution to the Economic Development Project Fund; second, make the  
210 distribution or distributions to the other funds from which debt service is to be paid; third, make the  
211 distribution to the Education Improvement Fund for appropriation by the Legislature to the  
212 PROMISE Scholarship Fund; and fourth, make the distribution to the General Purpose Account:  
213 *Provided, That,* subject to the provisions of this subsection, to the extent the revenues are not  
214 pledged in support of revenue bonds which are or may be issued, from time to time, under this  
215 section, the revenues shall be distributed on a pro rata basis.

216 (g) Each fiscal year, the commission shall, after meeting the requirements of subsections  
217 (b), (c), (d), (i), and (m) of this section and after transferring to the State Lottery Fund created under  
218 §29-22-18 of this code an amount equal to any transfer from the State Lottery Fund to the Excess  
219 Lottery Fund pursuant to §29-22-18(f) of this code, deposit 50 percent of the amount by which  
220 annual gross revenue deposited in the State Excess Lottery Revenue Fund exceeds \$225 million  
221 in a fiscal year in a separate account in the State Lottery Fund to be available for appropriation by  
222 the Legislature.

223 (h) When bonds are issued for projects under subsections (d) and (e) of this section or for  
224 the School Building Authority, infrastructure, higher education, or park improvement purposes  
225 described in this section that are secured by profits from lotteries deposited in the State Excess  
226 Lottery Revenue Fund, the Lottery Commission Director shall allocate first to the Economic  
227 Development Project Fund an amount equal to one tenth of the projected annual principal,  
228 interest, and coverage requirements on any and all revenue bonds issued, or to be issued as  
229 certified to the Lottery Commission Director; and second, to the fund or funds from which debt  
230 service is paid on bonds issued under this section for the School Building Authority, infrastructure,

231 higher education, and park improvements an amount equal to one tenth of the projected annual  
232 principal, interest, and coverage requirements on any and all revenue bonds issued, or to be  
233 issued as certified to the Lottery Commission Director. In the event there are insufficient funds  
234 available in any month to transfer the amounts required pursuant to this subsection, the deficiency  
235 shall be added to the amount transferred in the next succeeding month in which revenues are  
236 available to transfer the deficiency.

237 (i) Prior to the distributions provided in subsection (d) of this section, the Lottery  
238 Commission shall deposit into the General Revenue Fund amounts necessary to provide  
239 reimbursement for the refundable credit allowable under §11-21-21 of this code.

240 (j)(1) The Legislature considers the following as priorities in the expenditure of any surplus  
241 revenue funds:

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

244 (B) Providing adequate funding for the Public Employees Insurance Agency; and

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

247 (2) The provisions of this subsection may not be construed by any court to require any  
248 appropriation or any specific appropriation or level of funding for the purposes set forth in this  
249 subsection.

250 (k) The Legislature further directs the Governor to focus resources on the creation of a  
251 prescription drug program for senior citizens by pursuing a Medicaid waiver to offer prescription  
252 drug services to senior citizens; by investigating the establishment of purchasing agreements with  
253 other entities to reduce costs; by providing discount prices or rebate programs for seniors; by  
254 coordinating programs offered by pharmaceutical manufacturers that provide reduced cost or free  
255 drugs; by coordinating a collaborative effort among all state agencies to ensure the most efficient  
256 and cost-effective program possible for the senior citizens of this state; and by working closely with

257 the state's congressional delegation to ensure that a national program is implemented. The  
258 Legislature further directs that the Governor report his or her progress back to the Joint Committee  
259 on Government and Finance on an annual basis until a comprehensive program has been fully  
260 implemented.

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

263 (1) On the last day of the fiscal year that begins on July 1, 2010, and for each fiscal year  
264 thereafter, 46 percent shall be placed in the general purse fund of a thoroughbred racetrack  
265 licensee that did not participate in the Thoroughbred Development Fund for at least four  
266 consecutive calendar years prior to December 31, 1992, for payment of regular purses;

267 (2) Forty-three and one-half percent shall be distributed to the Racing Commission Special  
268 Account — Unredeemed Pari-mutuel Tickets, established on behalf of a thoroughbred racetrack  
269 licensee that did participate in the Thoroughbred Development Fund for at least four consecutive  
270 calendar years prior to December 31, 1992;

271 (3) Five and one-half percent shall be distributed to the Racing Commission Special  
272 Account — Unredeemed Pari-mutuel Tickets, established on behalf of a thoroughbred racetrack  
273 licensee that did not participate in the Thoroughbred Development Fund for at least four  
274 consecutive calendar years prior to December 31, 1992; and

275 (4) Five percent shall be distributed to the Racing Commission Special Account –  
276 Greyhound Breeding Development Fund: Provided, That effective July 1, 2023, and thereafter, the  
277 amount required by this subdivision to be distributed to the West Virginia Greyhound Breeding  
278 Development Fund shall remain in the State Excess Lottery Revenue Fund.

279 (m) For the fiscal year beginning July 1, 2019, and subsequent fiscal years, the  
280 commission shall deposit \$11 million to be distributed into the special funds established by the  
281 respective licensees and used for the payment of regular purses in addition to the other amounts  
282 provided in §19-23-1 *et seq.* of this code; such distribution shall be on a pro rata basis based upon

283 the actual purse earnings of each such licensee as specified in §29-22A-10(c)(2) and §29-22A-  
 284 10b(a)(2) of this code.

## **ARTICLE 22A. RACETRACK VIDEO LOTTERY.**

### **§29-22A-3. Definitions.**

1 As used in this article:

2 (a) "Applicant" means any person applying for any video lottery license or permit.

3 (b) "Associated equipment" means any hardware located on a licensed racetrack's  
 4 premises which is connected to the video lottery system for the purpose of performing  
 5 communication, validation, or other functions, but not including the video lottery terminals or the  
 6 communication facilities of a regulated public utility.

7 (c) "Background investigation" means a security, criminal, and credit investigation of a  
 8 person, as defined in this section, who has applied for a video lottery license or permit, or who has  
 9 been granted a video lottery license or permit.

10 (d) "Central computer", "central control computer", or "central site system" means any  
 11 central site computer provided to and controlled by the commission to which video lottery terminals  
 12 communicate for purposes of information retrieval and terminal activation and to disable  
 13 programs.

14 (e) "Commission" or "State Lottery Commission" means the West Virginia Lottery  
 15 Commission created by §29-22-1 *et seq.* of this code.

16 (f) "Control" means the authority to direct the management and policies of an applicant or a  
 17 license or permit holder.

18 (g) "Costs" means the expenses incurred by the commission in the testing and  
 19 examination of video lottery terminals and the performance of background investigations and  
 20 other related activities which are charged to and collected from applicants or license or permit  
 21 holders.

22 (h) "Director" means the individual appointed by the Governor to provide management and



23 administration necessary to direct the State Lottery Office.

24 (i) "Disable" or "terminal disable" means the process of executing a shutdown command  
25 from the central control computer which causes video lottery terminals to cease functioning.

26 (j) "Display" means the visual presentation of video lottery game features on a video lottery  
27 terminal in the form of video images, actual symbols or both.

28 "Employees of the licensed racing association" means a person or persons employed to  
29 work at a facility by an employer, or employer's predecessors or successors, that was licensed to  
30 conduct greyhound racing as a "pari-mutual racing facility", "licensed racetrack", "racetrack", or  
31 racing association" prior to January 1, 1994.

32 (k) "EPROM" and "erasable programmable read-only memory chips" means the electronic  
33 storage medium on which the operation software for all games playable on a video lottery terminal  
34 resides and which can also be in the form of CD-ROM, flash RAM, or other new technology  
35 medium that the commission may from time to time approve for use in video lottery terminals. All  
36 electronic storage media are considered to be the property of the State of West Virginia.

37 (l) "Floor attendant" means a person, employed by a licensed racetrack, who holds a  
38 permit issued by the commission and who corrects paper jams and bill jams in video lottery  
39 terminals and also provides courtesy services for video lottery players.

40 (m) "Gross terminal income" means the total amount of cash, vouchers, or tokens inserted  
41 into the video lottery terminals operated by a licensee, minus the total value of coins and tokens  
42 won by a player and game credits which are cleared from the video lottery terminals in exchange  
43 for winning redemption tickets.

44 (n) "License" or "video lottery license" means authorization granted by the commission to a  
45 racetrack which is licensed by the West Virginia Racing Commission to conduct thoroughbred or  
46 greyhound racing meetings pursuant to §19-23-1 *et seq.* of this code permitting the racetrack to  
47 operate video lottery terminals authorized by the commission: Provided, That effective July 1,  
48 2023, and thereafter, "license" or "video lottery license" also means authorization granted

49 pursuant to said article to a racetrack which was licensed to conduct greyhound racing meetings  
50 prior to January 1, 1994.

51 (e) "Lottery" means the public gaming systems or games established and operated by the  
52 State Lottery Commission.

53 (f) "Manufacturer" means any person holding a permit granted by the commission to  
54 engage in the business of designing, building, constructing, assembling, or manufacturing video  
55 lottery terminals, the electronic computer components of the video lottery terminals, the random  
56 number generator of the video lottery terminals, or the cabinet in which it is housed, and whose  
57 product is intended for sale, lease, or other assignment to a licensed racetrack in West Virginia,  
58 and who contracts directly with the licensee for the sale, lease, or other assignment to a licensed  
59 racetrack in West Virginia.

60 (g) "Net terminal income" means gross terminal income minus an amount deducted by the  
61 commission to reimburse the commission for its actual costs of administering racetrack video  
62 lottery at the licensed racetrack. No deduction for any or all costs and expenses of a licensee  
63 related to the operation of video lottery games shall be deducted from gross terminal income.

64 (h) "Noncash prize" means merchandise which a video lottery player may be given the  
65 option to receive in lieu of cash in exchange for a winning redemption ticket and which shall be  
66 assigned a redemption value equal to the actual cost of the merchandise to the licensed racetrack.

67 (i) "Own" means any beneficial or proprietary interest in any property or business of an  
68 applicant or licensed racetrack.

69 (j) "Pari-mutuel racing facility", "licensed racetrack," "racetrack", or "track" means a facility  
70 where horse or dog race meetings are held and the pari-mutuel system of wagering is authorized  
71 pursuant to the provisions of §19-23-1 *et seq.* of this code: *Provided*, That, for the purposes of this  
72 article, "pari-mutuel racing facility", "licensed racetrack", "racetrack", or "track" includes only a  
73 facility which was licensed prior to January 1, 1994, to hold horse or dog race meetings, and which  
74 conducts not less than 220 live racing dates for each horse or dog race meeting or such other

75 number of live racing dates as may be approved by the Racing Commission in accordance with  
76 the provisions of §19-23-12b of this code: Provided, however, That effective July 1, 2023, and  
77 thereafter, "pari-mutuel racing facility", "licensed racetrack", "racetrack", "racing association", or  
78 "track" also includes a racetrack which was licensed to conduct greyhound racing meetings prior  
79 to January 1, 1994, and continues to hold a racing license to receive telecasts and accept wagers  
80 on horse or dog races, regardless of whether the facility continues to conduct live dog racing.

81 ~~(u)~~ "Permit" means authorization granted by the commission to a person to function as  
82 either a video lottery manufacturer, service technician, or validation manager.

83 ~~(v)~~ "Person" means any natural person, corporation, association, partnership, limited  
84 partnership, or other entity, regardless of its form, structure, or nature.

85 ~~(w)~~ "Player" means a person who plays a video lottery game on a video lottery terminal at a  
86 racetrack licensed by the commission to conduct video lottery games.

87 ~~(x)~~ "Service technician" means a person, employed by a licensed racetrack, who holds a  
88 permit issued by the commission and who performs service, maintenance, and repair on licensed  
89 video lottery terminals in this state.

90 ~~(y)~~ "Video lottery game" means a commission approved, owned, and controlled  
91 electronically simulated game of chance which is displayed on a video lottery terminal and which:

92 ~~(1)~~ (A) Is connected to the commission's central control computer by an on-line or dial-up  
93 communication system;

94 ~~(2)~~ (B) Is initiated by a player's insertion of coins, currency, vouchers, or tokens into a video  
95 lottery terminal, which causes game play credits to be displayed on the video lottery terminal and,  
96 with respect to which, each game play credit entitles a player to choose one or more symbols or  
97 numbers or to cause the video lottery terminal to randomly select symbols or numbers;

98 ~~(3)~~ (C) Allows the player to win additional game play credits, coins, or tokens based upon  
99 game rules which establish the random selection of winning combinations of symbols or numbers  
100 or both and the number of free play credits, coins, or tokens to be awarded for each winning

101 combination of symbols or numbers, or both;

102       (4) ~~(D)~~ Is based upon computer-generated random selection of winning combinations  
103 based totally or predominantly on chance; and

104       (5) ~~(E)~~ Allows a player at any time to simultaneously clear all game play credits and print a  
105 redemption ticket entitling the player to receive the cash value of the free plays cleared from the  
106 video lottery terminal; ~~and~~

107       (z) "Validation manager" means a person who holds a permit issued by the commission  
108 and who performs video lottery ticket redemption services.

109       (aa) "Video lottery" means a lottery which allows a game to be played utilizing an electronic  
110 computer and an interactive computer terminal device, equipped with a video screen and keys, a  
111 keyboard or other equipment allowing input by an individual player, into which the player inserts  
112 coins, currency, vouchers, or tokens as consideration in order for play to be available, and through  
113 which terminal device the player may receive free games, coins, tokens, or credit that can be  
114 redeemed for cash, annuitized payments over time, a noncash prize or nothing, as may be  
115 determined wholly or predominantly by chance. "Video lottery" does not include a lottery game  
116 which merely utilizes an electronic computer and a video screen to operate a lottery game and  
117 communicate the results of the game, such as the game "Travel", and which does not utilize an  
118 interactive electronic terminal device allowing input by an individual player.

119       (bb) "Video lottery terminal" means a commission-approved interactive electronic terminal  
120 device which is connected with the commission's central computer system, and which is used for  
121 the purpose of playing video lottery games authorized by the commission. A video lottery terminal  
122 may simulate the play of one or more video lottery games.

123       (cc) "Wager" means a sum of money or thing of value risked on an uncertain occurrence.

**§29-22A-7. License and permit qualifications; individual qualifications; applicant required  
to furnish information; waiver of liability; oath or affirmation; duty to provide  
accurate and material information.**

1 (a) No video lottery license or permit may be granted unless the commission has  
2 determined that the applicant satisfies all of the following qualifications:

3 (1) An applicant for a video lottery license must hold a valid racing license granted by the  
4 West Virginia Racing Commission under provisions of §19-23-1 *et seq.* of this code: Provided,  
5 That effective July 1, 2023, and thereafter, an applicant that held a valid dog racing license prior to  
6 January 1, 1994, is not required to hold a valid racing license in order to renew a video lottery  
7 license.

8 (2) An applicant must be a person of good character and integrity.

9 (3) An applicant must be a person whose background, including criminal record,  
10 reputation, and associations, does not pose a threat to the security and integrity of the lottery or to  
11 the public interest of the state. All new applicants for licenses and permits issued by the  
12 commission shall furnish fingerprints for a national criminal records check by the Criminal  
13 Identification Bureau of the West Virginia State Police and the Federal Bureau of Investigation.  
14 The fingerprints shall be furnished by all persons required to be named in the application and shall  
15 be accompanied by a signed authorization for the release of information by the Criminal  
16 Investigation Bureau and the Federal Bureau of Investigation. The commission may require any  
17 applicant seeking the renewal of a license or permit to furnish fingerprints for a national criminal  
18 records check by the Criminal Identification Bureau of the West Virginia State Police and the  
19 Federal Bureau of Investigation: *Provided,* That the Lottery Commission shall apply §29-22A-7(g)  
20 and §29-22A-7(h) of this code in determining whether an applicant's prior criminal convictions  
21 bear a rational nexus to the license or permit being sought.

22 (4) An applicant must be a person who demonstrates the business ability and experience  
23 necessary to establish, operate, and maintain the business for which a video lottery license or  
24 permit application is made.

25 (5) An applicant must be a person who has secured adequate financing for the business for  
26 which a video lottery license or permit application is made. The commission shall determine

27 whether financing is from a source which meets the qualifications of this section and is adequate to  
28 support the successful performance of the duties and responsibilities of the licensed racetrack or  
29 permit holder. An applicant for a video lottery license shall disclose all financing or refinancing  
30 arrangements for the purchase, lease, or other acquisition of video lottery terminals and  
31 associated equipment in the degree of detail requested by the commission. A licensed racetrack  
32 shall request commission approval of any change in financing or lease arrangements at least 30  
33 days before the effective date of the change.

34 (6) A horse racetrack applying for a video lottery license or a license renewal, or an  
35 applicant that held a valid racing license prior to January 1, 1994, must present to the commission  
36 evidence of the existence of an agreement, regarding the proceeds from video lottery terminals,  
37 between the applicant and the representative of a majority of the horse owners and trainers, the  
38 representative of a majority of the pari-mutuel clerks for horse and dog racing associations, and  
39 the representative of a majority of the horse breeders ~~or the representative of a majority of the~~  
40 ~~kennel owners~~ for the applicable racetrack who hold permits required by §19-23-2 of this code.

41 (7) A racetrack applying for a video lottery license or a license renewal must file with the  
42 commission a copy of any current or proposed agreement between the applicant and any  
43 manufacturer for the sale, lease, or other assignment to the racetrack of video lottery terminals,  
44 the electronic computer components of the terminals, the random number generator of the  
45 terminals, or the cabinet in which it is housed. Once filed with the commission, the agreement is a  
46 public document subject to the provisions of §29B-1-1 *et seq.* of this code.

47 (b) No video lottery license or permit may be granted to an applicant until the commission  
48 determines that each person who has control of the applicant meets all applicable qualifications of  
49 subsection (a) of this section. The following persons are considered to have control of an  
50 applicant:

51 (1) Each person associated with a corporate applicant, including any corporate holding  
52 company, parent company, or subsidiary company of the applicant, but not including a bank or

53 other licensed lending institution which holds a mortgage or other lien acquired in the ordinary  
54 course of business, who has the ability to control the activities of the corporate applicant or elect a  
55 majority of the board of directors of that corporation.

56 (2) Each person associated with a noncorporate applicant who directly or indirectly holds  
57 any beneficial or proprietary interest in the applicant or whom the commission determines to have  
58 the ability to control the applicant.

59 (3) Key personnel of an applicant, including any executive, employee or agent, having the  
60 power to exercise significant influence over decisions concerning any part of the applicant's  
61 business operation.

62 (c) Applicants must furnish all information, including financial data and documents,  
63 certifications, consents, waivers, individual history forms, and other materials requested by the  
64 commission for purposes of determining qualifications for a license or permit. No video lottery  
65 license or permit may be granted to an applicant who fails to provide information and  
66 documentation requested by the commission. The burden of proving qualification for any video  
67 lottery license or permit is on the applicant.

68 (d) Each applicant bears all risks of adverse public notice, embarrassment, criticism,  
69 damages, or financial loss which may result from any disclosure or publication of any material or  
70 information obtained by the commission pursuant to action on an application. The applicant shall,  
71 as a part of its application, expressly waive any and all claims against the commission, the State of  
72 West Virginia and the employees of either for damages as a result of any background  
73 investigation, disclosure, or publication relating to an application for a video lottery license or  
74 permit.

75 (e) All application, registration, and disclosure forms and other documents submitted to the  
76 commission by or on behalf of the applicant for purposes of determining qualification for a video  
77 lottery license or permit shall be sworn to or affirmed before an officer qualified to administer oaths.

78 (f) An applicant who knowingly fails to reveal any fact material to qualification or who

79 knowingly submits false or misleading material information is ineligible for a video lottery license or  
80 permit.

81 (g) The Lottery Commission may not disqualify an applicant from an initial license or permit  
82 because of a prior criminal conviction that remains unreversed unless that conviction is for a crime  
83 that bears a rational nexus to the activity requiring a license or permit. In determining whether a  
84 criminal conviction bears a rational nexus to a profession or occupation, the Lottery Commission  
85 shall consider at a minimum:

86 (1) The nature and seriousness of the crime for which the individual was convicted;

87 (2) The passage of time since the commission of the crime;

88 (3) The relationship of the crime to the ability, capacity, and fitness required to perform the  
89 duties and discharge the responsibilities of the profession or occupation; and

90 (4) Any evidence of rehabilitation or treatment undertaken by the individual.

91 (h) Notwithstanding any other provision of this code to the contrary, if an applicant is  
92 disqualified from a license or permit because of a prior criminal conviction, the Lottery Commission  
93 shall permit the applicant to apply for an initial license or permit if:

94 (1) A period of five years has elapsed from the date of conviction or the date of release from  
95 incarceration, whichever is later;

96 (2) The individual has not been convicted of any other crime during the period of time  
97 following the disqualifying offense; and

98 (3) The conviction was not for an offense of a violent or sexual nature: *Provided*, That a  
99 conviction for an offense of a violent or sexual nature may subject an individual to a longer period  
100 of disqualification from a license or permit, to be determined by the Lottery Commission.

101 (i) An individual with a criminal record who has not previously applied for a license or permit  
102 may petition the Lottery Commission at any time for a determination of whether the individual's  
103 criminal record will disqualify the individual from obtaining a license or permit. This petition shall  
104 include sufficient details about the individual's criminal record to enable the Lottery Commission to



105 identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific  
106 nature of the conviction. The Lottery Commission shall provide the determination within 60 days of  
107 receiving the petition from the applicant. The Lottery Commission may charge a fee to recoup its  
108 costs for each petition.

**§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 for  
4 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 of  
16 gross terminal income: Provided, That the commission shall transfer 15 percent of the amount

17 deducted, generated from racetrack video lottery at licensed thoroughbred racetracks, to the West  
18 Virginia Racing Commission's General Administrative Account created in §19-23-11 of this code:  
19 *Provided, however,* That any amounts deducted by the commission for its actual costs and  
20 expenses that exceeds its actual costs and expenses shall be deposited into the State Lottery  
21 Fund. For the fiscal years ending June 30, 2011, through June 30, 2030, the term "actual costs and  
22 expenses" may include transfers of up to \$9 million in surplus allocations for each fiscal year, as  
23 calculated by the commission when it has closed its books for the fiscal year, to the Licensed  
24 Racetrack Modernization Fund created by subdivision (2), subsection (b) of this section. For all  
25 fiscal years beginning on or after July 1, 2001, the commission shall not receive an amount of  
26 gross terminal income in excess of the amount of gross terminal income received during the fiscal  
27 year ending on June 30, 2001, but four percent of any amount of gross terminal income received in  
28 excess of the amount of gross terminal income received during the fiscal year ending on June 30,  
29 2001, shall be deposited into the fund established in §29-22-18a of this code; and

30 (2) A Licensed Racetrack Modernization Fund is created within the lottery fund. For all  
31 fiscal years beginning on or after July 1, 2011, and ending with the fiscal year beginning July 1,  
32 2030, the commission shall deposit such amounts as are available according to subdivision (1) of  
33 this subsection into a separate facility modernization account maintained within the Licensed  
34 Racetrack Modernization Fund for each racetrack. Each racetrack's share of each year's deposit  
35 shall be calculated in the same ratio as each racetrack's apportioned contribution to the four  
36 percent administrative costs and expenses allowance provided for in subdivision (1) of this  
37 subsection for that year. For each \$2 expended by a licensed racetrack for facility modernization  
38 improvements at the racetrack, having a useful life of three or more years and placed in service  
39 after July 1, 2011, the licensed racetrack shall receive \$1 in recoupment from its facility  
40 modernization account. If the licensed racetrack's facility modernization account contains a  
41 balance in any fiscal year, the unexpended balance from that fiscal year will be available for  
42 matching for one additional fiscal year, after which time, the remaining unused balance carried

43 forward shall revert to the lottery fund. For purposes of this section, the term "facility modernization  
44 improvements" includes acquisitions of new and unused video lottery terminals and related  
45 equipment. Video lottery terminals financed through the recoupment provided in this subdivision  
46 must be retained by the licensee in its West Virginia licensed location for a period of not less than  
47 five years from the date of initial installation.

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

56 (1) The commission shall receive 30 percent of net terminal income, which shall be paid  
57 into the State Lottery Fund as provided in §29-22A-10a of this code;

58 (2) Until July 1, 2005, 14 percent of net terminal income at a licensed racetrack shall be  
59 deposited in the special fund established by the licensee, and used for payment of regular purses  
60 in addition to other amounts provided for in §19-23-1 *et seq.* of this code, on and after July 1, 2005,  
61 the rate shall be seven percent of net terminal income;

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

64 (A) Beginning July 1, 1999, and thereafter, any amount in excess of the two percent  
65 received during the fiscal year 1999 by a county in which a racetrack is located that has  
66 participated in the West Virginia Thoroughbred Development Fund since on or before January 1,  
67 1999, shall be divided as follows:

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

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

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

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

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

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

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

85 (5)(A) The West Virginia Thoroughbred Development Fund created under §19-23-13b of  
86 this code and the West Virginia Greyhound Breeding Development Fund created under §19-23-10  
87 of this code shall receive an equal share of a total of not less than one and one-half percent of the  
88 net terminal income. Effective July 1, 2023, the requirements of this paragraph are discontinued.

89 (B) Effective July 1, 2023, and thereafter, the West Virginia Thoroughbred Development  
90 Fund, created under §19-23-13b of this code shall receive one and one-half percent of the net  
91 terminal income originating at licensed thoroughbred racetracks.

92 (C) Effective July 1, 2023, and thereafter, the State Excess Lottery Revenue Fund, created  
93 under §29-22-18a of this code shall receive one and one-half percent of the net terminal income  
94 originating at licensed dog racetracks.

95 (6) The West Virginia Racing Commission shall receive one percent of the net terminal  
96 income which shall be deposited and used as provided in §19-23-13c of this code;

97 (7) A licensee shall receive 46 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 §29-22A-10b of this code into the  
102 fund administered by the West Virginia Economic Development Authority pursuant to §31-15-7 of  
103 this code, \$5 million into the Capitol Renovation and Improvement Fund administered by the  
104 Department of Administration pursuant to §5A-4-6 of this code, and \$5 million into the Tax  
105 Reduction and Federal Funding Increased Compliance Fund; and

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

110 (i) 1.375 percent of the total amount of net terminal income described in this section and  
111 §29-22A-10b of this code shall be deposited into the Tourism Promotion Fund created pursuant to  
112 §5B-2-12 of this code;

113 (ii) 0.375 percent of the total amount of net terminal income described in this section and in  
114 §29-22A-10b of this code shall be deposited into the Development Office Promotion Fund created  
115 pursuant to §5B-2-3b of this code;

116 (iii) 0.5 percent of the total amount of net terminal income described in this section and in  
117 §29-22A-10b of this code shall be deposited into the Research Challenge Fund created pursuant  
118 to §18B-1B-10 of this code;

119 (iv) 0.6875 percent of the total amount of net terminal income described in this section and  
120 in §29-22A-10b of this code shall be deposited into the Capitol Renovation and Improvement Fund

121 administered by the Department of Administration pursuant to §5A-4-6 of this code; and

122 (v) 0.0625 percent of the total amount of net terminal income described in this section and  
123 in §29-22A-10b of this code shall be deposited into the 2004 Capitol Complex Parking Garage  
124 Fund administered by the Department of Administration pursuant to §5A-4-5a of this code; and

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

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

140 ~~(10) (9) The remaining one percent of net terminal income shall be deposited as follows:~~

141 ~~(A) For the fiscal year beginning July 1, 2003, the veterans memorial program shall receive  
142 one percent of the net terminal income until sufficient moneys have been received to complete the  
143 veterans memorial on the grounds of the State Capitol Complex in Charleston, West Virginia. The  
144 moneys shall be deposited in the State Treasury in the Division of Culture and History special fund  
145 created pursuant to §29-11-3 of this code: *Provided*, That only after sufficient moneys have been  
146 deposited in the fund to complete the veterans memorial and to pay in full the annual bonded~~

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

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

171 (i) Five hundred thousand dollars of the one percent of net terminal income shall be  
172 deposited in the State Treasury in a special fund of the Department of Administration, created

173 pursuant to §5A-4-5 of this code, to be used for construction and maintenance of a parking garage  
174 on the State Capitol Complex; and

175 (ii) The remainder of the one percent of net terminal income and all of the one percent of  
176 net terminal income described in §29-22A-10b(a)(9)(B) of this code shall be distributed as follows:  
177 The net terminal income shall be deposited in equal amounts into the Capitol Dome and Capitol  
178 Improvements Fund created pursuant to §5A-4-2 of this code and the Cultural Facilities and  
179 Capitol Resources Matching Grant Program Fund created pursuant to §29-1-3 of this code until a  
180 total of \$1,500,000 is deposited into the Cultural Facilities and Capitol Resources Matching Grant  
181 Program Fund; thereafter, the remainder shall be deposited into the Capitol Dome and Capitol  
182 Improvements Fund.

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

191 (e) The commission's central control computer shall keep accurate records of all income  
192 generated by each video lottery terminal. The commission shall prepare and mail to the licensed  
193 racetrack a statement reflecting the gross terminal income generated by the licensee's video  
194 lottery terminals. Each licensed racetrack shall report to the commission any discrepancies  
195 between the commission's statement and each terminal's mechanical and electronic meter  
196 readings. The licensed racetrack is solely responsible for resolving income discrepancies between  
197 actual money collected and the amount shown on the accounting meters or on the commission's  
198 billing statement.



199 (f) Until an accounting discrepancy is resolved in favor of the licensed racetrack, the  
200 commission may make no credit adjustments. For any video lottery terminal reflecting a  
201 discrepancy, the licensed racetrack shall submit to the commission the maintenance log which  
202 includes current mechanical meter readings and the audit ticket which contains electronic meter  
203 readings generated by the terminal's software. If the meter readings and the commission's records  
204 cannot be reconciled, final disposition of the matter shall be determined by the commission. Any  
205 accounting discrepancies which cannot be otherwise resolved shall be resolved in favor of the  
206 commission.

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

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

220 (i) The commission has the right to examine all accounts, bank accounts, financial  
221 statements, and records in a licensed racetrack's possession, under its control or in which it has  
222 an interest and the licensed racetrack shall authorize all third parties in possession or in control of  
223 the accounts or records to allow examination of any of those accounts or records by the  
224 commission.

225 (j) If a court of competent jurisdiction finds that the provisions of this section as amended  
226 and reenacted in 2021 and the provisions of §29-22A-10d of this code conflict and cannot be  
227 harmonized, the provisions of §29-22A-10d of this code shall control.

**§29-22A-10b. Distribution of excess net terminal income.**

1 (a) For all years beginning on or after July 1, 2001, any amount of net terminal income  
2 generated annually by a licensed racetrack in excess of the amount of net terminal income  
3 generated by that licensed racetrack during the fiscal year ending on June 30, 2001, shall be  
4 divided as follows:

5 (1) The commission shall receive 41 percent of net terminal income, which the commission  
6 shall deposit in the State Excess Lottery Revenue Fund created in §29-22-18a of this code;

7 (2) Until July 1, 2005, eight percent of net terminal income at a licensed racetrack shall be  
8 deposited in the special fund established by the licensee and used for payment of regular purses  
9 in addition to other amounts provided in §19-23-1 *et seq.* of this code; on and after July 1, 2005,  
10 the rate shall be four percent of net terminal income;

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

13 (A) Any amount by which the total amount under this section and §29-22A-10(c)(3) of this  
14 code is in excess of the two percent received during fiscal year 1999 by a county in which a  
15 racetrack is located that has participated in the West Virginia Thoroughbred Development Fund  
16 since on or before January 1, 1999, shall be divided as follows:

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

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

21 (B) Any amount by which the total amount under this section and §29-22A-10(c)(3) of this  
22 code is in excess of the two percent received during fiscal year 1999 by a county in which a

23 racetrack other than a racetrack described in paragraph (A) of this subdivision is located and  
24 where the racetrack has been located in a municipality within the county since on or before  
25 January 1, 1999, shall be divided, if applicable, as follows:

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

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

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

30 (4) One half of one percent of net terminal income shall be paid for and on behalf of all  
31 employees of the licensed racing association by making a deposit into a special fund to be  
32 established by the Racing Commission to be used for payment into the pension plan for all  
33 employees of the licensed racing association;

34 (5)(A) The West Virginia Thoroughbred Development Fund created under §19-23-13b of  
35 this code and the West Virginia Greyhound Breeding Development Fund created under §29-22A-  
36 10 of this code shall receive an equal share of a total of not less than one and one-half percent of  
37 the net terminal income. Effective July 1, 2023, the requirements of this paragraph are  
38 discontinued.

39 (B) Effective July 1, 2023, and thereafter, the West Virginia Thoroughbred Development  
40 Fund, created under §19-23-13b of this code shall receive one and one-half percent of the net  
41 terminal income originating at licensed thoroughbred racetracks.

42 (C) Effective July 1, 2023, and thereafter, the State Excess Lottery Revenue Fund, created  
43 under §29-22-18a of this code shall receive one and one-half percent of the net terminal income  
44 originating at licensed dog racetracks;

45 (6) The West Virginia Racing Commission shall receive one percent of the net terminal  
46 income which shall be deposited and used as provided in §19-23-13c of this code;

47 (7) A licensee shall receive 42 percent of net terminal income;

48 (8) The tourism promotion fund established in §5B-2-12 of this code shall receive three

49 percent of the net terminal income: *Provided*, That for each fiscal year beginning after June 30,  
50 2004, this three percent of net terminal income shall be distributed pursuant to the provisions of  
51 §29-22A-10(c)(8)(B) of this code; and

52 ~~(9) (A) On and after July 1, 2005, four percent of net terminal income shall be deposited~~  
53 ~~into the Workers' Compensation Debt Reduction Fund created in section five, article two-d,~~  
54 ~~chapter twenty-three of this code: *Provided*, That in any fiscal year when the amount of money~~  
55 ~~generated by this subdivision together with the total allocation transferred by the operation of~~  
56 ~~subdivision (9), subsection (c), section ten of this article totals \$11,000,000, all subsequent~~  
57 ~~distributions under this subdivision (9) during that fiscal year shall be deposited in the special fund~~  
58 ~~established by the licensee and used for payment of regular purses in addition to other amounts~~  
59 ~~provided in article twenty-three, chapter nineteen of this code;~~

60 ~~(B) The deposit of the four percent of net terminal income into the Worker's Compensation~~  
61 ~~Debt Reduction Fund pursuant to this subdivision shall expire and not be imposed with respect to~~  
62 ~~these funds, which shall be deposited in the special fund established by the licensee and used for~~  
63 ~~payment of regular purses in addition to the other amounts provided in article twenty-three,~~  
64 ~~chapter nineteen of this code on and after the first day of the month following the month in which~~  
65 ~~the Governor certifies to the Legislature that: (i) The revenue bonds issued pursuant to article two-~~  
66 ~~d, chapter twenty-three of this code have been retired or payment of the debt service is provided~~  
67 ~~for; and (ii) that an independent certified actuary has determined that the unfunded liability of the~~  
68 ~~Old Fund, as defined in chapter twenty-three of this code, has been paid or provided in its entirety;~~  
69 ~~and~~

70 ~~(10) (9) (A) One percent of the net terminal income shall be deposited in equal amounts in~~  
71 ~~the Capitol Dome and Improvements Fund created under §5A-4-2 of this code and Cultural~~  
72 ~~Facilities and Capitol Resources Matching Grant Program Fund created under §29-1-3 of this~~  
73 ~~code; and~~

74 ~~(B) Notwithstanding any provision of paragraph (A) of this subdivision to the contrary, for~~

75 each fiscal year beginning after June 30, 2004, this one percent of net terminal income shall be  
 76 distributed pursuant to the provisions of §29-22A-10(c)(9)(B)(ii) of this code.

77 (b) The commission may establish orderly and effective procedures for the collection and  
 78 distribution of funds under this section in accordance with the provisions of this section and §29-  
 79 22A-10 of this code.

**§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 up  
 3 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), and §29-22A-10(c)(7) of this code, shall be reduced by 100  
 8 percent. For the fiscal year beginning after July 1, 2023, and each fiscal year thereafter, the  
 9 distribution to the special fund established by the licensee and used for payment of regular purses,  
 10 pursuant to §29-22A-10(c)(2) of this code only includes amounts to be distributed to each  
 11 thoroughbred racetrack video lottery licensee for the payment of regular racetrack purses.  
 12 Payments shall not be made pursuant to §29-22A-10 of this code, other than those excepted by  
 13 this subsection, and are made in lieu thereof in an amount to be determined by appropriation from  
 14 the State Excess Lottery Revenue Fund.

15 (c) The total amount of reductions resulting from subsection (b) of this section shall be paid  
 16 into the State Excess Lottery Revenue Fund, created by §29-22-18a of this code. For the fiscal  
 17 year beginning July 1, 2014, and each fiscal year thereafter, distributions to be made pursuant to  
 18 §29-22A-10(c)(2) and §29-22A-10(c)(5) of this code shall be reduced by 10 percent, and the  
 19 amounts resulting from the reduction shall be paid into the State Excess Lottery Revenue 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 Commission in  
23 accordance 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 §29-22-18a, §29-22-18d, and §29-22-18e of this code and in the priority as defined  
27 by §29-22-18f(c) of this code.

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

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

39 (2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision  
40 of §29-22A-10(c)(9)(B) of this code or any other provision of this code to the contrary, if the budget  
41 shortfall, as determined by the State Budget Office as of December 1, 2015, is greater than \$100  
42 million, then the Governor may, by Executive Order, redirect deposits of revenues derived from net  
43 terminal income imposed under this article, for any period commencing after February 29, 2016,  
44 and ending before July 1, 2016, to the General Revenue Fund, instead of to the funds otherwise  
45 mandated in this article, in §23-2D-1 *et seq.* of this code or in any other provision of this code.

46 (B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of  
 47 §29-22A-10(c)(9)(B) of this code or any other provision of this code to the contrary, the Governor  
 48 may, by Executive Order, redirect one half of the deposits of revenues derived from net terminal  
 49 income imposed under this article, for any period commencing after June 30, 2016, and ending  
 50 before July 1, 2017, to the General Revenue Fund, instead of to the funds otherwise mandated in  
 51 this article, in §23-2D-1 *et seq.* of this code or in any other provision of this code, until certification  
 52 of the Governor to the Legislature that an independent actuary has determined that the unfunded  
 53 liability of the Old Fund, as defined in chapter 23 of this code, has been paid or provided for in its  
 54 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), and §29-22A-10b(a)(7) of this code, shall be reduced by  
 5 100 percent. For the fiscal year beginning after June 30, 2023, and each fiscal year thereafter, the  
 6 distribution to the special fund established by the licensee and used for payment of regular purses,  
 7 pursuant to §29-22A-10b(a)(2) of this code, only includes amounts to be distributed to each  
 8 thoroughbred racetrack video lottery licensee for the payment of regular racetrack purses.  
 9 Payments shall not be made pursuant to §29-22A-10b of this code, 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 (b) The total amount of reductions resulting from subsection (a) of this section shall be paid  
 13 into the State Excess Lottery Revenue Fund created in §29-22-18a of this code. For the fiscal year  
 14 beginning July 1, 2014, and each fiscal year thereafter, distributions to be made pursuant to §29-  
 15 22A-10b(a)(2) and §29-22A-10b(a)(5) of this code shall be reduced by 10 percent, and the

16 amounts resulting from the reduction shall be paid into the State Excess Lottery Revenue Fund.

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

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

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

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

36 (2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision  
37 of §29-22A-10b(a)(9)(B) of this code or any other provision of this code to the contrary, if the  
38 budget shortfall, as determined by the State Budget Office as of December 1, 2015, is greater than  
39 \$100 million, then the Governor may, by Executive Order, redirect deposits of revenues derived  
40 from net terminal income imposed under this article, for any period commencing after February 29,  
41 2016 and ending before July 1, 2016, to the General Revenue Fund, instead of to the funds



42 otherwise mandated in this article, in §23-2D-1 *et seq.* of this code, or in any other provision of this  
43 code.

44 (B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of  
45 §29-22A-10b(a)(9)(B) of this code or any other provision of this code to the contrary, the Governor  
46 may, by Executive Order, redirect one half of the deposits of revenues derived from net terminal  
47 income imposed under this article, for any period commencing after June 30, 2016, and ending  
48 before July 1, 2017, to the General Revenue Fund, instead of to the funds otherwise mandated in  
49 this article, in §23-2D-1 *et seq.* of this code, or in any other provision of this code, until certification  
50 of the Governor to the Legislature that an independent actuary has determined that the unfunded  
51 liability of the Old Fund, as defined in chapter 23 of this code, has been paid or provided for in its  
52 entirety.

**§29-22A-12. Number and location of video lottery terminals security.**

1 (a) A racetrack which has been licensed to conduct video lottery games has the right to  
2 install and operate up to 400 video lottery terminals at a licensed racetrack. A licensed racetrack  
3 may apply to the commission for authorization to install and operate more than 400 video lottery  
4 terminals. If the commission determines that the installation of additional machines is in the best  
5 interest of the licensed racetrack, the Lottery Commission and the citizens of this state, the  
6 commission may grant permission to install and operate additional machines.

7 (b) All video lottery terminals in licensed racetracks shall be physically located as follows:

8 (1) The video lottery location shall be continuously monitored through the use of a closed  
9 circuit television system capable of recording activity for a continuous 24-hour period. All video  
10 tapes shall be retained for a period of at least 30 days;

11 (2) Access to video lottery terminal locations shall be restricted to persons legally entitled  
12 by age to play video lottery games;

13 (3) The licensed racetrack shall submit for commission approval a floor plan of the area or  
14 areas where video lottery terminals are to be operated showing terminal locations and security

15 camera mount locations;

16 (4) No video lottery terminal may be relocated without prior approval from the commission;

17 and

18 (5) Operational video lottery terminals may only be located in the building or structure in  
19 which the grandstand area of the racetrack is located and in the area of the building or structure

20 where pari-mutuel wagering is permitted under the provisions of §19-23-1 *et seq.* of this code:

21 *Provided*, That if the commission, before November 1, 1993, has authorized any racetrack to

22 operate video lottery terminals and offer video lottery games in a location which would not conform

23 to the requirements of this subdivision, the racetrack may continue to use video lottery terminals

24 registered with and approved by the commission at that nonconforming location and to offer the

25 games and any variations or composites of the games as may be approved by the commission:

26 *Provided, however*, That a racetrack that held a valid dog racing license prior to January 1, 1994,

27 and that no longer conducts live racing, may continue to operate operational video lottery

28 terminals in the building or structure in which the grandstand area of the racetrack was located and

29 in the area of the building or structure where pari-mutuel wagering was permitted between January

30 1, 1994, and June 30, 2023.

31 (c) A licensee shall allow video lottery games to be played only on days when live racing is

32 being conducted at the racetrack and/or on televised racing days: *Provided*, That this restriction

33 shall not apply to any racetrack authorized by the commissioner prior to November 1, 1993, to

34 operate video lottery terminals and conduct video lottery games.

35 (d) Security personnel shall be present during all hours of operation at each video lottery

36 terminal location. Each license holder shall employ the number of security personnel the

37 commission determines is necessary to provide for safe and approved operation of the video

38 lottery facilities and the safety and well-being of the players.

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

### **§29-22C-3. Definitions.**

1           (a) *Applicability of definitions.* — For the purposes of this article, the words or terms defined  
2 in this section, and any variation of those words or terms required by the context, have the  
3 meanings ascribed to them in this section. These definitions are applicable unless a different  
4 meaning clearly appears from the context in which the word or term is used.

5           (b) *Terms defined.* —

6           (1) "Adjusted gross receipts" means gross receipts from West Virginia Lottery Commission  
7 table games less winnings paid to patrons wagering on the racetrack's table games.

8           (2) "Applicant" means any person who on his or her own behalf, or on behalf of another,  
9 has applied for permission to engage in any act or activity that is regulated under the provision of  
10 this article for which a license is required by this article or rule of the commission.

11           (3) "Application" means any written request for permission to engage in any act or activity  
12 that is regulated under the provisions of this article submitted in the form prescribed by the  
13 commission.

14           (4) "Background investigation" means a security, criminal, and credit investigation of an  
15 applicant who has applied for the issuance or renewal of a license pursuant to this article, or a  
16 licensee who holds a current license.

17           (5) "Commission" or "State Lottery Commission" means the West Virginia Lottery  
18 Commission created by §29-22-1 *et seq.* of this code.

19           (6) "Complimentary" means a service or item provided at no cost or at a reduced price.

20           (7) "Compensation" means any money, thing of value, or financial benefit conferred or  
21 received by a person in return for services rendered, or to be rendered, whether by that person or  
22 another.

23           (8) "Contested case" means a proceeding before the commission, or a hearing examiner  
24 designated by the commission to hear the contested case, in which the legal rights, duties,  
25 interests or privileges of specific persons are required by law or constitutional right to be  
26 determined after a commission hearing, but does not include cases in which the commission

27 issues a license, permit, or certificate after an examination to test the knowledge or ability of the  
28 applicant where the controversy concerns whether the examination was fair or whether the  
29 applicant passed the examination and does not include rulemaking.

30 (9) "Control" means the authority directly or indirectly to direct the management and  
31 policies of an applicant for a license issued under this article or the holder of a license issued under  
32 this article.

33 (10) "Designated gaming area" means one or more specific floor areas of a licensed  
34 racetrack within which the commission has authorized operation of racetrack video lottery  
35 terminals or table games, or the operation of both racetrack video lottery terminals and West  
36 Virginia Lottery Commission table games.

37 (11) "Director" means the Director of the West Virginia State Lottery Commission  
38 appointed pursuant to §29-22-6 of this code.

39 (12) "Disciplinary action" is an action by the commission suspending or revoking a license,  
40 fining, excluding, reprimanding or otherwise penalizing a person for violating this article or rules  
41 promulgated by the commission.

42 (13) "Financial interest" or "financially interested" means any interest in investments,  
43 awarding of contracts, grants, loans, purchases, leases, sales, or similar matters under  
44 consideration for consummation by the commission. A member, employee, or agent of the  
45 commission will be considered to have a financial interest in a matter under consideration if any of  
46 the following circumstances exist:

47 (A) He or she owns one percent or more of any class of outstanding securities that are  
48 issued by a party to the matter under consideration by the commission; or

49 (B) He or she is employed by an independent contractor for a party to the matter under  
50 consideration or consummated by the commission.

51 (14) "Gaming equipment" means gaming tables, cards, dice, chips, shufflers, drop boxes,  
52 or any other mechanical, electronic, or other device, mechanism, or equipment or related supplies

53 used or consumed in the operation of any West Virginia Lottery Commission table game at a  
54 licensed racetrack.

55 (15) "Gross receipts" means the total of all sums including valid or invalid checks, currency,  
56 tokens, coupons (excluding match play coupons), vouchers, or instruments of monetary value  
57 whether collected or uncollected, received by a racetrack with table games from table gaming  
58 operations at a race track, including all entry fees assessed for tournaments or other contests.

59 (16) "Indirect ownership" means an interest a person owns in an entity or in property solely  
60 as a result of application of constructive ownership rules without regard to any direct ownership  
61 interest (or other beneficial interest) in the entity or property. "Indirect ownership" shall be  
62 determined under the same rules applicable to determining whether a gain or loss between related  
63 parties is recognized for federal income tax purposes.

64 (17) "Licensed racetrack" means a thoroughbred horse or greyhound dog racing facility  
65 licensed under both §29-22A-1 *et seq.* and §19-23-1 *et seq.* of this code: Provided, That effective  
66 July 1, 2023, and thereafter, "licensed racetrack" or "racing association" includes a facility which  
67 was licensed prior to January 1, 1994, to hold dog race meetings and which is licensed under §29-  
68 22C-1 *et seq.* of this code.

69 (18) "License" means any license applied for or issued by the commission under this  
70 article, including, but not limited to:

71 (A) A license to act as agent of the commission in operating West Virginia Lottery  
72 Commission table games at a licensed racetrack;

73 (B) A license to supply a racetrack licensed under this article to operate table games with  
74 table gaming equipment or services necessary for the operation of table games;

75 (C) A license to be employed at a racetrack licensed under this article to operate West  
76 Virginia Lottery Commission table games when the employee works in a designated gaming area  
77 that has table games or performs duties in furtherance of or associated with the operation of table  
78 games at the licensed racetrack; or

79 (D) A license to provide management services under a contract to a racetrack licensed  
80 under this article to operate table games.

81 (19) "Licensee" means any person who is licensed under any provision of this article.

82 (20) "Lottery" means the public gaming systems or games regulated, controlled, owned,  
83 and operated by the State Lottery Commission in the manner provided by general law, as provided  
84 in this article and in §29-22-1 *et seq.*, §29-22A-1 *et seq.*, §29-22B-101 *et seq.*, and §29-25-1 *et*  
85 *seq.* of this code.

86 (21) "Member" means a commission member appointed to the West Virginia Lottery  
87 Commission under §29-22-1 *et seq.* of this code.

88 (22) "National criminal history background check system" means the criminal history  
89 record system maintained by the Federal Bureau of Investigation based on fingerprint  
90 identification or any other method of positive identification.

91 (23) "Own" means any beneficial or proprietary interest in any real or personal property,  
92 including intellectual property, and also includes, but is not limited to, any direct or indirect  
93 beneficial or proprietary interest in any business of an applicant or licensee.

94 (24) "Person" means any natural person, and any corporation, association, partnership,  
95 limited liability company, limited liability partnership, trust, or other entity, regardless of its form,  
96 structure or nature other than a government agency or instrumentality.

97 (25) "Player" or "patron" means a person who plays a racetrack video lottery game or a  
98 West Virginia Lottery Commission table game at a racetrack licensed under this article to have  
99 table games.

100 (26) "Player's account" means a financial record established by a licensed racetrack for an  
101 individual racetrack patron to which the racetrack may credit winnings and other amounts due to  
102 the racetrack patron and from which the patron may withdraw moneys due to the patron for  
103 purchase of tokens, chips, or electronic media or other purposes.

104 (27) "Racetrack table games license" means authorization granted under this article by the

105 commission to a racetrack that is already licensed under §29-22A-1 *et seq.* of this code to operate  
106 racetrack video lottery terminals and holds a valid horse racing license or held a valid dog racing  
107 license prior to January 1, 1994, granted by the West Virginia Racing Commission pursuant to the  
108 provision of §19-23-1 *et seq.* of this code, which permits the racetrack as an agent of the  
109 commission for the limited purpose of operation of West Virginia Lottery Commission table games  
110 in one or more designated gaming areas in one or more buildings owned or leased by the licensed  
111 racetrack on the grounds where live pari-mutuel racing is conducted by the licensee, or in the  
112 case of a licensee that held a valid dog racing license prior to January 1, 1994, and that no longer  
113 conducts live racing, on the grounds where live pari-mutuel racing was conducted between  
114 January 1, 1994, and June 30, 2023.

115 (28) "Racetrack Table Games Fund" means the special fund in the State Treasury created  
116 in §29-22C-27 of this code.

117 (29) "Significant influence" means the capacity of a person to affect substantially (but not  
118 control) either, or both, of the financial and operating policies of another person.

119 (30) "Supplier" means a person who the commission has identified under legislative rules  
120 of the commission as requiring a license to provide a racetrack table games licensee with goods or  
121 services to be used in connection with operation of table games.

122 (31) "Wager" means a sum of money or thing of value risked on an uncertain occurrence.

123 (32) "West Virginia Lottery Commission table game" means any game played with cards,  
124 dice, or any mechanical, electromechanical, or electronic device or machine for money, credit, or  
125 any representative of value, including, but not limited to, baccarat, blackjack, poker, craps,  
126 roulette, wheel of fortune, or any variation of these games similar in design or operation and  
127 expressly authorized by rule of the commission, including multiplayer electronic table games,  
128 machines, and devices, but excluding video lottery, punchboards, faro, numbers tickets, push  
129 cards, jar tickets, pull tabs, or similar games.

130 (33) "Winnings" means the total cash value of all property or sums including currency,

131 tokens, or instruments of monetary value paid to players as a direct result of wagers placed on  
132 West Virginia Lottery Commission table games.

**§29-22C-8. License to operate a racetrack with West Virginia Lottery table games.**

1 (a) *Racetrack table games licenses.* — The commission may issue up to four racetrack  
2 table games licenses to operate West Virginia Lottery table games in accordance with the  
3 provisions of this article. The Legislature intends that no more than four licenses to operate a  
4 racetrack with West Virginia Lottery table games in this state shall be permitted in any event.

5 (b) *Grant of license.* — Upon the passage of a local option election in a county in  
6 accordance with the provisions of §29-22C-7 of this code, the commission shall immediately grant  
7 a West Virginia Lottery table games license, and a license for the right to conduct West Virginia  
8 Lottery table games as assignee to the intellectual property rights of the state, to allow the licensee  
9 to conduct West Virginia Lottery table games at the licensed pari-mutuel racetrack identified on the  
10 local option election ballot, provided that racetrack holds a valid racetrack video lottery license  
11 issued by the commission pursuant to §29-22A-1 *et seq.* of this code and a valid racing license  
12 granted by the West Virginia Racing Commission pursuant to the provisions of §19-23-1 *et seq.* of  
13 this code and has otherwise met the requirements for licensure under the provisions of this article  
14 and the rules of the commission: Provided, That effective July 1, 2023, and thereafter, a racetrack  
15 that held a valid dog racing license prior to January 1, 1994, is not required to hold a current dog  
16 racing license.

17 (c) *Location.* — A racetrack table games license authorizes the operation of West Virginia  
18 Lottery table games on the grounds of the particular licensed facility identified in the racetrack  
19 video lottery license issued pursuant to §29-22A-1 *et seq.* of this code and the license to conduct  
20 horse or dog racing issued pursuant to §19-23-1 *et seq.* of this code.

21 (d) *Floor plan submission requirement.* — Prior to commencing the operation of any table  
22 games in a designated gaming area, a racetrack table games licensee shall submit to the  
23 commission for its approval a detailed floor plan depicting the location of the designated gaming



24 area in which table games gaming equipment will be located and its proposed arrangement of the  
25 table games gaming equipment. Any floor plan submission that satisfies the requirements of the  
26 rules promulgated by the commission shall be considered approved by the commission unless the  
27 racetrack table games licensee is notified in writing to the contrary within one month of filing a  
28 detailed floor plan.

29 (e) *Management service contracts.* —

30 (1) *Approval.* — A racetrack table games licensee may not enter into any management  
31 service contract that would permit any person other than the licensee to act as the commission's  
32 agent in operating West Virginia Lottery table games unless the management service contract is:  
33 (A) With a person licensed under this article to provide management services; (B) is in writing; and  
34 (C) the contract has been approved by the commission.

35 (2) *Material change.* — The licensed racetrack table games licensee shall submit any  
36 material change in a management service contract previously approved by the commission to the  
37 commission for its approval or rejection before the material change may take effect.

38 (3) *Prohibition on assignment or transfer.* — A management services contract may not be  
39 assigned or transferred to a third party.

40 (4) *Other commission approvals and licenses.* — The duties and responsibilities of a  
41 management services provider under a management services contract may not be assigned,  
42 delegated, subcontracted, or transferred to a third party to perform without the prior approval of the  
43 commission. Third parties must be licensed under this article before providing service. The  
44 commission may by rule clarify application of this subdivision and provide exceptions to its  
45 application. The commission shall license and require the display of West Virginia Lottery game  
46 logos on appropriate game surfaces and other gaming items and locations as the commission  
47 considers appropriate.

48 (f) *Coordination of licensed activities.* — In order to coordinate various licensed activities  
49 within racetrack facilities, the following provisions apply to licensed racetrack facilities:

50 (1) The provisions of this article and of §29-22A-1 *et seq.* of this code shall be interpreted to  
51 allow West Virginia Lottery table games and racetrack video lottery operations under those articles  
52 to be harmoniously conducted in the same designated gaming area.

53 (2) On the effective date of this article, the provisions of §29-22C-23 of this code apply to all  
54 video lottery games conducted within a racetrack facility, notwithstanding any inconsistent  
55 provisions contained in §29-22A-1 *et seq.* of this code to the contrary.

56 (3) On and after the effective date of this article, vacation of the premises after service of  
57 beverages ceases is not required, notwithstanding to the contrary any inconsistent provisions of  
58 this code or inconsistent rules promulgated by the Alcohol Beverage Control Commissioner with  
59 respect to hours of sale of those beverages, or required vacation of the premises.

60 (g) *Fees, expiration date, and renewal.* —

61 (1) An initial racetrack table games license fee of \$1,500,000 shall be paid to the  
62 commission at the time of issuance of the racetrack table games license, regardless of the number  
63 of months remaining in the license year for which it is issued. All licenses expire at the end of the  
64 day on September 30 each year.

65 (2) The commission shall annually renew a racetrack table games license as of October 1  
66 of each year, provided the licensee:

67 (A) Successfully renews its racetrack video lottery license under §29-22A-1 *et seq.* of this  
68 code before October 1;

69 (B) Pays to the commission the annual license renewal fee of \$2,500,000 required by this  
70 section at the time it files its application for renewal of its license under §29-22A-1 *et seq.* of this  
71 code; and

72 (C) During the current license year, the licensee complied with all provisions of this article,  
73 all rules adopted by the commission, and all final orders of the commission applicable to the  
74 licensee.

75 (3) *Annual license surcharge for failure to construct hotel on premises.* — It is the intent of

76 the Legislature that each racetrack for which a racetrack table games license has been issued be  
77 or become a destination tourism resort facility. To that end, it is important that each racetrack for  
78 which a racetrack table games license has been issued operate a hotel with significant amenities.  
79 Therefore, in addition to all other taxes and fees required by the provisions of this article, there is  
80 hereby imposed, upon each racetrack for which a racetrack table games license has been issued  
81 an annual license surcharge, payable to the commission in the amount of \$2,500,000 if that  
82 racetrack does not operate a hotel on its racing property that contains at least 150 guest rooms  
83 with significant amenities within three years of the passage of the local option election in its county  
84 authorizing table games at the racetrack, provided the time for completion of the hotel shall be  
85 extended by the same number of days as the completion of the hotel is delayed by force majeure  
86 events or conditions beyond the reasonable control of the racetrack licensee. The surcharge shall  
87 be paid upon each renewal of its racetrack table games license made after the expiration of the  
88 three year period, and may be extended by the above force majeure events or conditions, until the  
89 racetrack opens a qualifying hotel.

90 (4) If the licensee fails to apply to renew its license under §19-23-1 *et seq.* and §29-22A-1  
91 *et seq.* of this code until after the license expires, the commission shall renew its license under this  
92 article at the time it renews its license under §29-22A-1 *et seq.* of this code, provided the licensee  
93 has paid the annual license fee required by this section and during the preceding license year the  
94 licensee complied with all provisions of this article, all rules adopted by the commission and all  
95 final orders of the commission applicable to the licensee.

96 (h) *Facility qualifications.* — A racetrack table games licensee shall demonstrate that the  
97 racetrack with West Virginia Lottery table games will: (1) Be accessible to disabled individuals in  
98 accordance with applicable federal and state laws; (2) be licensed in accordance with this article,  
99 and all other applicable federal, state, and local laws; and (3) meet any other qualifications  
100 specified in rules adopted by the commission.

101 (i) *Surety bond.* — A racetrack table games licensee shall execute a surety bond to be

102 given to the state to guarantee the licensee faithfully makes all payments in accordance with the  
103 provisions of this article and rules promulgated by the commission. The surety bond shall be:

104 (1) In the amount determined by the commission to be adequate to protect the state  
105 against nonpayment by the licensee of amounts due the state under this article;

106 (2) In a form approved by the commission; and

107 (3) With a surety approved by the commission who is licensed to write surety insurance in  
108 this state. The bond shall remain in effect during the term of the license and may not be canceled  
109 by a surety on less than 30 days' notice in writing to the commission. The total and aggregate  
110 liability of the surety on the bond is limited to the amount specified in the bond.

111 (j) *Authorization.* — A racetrack table games license authorizes the licensee act as an  
112 agent of the commission in operating an unlimited amount of West Virginia Lottery table games  
113 while the license is active, subject to subsection (d) of this section. A racetrack table games  
114 license is not transferable or assignable and cannot be sold or pledged as collateral.

115 (k) *Audits.* — When applying for a license and annually thereafter prior to license renewal,  
116 a racetrack table games licensee shall submit to the commission an annual audit, by a certified  
117 public accountant, of the financial transactions and condition of the licensee's total operations.  
118 The audit shall be made in accordance with generally accepted accounting principles and  
119 applicable federal and state laws.

120 (l) *Commission office space.* — A racetrack table games licensee shall provide to the  
121 commission, at no cost to the commission, suitable office space at the racetrack facility for the  
122 commission to perform the duties required of it by this article and the rules of the commission.

**§29-22C-10. Duties of racetrack table games licensee.**

1 (a) *General.* — All racetrack table games licensees shall:

2 (1) Promptly report to the commission any facts or circumstances related to the operation  
3 of a racetrack with West Virginia Lottery Commission table games which constitute a violation of  
4 state or federal law;

5           (2) Conduct all table games activities and functions in a manner which does not pose a  
6 threat to the public health, safety, or welfare of the citizens of this state and which does not  
7 adversely affect the security or integrity of the operation of West Virginia Lottery Commission table  
8 games;

9           (3) Hold the commission and this state harmless from and defend and pay for the defense  
10 of any and all claims which may be asserted against a racetrack licensee, the commission, the  
11 state or employees thereof, arising from the licensee's actions or omission while acting as an  
12 agent of the commission by operation of West Virginia Lottery Commission table games pursuant  
13 to this article;

14           (4) Assist the commission in maximizing table games revenues;

15           (5) Give preference in hiring to existing employees who have expressed an interest in  
16 transferring to an entry level West Virginia Lottery Commission table games job and who have  
17 demonstrated the potential to succeed in that job. To enable these employees to develop the skills  
18 necessary to fill an entry level West Virginia Lottery Commission table games position, a licensee  
19 shall provide customary industry training for entry level West Virginia Lottery Commission table  
20 games jobs. The dates, times, place, and manner of providing such training, the appropriate  
21 qualifications and certifications, the number of existing employees to be trained, the determination  
22 of standards for evaluating successful performance in live auditions for such positions and the  
23 determination of who shall be given West Virginia Lottery Commission table game jobs shall be  
24 within the sole business discretion of the licensee's management, provided that among equally  
25 qualified applicants, as determined by the licensee, length of service shall be the determining  
26 factor;

27           (6) Maintain all records required by the commission;

28           (7) Upon request by the commission, provide the commission access to all records and the  
29 physical premises where the licensee's table games activities and related activities occur, for the  
30 purpose of monitoring or inspecting the licensee's activities and the table games, gaming

31 equipment, and security equipment;

32 (8) Keep current in all payments and obligations to the commission; and

33 (9) Conduct no less than 220 live racing dates for each horse or dog race meeting or such  
34 other number of live racing dates as may be approved by the Racing Commission in accordance  
35 with the provisions of §19-23-12b of this code, and otherwise keep in good standing, all licenses  
36 and permits granted by the Racing Commission pursuant to §19-23-6 of this code, and any rules  
37 promulgated thereunder: Provided, That effective July 1, 2023, and thereafter, a racetrack that  
38 held a valid dog racing license prior to January 1, 1994, is not required to race any minimum  
39 number of dates.

40 (b) *Specific.* — All racetrack table games licensees shall:

41 (1) Acquire West Virginia Lottery Commission table games and gaming equipment by  
42 purchase, lease, or other assignment and provide a secure location for the placement, operation,  
43 and play of the table games and gaming equipment;

44 (2) Permit no person to tamper with or interfere with the operation of any West Virginia  
45 Lottery Commission table game;

46 (3) Ensure that West Virginia Lottery Commission table games are within the sight and  
47 control of designated employees of the licensed racetrack with West Virginia Lottery Commission  
48 table games and under continuous observation by security equipment in conformity with  
49 specifications and requirements of the commission;

50 (4) Ensure that West Virginia Lottery Commission table games are placed and remain  
51 placed in the specific locations within designated gaming areas at the licensed racetrack which  
52 have been approved by the commission. West Virginia Lottery Commission table games at a  
53 licensed racetrack shall only be relocated in accordance with the rules of the commission;

54 (5) Maintain at all times sufficient cash and gaming tokens, chips, and electronic cards or  
55 other electronic media;

56 (6) Install, post, and display conspicuously at locations within or about the licensed

57 racetrack with West Virginia Lottery Commission table games, signs, redemption information, and  
58 other promotional material as required by the commission; and

59 (7) Assume liability for stolen money from any table game.

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

6 (2) Notwithstanding any provision of this article to the contrary, all racetrack table games  
7 license fees received by the commission pursuant to §29-22C-8 of this code shall be deposited  
8 into the Community-Based Service Fund which is continued in the State Treasury. Moneys of the  
9 fund shall be expended by the Bureau of Senior Services upon appropriation of the Legislature  
10 solely for the purpose of enabling the aged and disabled citizens of this state to maintain their  
11 residency in the community-based setting through the provision of home and community-based  
12 services.

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

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

17 (2) Transfer two and one-half percent of adjusted gross receipts from all thoroughbred  
18 racetracks with West Virginia Lottery table games to the special funds established by each  
19 thoroughbred racetrack table games licensees for the payment of regular racetrack purses, the  
20 amount being divided on a pro rata basis between the special funds of each thoroughbred  
21 racetrack table games licensee and transfer two and one-half percent of adjusted gross receipts

22 from all greyhound racetracks with West Virginia Lottery table games to the special funds  
23 established by each greyhound racetrack table games licensee for the payment of regular  
24 racetrack purses, the amount being divided equally between the special funds of each greyhound  
25 racetrack table games licensee: Provided, That effective July 1, 2023, and thereafter, the amount  
26 required by this subdivision to be transferred to the special funds established by each greyhound  
27 racetrack table game licensee for the payment of regular racetrack purses shall instead be  
28 transferred to the State Excess Lottery Fund pursuant to §19-23-10a of this code;

29 (3) Transfer two percent of the adjusted gross receipts from all licensed racetracks to the  
30 West Virginia Thoroughbred Development Fund created under §19-23-13b of this code and the  
31 West Virginia Greyhound Breeding Development Fund created under §19-23-10 of this code. The  
32 total amount transferred under this subdivision shall be divided pro rata among the development  
33 funds for each racetrack table games licensee based on relative adjusted receipts from each  
34 racetrack: Provided, That effective July 1, 2023, and thereafter, the amount required by this  
35 subdivision to be transferred to the West Virginia Greyhound Breeding Development Fund shall  
36 instead be transferred to the State Excess Lottery Revenue Fund. The amounts transferred to  
37 these funds may not be used for the benefit of any person or activity other than at or associated  
38 with a racetrack table games licensee;

39 (4) Transfer one percent of the adjusted gross receipts from each licensed racetrack to the  
40 county commissions of the counties where racetracks with West Virginia Lottery table games are  
41 located. County commissions may pledge this money to make payments on lottery revenue bonds  
42 issued pursuant to §13-2H-1 *et seq.* of this code. The one percent transferred under this  
43 subdivision shall be divided pro rata among the counties with a racetrack with West Virginia  
44 Lottery table games based on relative adjusted gross receipts from each county's racetrack:  
45 Provided, That the county board of education of a growth county, as that term is defined in §7-20-3  
46 of this code, which has enacted the Local Powers Act, and in which county a racetrack is located  
47 that has participated in the West Virginia Thoroughbred Development Fund since on or before



48 January 1, 1991, shall receive the one percent of adjusted gross receipts as provided in this  
49 subdivision for the purpose of public projects, as defined in §13-2H-2 of this code or to make  
50 payments on lottery revenue bonds issued to finance public projects;

51 (5) Transfer two percent of the adjusted gross receipts from each licensed racetrack to the  
52 governing bodies of municipalities within counties where racetracks with West Virginia Lottery  
53 table games are located. Municipalities may pledge the money to make payments on lottery  
54 revenue bonds issued pursuant to §13-2H-1 *et seq.* of this code. This money shall be allocated as  
55 follows:

56 (A) One half of the amounts transferred under this subdivision shall be allocated to the  
57 municipalities within each county having a racetrack table games licensee, based on relative  
58 adjusted gross receipts from West Virginia Lottery table games from those racetracks and the total  
59 amount allocated to the municipalities within a county shall be divided pro rata among the  
60 municipalities based on each municipality's population determined at the most recent United  
61 States decennial census of population: *Provided, That:* (i) For each allocation, when a municipality  
62 is physically located in two or more counties, only that portion of its population residing in the  
63 county where the authorized table games are located shall be considered; (ii) a single municipality  
64 in a county where West Virginia Lottery racetrack table games are played may not receive a total  
65 share under this paragraph that is in excess of 75 percent of the total distribution under this  
66 paragraph for the county in which the municipality is located; and (iii) a municipality receiving  
67 moneys under this paragraph may not receive an amount which is less than that received by a  
68 municipality under provisions of subdivision (4), subsection (d) of this section; and

69 (B) One half of the amounts transferred under this subdivision shall be allocated pro rata to  
70 the municipalities within all the counties, having a racetrack table games licensee based on each  
71 municipality's population determined at the most recent United States decennial census of  
72 population: *Provided, That:* (i) A municipality which received funds above its pro rata share  
73 pursuant to subpart (iii), paragraph (A) of this subdivision may not receive an allocation under this

74 paragraph; (ii) for each allocation, when a municipality is physically located in two or more  
75 counties, only that portion of its population residing in the county where the authorized table  
76 games are located shall be considered; and (iii) a single municipality in a county where West  
77 Virginia Lottery racetrack games are played may not receive a total share under this paragraph  
78 that is in excess of 25 percent of the total transfers under this paragraph: *Provided, however,* That  
79 the county board of education of a growth county, as that term is defined in §7-20-3 of this code,  
80 which has enacted the Local Powers Act, and in which county a racetrack is located that has  
81 participated in the West Virginia Thoroughbred Development Fund since on or before January 1,  
82 1991, shall receive the two percent of adjusted gross receipts as provided in this subdivision for  
83 the purpose of public projects, as defined in §13-2H-2 of this code, or to make payments on lottery  
84 revenue bonds issued to finance the public projects;

85 (6) Transfer one half of one percent of the adjusted gross receipts to the governing bodies  
86 of municipalities in which a racetrack table games licensee is located. The municipalities shall  
87 each receive an equal share of the total amount allocated under this subdivision: *Provided,* That  
88 distribution under this subdivision may not be made to any municipality which did not have a  
89 licensed racetrack within its municipal boundaries as they existed on January 1, 2007: *Provided,*  
90 *however,* That if no racetrack table games licensee is located within a municipality, a transfer may  
91 not be made under this subdivision. The municipality may pledge this money to make payments on  
92 lottery revenue bonds issued pursuant to §13-2H-1 *et seq.* of this code; and

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

95 (c) Beginning with the fiscal year following the licensing of every licensed racetrack to offer  
96 West Virginia Lottery racetrack table games under this article, subsection (b) of this section shall  
97 be superseded and replaced by this subsection for distribution of the balances in the fund  
98 established by subsection (a) of this section. From the gross amounts deposited into the fund, the  
99 commission shall:

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

102 (2) Transfer two and one-half percent of adjusted gross receipts from all thoroughbred  
103 racetracks with West Virginia Lottery table games to the special funds established by each  
104 thoroughbred racetrack table games licensee for the payment of regular racetrack purses, the  
105 amount being divided on a pro rata basis between the special funds of each thoroughbred  
106 racetrack table games licensee and transfer two and one-half percent of adjusted gross receipts  
107 from all greyhound racetracks with West Virginia Lottery table games to the special funds  
108 established by each greyhound racetrack table games licensee for the payment of regular  
109 racetrack purses, the amount being divided equally between the special funds of each greyhound  
110 racetrack table games licensee: Provided, That effective July 1, 2023, and thereafter, the amount  
111 required by this subdivision to be transferred to the special funds established by each greyhound  
112 racetrack table games licensees for the payment of regular racetrack purses shall instead be  
113 transferred to the State Excess Lottery Fund pursuant to §19-23-10a of this code;

114 (3) Transfer two percent of the adjusted gross receipts from all licensed racetracks to the  
115 West Virginia Thoroughbred Development Fund created under §19-23-13b of this code and the  
116 West Virginia Greyhound Breeding Development Fund created under §19-23-10 of this code:  
117 Provided, That effective July 1, 2023, and thereafter, the amount required by this subdivision to be  
118 transferred to the West Virginia Greyhound Breeding Development Fund shall instead be  
119 transferred to the State Excess Lottery Revenue Fund pursuant to §19-23-10a of this code. The  
120 total amount transferred under this subdivision shall be divided pro rata among the development  
121 funds for each racetrack table games licensee based on relative adjusted receipts from each  
122 racetrack. The amounts transferred to these funds may not be used for the benefit of any person or  
123 activity other than at or associated with a racetrack table games licensee;

124 (4) Transfer two percent of the adjusted gross receipts from each licensed racetrack to the  
125 county commissions of the counties where racetracks with West Virginia Lottery table games are

126 located. The money transferred under this subdivision shall be divided pro rata among the  
127 counties with a racetrack with West Virginia Lottery table games based on relative adjusted gross  
128 receipts from each county's racetrack: *Provided*, That the county board of education of a growth  
129 county, as that term is defined in §7-20-3 of this code, which has enacted the Local Powers Act,  
130 and in which a racetrack is located that has participated in the West Virginia Thoroughbred  
131 Development Fund since on or before January 1, 1991, shall receive one half of that county's  
132 share of adjusted gross receipts as provided in this subdivision for the purpose of capital  
133 improvements;

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

137 (A) One half of the money transferred by this subdivision shall be allocated to the  
138 municipalities within each county, other than a county described in paragraph (C) of this  
139 subdivision, having a racetrack table games licensee based on relative adjusted gross receipts  
140 from West Virginia Lottery table games from those racetracks and the total amount allocated to the  
141 municipalities within a county shall be divided pro rata among the municipalities based on each  
142 municipality's population determined at the most recent United States decennial census of  
143 population: *Provided*, That: (i) For each allocation, when a municipality is physically located in two  
144 or more counties, only that portion of its population residing in the county where the authorized  
145 table games are located shall be considered; (ii) a single municipality in a county where West  
146 Virginia Lottery racetrack table games are played may not receive a total share under this  
147 paragraph that is in excess of 75 percent of the total distribution under this paragraph for the  
148 county in which the municipality is located; and (iii) a municipality receiving moneys under this  
149 paragraph may not receive an amount which is less than that received by a municipality under  
150 provisions of subdivision (4), subsection (d) of this section.

151 (B) One half of the money transferred under this subdivision shall be allocated pro rata to

152 the municipalities within all the counties, other than a county described in paragraph (C) of this  
153 subdivision, having a racetrack table games licensee based on each municipality's population  
154 determined at the most recent United States decennial census of population: *Provided, That:* (i) A  
155 municipality which received funds above its pro rata share pursuant to subparagraph (iii),  
156 paragraph (A) of this subdivision shall not receive an allocation under this paragraph; (ii) for each  
157 allocation, when a municipality is physically located in two or more counties, only that portion of its  
158 population residing in the county where the authorized table games are located shall be  
159 considered; and (iii) a single municipality in a county where West Virginia Lottery racetrack games  
160 are played may not receive a total share under this paragraph that is in excess of 25 percent of the  
161 total transfers under this paragraph.

162 (C) Notwithstanding the provisions of paragraphs (A) and (B) of this subdivision, when a  
163 racetrack is located in a growth county, as that term is defined in §7-20-3 of this code, which has  
164 enacted the Local Powers Act, and in which county a racetrack is located that has participated in  
165 the West Virginia Thoroughbred Development Fund since on or before January 1, 1991, the  
166 county board of education shall receive two thirds of the share of adjusted gross receipts from  
167 West Virginia Lottery table games from the racetrack in the county as provided in this subdivision  
168 and the municipalities within the county shall share the remaining one third of the total amount  
169 allocated as provided in this paragraph. The municipal one-third share shall be divided pro rata  
170 among the municipalities based on each municipality's population determined at the most recent  
171 United States decennial census of population. All money transferred under this paragraph shall be  
172 used by the county board of education and by the municipalities for the purpose of capital  
173 improvements;

174 (6) Transfer one half of one percent of the adjusted gross receipts to the governing bodies  
175 of municipalities in which a racetrack table games licensee is located. The municipalities shall  
176 each receive an equal share of the total amount allocated under this subdivision: *Provided, That*  
177 distribution under this subdivision may not be made to any municipality that did not have a licensed

178 racetrack within its municipal boundaries as they existed on January 1, 2007: *Provided, however,*  
179 That if no racetrack table games licensee is located within a municipality, a transfer may not be  
180 made under this subdivision; and

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

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

184 (1) Transfer 76 percent to the State Debt Reduction Fund which is hereby continued in the  
185 State Treasury. Moneys of the fund shall be expended solely for the purpose of accelerating the  
186 reduction of existing unfunded liabilities and existing bond indebtedness of the state and shall be  
187 expended or transferred only upon appropriation of the Legislature;

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

192 (3) Transfer 10 percent, to be divided and paid in equal shares, to each county commission  
193 in the state that is not eligible to receive a distribution under subdivision (4), subsection (b) of this  
194 section: *Provided,* That funds transferred to county commissions under this subdivision shall be  
195 used only to pay regional jail expenses and the costs of infrastructure improvements and other  
196 capital improvements: *Provided, however,* That up to 50 percent of these funds may be pledged to  
197 make payments on lottery revenue bonds issued pursuant to §13-2H-1 *et seq.* of this code; and

198 (4) Transfer 10 percent, to be divided and paid in equal shares, to the governing bodies of  
199 each municipality in the state that is not eligible to receive a distribution under subdivisions (5) and  
200 (6), subsection (b) of this section: *Provided,* That funds transferred to municipalities under this  
201 subdivision shall be used only to pay for debt reduction in municipal police and fire pension funds  
202 and the costs of infrastructure improvements and other capital improvements: *Provided, however,*  
203 That up to 50 percent of these funds may be pledged to make payments on lottery revenue bonds

204 issued pursuant to §13-2H-1 *et seq.* of this code.

205 (e) All expenses of the commission incurred in the administration and enforcement of this  
206 article shall be paid from the Racetrack Table Games Fund, including reimbursement of state law-  
207 enforcement agencies for services performed at the request of the commission pursuant to this  
208 article. The commission's expenses associated with a particular racetrack with authorized table  
209 games under this article may not exceed three percent of the total annual adjusted gross receipts  
210 received from that licensee's operation of table games under this article, including, but not limited  
211 to, all license fees or other amounts attributable to the licensee's operation of table games under  
212 this article, except as provided in subdivision (2), subsection (a) of this section. However, for the  
213 fiscal year following the licensing of every licensed racetrack to offer West Virginia lottery  
214 racetrack table games under this article and for the fiscal year thereafter, the commission's  
215 expenses associated with a particular racetrack with authorized table games under this article  
216 may not exceed four percent of the total annual adjusted gross receipts received from that  
217 licensee's operation of table games under this article, including, but not limited to, all license fees  
218 or other amounts attributable to the licensee's operation of table games under this article, except  
219 as provided in subdivision (2), subsection (a) of this section. These expenses shall either be  
220 allocated to the racetrack with West Virginia Lottery table games for which the expense is incurred,  
221 if practicable, or be treated as general expenses related to all racetrack table games facilities and  
222 be allocated pro rata among the racetrack table games facilities based on the ratio that annual  
223 adjusted gross receipts from operation of table games at each racetrack with West Virginia Lottery  
224 table games bears to total annual adjusted gross receipts from operation of table games at all  
225 racetracks with West Virginia Lottery table games during the fiscal year of the state. From this  
226 allowance, the commission shall transfer at least \$100,000 but not more than \$500,000 into the  
227 Compulsive Gambling Treatment Fund created in §29-22A-19 of this code.

**§29-22C-27a. Changes in distribution of adjusted gross receipts; distributions from excess  
lottery fund.**

1 (a) Notwithstanding any provision of §29-22C-27 of this code to the contrary, for the fiscal  
2 year beginning July 1, 2014, and each fiscal year thereafter, the distribution directed pursuant to  
3 §29-22C-27(d)(1) of this code shall be reduced by 100 percent. For the fiscal year beginning after  
4 June 30, 2023, and each fiscal year thereafter, the distribution to the special fund established by  
5 the licensee, and used for payment of regular purses, pursuant to §29-22C-27(c)(2) of this code  
6 only includes amounts to be distributed to each thoroughbred racetrack table games licensee for  
7 the payment of regular racetrack purses.

8 (b) The total amount of reductions resulting from subsection (a) of this section shall be paid  
9 into the State Excess Lottery Revenue Fund created in §29-22-18a of this code. For the fiscal year  
10 beginning July 1, 2014, and each fiscal year thereafter, distributions to be made pursuant to §29-  
11 22C-27(c)(2) and §29-22C-27(c)(3) of this code shall be reduced by 10 percent, and the amounts  
12 resulting from the reduction shall be paid into the State Excess Lottery Revenue Fund.

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

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

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

NOTE: The purpose of this bill is to eliminate the West Virginia Greyhound Breeding



Development Fund, redirect all moneys from the West Virginia Greyhound Breeding Development Fund to the State Excess Lottery Revenue Fund, and to eliminate requirements that applicants for video lottery and racetrack table game licensees must hold a dog racing license.

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