

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 615**

4 (By Senator Kessler (Mr. President))

5 _____
6 [Originating in the Committee on the Judiciary;

7 reported March 29, 2013.]

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11 A BILL to amend and reenact §29-22A-10 of the Code of West
12 Virginia, 1931, as amended; and to amend and reenact 29-22C-8
13 of said code, all relating to providing for distribution of
14 certain amounts of gross terminal income derived from
15 racetrack video lottery terminals; and amending the table game
16 license renewal fee for West Virginia pari-mutuel racetracks.

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

18 That §29-22A-10 of the Code of West Virginia, 1931, as
19 amended, be amended and reenacted; and that §29-22C-8 of said code
20 be amended and reenacted, all to read as follows:

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

22 **§29-22A-10. Accounting and reporting; commission to provide**
23 **communications protocol data; distribution of**
24 **net terminal income; remittance through**
25 **electronic transfer of funds; establishment of**

1 **accounts and nonpayment penalties; commission**
2 **control of accounting for net terminal income;**
3 **settlement of accounts; manual reporting and**
4 **payment may be required; request for reports;**
5 **examination of accounts and records.**

6 (a) The commission shall provide to manufacturers, or
7 applicants applying for a manufacturer's permit, the protocol
8 documentation data necessary to enable the respective
9 manufacturer's video lottery terminals to communicate with the
10 commission's central computer for transmitting auditing program
11 information and for activation and disabling of video lottery
12 terminals.

13 (b) The gross terminal income of a licensed racetrack shall be
14 remitted to the commission through the electronic transfer of
15 funds. Licensed racetracks shall furnish to the commission all
16 information and bank authorizations required to facilitate the
17 timely transfer of moneys to the commission. Licensed racetracks
18 must provide the commission thirty days' advance notice of any
19 proposed account changes in order to assure the uninterrupted
20 electronic transfer of funds. From the gross terminal income
21 remitted by the licensee to the commission:

22 (1) The commission shall deduct an amount sufficient to
23 reimburse the commission for its actual costs and expenses incurred
24 in administering racetrack video lottery at the licensed racetrack.
25 The resulting amount after the deduction is the net terminal

1 income. The amount deducted for administrative costs and expenses
2 of the commission may not exceed four percent of gross terminal
3 income: *Provided*, That beginning on July 1 2013, and thereafter,
4 the commission shall deduct \$5,000,000 from moneys deducted
5 pursuant to this subdivision, which shall be deposited into the
6 Community-Based Services Fund for use as set forth in section
7 twenty-seven, article twenty-two-c of this chapter. *Provided,*
8 *further*, That any amounts deducted by the commission for its actual
9 costs and expenses that exceeds its actual costs and expenses shall
10 be deposited into the State Lottery Fund. For the fiscal years
11 ending June 30, 2011 through June 30, 2020, the term "actual costs
12 and expenses" may include transfers of up to \$10 million in surplus
13 allocations for each fiscal year, as calculated by the commission
14 when it has closed its books for the fiscal year, to the Licensed
15 Racetrack Modernization Fund created by subdivision (2), subsection
16 (b) of this section. For all fiscal years beginning on or after
17 July 1, 2001, the commission shall not receive an amount of gross
18 terminal income in excess of the amount of gross terminal income
19 received during the fiscal year ending on June 30, 2001, but four
20 percent of any amount of gross terminal income received in excess
21 of the amount of gross terminal income received during the fiscal
22 year ending on June 30, 2001, shall be deposited into the fund
23 established in section eighteen-a, article twenty-two of this
24 chapter; and

25 (2) A Licensed Racetrack Modernization Fund is created within
26 the lottery fund. For all fiscal years beginning on or after July

1 1, 2011, and ending with the fiscal year beginning July 1, 2020,
2 the commission shall deposit such amounts as are available
3 according to subdivision (1), subsection (b) of this section into
4 a separate facility modernization account maintained within the
5 Licensed Racetrack Modernization Fund for each racetrack. Each
6 racetrack's share of each year's deposit shall be calculated in the
7 same ratio as each racetrack's apportioned contribution to the four
8 percent administrative costs and expenses allowance provided ~~for~~ in
9 subdivision (1), subsection (b) of this section for that year. For
10 each \$2 expended by a licensed racetrack for facility modernization
11 improvements at the racetrack, having a useful life of three or
12 more years and placed in service after July 1, 2011, the licensed
13 racetrack shall receive \$±0.50 in recoupment from its facility
14 modernization account. If the licensed racetrack's facility
15 modernization account contains a balance in any fiscal year, the
16 unexpended balance from that fiscal year will be available for
17 matching for one additional fiscal year, after which time, the
18 remaining unused balance carried forward shall revert to the
19 lottery fund. For purposes of this section, the term "facility
20 modernization improvements" includes acquisitions of new and unused
21 video lottery terminals and related equipment. Video lottery
22 terminals financed through the recoupment provided in this
23 subdivision must be retained by the licensee in its West Virginia
24 licensed location for a period of not less than five years from the
25 date of initial installation.

26 (c) The amount resulting after the deductions required by

1 subsection (b) of this section constitutes net terminal income that
2 shall be divided as set out in this subsection. For all fiscal
3 years beginning on or after July 1, 2001, any amount of net
4 terminal income received in excess of the amount of net terminal
5 income received during the fiscal year ending on June 30, 2001,
6 shall be divided as set out in section ten-b of this article. The
7 licensed racetrack's share is in lieu of all lottery agent
8 commissions and is considered to cover all costs and expenses
9 required to be expended by the licensed racetrack in connection
10 with video lottery operations. The division shall be made as
11 follows:

12 (1) The commission shall receive thirty percent of net
13 terminal income, which shall be paid into the State Lottery Fund as
14 provided in section ten-a of this article;

15 (2) Until July 1, 2005, fourteen percent of net terminal
16 income at a licensed racetrack shall be deposited in the special
17 fund established by the licensee, and used for payment of regular
18 purses in addition to other amounts provided for in article twenty-
19 three, chapter nineteen of this code, on and after July 1, 2005,
20 the rate shall be seven percent of net terminal income;

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

24 (A) Beginning July 1, 1999, and thereafter, any amount in
25 excess of the two percent received during the fiscal year 1999 by
26 a county in which a racetrack is located that has participated in

1 the West Virginia Thoroughbred Development Fund since on or before
2 January 1, 1999 shall be divided as follows:

3 (i) The county shall receive fifty percent of the excess
4 amount; and

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

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

15 (i) The county shall receive fifty percent of the excess
16 amount; and

17 (ii) The municipality shall receive fifty percent of the
18 excess amount; and

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

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

1 (5) The West Virginia Thoroughbred Development Fund created
2 under section thirteen-b, article twenty-three, chapter nineteen of
3 this code and the West Virginia Greyhound Breeding Development Fund
4 created under section ten of said article shall receive an equal
5 share of a total of not less than one and one-half percent of the
6 net terminal income;

7 (6) The West Virginia Racing Commission shall receive one
8 percent of the net terminal income which shall be deposited and
9 used as provided in section thirteen-c, article twenty-three,
10 chapter nineteen of this code.

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

13 (8) (A) The Tourism Promotion Fund established in section
14 twelve, article two, chapter five-b of this code shall receive
15 three percent of the net terminal income: *Provided*, That for the
16 fiscal year beginning July 1, 2003, the tourism commission shall
17 transfer from the Tourism Promotion Fund \$5 million of the three
18 percent of the net terminal income described in this section and
19 section ten-b of this article into the fund administered by the
20 West Virginia Economic Development Authority pursuant to section
21 seven, article fifteen, chapter thirty-one of this code, \$5 million
22 into the Capitol Renovation and Improvement Fund administered by
23 the Department of Administration pursuant to section six, article
24 four, chapter five-a of this code and \$5 million into the Tax
25 Reduction and Federal Funding Increased Compliance Fund; and

26 (B) Notwithstanding any provision of paragraph (A) of this

1 subdivision to the contrary, for each fiscal year beginning after
2 June 30, 2004, this three percent of net terminal income and the
3 three percent of net terminal income described in paragraph (B),
4 subdivision (8), subsection (a), section ten-b of this article
5 shall be distributed as provided in this paragraph as follows:

6 (i) 1.375 percent of the total amount of net terminal income
7 described in this section and in section ten-b of this article
8 shall be deposited into the Tourism Promotion Fund created under
9 section twelve, article two, chapter five-b of this code;

10 (ii) 0.375 percent of the total amount of net terminal income
11 described in this section and in section ten-b of this article
12 shall be deposited into the Development Office Promotion Fund
13 created under section three-b, article two, chapter five-b of this
14 code;

15 (iii) 0.5 percent of the total amount of net terminal income
16 described in this section and in section ten-b of this article
17 shall be deposited into the Research Challenge Fund created under
18 section ten, article one-b, chapter eighteen-b of this code;

19 (iv) 0.6875 percent of the total amount of net terminal income
20 described in this section and in section ten-b of this article
21 shall be deposited into the Capitol Renovation and Improvement Fund
22 administered by the Department of Administration pursuant to
23 section six, article four, chapter five-a of this code; and

24 (v) 0.0625 percent of the total amount of net terminal income
25 described in this section and in section ten-b of this article
26 shall be deposited into the 2004 Capitol Complex Parking Garage

1 Fund administered by the Department of Administration pursuant to
2 section five-a, article four, chapter five-a of this code;

3 (9) (A) On and after July 1, 2005, seven percent of net
4 terminal income shall be deposited into the Workers' Compensation
5 Debt Reduction Fund created in section five, article two-d, chapter
6 twenty-three of this code: *Provided, however,* That in any fiscal
7 year when the amount of money generated by this subdivision totals
8 \$11 million, all subsequent distributions under this subdivision
9 shall be deposited in the special fund established by the licensee
10 and used for the payment of regular purses in addition to the other
11 amounts provided in article twenty-three, chapter nineteen of this
12 code;

13 (B) The deposit of the seven percent of net terminal income
14 into the Worker's Compensation Debt Reduction Fund pursuant to this
15 subdivision shall expire and not be imposed with respect to these
16 funds and shall be deposited in the special fund established by the
17 licensee and used for payment of regular purses in addition to the
18 other amounts provided in article twenty-three, chapter nineteen of
19 this code, on and after the first day of the month following the
20 month in which the Governor certifies to the Legislature that: (i)
21 The revenue bonds issued pursuant to article two-d, chapter twenty-
22 three of this code, have been retired or payment of the debt
23 service provided for; and (ii) that an independent certified
24 actuary has determined that the unfunded liability of the old fund,
25 as defined in chapter twenty-three of this code, has been paid or
26 provided for in its entirety; and

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

3 (A) For the fiscal year beginning July 1, 2003, the veterans
4 memorial program shall receive one percent of the net terminal
5 income until sufficient moneys have been received to complete the
6 veterans memorial on the grounds of the State Capitol Complex in
7 Charleston, West Virginia. The moneys shall be deposited in the
8 State Treasury in the Division of Culture and History special fund
9 created under section three, article one-i, chapter twenty-nine of
10 this code: *Provided*, That only after sufficient moneys have been
11 deposited in the fund to complete the veterans memorial and to pay
12 in full the annual bonded indebtedness on the veterans memorial,
13 not more than \$20,000 of the one percent of net terminal income
14 provided in this subdivision shall be deposited into a special
15 revenue fund in the State Treasury, to be known as the "John F.
16 'Jack' Bennett Fund". The moneys in this fund shall be expended by
17 the Division of Veterans Affairs to provide for the placement of
18 markers for the graves of veterans in perpetual cemeteries in this
19 state. The Division of Veterans Affairs shall promulgate
20 legislative rules pursuant to the provisions of article three,
21 chapter twenty-nine-a of this code specifying the manner in which
22 the funds are spent, determine the ability of the surviving spouse
23 to pay for the placement of the marker and setting forth the
24 standards to be used to determine the priority in which the
25 veterans grave markers will be placed in the event that there are
26 not sufficient funds to complete the placement of veterans grave

1 markers in any one year, or at all. Upon payment in full of the
2 bonded indebtedness on the veterans memorial, \$100,000 of the one
3 percent of net terminal income provided in this subdivision shall
4 be deposited in the special fund in the Division of Culture and
5 History created under section three, article one-i, chapter twenty-
6 nine of this code and be expended by the Division of Culture and
7 History to establish a West Virginia veterans memorial archives
8 within the Cultural Center to serve as a repository for the
9 documents and records pertaining to the veterans memorial, to
10 restore and maintain the monuments and memorial on the Capitol
11 grounds: *Provided, however,* That \$500,000 of the one percent of net
12 terminal income shall be deposited in the State Treasury in a
13 special fund of the Department of Administration, created under
14 section five, article four, chapter five-a of this code, to be used
15 for construction and maintenance of a parking garage on the State
16 Capitol Complex; and the remainder of the one percent of net
17 terminal income shall be deposited in equal amounts in the Capitol
18 Dome and Improvements Fund created under section two, article four,
19 chapter five-a of this code and Cultural Facilities and Capitol
20 Resources Matching Grant Program Fund created under section three,
21 article one of this chapter.

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

23 (i) Five hundred thousand dollars of the one percent of net
24 terminal income shall be deposited in the State Treasury in a
25 special fund of the Department of Administration, created under
26 section five, article four, chapter five-a of this code, to be used

1 for construction and maintenance of a parking garage on the State
2 Capitol Complex; and

3 (ii) The remainder of the one percent of net terminal income
4 and all of the one percent of net terminal income described in
5 paragraph (B), subdivision (9), subsection (a), section ten-b of
6 this article shall be distributed as follows: The net terminal
7 income shall be deposited in equal amounts into the Capitol Dome
8 and Capitol Improvements Fund created under section two, article
9 four, chapter five-a of this code and the Cultural Facilities and
10 Capitol Resources Matching Grant Program Fund created under section
11 three, article one, chapter twenty-nine of this code until a total
12 of \$1,500,000 is deposited into the Cultural Facilities and Capitol
13 Resources Matching Grant Program Fund; thereafter, the remainder
14 shall be deposited into the Capitol Dome and Capitol Improvements
15 Fund.

16 (d) Each licensed racetrack shall maintain in its account an
17 amount equal to or greater than the gross terminal income from its
18 operation of video lottery machines, to be electronically
19 transferred by the commission on dates established by the
20 commission. Upon a licensed racetrack's failure to maintain this
21 balance, the commission may disable all of a licensed racetrack's
22 video lottery terminals until full payment of all amounts due is
23 made. Interest shall accrue on any unpaid balance at a rate
24 consistent with the amount charged for state income tax delinquency
25 under chapter eleven of this code. The interest shall begin to
26 accrue on the date payment is due to the commission.

1 (e) The commission's central control computer shall keep
2 accurate records of all income generated by each video lottery
3 terminal. The commission shall prepare and mail to the licensed
4 racetrack a statement reflecting the gross terminal income
5 generated by the licensee's video lottery terminals. Each licensed
6 racetrack shall report to the commission any discrepancies between
7 the commission's statement and each terminal's mechanical and
8 electronic meter readings. The licensed racetrack is solely
9 responsible for resolving income discrepancies between actual money
10 collected and the amount shown on the accounting meters or on the
11 commission's billing statement.

12 (f) Until an accounting discrepancy is resolved in favor of
13 the licensed racetrack, the commission may make no credit
14 adjustments. For any video lottery terminal reflecting a
15 discrepancy, the licensed racetrack shall submit to the commission
16 the maintenance log which includes current mechanical meter
17 readings and the audit ticket which contains electronic meter
18 readings generated by the terminal's software. If the meter
19 readings and the commission's records cannot be reconciled, final
20 disposition of the matter shall be determined by the commission.
21 Any accounting discrepancies which cannot be otherwise resolved
22 shall be resolved in favor of the commission.

23 (g) Licensed racetracks shall remit payment by mail if the
24 electronic transfer of funds is not operational or the commission
25 notifies licensed racetracks that remittance by this method is
26 required. The licensed racetracks shall report an amount equal to

1 the total amount of cash inserted into each video lottery terminal
2 operated by a licensee, minus the total value of game credits which
3 are cleared from the video lottery terminal in exchange for winning
4 redemption tickets, and remit the amount as generated from its
5 terminals during the reporting period. The remittance shall be
6 sealed in a properly addressed and stamped envelope and deposited
7 in the United States mail no later than noon on the day when the
8 payment would otherwise be completed through electronic funds
9 transfer.

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

16 (i) The commission has the right to examine all accounts, bank
17 accounts, financial statements and records in a licensed
18 racetrack's possession, under its control or in which it has an
19 interest and the licensed racetrack shall authorize all third
20 parties in possession or in control of the accounts or records to
21 allow examination of any of those accounts or records by the
22 commission.

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

24 **§29-22C-8. License to operate a racetrack with West Virginia**
25 **Lottery table games.**

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

7 (b) *Grant of license.* -- Upon the passage of a local option
8 election in a county in accordance with the provisions of section
9 seven of this article, the commission shall immediately grant a
10 West Virginia Lottery table games license, and a license for the
11 right to conduct West Virginia Lottery table games as assignee to
12 the intellectual property rights of the state, to allow the
13 licensee to conduct West Virginia table games at the licensed pari-
14 mutuel racetrack identified on the local option election ballot,
15 provided that racetrack holds a valid racetrack video lottery
16 license issued by the commission pursuant to article twenty-two-a
17 of this chapter and a valid racing license granted by the West
18 Virginia Racing Commission pursuant to the provision of article
19 twenty-three, chapter nineteen of this code and has otherwise met
20 the requirements for licensure under the provisions of this article
21 and the rules of the commission.

22 (c) *Location.* -- A racetrack table games license authorizes
23 the operation of West Virginia Lottery table games on the grounds
24 of the particular licensed facility identified in the racetrack
25 video lottery license issued pursuant to article twenty-two-a and
26 the license to conduct horse or dog racing issued pursuant to

1 article twenty-three, chapter nineteen of this code.

2 (d) *Floor plan submission requirement.* -- Prior to commencing
3 the operation of any table games in a designated gaming area, a
4 racetrack table games licensee shall submit to the commission for
5 its approval a detailed floor plan depicting the location of the
6 designated gaming area in which table games gaming equipment will
7 be located and its proposed arrangement of the table games gaming
8 equipment. Any floor plan submission that satisfies the
9 requirements of the rules promulgated by the commission shall be
10 considered approved by the commission unless the racetrack table
11 games licensee is notified in writing to the contrary within one
12 month of filing a detailed floor plan.

13 (e) *Management service contracts.* --

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

21 (2) *Material change.* -- The licensed racetrack table games
22 licensee shall submit any material change in a management service
23 contract previously approved by the commission to the commission
24 for its approval or rejection before the material change may take
25 effect.

26 (3) *Prohibition on assignment or transfer.* -- A management

1 services contract may not be assigned or transferred to a third
2 party.

3 (4) *Other commission approvals and licenses.* -- The duties and
4 responsibilities of a management services provider under a
5 management services contract may not be assigned, delegated,
6 subcontracted or transferred to a third party to perform without
7 the prior approval of the commission. Third parties must be
8 licensed under this article before providing service. The
9 commission may by rule clarify application of this subdivision and
10 provide exceptions to its application. The commission shall
11 license and require the display of West Virginia Lottery game logos
12 on appropriate game surfaces and other gaming items and locations
13 as the commission considers appropriate.

14 (f) *Coordination of licensed activities.* -- In order to
15 coordinate various licensed activities within racetrack facilities,
16 the following provisions apply to licensed racetrack facilities:

17 (1) The provisions of this article and of article twenty-two-a
18 of this chapter shall be interpreted to allow West Virginia Lottery
19 table games and racetrack video lottery operations under those
20 articles to be harmoniously conducted in the same designated gaming
21 area.

22 (2) On the effective date of this article, the provisions of
23 section twenty-three of this article apply to all video lottery
24 games conducted within a racetrack facility, notwithstanding any
25 inconsistent provisions contained in article twenty-two-a of this
26 chapter to the contrary.

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

7 (g) *Fees, expiration date and renewal.* --

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

13 (2) The commission shall annually renew a racetrack table
14 games license as of July 1, of each year provided the licensee:

15 (A) Successfully renews its racetrack video lottery license
16 under article twenty-two-a of this chapter before July 1;

17 (B) Pays to the commission the annual license renewal fee of
18 ~~\$2~~\$1,500,000 required by this section at the time it files its
19 application for renewal of its license under article twenty-two-a
20 of this chapter; and

21 (C) During the current license year, the licensee complied
22 with all provisions of this article, all rules adopted by the
23 commission and all final orders of the commission applicable to the
24 licensee.

25 (3) *Annual license surcharge for failure to construct hotel on*
26 *premises.* -- It is the intent of the Legislature that each

1 racetrack for which a racetrack table games license has been issued
2 be or become a destination tourism resort facility. To that end,
3 it is important that each racetrack for which a racetrack table
4 games license has been issued operate a hotel with significant
5 amenities. Therefore, in addition to all other taxes and fees
6 required by the provisions of this article, there is hereby
7 imposed, upon each racetrack for which a racetrack table games
8 license has been issued an annual license surcharge, payable to the
9 commission in the amount of \$2,500,000 if that racetrack does not
10 operate a hotel on its racing property that contains at least one
11 hundred fifty guest rooms with significant amenities within three
12 years of the passage of the local option election in its county
13 authorizing table games at the racetrack, provided the time for
14 completion of the hotel shall be extended by the same number of
15 days as the completion of the hotel is delayed by a force majeure
16 events or conditions beyond the reasonable control of the racetrack
17 licensee. The surcharge shall be paid upon each renewal of its
18 racetrack table games license made after the expiration of the
19 three year period, and may be extended by the above force majeure
20 events or conditions, until the racetrack opens a qualifying hotel.

21 (4) If the licensee fails to apply to renew its license under
22 article twenty-three, chapter nineteen and article twenty-two-a,
23 chapter twenty-nine of this code until after the license expires,
24 the commission shall renew its license under this article at the
25 time it renews its license under article twenty-two-a of this
26 chapter provided the licensee has paid the annual license fee

1 required by this section and during the preceding license year the
2 licensee complied with all provisions of this article, all rules
3 adopted by the commission and all final orders of the commission
4 applicable to the licensee.

5 (h) *Facility qualifications.* -- A racetrack table games
6 licensee shall demonstrate that the racetrack with West Virginia
7 Lottery table games will: (1) Be accessible to disabled
8 individuals in accordance with applicable federal and state laws;
9 (2) be licensed in accordance with this article, and all other
10 applicable federal, state and local laws; and (3) meet any other
11 qualifications specified in rules adopted by the commission.

12 (i) *Surety bond.* -- A racetrack table games licensee shall
13 execute a surety bond to be given to the state to guarantee the
14 licensee faithfully makes all payments in accordance with the
15 provisions of this article and rules promulgated by the commission.
16 The surety bond shall be:

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

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

21 (3) With a surety approved by the commission who is licensed
22 to write surety insurance in this state. The bond shall remain in
23 effect during the term of the license and may not be canceled by a
24 surety on less than thirty days' notice in writing to the
25 commission. The total and aggregate liability of the surety on the
26 bond is limited to the amount specified in the bond.

1 (j) *Authorization.* -- A racetrack table games license
2 authorizes the licensee act as an agent of the commission in
3 operating an unlimited amount of West Virginia Lottery table games
4 while the license is active, subject to subsection (d) of this
5 section. A racetrack table games license is not transferable or
6 assignable and cannot be sold or pledged as collateral.

7 (k) *Audits.* -- When applying for a license and annually
8 thereafter prior to license renewal, a racetrack table games
9 licensee shall submit to the commission an annual audit, by a
10 certified public accountant, of the financial transactions and
11 condition of the licensee's total operations. The audit shall be
12 made in accordance with generally accepted accounting principles
13 and applicable federal and state laws.

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

NOTE: The purpose of this bill is to amend the method of
determining the table game license fee for West Virginia pari-
mutuel racetracks, and to make up for any reduction in revenues
from the fee that goes to the Community Based Services Fund with
other sources of racetrack video lottery funds.

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