

# 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 Fund; distribution of funds.**

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

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

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

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

25 (2) Transfer two and one-half percent of adjusted gross  
26 receipts from all thoroughbred racetracks with West Virginia  
27 Lottery table games to the special funds established by each  
28 thoroughbred racetrack table games licensees for the  
29 payment of regular racetrack purses, the amount being  
30 divided on a pro rata basis between the special funds of each  
31 thoroughbred racetrack table games licensee and transfer  
32 two and one-half percent of adjusted gross receipts from all  
33 greyhound racetracks with West Virginia Lottery table  
34 games to the special funds established by each greyhound  
35 racetrack table games licensees for the payment of regular  
36 racetrack purses, the amount being divided equally between  
37 the special funds of each greyhound racetrack table games  
38 licensee;

39 (3) Transfer two percent of the adjusted gross receipts from  
40 all licensed racetracks to the West Virginia Thoroughbred  
41 Development Fund created under section thirteen-b, article  
42 twenty-three, chapter nineteen of this code and the West

43 Virginia Greyhound Breeding Development Fund created  
44 under section ten, article twenty-three, chapter nineteen of  
45 this code. The total amount transferred under this subdivi-  
46 sion shall be divided pro rata among the development funds  
47 for each racetrack table games licensee based on relative  
48 adjusted receipts from each racetrack. The amounts trans-  
49 ferred to these funds may not be used for the benefit of any  
50 person or activity other than at or associated with a race-  
51 track table games licensee;

52 (4) Transfer one percent of the adjusted gross receipts from  
53 each licensed racetrack to the county commissions of the  
54 counties where racetracks with West Virginia Lottery table  
55 games are located. County commissions may pledge this  
56 money to make payments on lottery revenue bonds issued  
57 pursuant to article two-h, chapter thirteen of this code. The  
58 one percent transferred under this subdivision shall be  
59 divided pro rata among the counties with a racetrack with  
60 West Virginia Lottery table games based on relative adjusted  
61 gross receipts from each county's racetrack: *Provided*, That  
62 the county board of education of a growth county, as that  
63 term is defined in section three, article twenty, chapter seven  
64 of this code, which has enacted the Local Powers Act, and in

65 which county a racetrack is located that has participated in  
66 the West Virginia Thoroughbred Development Fund since on  
67 or before January 1, 1991, shall receive the one percent of  
68 adjusted gross receipts as provided in this subdivision for the  
69 purpose of public projects, as defined in section two, article  
70 two-h, chapter thirteen of this code or to make payments on  
71 lottery revenue bonds issued to finance public projects;

72 (5) Transfer two percent of the adjusted gross receipts from  
73 each licensed racetrack to the governing bodies of municipi-  
74 palities within counties where racetracks with West Virginia  
75 Lottery table games are located. Municipalities may pledge  
76 the money to make payments on lottery revenue bonds issued  
77 pursuant to article two-h, chapter thirteen of this code. This  
78 money shall be allocated as follows:

79 (A) One half of the amounts transferred under this subdivi-  
80 sion shall be allocated to the municipalities within each  
81 county having a racetrack table games licensee, based on  
82 relative adjusted gross receipts from West Virginia Lottery  
83 table games from those racetracks and the total amount  
84 allocated to the municipalities within a county shall be  
85 divided pro rata among the municipalities based on each  
86 municipality's population determined at the most recent

87 United States decennial census of population: *Provided*,  
88 That: (i) For each allocation, when a municipality is physi-  
89 cally located in two or more counties, only that portion of its  
90 population residing in the county where the authorized table  
91 games are located shall be considered; (ii) a single munici-  
92 pality in a county where West Virginia Lottery racetrack  
93 table games are played may not receive a total share under  
94 this paragraph that is in excess of seventy-five percent of the  
95 total distribution under this paragraph for the county in  
96 which the municipality is located; and (iii) a municipality  
97 receiving moneys under this paragraph may not receive an  
98 amount which is less than that received by a municipality  
99 under provisions of subdivision (4), subsection (d) of this  
100 section; and

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

109 this paragraph; (ii) for each allocation, when a municipality  
110 is physically located in two or more counties, only that  
111 portion of its population residing in the county where the  
112 authorized table games are located shall be considered; and  
113 (iii) a single municipality in a county where West Virginia  
114 Lottery racetrack games are played may not receive a total  
115 share under this paragraph that is in excess of twenty-five  
116 percent of the total transfers under this paragraph: *Provided,*  
117 *however,* That the county board of education of a growth  
118 county, as that term is defined in section three, article  
119 twenty, chapter seven of this code, which has enacted the  
120 Local Powers Act, and in which county a racetrack is located  
121 that has participated in the West Virginia Thoroughbred  
122 Development Fund since on or before January 1, 1991, shall  
123 receive the two percent of adjusted gross receipts as provided  
124 in this subdivision for the purpose of public projects, as  
125 defined in section two, article two-h, chapter thirteen of this  
126 code, or to make payments on lottery revenue bonds issued  
127 to finance the public projects;

128 (6) Transfer one half of one percent of the adjusted gross  
129 receipts to the governing bodies of municipalities in which  
130 a racetrack table games licensee is located. The municipali-

131 ties shall each receive an equal share of the total amount  
132 allocated under this subdivision: *Provided*, That distribution  
133 under this subdivision may not be made to any municipality  
134 which did not have a licensed racetrack within its municipal  
135 boundaries as they existed on January 1, 2007: *Provided*,  
136 *however*, That if no racetrack table games licensee is located  
137 within a municipality, a transfer may not be made under this  
138 subdivision. The municipality may pledge this money to  
139 make payments on lottery revenue bonds issued pursuant to  
140 article two-h, chapter thirteen of this code; and

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

145 (c) Beginning with the fiscal year following the licensing of  
146 every licensed racetrack to offer West Virginia Lottery  
147 racetrack table games under this article, subsection (b) of  
148 this section shall be superseded and replaced by this subsec-  
149 tion for distribution of the balances in the fund established  
150 by subsection (a) of this section. From the gross amounts  
151 deposited into the fund, the commission shall:

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

155 (2) Transfer two and one-half percent of adjusted gross  
156 receipts from all thoroughbred racetracks with West Virginia  
157 Lottery table games to the special funds established by each  
158 thoroughbred racetrack table games licensee for the payment  
159 of regular racetrack purses, the amount being divided on a  
160 pro rata basis between the special funds of each thorough-  
161 bred racetrack table games licensee and transfer two and  
162 one-half percent of adjusted gross receipts from all grey-  
163 hound racetracks with West Virginia Lottery table games to  
164 the special funds established by each greyhound racetrack  
165 table games licensee for the payment of regular racetrack  
166 purses, the amount being divided equally between the special  
167 funds of each greyhound racetrack table games licensee;

168 (3) Transfer two percent of the adjusted gross receipts from  
169 all licensed racetracks to the West Virginia Thoroughbred  
170 Development Fund created under section thirteen-b, article  
171 twenty-three, chapter nineteen of this code and the West  
172 Virginia Greyhound Breeding Development Fund created  
173 under section ten, article twenty-three, chapter nineteen of

174 this code. The total amount transferred under this subdivi-  
175 sion shall be divided pro rata among the development funds  
176 for each racetrack table games licensee based on relative  
177 adjusted receipts from each racetrack. The amounts trans-  
178 ferred to these funds may not be used for the benefit of any  
179 person or activity other than at or associated with a race-  
180 track table games licensee;

181 (4) Transfer two percent of the adjusted gross receipts from  
182 each licensed racetrack to the county commissions of the  
183 counties where racetracks with West Virginia Lottery table  
184 games are located. The money transferred under this subdivi-  
185 sion shall be divided pro rata among the counties with a  
186 racetrack with West Virginia Lottery table games based on  
187 relative adjusted gross receipts from each county's racetrack:  
188 *Provided*, That the county board of education of a growth  
189 county, as that term is defined in section three, article  
190 twenty, chapter seven of this code, which has enacted the  
191 Local Powers Act, and in which a racetrack is located that  
192 has participated in the West Virginia Thoroughbred Devel-  
193 opment Fund since on or before January 1, 1991, shall  
194 receive one half of that county's share of adjusted gross  
195 receipts as provided in this subdivision for the purpose of

196 ~~capital improvements~~ public projects as defined in section  
197 two, article two-h, chapter thirteen of this code or to make  
198 payments on lottery revenue bonds issued pursuant to article  
199 two-h, chapter of this code to finance public projects;

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

205 (A) One half of the money transferred by this subdivision  
206 shall be allocated to the municipalities within each county,  
207 other than a county described in paragraph (C) of this  
208 subdivision, having a racetrack table games licensee based  
209 on relative adjusted gross receipts from West Virginia  
210 Lottery table games from those racetracks and the total  
211 amount allocated to the municipalities within a county shall  
212 be divided pro rata among the municipalities based on each  
213 municipality's population determined at the most recent  
214 United States decennial census of population: *Provided,*  
215 *That:* (i) For each allocation, when a municipality is physi-  
216 cally located in two or more counties, only that portion of its  
217 population residing in the county where the authorized table

218 games are located shall be considered; (ii) a single munici-  
219 pality in a county where West Virginia Lottery racetrack  
220 table games are played may not receive a total share under  
221 this paragraph that is in excess of seventy-five percent of the  
222 total distribution under this paragraph for the county in  
223 which the municipality is located; and (iii) a municipality  
224 receiving moneys under this paragraph may not receive an  
225 amount which is less than that received by a municipality  
226 under provisions of subdivision (4), subsection (d) of this  
227 section.

228 (B) One half of the money transferred under this subdivi-  
229 sion shall be allocated pro rata to the municipalities within  
230 all the counties, other than a county described in paragraph  
231 (C) of this subdivision, having a racetrack table games  
232 licensee based on each municipality's population determined  
233 at the most recent United States decennial census of popula-  
234 tion: *Provided, That:* (i) A municipality which received funds  
235 above its pro rata share pursuant to subparagraph (iii),  
236 paragraph (A) of this subdivision shall not receive an  
237 allocation under this paragraph; (ii) for each allocation,  
238 when a municipality is physically located in two or more  
239 counties, only that portion of its population residing in the

240 county where the authorized table games are located shall be  
241 considered; and (iii) a single municipality in a county where  
242 West Virginia Lottery racetrack games are played may not  
243 receive a total share under this paragraph that is in excess of  
244 twenty-five percent of the total transfers under this para-  
245 graph.

246 (C) Notwithstanding the provisions of paragraphs (A) and  
247 (B) of this subdivision, when a racetrack is located in a  
248 growth county, as that term is defined in section three,  
249 article twenty, chapter seven of this code, which has enacted  
250 the Local Powers Act, and in which county a racetrack is  
251 located that has participated in the West Virginia Thorough-  
252 bred Development Fund since on or before January 1, 1991,  
253 the county board of education shall receive two thirds of the  
254 share of adjusted gross receipts from West Virginia Lottery  
255 table games from the racetrack in the county as provided in  
256 this subdivision and the municipalities within the county  
257 shall share the remaining one third of the total amount  
258 allocated as provided in this paragraph. The municipal one-  
259 third share shall be divided pro rata among the municipali-  
260 ties based on each municipality's population determined at  
261 the most recent United States decennial census of popula-

262 tion. All money transferred under this paragraph shall be  
263 used by the county board of education and by the municipal-  
264 ities for the purpose of ~~capital improvements~~ public projects  
265 as defined in section two, article two-h, chapter thirteen of  
266 this code or to make payments on lottery revenue bonds  
267 issued pursuant to article two-h, chapter of this code to  
268 finance public projects;

269 (6) Transfer one half of one percent of the adjusted gross  
270 receipts to the governing bodies of municipalities in which  
271 a racetrack table games licensee is located. The municipali-  
272 ties shall each receive an equal share of the total amount  
273 allocated under this subdivision: *Provided*, That distribution  
274 under this subdivision may not be made to any municipality  
275 that did not have a licensed racetrack within its municipal  
276 boundaries as they existed on January 1, 2007: *Provided*,  
277 *however*, That if no racetrack table games licensee is located  
278 within a municipality, a transfer may not be made under this  
279 subdivision; and

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

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

286 (1) Transfer seventy-six percent to the State Debt Reduc-  
287 tion Fund which is hereby continued in the State Treasury.  
288 Moneys of the fund shall be expended solely for the purpose  
289 of accelerating the reduction of existing unfunded liabilities  
290 and existing bond indebtedness of the state and shall be  
291 expended or transferred only upon appropriation of the  
292 Legislature;

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

300 (3) Transfer ten percent, to be divided and paid in equal  
301 shares, to each county commission in the state that is not  
302 eligible to receive a distribution under subdivision (4),  
303 subsection (b) of this section: *Provided*, That funds trans-  
304 ferred to county commissions under this subdivision shall be  
305 used only to pay regional jail expenses and the costs of

306 infrastructure improvements and other capital improve-  
307 ments: *Provided, however,* That up to fifty percent of these  
308 funds may be pledged to make payments on lottery revenue  
309 bonds issued pursuant to article two-h, chapter thirteen of  
310 this code; and

311 (4) Transfer ten percent, to be divided and paid in equal  
312 shares, to the governing bodies of each municipality in the  
313 state that is not eligible to receive a distribution under  
314 subdivisions (5) and (6), subsection (b) of this section:  
315 *Provided,* That funds transferred to municipalities under this  
316 subdivision shall be used only to pay for debt reduction in  
317 municipal police and fire pension funds and the costs of  
318 infrastructure improvements and other capital improve-  
319 ments: *Provided, however,* That up to fifty percent of these  
320 funds may be pledged to make payments on lottery revenue  
321 bonds issued pursuant to article two-h, chapter thirteen of  
322 this code.

323 (e) All expenses of the commission incurred in the adminis-  
324 tration and enforcement of this article shall be paid from the  
325 Racetrack Table Games Fund, including reimbursement of  
326 state law-enforcement agencies for services performed at the  
327 request of the commission pursuant to this article. The

328 commission's expenses associated with a particular racetrack  
329 with authorized table games under this article may not  
330 exceed three percent of the total annual adjusted gross  
331 receipts received from that licensee's operation of table  
332 games under this article, including, but not limited to, all  
333 license fees or other amounts attributable to the licensee's  
334 operation of table games under this article, except as  
335 provided in subdivision (2), subsection (a) of this section.  
336 However, for the fiscal year following the licensing of every  
337 licensed racetrack to offer West Virginia lottery racetrack  
338 table games under this article and for the fiscal year thereaf-  
339 ter, the commission's expenses associated with a particular  
340 racetrack with authorized table games under this article may  
341 not exceed four percent of the total annual adjusted gross  
342 receipts received from that licensee's operation of table  
343 games under this article, including, but not limited to, all  
344 license fees or other amounts attributable to the licensee's  
345 operation of table games under this article, except as  
346 provided in subdivision (2), subsection (a) of this section.  
347 These expenses shall either be allocated to the racetrack  
348 with West Virginia Lottery table games for which the  
349 expense is incurred, if practicable, or be treated as general

350 expenses related to all racetrack table games facilities and  
351 be allocated pro rata among the racetrack table games  
352 facilities based on the ratio that annual adjusted gross  
353 receipts from operation of table games at each racetrack  
354 with West Virginia Lottery table games bears to total annual  
355 adjusted gross receipts from operation of table games at all  
356 racetracks with West Virginia Lottery table games during  
357 the fiscal year of the state. From this allowance, the commis-  
358 sion shall transfer at least \$100,000 but not more than  
359 \$500,000 into the Compulsive Gambling Treatment Fund  
360 created in section nineteen, article twenty-two-a of this  
361 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.)