

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5464

FISCAL
NOTE

By Delegates Funkhouser, McGeehan, Clark,
Eldridge, Shamblin, Willis, Ridenour, Ellington,
Bridges, Dean, and Phillips

[Introduced February 12, 2026; referred to the
Committee on Finance]

1 A BILL to amend and reenact §19-23-3, §19-23-12c, §19-23-13b, §29-22A-10 and §29-22A-10b
 2 of the Code of West Virginia, 1931, as amended; relating to providing a definition for West
 3 Virginia Certified Thoroughbred horses, setting requirements and purse calculations for
 4 West Virginia Certified Thoroughbred horses to race in restricted races, provide eligibility
 5 requirements for West Virginia Accredited restricted races, increase the \$1 million cap on
 6 funding of restricted races by thoroughbred horse racetracks that did not participate in the
 7 West Virginia Development fund for a period of not more than four consecutive years prior
 8 to December 31, 1992, and providing an inflation adjustment to the net terminal income at
 9 a licensed racetrack deposited in the state Excess Lottery Revenue Fund and changes in
 10 the distribution of the net terminal income.

Be it enacted by the Legislature of West Virginia:

CHAPTER 19. AGRICULTURE.

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
 10 by the provisions of section one of this article;
 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 section one of this article;

21 (10) "Permit" means the permit required by the provisions of section two of this article;

22 (11) "Construction permit" means the construction permit required by the provisions of
23 section eighteen of this article;

24 (12) "Licensee" means any racing association holding a license required by the provisions
25 of section one of this article and issued under the provisions of this article;

26 (13) "Permit holder" means any person holding a permit required by the provisions of
27 section two of this article and issued under the provisions of this article;

28 (14) "Construction permit holder" means any person holding a construction permit required
29 by the provisions of section 18 of this article and issued under the provisions of this article;

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

31 (16) "Racing commission" means the West Virginia Racing Commission;

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

37 (18) "Pari-mutuel" means a mutuel or collective pool that can be divided among those who

38 have contributed their wagers to one central agency, the odds to be reckoned in accordance to the
39 collective amounts wagered upon each contestant running in a horse or dog race upon which the
40 pool is made, but the total to be divided among the first three contestants on the basis of the
41 number of wagers on these;

42 (19) "Pari-mutuel clerk" means any employee of a licensed racing association who is
43 responsible for the collection of wagers, the distribution of moneys for winning pari-mutuel tickets,
44 verification of the validity of pari-mutuel tickets and accounting for pari-mutuel funds;

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

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

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

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

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

53 (A) Foaled in West Virginia; or

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

55 (C) As a yearling, finished twelve consecutive months of verifiable residence in the state,
56 except for 30 days' grace: (i) For the horse to be shipped to and from horse sales where the horse
57 is officially entered in the sales catalogue of a recognized thoroughbred sales company, or

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

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

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

64 (27) "Raiser of an accredited West Virginia horse" is the owner of the yearling at the time it
65 finished twelve consecutive months of verifiable residence in the state. During the period, the
66 raiser will be granted one month of grace for his or her horse to be shipped to and from
67 thoroughbred sales where the horse is officially entered in the sales catalogue of a recognized
68 thoroughbred sales company. In the event the yearling was born in another state and transported
69 to this state, this definition does not apply after the December 31, 2007, to any pari-mutuel racing
70 facility located in Jefferson County nor shall it apply after the December 31, 2012, and thereafter to
71 any pari-mutuel racing facility located in Hancock County. Prior to the horse being shipped out of
72 the state for sales, the raiser must notify the Racing Commission of his or her intentions;

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

75 (29) The "owner of an accredited West Virginia horse" means the owner at the time the
76 horse earned designated purses to qualify for restricted purse supplements provided in section
77 13b of this article;

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

80 (31) "Fund" means the West Virginia Thoroughbred Development Fund established in
81 section 13(b) of this article; and

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

83 (33) "West Virginia Certified Thoroughbred" means a thoroughbred horse that :

84 (A) Is registered with the West Virginia Thoroughbred Breeds Association; and

85 (B) Prior to its three year-old year finished six consecutive months of verifiable residence in
86 the state, except for 30 days' grace:

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

89 (ii) For obtaining veterinary services, documented by veterinary reports.

90 (C) Is subject to an affidavit, certification, or audit/inspection by the WV Thoroughbred
91 Breeders Association.

92 (D) Is ineligible to participate in WV Accredited Stakes Races or WV Breeders Classics.

93 (E) Is ineligible for the West Virginia Thoroughbred Fund.

§19-23-12c. Interstate simulcasts by licensed racetracks.

1 (a) Any licensed racing association may be authorized by the commission to transmit
2 broadcasts of races conducted at its racetrack to legal wagering entities located outside this state,
3 which legal wagering entities located outside this state shall not be subject to the provisions of
4 subsection (e) of §19-23-12b of this article: *Provided*, That as consideration for the televised
5 racing services it provides, the host racing association shall receive a signal transmission fee to be
6 paid by the receiving legal wagering entity which shall be in an amount agreed upon by the
7 receiving legal wagering entity and the host racing association. All broadcasts of horse races shall
8 be in accordance with all of the provisions of the "Federal Interstate Horseracing Act of 1978," also
9 known as Public Law 95-515, Section 3001-3007 of Title 15 of the United States Code.

10 (b) One percent of the total signal transmission fee provided in subsection (a) of this
11 section shall be paid into a special fund to be established by the Racing Commission for and on
12 behalf of all employees of the licensed racing association to be used for payments into the pension
13 plan for all employees of the licensed racing association, and any thoroughbred horse racetrack
14 which has participated in the West Virginia thoroughbred development fund for a period of more
15 than four consecutive calendar years prior to December 31, 1992, shall pay seven and one-half
16 percent of the signal transmission fee into the West Virginia thoroughbred development fund
17 established by the Racing Commission according to §19-23-13b of this article. After deducting: (i)
18 The amounts required to be placed into the pension plan for all employees of the licensed racing
19 association under this section; (ii) the amounts, if any, required to be paid into the West Virginia
20 thoroughbred development fund under this section; and (iii) the direct costs necessary to send a
21 live audio and visual signal of horse races or dog races from any racetrack licensed under the

22 provisions of section one of this article to any legal wagering entities outside this state for the
23 purpose of pari-mutuel wagering, which direct costs shall include the cost of satellite equipment
24 necessary to transmit the signal, a satellite operator and the satellite time necessary to broadcast
25 the signal and the cost of telecommunication and facsimile services needed to communicate
26 necessary information to all legal wagering entities for the purpose of pari-mutuel wagering; and
27 (iv) after making such definitions in the foregoing sections (i), (ii), and (iii), all licensed racing
28 associations shall deposit five percent of the remainder to the Racing Commission General
29 Administrative Account. After making such deductions, and depositing five percent of the
30 remainder to the Racing Commission General Administrative Account, thoroughbred horseracing
31 racing associations shall make a deposit equal to 50 percent of the remainder into the purse fund
32 established under the provisions of subdivision (1), subsection (b) of §19-23-1 §19-23-9 of this
33 code: *Provided*, That the funds deposited in the purse fund pursuant to this section may be used
34 for the payment of regular purses or, upon agreement between the horse racing association and
35 the representative of the majority of owners and trainers at a particular thoroughbred racetrack,
36 may be used for capital improvements supporting simulcast operations.

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

1 (a) The Racing Commission shall deposit moneys required to be withheld by an
2 association or licensee in subsection 9(b) of this article in a banking institution of its choice in a
3 special account to be known as West Virginia Racing Commission Special Account – West
4 Virginia Thoroughbred Development Fund: *Provided*, That after the West Virginia Lottery
5 Commission has divided moneys between the West Virginia Thoroughbred Development Fund
6 and the West Virginia Greyhound Breeding Development Fund, pursuant to the provisions of
7 sections §29-22-10 and §29-22-10b, the Racing Commission shall, beginning October 1, 2005,
8 deposit the remaining moneys required to be withheld from an association or licensee designated

9 to the Thoroughbred Development Fund under the provisions of subsection (b), section nine of this
10 article, subdivision (3), subsection (e), 12(b) of this article, subsection (b), section 12(c) of this
11 article, paragraph (B), subdivision (3), subsection (b), section 13(c) of this article and sections §29-
12 22A-10 and §29-22A-10b of this code into accounts for each thoroughbred racetrack licensee with
13 a banking institution of its choice with a separate account for each association or licensee. Each
14 separate account shall be a special account to be known as West Virginia Racing Commission
15 Special Account – West Virginia Thoroughbred Development Fund and shall name the licensee
16 for which the special account has been established: *Provided, however,* That the Racing
17 Commission shall deposit all moneys paid into the Thoroughbred Development Fund by a
18 thoroughbred racetrack licensee that did not participate in the Thoroughbred Development Fund
19 for at least four consecutive calendar years prior to December 31, 1992, from July 8, 2005, until
20 the effective date of the amendment to this section passed during the fourth extraordinary session
21 of the 77th Legislature shall be paid into the purse fund of that thoroughbred racetrack licensee:
22 *Provided further,* That the moneys paid into the Thoroughbred Development Fund by a
23 thoroughbred racetrack licensee that did not participate in the Thoroughbred Development Fund
24 for at least four consecutive calendar years prior to December 31, 1992, shall be transferred into
25 that licensee's purse fund until April 1, 2006. Notice of the amount, date and place of the deposits
26 shall be given by the Racing Commission, in writing, to the State Treasurer. The purpose of the
27 funds is to promote better breeding and racing of thoroughbred horses in the state through awards
28 and purses for accredited breeders/raisers, sire owners and thoroughbred race horse owners:
29 *Provided,* That five percent of the deposits required to be withheld by an association or licensee in
30 subsection (b), section nine of this article shall be placed in a special revenue account hereby
31 continued in the State Treasury called the Administration and Promotion Account: *Provided,*
32 *however,* That four and one-half percent of the deposits into the Thoroughbred Development Fund
33 shall be placed in the Administration and Promotion Account, except that of this percentage, no
34 more than \$305,000 shall be placed in the account in any year.

35 (b) The Racing Commission is authorized to expend the moneys deposited in the
36 administration and promotion account at times and in amounts as the commission determines to
37 be necessary for purposes of administering and promoting the thoroughbred development
38 program: *Provided*, That during any fiscal year in which the commission anticipates spending any
39 money from the account, the commission shall submit to the executive department during the
40 budget preparation period prior to the Legislature convening before that fiscal year for inclusion in
41 the executive budget document and budget bill the recommended expenditures, as well as
42 requests of appropriations for the purpose of administration and promotion of the program. The
43 commission shall make an annual report to the Legislature on the status of the administration and
44 promotion account, including the previous year's expenditures and projected expenditures for the
45 next year.

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

48 (d) Funds in the Thoroughbred Development Fund or funds in the separate accounts for
49 each association or licensee as provided in subsection (a) of this section shall be expended for
50 awards and purses except as otherwise provided in this section. Annually, the first \$800,000 shall
51 be available for distribution for a minimum of 14 accredited stakes races at a racetrack which has
52 participated in the West Virginia Thoroughbred Development Fund for a period of more than four
53 consecutive calendar years prior to December 31, 1992. The weights for all accredited stakes
54 races shall be weight for age. One of the stakes races shall be the West Virginia Futurity and the
55 second shall be the Frank Gall Memorial Stakes. ~~For the purpose of participating in the West~~
56 ~~Virginia Futurity only, all mares, starting with the breeding season beginning February 1 through~~
57 ~~July 31, 2004, and each successive breeding season thereafter, shall be bred back that year to an~~
58 ~~accredited West Virginia stallion only which is registered with the West Virginia Thoroughbred~~
59 ~~Breeders Association.~~ The accredited stake races shall be chosen by the committee set forth in
60 subsection (f) of this section.

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

62 (1) The breeders/raisers of accredited thoroughbred horses that earn a purse at a
63 participating West Virginia meet shall receive a bonus award calculated at the end of the year as a
64 percentage of the fund dedicated to the breeders/raisers, which shall be 60 percent of the fund
65 available for distribution in any one year. The total amount available for the breeders'/raisers'
66 awards shall be distributed according to the ratio of purses earned by an accredited race horse to
67 the total amount earned in the participating races by all accredited race horses for that year as a
68 percentage of the fund dedicated to the breeders/raisers. However, no breeder/raiser may receive
69 from the fund dedicated to breeders'/raisers' awards an amount in excess of the earnings of the
70 accredited horse at West Virginia meets. In addition, should a horse's breeder and raiser qualify
71 for the same award on the same horse, they will each be awarded one half of the proceeds. The
72 bonus referred to in this subdivision may only be paid on the first \$100,000 of any purse and not on
73 any amounts in excess of the first \$100,000.

74 (2) The owner of an accredited West Virginia sire of an accredited thoroughbred horse that
75 earns a purse in any race at a participating West Virginia meet shall receive a bonus award
76 calculated at the end of the year as a percentage of the fund dedicated to sire owners, which shall
77 be 15 percent of the fund available for distribution in any one year. The total amount available for
78 the sire owners' awards shall be distributed according to the ratio of purses earned by the progeny
79 of accredited West Virginia stallions in the participating races for a particular stallion to the total
80 purses earned by the progeny of all accredited West Virginia stallions in the participating races.
81 However, no sire owner may receive from the fund dedicated to sire owners an amount in excess
82 of 35 percent of the accredited earnings for each sire. The bonus referred to in this subdivision
83 shall only be paid on the first \$100,000 of any purse and not on any amounts in excess of the first
84 \$100,000.

85 (3) The owner of an accredited thoroughbred horse that earns a purse in any participating
86 race at a West Virginia meet shall receive a restricted purse supplement award calculated at the

87 end of the year, which shall be 25 percent of the fund available for distribution in any one year,
88 based on the ratio of the earnings in the races of a particular race horse to the total amount earned
89 by all accredited race horses in the participating races during that year as a percentage of the fund
90 dedicated to purse supplements. However, the owners may not receive from the fund dedicated to
91 purse supplements an amount in excess of 35 percent of the total accredited earnings for each
92 accredited race horse. The bonus referred to in this subdivision shall only be paid on the first
93 \$100,000 of any purse and not on any amounts in excess of the first \$100,000.

94 (4) In no event may purses earned at a meet held at a track which did not make a
95 contribution to the Thoroughbred Development Fund out of the daily pool on the day the meet was
96 held qualify or count toward eligibility for an award under this subsection.

97 (5) Any balance in the breeders/raisers, sire owners and purse supplement funds after
98 yearly distributions shall first be used to fund the races established in subsection (f) of this section.
99 Any amount not so used shall revert into the general account of the Thoroughbred Development
100 Fund for each racing association or licensee for distribution in the next year.

101 Distribution shall be made on the 15th day of each February for the preceding year's
102 achievements.

103 (f)(1) Each pari-mutuel thoroughbred horse track shall provide at least one restricted race
104 per racing day: *Provided*, That sufficient horses and funds are available. For purposes of the one
105 restricted race required by this subdivision, there are sufficient horses if there are at least seven
106 single betting interests received for the race: *Provided, however*, That, if sufficient horses and
107 funds are available, any thoroughbred horse racetrack whose licensee participated in the
108 Thoroughbred Development Fund for at least four consecutive calendar years prior to December
109 31, 1992, shall provide three restricted races per racing day, at least one of which may be split at
110 the discretion of the racing secretary. For the purposes of a second restricted race there shall be at
111 least seven single betting interests and for purposes of a third restricted race there must be at least
112 nine single betting interests in one of the restricted races run that day. The restricted race required

113 by this section must be included in the first nine races written in the condition book for that racing
114 day. Effective May 1, 2026, West Virginia Certified thoroughbred horses are also eligible for
115 restricted races under this subsection for purse money only, provided that accredited
116 thoroughbreds shall receive preference over West Virginia Certified thoroughbreds only in the
117 event of an oversubscribed field. Effective July 1, 2026, accredited West Virginia thoroughbreds
118 shall race for an additional 10 percent of purses in restricted races under this subsection.

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

121 (A) The racing secretary at each track;

122 (B) A member appointed by the authorized representative of a majority of the owners and
123 trainers at the thoroughbred track; and

124 (C) A member appointed by the West Virginia Thoroughbred Breeders Association.

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

126 (A) Moneys placed in the general purse fund: *Provided*, That a thoroughbred horse
127 racetrack which did not participate in the West Virginia Thoroughbred Development fund for a
128 period of more than four consecutive years prior to December 31, 1992, may fund restricted races
129 in an amount not to exceed ~~\$1,000,000~~ \$2 million per year.

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

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

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

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

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

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

141 (3) The breeder of the West Virginia-bred foal is not a West Virginia resident and does not
 142 qualify under subdivision (2) of this subsection, but either the sire of the West Virginia-bred foal is a
 143 West Virginia stallion, or the mare is covered only by a West Virginia accredited stallion or stallions
 144 before December 31 of the calendar year following the birth of that West Virginia-bred foal.

145 (i) From July 1, 2001, West Virginia accredited thoroughbred horses have preference for
 146 entry in all accredited races at a thoroughbred race track at which the licensee participates in the
 147 West Virginia Thoroughbred Development Fund.

148 (j) Beginning July 1, 2006, any racing association licensed by the Racing Commission to
 149 conduct thoroughbred racing and permitting and conducting pari-mutuel wagering under the
 150 provisions of this article must have a West Virginia Thoroughbred Racing Breeders Program.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

§29-22A-10. Accounting and reporting; commission to provide communications protocol data; distribution of net terminal income; remittance through electronic transfer of funds; establishment of accounts and nonpayment penalties; commission control of accounting for net terminal income; settlement of accounts; manual reporting and payment may be required; request for reports; examination of accounts and records.

1 (a) The commission shall provide to manufacturers, or applicants applying for a
 2 manufacturer's permit, the protocol documentation data necessary to enable the respective
 3 manufacturer's video lottery terminals to communicate with the commission's central computer 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 any amounts deducted by the commission for its actual
17 costs and expenses that exceeds its actual costs and expenses shall be deposited into the State
18 Lottery Fund. For the fiscal years ending June 30, 2011 through June 30, 2030, the term "actual
19 costs and expenses" may include transfers of up to \$9 million in surplus allocations for each fiscal
20 year, as calculated by the commission when it has closed its books for the fiscal year, to the
21 Licensed Racetrack Modernization Fund created by subdivision (2), of this subsection. For all
22 fiscal years beginning on or after July 1, 2001, the commission shall not receive an amount of
23 gross terminal income in excess of the amount of gross terminal income received during the fiscal
24 year ending on June 30, 2001, which shall be adjusted for the cumulative inflation from June 30,
25 2001 to June 20, 2026 commencing on July 1, 2026 and further adjusted for each state fiscal year
26 thereafter, but four percent of any amount of gross terminal income received in excess of the
27 amount of gross terminal income received during the fiscal year ending on June 30, 2001, as
28 adjusted each state fiscal year for inflation, shall be deposited into the fund established in §29-22-
29 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 or capital improvements at facilities located in this state that are on or contiguous to
39 the premises of the licensed racetrack, having a useful life of three or more years and placed in
40 service after July 1, 2011, the licensed racetrack shall receive \$1 in recoupment from its facility
41 modernization account. If the licensed racetrack's facility modernization account contains a
42 balance in any fiscal year, the unexpended balance from that fiscal year will be available for
43 matching for one additional fiscal year, after which time, the remaining unused balance carried
44 forward shall revert to the lottery fund. For purposes of this section, the term "facility modernization
45 improvements" includes acquisitions of new and unused video lottery terminals and related
46 equipment, and the term "capital improvements" means real property that is expected to replace or
47 modernize buildings, equipment, machinery and other tangible property used in connection with
48 the operation of the gaming, hospitality, or entertainment at the facility. Video lottery terminals
49 financed through the recoupment provided in this subdivision must be retained by the licensee in
50 its West Virginia licensed location for a period of not less than five years from the date of initial
51 installation.

52 (c) The amount resulting after the deductions required by subsection (b) of this section
53 constitutes net terminal income that shall be divided as set out in this subsection. For all fiscal
54 years beginning on or after July 1, 2001, any amount of net terminal income received in excess of
55 the amount of net terminal income received during the fiscal year ending on June 30, 2001, as
56 adjusted for inflation in subsection (b) of this section, shall be divided as set out in §29-22A-10b of
57 this code. The licensed racetrack's share is in lieu of all lottery agent commissions and is

58 considered to cover all costs and expenses required to be expended by the licensed racetrack in
59 connection with video lottery operations. The division shall be made as follows:

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

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

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

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

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

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

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

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

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

83 (C) In a county in which a racetrack other than a racetrack described in paragraphs (A) or

84 (B) of this subdivision is located and where the racetrack has been located within that county since
85 on or before January 1, 1999, and where the racetrack is not located in a municipality, the two
86 percent of net terminal income shall be divided, if applicable, as follows:

87 (i) The county shall receive one percent; and

88 (ii) The remaining one percent shall be distributed in equal shares to all municipalities
89 within the county. Per capita population has no effect on distributions under this paragraph;

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

94 (5) (A) The West Virginia Thoroughbred Development Fund created under §19-23-13b of
95 this code and the ~~West Virginia greyhound breeding development fund created under §19-23-10~~
96 ~~of this code~~ shall receive an equal share of a total of not less than one and one-half percent of the
97 net terminal income originating at licensed thoroughbred racetracks.

98 (B) For the state fiscal year commencing on July 1, 2026, and each fiscal year thereafter,
99 the West Virginia greyhound breeding development fund created under §29-22A-10 of this code
100 shall receive one and one-half percent of the net terminal income originating at licensed
101 greyhound tracks;

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

104 (7) A licensee shall receive 46 and one-half percent of net terminal income;

105 (8)(A) The Tourism Promotion Fund established in §5B-2-12 of this code shall receive
106 three percent of the net terminal income: *Provided*, That for the fiscal year beginning July 1, 2003,
107 the tourism commission shall transfer from the Tourism Promotion Fund \$5 million of the three
108 percent of the net terminal income described in this section and §29-22A-10b of this code into the
109 fund administered by the West Virginia Economic Development Authority pursuant to §31-15-7 of

110 this code, \$5 million into the Capitol Renovation and Improvement Fund administered by the
111 Department of Administration pursuant to §5A-4-6 of this code, and \$5 million into the Tax
112 Reduction and Federal Funding Increased Compliance Fund; and

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

117 (i) 1.375 percent of the total amount of net terminal income described in this section and
118 §29-22A-10b of this code shall be deposited into the Tourism Promotion Fund created pursuant to
119 §5B-2-12 of this code;

120 (ii) 0.375 percent of the total amount of net terminal income described in this section and in
121 §29-22A-10b of this code shall be deposited into the Development Office Promotion Fund created
122 pursuant to §5B-2-3b of this code;

123 (iii) 0.5 percent of the total amount of net terminal income described in this section and in
124 §29-22A-10b of this code shall be deposited into the Research Challenge Fund created pursuant
125 to §18B-1B-10 of this code;

126 (iv) 0.6875 percent of the total amount of net terminal income described in this section and
127 in §29-22A-10b of this code shall be deposited into the Capitol Renovation and Improvement Fund
128 administered by the Department of Administration pursuant to §5A-4-6 of this code; and

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

132 (9)(A) On and after July 1, 2005, seven percent of net terminal income shall be deposited
133 into the Workers' Compensation Debt Reduction Fund created in §23-2d-5 of this code: *Provided,*
134 That in any fiscal year when the amount of money generated by this subdivision totals \$11 million,
135 all subsequent distributions pursuant to this subdivision shall be deposited in the special fund

136 established by the licensee and used for the payment of regular purses in addition to the other
137 amounts provided in §19-23-1 *et seq.* of this code;

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

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

148 (A) For the fiscal year beginning July 1, 2003, the Veterans Memorial Program shall
149 receive one percent of the net terminal income until sufficient moneys have been received to
150 complete the veterans memorial on the grounds of the State Capitol Complex in Charleston, West
151 Virginia. The moneys shall be deposited in the State Treasury in the Division of Culture and History
152 special fund created pursuant to §29-11-3 of this code: *Provided*, That only after sufficient moneys
153 have been deposited in the fund to complete the veterans memorial and to pay in full the annual
154 bonded indebtedness on the veterans memorial, not more than \$20,000 of the one percent of net
155 terminal income provided in this subdivision shall be deposited into a special revenue fund in the
156 State Treasury, to be known as the John F. 'Jack' Bennett Fund. The moneys in this fund shall be
157 expended by the Division of Veterans Affairs to provide for the placement of markers for the graves
158 of veterans in perpetual cemeteries in this state. The Division of Veterans Affairs shall promulgate
159 legislative rules pursuant to the provisions of §29-3-1 *et seq.* of this code specifying the manner in
160 which the funds are spent, determine the ability of the surviving spouse to pay for the placement of
161 the marker and setting forth the standards to be used to determine the priority in which the

162 veterans' grave markers will be placed in the event that there are not sufficient funds to complete
163 the placement of veterans' grave markers in any one year, or at all. Upon payment in full of the
164 bonded indebtedness on the veterans memorial, \$100,000 of the one percent of net terminal
165 income provided in this subdivision shall be deposited in the special fund in the Division of Culture
166 and History created pursuant to §29-11-3 of this code and be expended by the Division of Culture
167 and History to establish a West Virginia veterans memorial archives within the Cultural Center to
168 serve as a repository for the documents and records pertaining to the veterans memorial, to
169 restore and maintain the monuments and memorial on the capitol grounds: *Provided, however,*
170 That \$500,000 of the one percent of net terminal income shall be deposited in the State Treasury
171 in a special fund of the Department of Administration, created pursuant to §5A-4-5 of this code, to
172 be used for construction and maintenance of a parking garage on the State Capitol Complex; and
173 the remainder of the one percent of net terminal income shall be deposited in equal amounts in the
174 Capitol Dome and Improvements Fund created pursuant to §5A-4-2 of this code and Cultural
175 Facilities and Capitol Resources Matching Grant Program Fund created pursuant to §29-1-3 of
176 this code.

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

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

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

188 Program Fund; thereafter, the remainder shall be deposited into the Capitol Dome and Capitol
189 Improvements Fund.

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

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

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

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

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

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

232 (j) If a court of competent jurisdiction finds that the provisions of this section as amended
233 and reenacted in 2021 and the provisions of §29-22A-10d of this code conflict and cannot be
234 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
6 Commission shall deposit in the state Excess Lottery Revenue Fund created in §29-22-18a of this
7 code;

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

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

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

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

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

22 (B) Any amount by which the total amount under this section and §29-22A-10(c)(3) of this
23 code is in excess of the two percent received during fiscal year 1999 by a county in which a
24 racetrack other than a racetrack described in paragraph (A) of this proviso is located and where
25 the racetrack has been located in a municipality within the county since on or before January 1,
26 1999, shall be divided, if applicable, as follows:

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

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

29 (C) In a county in which a racetrack other than a racetrack described in paragraphs (A) or
30 (B) of this subdivision is located and where the racetrack has been located within that county since

31 on or before January 1, 1999, and where the racetrack is not located in a municipality, the two
32 percent of net terminal income shall be divided, if applicable, as follows:

33 (i) The county shall receive one percent; and

34 (ii) The remaining one percent shall be distributed in equal shares to all municipalities
35 within the county. Per capita population has no effect on distributions under this paragraph;

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

40 (5) (A) The West Virginia Thoroughbred Development Fund created under §19-23-13b of
41 this code ~~and the West Virginia greyhound breeding development fund created under §19-23-10~~
42 ~~of this code~~ shall receive an equal share of a total of not less than one and one-half percent of the
43 net terminal income originating at licensed thoroughbred racetracks.

44 (B) For the state fiscal year commencing on July 1, 2026, and each fiscal year thereafter,
45 the West Virginia greyhound breeding development fund created under §29-22A-10 of this code
46 shall receive one and one-half percent of the net terminal income originating at licensed
47 greyhound tracks;

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

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

51 (8) The tourism promotion fund established in §5B-2-12 of this code shall receive three
52 percent of the net terminal income: *Provided*, That for each fiscal year beginning after June 30,
53 2004, this three percent of net terminal income shall be distributed pursuant to the provisions of
54 §29-22A-10(c)(8)(B) of this code;

55 (9) (A) On and after July 1, 2005, four percent of net terminal income shall be deposited
56 into the Workers' Compensation Debt Reduction Fund created in §23-2D-5 of this code: *Provided*,

57 That in any fiscal year when the amount of money generated by this subdivision together with the
58 total allocation transferred by the operation of §29-22A-10(c)(9) of this code totals \$11 million, all
59 subsequent distributions under this subdivision (9) during that fiscal year shall be deposited in the
60 special fund established by the licensee and used for payment of regular purses in addition to
61 other amounts provided in §19-23-1 *et seq.* of this code;

62 (B) The deposit of the four percent of net terminal income into the Worker's Compensation
63 Debt Reduction Fund pursuant to this subdivision shall expire and not be imposed with respect to
64 these funds, which shall be deposited in the special fund established by the licensee and used for
65 payment of regular purses in addition to the other amounts provided in §19-23-1 *et seq.* of this
66 code on and after the first day of the month following the month in which the Governor certifies to
67 the Legislature that: (i) The revenue bonds issued pursuant to §23-2D-1 *et seq.* of this code have
68 been retired or payment of the debt service is provided for; and (ii) that an independent certified
69 actuary has determined that the unfunded liability of the Old Fund, as defined in chapter twenty-
70 three of this code, has been paid or provided in its entirety; and

71 (10) (A) One percent of the net terminal income shall be deposited in equal amounts in the
72 capitol dome and improvements fund created under §5A-4-2 of this code and cultural facilities and
73 capitol resources matching grant program fund created under §29-1-3 of this 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.

NOTE: The purpose of this bill is to provide West Virginia Certified Thoroughbred eligibility, reallocate interstate simulcasts by licensed racetracks, increase West Virginia Restricted race caps, provide inflation adjustment to the net terminal income at a licensed racetrack deposited in the state Excess Lottery Revenue Fund and reallocate a certain amount of said income to the thoroughbred and greyhound development funds at the licensed

racetracks of origin.

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