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**Senate Bill No. 530**  
(By Senator Unger)

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[Introduced February 16, 2011; referred to the Committee on  
Finance.]  
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A BILL to amend and reenact §29-22C-27 of the Code of West Virginia, 1931, as amended, relating to clarifying that a certain portion of revenues of racetracks that have lottery table games be used for public projects in that county or to make payments on lottery revenue bonds; and clarifying that a certain portion of those revenues be used for public projects in a county's municipalities or to make payments on lottery revenue bonds.

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

That §29-22C-27 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 22C. WEST VIRGINIA LOTTERY RACETRACK TABLE GAMES ACT.**  
**§29-22C-27. West Virginia Lottery Racetrack Table Games Fund; Community-Based Service Fund; State Debt Reduction**

1                                   **Fund; distribution of funds.**

2           (a) (1) The special fund in the State Treasury known as the  
3 West Virginia Lottery Racetrack Table Games Fund is continued and  
4 all tax collected under this article shall be deposited with the  
5 State Treasurer and placed in the West Virginia Lottery Racetrack  
6 Table Games Fund. The fund shall be an interest-bearing account  
7 with all interest or other return earned on the money of the fund  
8 credited to and deposited in the fund.

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

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

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

24           (2) Transfer two and one-half percent of adjusted gross  
25 receipts from all thoroughbred racetracks with West Virginia

1 Lottery table games to the special funds established by each  
2 thoroughbred racetrack table games licensees for the payment of  
3 regular racetrack purses, the amount being divided on a pro rata  
4 basis between the special funds of each thoroughbred racetrack  
5 table games licensee and transfer two and one-half percent of  
6 adjusted gross receipts from all greyhound racetracks with West  
7 Virginia Lottery table games to the special funds established by  
8 each greyhound racetrack table games licensees for the payment of  
9 regular racetrack purses, the amount being divided equally between  
10 the special funds of each greyhound racetrack table games licensee;

11       (3) Transfer two percent of the adjusted gross receipts from  
12 all licensed racetracks to the West Virginia Thoroughbred  
13 Development Fund created under section thirteen-b, article twenty-  
14 three, chapter nineteen of this code and the West Virginia  
15 Greyhound Breeding Development Fund created under section ten,  
16 article twenty-three, chapter nineteen of this code. The total  
17 amount transferred under this subdivision shall be divided pro rata  
18 among the development funds for each racetrack table games licensee  
19 based on relative adjusted receipts from each racetrack. The  
20 amounts transferred to these funds may not be used for the benefit  
21 of any person or activity other than at or associated with a  
22 racetrack table games licensee;

23       (4) Transfer one percent of the adjusted gross receipts from  
24 each licensed racetrack to the county commissions of the counties  
25 where racetracks with West Virginia Lottery table games are

1 located. County commissions may pledge this money to make payments  
2 on lottery revenue bonds issued pursuant to article two-h, chapter  
3 thirteen of this code. The one percent transferred under this  
4 subdivision shall be divided pro rata among the counties with a  
5 racetrack with West Virginia Lottery table games based on relative  
6 adjusted gross receipts from each county's racetrack: *Provided,*  
7 That the county board of education of a growth county, as that term  
8 is defined in section three, article twenty, chapter seven of this  
9 code, which has enacted the Local Powers Act, and in which county  
10 a racetrack is located that has participated in the West Virginia  
11 Thoroughbred Development Fund since on or before January 1, 1991,  
12 shall receive the one percent of adjusted gross receipts as  
13 provided in this subdivision for the purpose of public projects, as  
14 defined in section two, article two-h, chapter thirteen of this  
15 code or to make payments on lottery revenue bonds issued to finance  
16 public projects;

17 (5) Transfer two percent of the adjusted gross receipts from  
18 each licensed racetrack to the governing bodies of municipalities  
19 within counties where racetracks with West Virginia Lottery table  
20 games are located. Municipalities may pledge the money to make  
21 payments on lottery revenue bonds issued pursuant to article two-h,  
22 chapter thirteen of this code. This money shall be allocated as  
23 follows:

24 (A) One half of the amounts transferred under this subdivision  
25 shall be allocated to the municipalities within each county having

1 a racetrack table games licensee, based on relative adjusted gross  
2 receipts from West Virginia Lottery table games from those  
3 racetracks and the total amount allocated to the municipalities  
4 within a county shall be divided pro rata among the municipalities  
5 based on each municipality's population determined at the most  
6 recent United States decennial census of population: *Provided,*  
7 That: (i) For each allocation, when a municipality is physically  
8 located in two or more counties, only that portion of its  
9 population residing in the county where the authorized table games  
10 are located shall be considered; (ii) a single municipality in a  
11 county where West Virginia Lottery racetrack table games are played  
12 may not receive a total share under this paragraph that is in  
13 excess of seventy-five percent of the total distribution under this  
14 paragraph for the county in which the municipality is located; and  
15 (iii) a municipality receiving moneys under this paragraph may not  
16 receive an amount which is less than that received by a  
17 municipality under provisions of subdivision (4), subsection (d) of  
18 this section; and

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

1 an allocation under this paragraph; (ii) for each allocation, when  
2 a municipality is physically located in two or more counties, only  
3 that portion of its population residing in the county where the  
4 authorized table games are located shall be considered; and (iii)  
5 a single municipality in a county where West Virginia Lottery  
6 racetrack games are played may not receive a total share under this  
7 paragraph that is in excess of twenty-five percent of the total  
8 transfers under this paragraph: *Provided, however,* That the county  
9 board of education of a growth county, as that term is defined in  
10 section three, article twenty, chapter seven of this code, which  
11 has enacted the Local Powers Act, and in which county a racetrack  
12 is located that has participated in the West Virginia Thoroughbred  
13 Development Fund since on or before January 1, 1991, shall receive  
14 the two percent of adjusted gross receipts as provided in this  
15 subdivision for the purpose of public projects, as defined in  
16 section two, article two-h, chapter thirteen of this code, or to  
17 make payments on lottery revenue bonds issued to finance the public  
18 projects;

19       (6) Transfer one half of one percent of the adjusted gross  
20 receipts to the governing bodies of municipalities in which a  
21 racetrack table games licensee is located. The municipalities  
22 shall each receive an equal share of the total amount allocated  
23 under this subdivision: *Provided,* That distribution under this  
24 subdivision may not be made to any municipality which did not have  
25 a licensed racetrack within its municipal boundaries as they

1 existed on January 1, 2007: *Provided, however,* That if no  
2 racetrack table games licensee is located within a municipality, a  
3 transfer may not be made under this subdivision. The municipality  
4 may pledge this money to make payments on lottery revenue bonds  
5 issued pursuant to article two-h, chapter thirteen of this code;  
6 and

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

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

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

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

1 table games licensee and transfer two and one-half percent of  
2 adjusted gross receipts from all greyhound racetracks with West  
3 Virginia Lottery table games to the special funds established by  
4 each greyhound racetrack table games licensee for the payment of  
5 regular racetrack purses, the amount being divided equally between  
6 the special funds of each greyhound racetrack table games licensee;

7       (3) Transfer two percent of the adjusted gross receipts from  
8 all licensed racetracks to the West Virginia Thoroughbred  
9 Development Fund created under section thirteen-b, article twenty-  
10 three, chapter nineteen of this code and the West Virginia  
11 Greyhound Breeding Development Fund created under section ten,  
12 article twenty-three, chapter nineteen of this code. The total  
13 amount transferred under this subdivision shall be divided pro rata  
14 among the development funds for each racetrack table games licensee  
15 based on relative adjusted receipts from each racetrack. The  
16 amounts transferred to these funds may not be used for the benefit  
17 of any person or activity other than at or associated with a  
18 racetrack table games licensee;

19       (4) Transfer two percent of the adjusted gross receipts from  
20 each licensed racetrack to the county commissions of the counties  
21 where racetracks with West Virginia Lottery table games are  
22 located. The money transferred under this subdivision shall be  
23 divided pro rata among the counties with a racetrack with West  
24 Virginia Lottery table games based on relative adjusted gross  
25 receipts from each county's racetrack: *Provided, That the county*

1 board of education of a growth county, as that term is defined in  
2 section three, article twenty, chapter seven of this code, which  
3 has enacted the Local Powers Act, and in which a racetrack is  
4 located that has participated in the West Virginia Thoroughbred  
5 Development Fund since on or before January 1, 1991, shall receive  
6 one half of that county's share of adjusted gross receipts as  
7 provided in this subdivision for the purpose of ~~capital~~  
8 ~~improvements~~ public projects as defined in section two, article  
9 two-h, chapter thirteen of this code or to make payments on lottery  
10 revenue bonds issued pursuant to article two-h, chapter of this  
11 code to finance public projects;

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

16 (A) One half of the money transferred by this subdivision  
17 shall be allocated to the municipalities within each county, other  
18 than a county described in paragraph (C) of this subdivision,  
19 having a racetrack table games licensee based on relative adjusted  
20 gross receipts from West Virginia Lottery table games from those  
21 racetracks and the total amount allocated to the municipalities  
22 within a county shall be divided pro rata among the municipalities  
23 based on each municipality's population determined at the most  
24 recent United States decennial census of population: *Provided,*  
25 That: (i) For each allocation, when a municipality is physically

1 located in two or more counties, only that portion of its  
2 population residing in the county where the authorized table games  
3 are located shall be considered; (ii) a single municipality in a  
4 county where West Virginia Lottery racetrack table games are played  
5 may not receive a total share under this paragraph that is in  
6 excess of seventy-five percent of the total distribution under this  
7 paragraph for the county in which the municipality is located; and  
8 (iii) a municipality receiving moneys under this paragraph may not  
9 receive an amount which is less than that received by a  
10 municipality under provisions of subdivision (4), subsection (d) of  
11 this section.

12 (B) One half of the money transferred under this subdivision  
13 shall be allocated pro rata to the municipalities within all the  
14 counties, other than a county described in paragraph (C) of this  
15 subdivision, having a racetrack table games licensee based on each  
16 municipality's population determined at the most recent United  
17 States decennial census of population: *Provided, That:* (i) A  
18 municipality which received funds above its pro rata share pursuant  
19 to subparagraph (iii), paragraph (A) of this subdivision shall not  
20 receive an allocation under this paragraph; (ii) for each  
21 allocation, when a municipality is physically located in two or  
22 more counties, only that portion of its population residing in the  
23 county where the authorized table games are located shall be  
24 considered; and (iii) a single municipality in a county where West  
25 Virginia Lottery racetrack games are played may not receive a total

1 share under this paragraph that is in excess of twenty-five percent  
2 of the total transfers under this paragraph.

3 (C) Notwithstanding the provisions of paragraphs (A) and (B)  
4 of this subdivision, when a racetrack is located in a growth  
5 county, as that term is defined in section three, article twenty,  
6 chapter seven of this code, which has enacted the Local Powers Act,  
7 and in which county a racetrack is located that has participated in  
8 the West Virginia Thoroughbred Development Fund since on or before  
9 January 1, 1991, the county board of education shall receive two  
10 thirds of the share of adjusted gross receipts from West Virginia  
11 Lottery table games from the racetrack in the county as provided in  
12 this subdivision and the municipalities within the county shall  
13 share the remaining one third of the total amount allocated as  
14 provided in this paragraph. The municipal one-third share shall be  
15 divided pro rata among the municipalities based on each  
16 municipality's population determined at the most recent United  
17 States decennial census of population. All money transferred under  
18 this paragraph shall be used by the county board of education and  
19 by the municipalities for the purpose of ~~capital improvements~~  
20 public projects as defined in section two, article two-h, chapter  
21 thirteen of this code or to make payments on lottery revenue bonds  
22 issued pursuant to article two-h, chapter of this code to finance  
23 public projects;

24 (6) Transfer one half of one percent of the adjusted gross  
25 receipts to the governing bodies of municipalities in which a

1 racetrack table games licensee is located. The municipalities  
2 shall each receive an equal share of the total amount allocated  
3 under this subdivision: *Provided*, That distribution under this  
4 subdivision may not be made to any municipality that did not have  
5 a licensed racetrack within its municipal boundaries as they  
6 existed on January 1, 2007: *Provided, however*, That if no  
7 racetrack table games licensee is located within a municipality, a  
8 transfer may not be made under this subdivision; and

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

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

14 (1) Transfer seventy-six percent to the State Debt Reduction  
15 Fund which is hereby continued in the State Treasury. Moneys of  
16 the fund shall be expended solely for the purpose of accelerating  
17 the reduction of existing unfunded liabilities and existing bond  
18 indebtedness of the state and shall be expended or transferred only  
19 upon appropriation of the Legislature;

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

1           (3) Transfer ten percent, to be divided and paid in equal  
2 shares, to each county commission in the state that is not eligible  
3 to receive a distribution under subdivision (4), subsection (b) of  
4 this section: *Provided*, That funds transferred to county  
5 commissions under this subdivision shall be used only to pay  
6 regional jail expenses and the costs of infrastructure improvements  
7 and other capital improvements: *Provided, however*, That up to  
8 fifty percent of these funds may be pledged to make payments on  
9 lottery revenue bonds issued pursuant to article two-h, chapter  
10 thirteen of this code; and

11           (4) Transfer ten percent, to be divided and paid in equal  
12 shares, to the governing bodies of each municipality in the state  
13 that is not eligible to receive a distribution under subdivisions  
14 (5) and (6), subsection (b) of this section: *Provided*, That funds  
15 transferred to municipalities under this subdivision shall be used  
16 only to pay for debt reduction in municipal police and fire pension  
17 funds and the costs of infrastructure improvements and other  
18 capital improvements: *Provided, however*, That up to fifty percent  
19 of these funds may be pledged to make payments on lottery revenue  
20 bonds issued pursuant to article two-h, chapter thirteen of this  
21 code.

22           (e) All expenses of the commission incurred in the  
23 administration and enforcement of this article shall be paid from  
24 the Racetrack Table Games Fund, including reimbursement of state  
25 law-enforcement agencies for services performed at the request of

1 the commission pursuant to this article. The commission's expenses  
2 associated with a particular racetrack with authorized table games  
3 under this article may not exceed three percent of the total annual  
4 adjusted gross receipts received from that licensee's operation of  
5 table games under this article, including, but not limited to, all  
6 license fees or other amounts attributable to the licensee's  
7 operation of table games under this article, except as provided in  
8 subdivision (2), subsection (a) of this section. However, for the  
9 fiscal year following the licensing of every licensed racetrack to  
10 offer West Virginia lottery racetrack table games under this  
11 article and for the fiscal year thereafter, the commission's  
12 expenses associated with a particular racetrack with authorized  
13 table games under this article may not exceed four percent of the  
14 total annual adjusted gross receipts received from that licensee's  
15 operation of table games under this article, including, but not  
16 limited to, all license fees or other amounts attributable to the  
17 licensee's operation of table games under this article, except as  
18 provided in subdivision (2), subsection (a) of this section. These  
19 expenses shall either be allocated to the racetrack with West  
20 Virginia Lottery table games for which the expense is incurred, if  
21 practicable, or be treated as general expenses related to all  
22 racetrack table games facilities and be allocated pro rata among  
23 the racetrack table games facilities based on the ratio that annual  
24 adjusted gross receipts from operation of table games at each  
25 racetrack with West Virginia Lottery table games bears to total

1 annual adjusted gross receipts from operation of table games at all  
2 racetracks with West Virginia Lottery table games during the fiscal  
3 year of the state. From this allowance, the commission shall  
4 transfer at least \$100,000 but not more than \$500,000 into the  
5 Compulsive Gambling Treatment Fund created in section nineteen,  
6 article twenty-two-a of this chapter.

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(NOTE: The purpose of this bill is to clarify that a certain portion of revenues of racetracks that have lottery table games be used for public projects in that county or make payments on lottery revenue bonds. The bill also clarifies that a certain portion of those revenues be used for public projects in a county's municipalities or make payments on lottery revenue bonds.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)