

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2927

**FISCAL
NOTE**

BY DELEGATES WALTERS, FRICH AND BUTLER

[Introduced March 10, 2017; Referred
to the Committee on Finance.]

1 A BILL to amend and reenact §19-23-10, §19-23-12b, §19-23-13 and §19-23-13c of the Code of
2 West Virginia, 1931, as amended; to amend said code by adding thereto a new section,
3 designated §19-23-10a; to amend and reenact §29-22-18a of said code; to amend and
4 reenact §29-22A-7, §29-22A-10, §29-22A-10b, §29-22A-10d and §29-22A-10e of said
5 code; and to amend and reenact §29-22C-8, §29-22C-27 and §29-22C-27a of said code,
6 all relating to transferring certain revenues derived from racetrack video lottery and
7 racetrack table games from the special fund established for greyhound racetrack licensees
8 to the State Excess Lottery Revenue Fund; defunding the West Virginia Greyhound
9 Breeding Development Fund and transferring money dedicated to the Greyhound
10 Breeding Development Fund to the State Excess Lottery Revenue Fund for appropriation
11 by the Legislature; and eliminating the requirement that video lottery licensee must hold a
12 racing license to renew video lottery license or racetrack table games license.

Be it enacted by the Legislature of West Virginia:

1 That §19-23-10, §19-23-12b, §19-23-13 and §19-23-13c of the Code of West Virginia,
2 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a
3 new section, designated §19-23-10a; that §29-22-18a of said code be amended and reenacted;
4 that §29-22A-7, §29-22A-10, §29-22A-10b, §29-22A-10d and §29-22a-10e of said code be
5 amended and reenacted; and that §29-22C-8, §29-22C-27 and §29-22C-27a of said code be
6 amended and reenacted, all to read as follows:

CHAPTER 19. AGRICULTURE.

PART VII. TAXATION OF HORSE AND DOG RACING AND PARI-MUTUEL

WAGERING; DISPOSITION OF REVENUES.

ARTICLE 23. HORSE AND DOG RACING.

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

1 (a) Any racing association conducting thoroughbred racing at any horse racetrack in this

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

11 (b) Any racing association licensed by the Racing Commission to conduct thoroughbred
12 racing and permitting and conducting pari-mutuel wagering under the provisions of this article
13 shall, in addition to the daily license tax set forth in subsection (a) of this section, pay to the Racing
14 Commission, from the commission deducted each day by the licensee from the pari-mutuel pools
15 on thoroughbred racing a tax calculated on the total daily contribution of all pari-mutuel pools
16 conducted or made at any and every thoroughbred race meeting of the licensee licensed under
17 the provisions of this article. The tax, on the pari-mutuel pools conducted or made each day during
18 the months of January, February, March, October, November and December, shall be calculated
19 at four- tenths of one percent of the pool; and, on the pari-mutuel pools conducted or made each
20 day during all other months, shall be calculated at one and four-tenths percent of the pool:

21 *Provided*, That out of the amount realized from the three tenths of one percent decrease in the
22 tax effective for fiscal year 1991 and thereafter, which decrease correspondingly increases the
23 amount of commission retained by the licensee, the licensee shall annually expend or dedicate:

24 (i) One half of the realized amount for capital improvements in its barn area at the track, subject
25 to the Racing Commission's prior approval of the plans for the improvements; and (ii) the
26 remaining one half of the realized amount for capital improvements as the licensee may determine
27 appropriate at the track. The term "capital improvement" shall be as defined by the Internal

Revenue Code: *Provided, however,* That any racing association operating a horse racetrack in this state having an average daily pari-mutuel pool on horse racing of \$280,000 or less per day for the race meetings of the preceding calendar year shall, in lieu of payment of the pari-mutuel pool tax, calculated as in this subsection, be permitted to conduct pari-mutuel wagering at the horse racetrack on the basis of a daily pari-mutuel pool tax fixed as follows: On the daily pari-mutuel pool not exceeding \$300,000 the daily pari-mutuel pool tax shall be \$1,000 plus the otherwise applicable percentage rate imposed by this subsection of the daily pari-mutuel pool, if any, in excess of \$300,000: *Provided further,* That upon the effective date of the reduction of the daily pari-mutuel pool tax to \$1,000 from the former \$2,000, the association or licensee shall daily deposit \$500 into the special fund for regular purses established by subdivision (1), subsection (b), section nine of this article: *And provided further,* That if an association or licensee qualifying for the foregoing alternate tax conducts more than one racing performance, each consisting of up to thirteen races in a calendar day, the association or licensee shall pay both the daily license tax imposed in subsection (a) of this section and the alternate tax in this subsection for each performance: *And provided further,* That a licensee qualifying for the foregoing alternate tax is excluded from participation in the fund established by section thirteen-b of this article: *And provided further,* That this exclusion shall not apply to any thoroughbred racetrack at which the licensee has participated in the West Virginia Thoroughbred Development Fund for more than four consecutive years prior to December 31, 1992. (c) Any racing association licensed by the Racing Commission to conduct harness racing and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in addition to the daily license tax required under subsection (a) of this section, pay to the Racing Commission, from the commission deducted each day by the licensee from the pari-mutuel pools on harness racing, as a tax, three percent of the first \$100,000 wagered, or any part thereof; four percent of the next \$150,000; and five and three-fourths percent of all over that amount wagered each day in all pari-mutuel pools conducted or made at any and every harness race meeting of the licensee licensed under the

provisions of this article.

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

(d) Any racing association licensed by the Racing Commission to conduct dog racing and permitting and conducting pari-mutuel wagering under the provisions of this article shall, in addition to the daily license tax required under subsection (a) of this section, pay to the Racing Commission, from the commission deducted each day by the licensee from the pari-mutuel pools on dog racing, as a tax, four percent of the first \$50,000 or any part thereof of the pari-mutuel pools, five percent of the next \$50,000 of the pari-mutuel pools, six percent of the next \$100,000 of the pari-mutuel pools, seven percent of the next \$150,000 of the pari-mutuel pools, and eight percent of all over \$350,000 wagered each day: *Provided*, That the licensee shall deduct daily from the pari-mutuel tax an amount equal to one tenth of one percent of the daily pari-mutuel pools in dog racing in fiscal year 1990; fifteen hundredths of one percent in fiscal year 1991; two tenths of one percent in fiscal year 1992; one quarter of one percent in fiscal year 1993; and three tenths of one percent in fiscal year 1994 and every fiscal year thereafter. The amounts deducted shall be paid to the Racing Commission to be deposited by the Racing Commission in a banking institution of its choice in a special account to be known as "West Virginia Racing Commission-Special Account-West Virginia Greyhound Breeding Development Fund". The purpose of the fund is to promote better breeding, training track facilities and racing of greyhounds in the state through awards and purses to bona fide resident registered greyhound owners of accredited West Virginia

80 whelped greyhounds. In order to participate and be eligible to receive an award or purse through
81 the fund, the registered greyhound owner must have an appropriate license from the Racing
82 Commission to race in West Virginia. The registered greyhound dam at the time of breeding must
83 be wholly or solely owned or leased by a bona fide resident or residents of West Virginia. The
84 accredited West Virginia whelped greyhound must be wholly or solely owned by a bona fide
85 resident or residents of this state. To qualify as a bona fide resident of West Virginia, a registered
86 greyhound owner may not claim residency in any other state. A registered greyhound owner must
87 prove bona fide residency by providing to the commission personal income tax returns filed in the
88 State of West Virginia for the most recent tax year and the three previous tax years, has real or
89 personal property in this state on which the owner has paid real or personal property taxes during
90 the most recent tax year and the previous three tax years and an affidavit stating that the owner
91 claims no other state of residency. The Racing Commission shall maintain a registry for West
92 Virginia bred greyhounds. The moneys shall be expended by the Racing Commission for purses
93 for stake races, training track facilities, supplemental purse awards, administration, promotion,
94 education and greyhound adoption programs involving West Virginia whelped dogs, owned by
95 residents of this state under rules promulgated by the Racing Commission. The Racing
96 Commission shall pay out of the Greyhound Breeding Development Fund to each of the licensed
97 dog racing tracks the sum of \$75,000 for the fiscal year ending June 30, 1994. The licensee shall
98 deposit the sum into the special fund for regular purses established under the provisions of section
99 nine of this article. The funds shall be expended solely for the purpose of supplementing regular
100 purses under rules promulgated by the Racing Commission.

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

103 The registered greyhound owner of accredited West Virginia whelped greyhounds that
104 earn points at any West Virginia meet will receive a bonus award calculated at the end of each
105 month as a percentage of the fund dedicated to the owners as purse supplements, which shall be

a minimum of fifty percent of the total moneys deposited into the West Virginia Greyhound Breeding Development Fund monthly.

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

The registered greyhound owner of an accredited West Virginia whelped greyhound shall file a purse distribution form with the Racing Commission for a percentage of his or her dog's earnings to be paid directly to the registered greyhound owner or owners of the greyhound. Distribution shall be made on the fifteenth day of each month for the preceding month's achievements.

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

Any balance in the purse supplement funds after all distributions have been made for the year revert to the general account of the fund for distribution in the following year: *Provided*, That not more than \$2 million from the balance in the Purse Supplemental Fund shall be used for the construction and maintenance of two dog training track facilities if such be approved by the Racing Commission: *Provided, however*, That not more than \$1 million may be allocated for the construction and maintenance of each training track: *Provided further*, That both training track facilities must be located in West Virginia. The West Virginia Racing Commission shall be

132 authorized to promulgate rules governing dog training tracks: *And provided further*, That the
133 Racing Commission shall: (1) Provide a process in its rules for competitive bidding of the
134 construction or maintenance, or both, of the training tracks; and (2) set standards to assure that
135 only the actual costs of construction and maintenance shall be paid out of the foregoing fund.

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

142 Each pari-mutuel greyhound track shall provide stakes races for accredited West Virginia
143 whelped greyhounds: *Provided*, That each pari-mutuel track shall have one juvenile and one open
144 stake race annually. Each pari-mutuel dog track shall provide at least three restricted races for
145 accredited West Virginia whelped greyhounds per race card: *Provided, however*, That sufficient
146 dogs are available. To assure breeders of accredited West Virginia whelped greyhounds an
147 opportunity to participate in the West Virginia Greyhound Breeding Development Fund the West
148 Virginia Racing Commission by July 1, each year shall establish and announce the minimum
149 number of accredited West Virginia whelped greyhounds that greyhound racing kennels at West
150 Virginia dog tracks must have on their racing active list during the calendar year following such
151 action. The minimum number may vary from dog track to dog track. The minimum number shall
152 be established after consultation with the West Virginia Greyhound Owners and Breeders
153 Association and kennel owners and operators. Factors to be considered in establishing this
154 minimum number shall be the number of individually registered accredited West Virginia whelped
155 greyhounds whelped in the previous two years. The number of all greyhounds seeking
156 qualification at each West Virginia dog track, the ratio of active running greyhounds to housed
157 number of greyhounds at each West Virginia dog track, and the size and number of racing kennels

at each West Virginia dog track. Any greyhound racing kennel not having the minimum number of accredited West Virginia whelped greyhounds determined by the West Virginia Racing Commission on their active list shall only be permitted to race the maximum allowable number on the active list less the number of accredited West Virginia whelped greyhounds below the established minimum number. Consistent violations of this minimum requirement may be reviewed by the Racing Commission and may constitute cause for denial or revocation of a kennel's racing license. The Racing Commission shall oversee and approve racing schedules and purse amounts.

Ten percent of the deposits into the Greyhound Breeding Development Fund beginning July 1, 1993 and continuing each year thereafter, shall be withheld by the Racing Commission and placed in a special revenue account hereby created in the State Treasury called the "administration, promotion, education, capital improvement and greyhound adoption programs to include spaying and neutering account". The Racing Commission is authorized to expend the moneys deposited in the administration, promotion, education, capital improvement and greyhound adoption programs to include spaying and neutering account at such times and in such amounts as the commission determines to be necessary for purposes of administering and promoting the greyhound development program: *Provided*, That beginning with fiscal year 1995 and in each fiscal year thereafter in which the commission anticipates spending any money from the account, the commission shall submit to the executive department during the budget preparation period prior to the Legislature convening before that fiscal year for inclusion in the executive budget document and budget bill, the recommended expenditures, as well as requests of appropriations for the purpose of administration, promotion, education, capital improvement and greyhound adoption programs to include spaying and neutering. The commission shall make an annual report to the Legislature on the status of the administration, promotion, education, capital improvement and greyhound adoption programs to include spaying and neutering account, including the previous year's expenditures and projected expenditures for the next year.

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

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

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

197 (g) The provisions of this section relating to the Greyhound Breeding Development Fund
198 are hereby altered and amended by the provisions of section ten-a of this article as enacted during
199 the 2017 legislative session.

§19-23-10a. Transfer of present and future moneys required to be deposited in West
Virginia Greyhound Breeding Development Fund.

1 Notwithstanding any provision of this code to the contrary, effective July 1, 2017, any
2 money in the “West Virginia Racing Commission-Special Account-West Virginia Greyhound
3 Breeding Development Fund” created in section ten of this article shall be transferred by the racing
4 commission to the State Excess Lottery Revenue Fund created in section eighteen-a, article
5 twenty-two, chapter twenty-nine of this code. Effective July 1, 2017, any money directed to be
6 deposited into the Greyhound Breeding Development Fund under code sections ten, twelve-b,
7 thirteen and thirteen-c of article twenty-three, chapter nineteen of this code; section eighteen-a,
8 article twenty-two, chapter twenty-nine of this code; sections ten and ten-b, article twenty-two-a,

chapter twenty-nine of this code; and section twenty-seven, article twenty-two-c, chapter twenty-nine of this code shall instead be deposited into the Excess Lottery Revenue Fund for appropriation by the Legislature.

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

(a) For the purposes of this section:

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

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

(b) A licensee conducting not less than two hundred twenty live racing dates for each horse or dog race meeting may, with the prior approval of the State Racing Commission, contract with any legal wagering entity in this state or in any other governmental jurisdiction to receive telecasts and accept wagers on races conducted by the legal wagering entity: *Provided*, That at those thoroughbred racetracks the licensee, in applying for racing dates, shall apply for not less than two hundred ten live racing dates for each horse race meeting: *Provided, however*, That at those thoroughbred racetracks that have participated in the West Virginia Thoroughbred Development Fund for a period of more than four consecutive calendar years prior to December 31, 1992, the licensee may apply for not less than one hundred fifty-nine live racing dates during the calendar year 1997. If, thereafter, for reasons beyond the licensee's control, related to adverse weather conditions, unforeseen casualty occurrences or a shortage of thoroughbred horses eligible to compete for purses, the licensee concludes that this number of racing days cannot be

attained, the licensee may file a request with the Racing Commission to reduce the authorized live racing days. Upon receipt of the request the Racing Commission shall within seventy-two hours of the receipt of the request notify the licensee and the representative of a majority of the owners and trainers at the requesting track and the representative of the majority of the mutuel clerks at the requesting track that such request has been received and that if no objection to the request is received within ten days of the notification the request will be approved: *Provided further*, That the commission shall give consideration to whether there existed available unscheduled potential live racing dates following the adverse weather or casualty and prior to the end of the race meeting which could be used as new live racing dates in order to maintain the full live racing schedule previously approved by the Racing Commission. If an objection is received by the commission within the time limits, the commission shall, within thirty days of receipt of such objection, set a hearing on the question of reducing racing days, which hearing shall be conducted at a convenient place in the county in which the requesting racetrack is located. The commission shall hear from all parties concerned and, based upon testimony and documentary evidence presented at the hearing, shall determine the required number of live racing days: *And provided further*, That the commission shall not reduce the number of live racing days below one hundred eighty-five days for a horse race meeting unless the licensee requesting such reduction has: (i) Filed with the commission a current financial statement, which shall be subject to independent audit; and (ii) met the burden of proving that just cause exists for such requested reduction in live racing days. The telecasts may be received and wagers accepted at any location authorized by the provisions of section twelve-a of this article. The contract must receive the approval of the representative of the majority of the owners and trainers who hold permits required by section two of this article at the receiving thoroughbred racetrack.

(c) The commission may allow the licensee to commingle its wagering pools with the wagering pools of the Host Racing Association. If the pools are commingled, the wagering at the licensee's racetrack must be on tabulating equipment capable of issuing pari-mutuel tickets and

be electronically linked with the equipment at the sending racetrack. Subject to the approval of the commission, the types of betting, licensee commissions and distribution of winnings on pari-mutuel pools of the sending licensee racetrack are those in effect at the licensee racetrack. Breakage for pari-mutuel pools on a televised racing day must be calculated in accordance with the law or rules governing the sending racetrack and must be distributed in a manner agreed to between the licensee and the sending racetrack. For the televised racing services it provides, the Host Racing Association shall receive a fee to be paid by the receiving licensee racetrack which shall be in an amount to be agreed upon by the receiving licensee racetrack and the Host Racing Association.

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

(e) (1) From the licensee commissions authorized by subsection (c) of this section, the licensee shall pay one tenth of one percent of each commission into the General Fund of the county, in which the racetrack is located and at which the wagering occurred and there is imposed and the licensee shall pay, for each televised racing day on which the total pari-mutuel pool exceeds \$100,000, the greater of either: (i) The total of the daily license tax and the pari-mutuel pools tax required by section ten of this article; or (ii) a daily license tax of \$1,250. For each televised racing day on which the total pari-mutuel pool is \$100,000, the licensee shall pay a daily license tax of \$500 plus an additional license tax of \$100 for each \$10,000, or part thereof, that the pari-mutuel pool exceeds \$50,000, but does not exceed \$100,000. The calculation of the total pari-mutuel pool for purposes of this subsection shall include only one half of all wagers placed at a licensed racetrack in this state on televised races conducted at another licensed racetrack within this state. Payments of the tax imposed by this section are subject to the requirements of subsection (e), section ten of this article.

(2) From the licensee commissions authorized by subsection (c) of this section, after

75 payments are made in accordance with the provisions of subdivision (1) of this subsection, the
76 licensee shall pay, for each televised racing day, one fourth of one percent of the total pari-mutuel
77 pools for and on behalf of all employees of the licensed racing association by making a deposit
78 into a special fund to be established by the Racing Commission and to be used for payments into
79 the pension plan for all employees of the licensed racing association.

80 (3) From the licensee commissions authorized by subsection (c) of this section, after
81 payments are made in accordance with the provisions of subdivisions (1) and (2) of this
82 subsection, thoroughbred licensees shall pay, one-half percent of net simulcast income and for
83 each televised racing day on or after July 1, 1997, an additional five and one-half percent of net
84 simulcast income into the West Virginia Thoroughbred Development Fund established by the
85 Racing Commission according to section thirteen-b of this article: *Provided*, That no licensee
86 qualifying for the alternate tax provisions of subsection (b), section ten of this article shall be
87 required to make the payments unless the licensee has participated in the West Virginia
88 Thoroughbred Development Fund for a period of more than four consecutive calendar years prior
89 to December 31, 1992. For the purposes of this section, the term "net simulcast income" means
90 the total commission deducted each day by the licensee from the pari-mutuel pools on simulcast
91 horse or dog races, less direct simulcast expenses, including, but not limited to, the cost of
92 simulcast signals, telecommunication costs and decoder costs.

93 (f) After deducting the tax and other payments required by subsection (e) of this section,
94 the amount required to be paid under the terms of the contract with the Host Racing Association
95 and the cost of transmission, the Horse Racing Association shall make a deposit equal to fifty
96 percent of the remainder into the purse fund established under the provisions of subdivision (1),
97 subsection (b), section nine of this article. After deducting the tax and other payments required
98 by subsection (e) of this section, dog racetracks shall pay an amount equal to two tenths of one
99 percent of the daily simulcast pari-mutuel pool to the "West Virginia Racing Commission Special
100 Account-West Virginia Greyhound Breeding Development Fund".

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

(h) The provisions of this section relating to the Greyhound Breeding Development Fund are hereby altered and amended by the provisions of section ten-a of this article as enacted during the 2017 legislative session.

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

(a) All moneys held by any licensee for the payment of outstanding and unredeemed pari-mutuel tickets, if not claimed within ninety days after the close of a horse or dog race meeting or the televised racing day, as the case may be, in connection with which the tickets were issued, shall be turned over by the licensee to the Racing Commission within fifteen days after the expiration of the ninety-day period, and the licensee shall give any information required by the Racing Commission concerning the outstanding and unredeemed tickets. The moneys shall be deposited by the Racing Commission in a banking institution of its choice in a special account to be known as "West Virginia Racing Commission Special Account - Unredeemed Pari-Mutuel Tickets." Notice of the amount, date and place of each deposit shall be given by the Racing Commission, in writing, to the State Treasurer. The Racing Commission shall then cause to be published a notice to the holders of the outstanding and unredeemed pari-mutuel tickets, notifying them to present their unredeemed tickets for payment at the principal office of the Racing Commission within ninety days from the date of the publication of the notice. The notice shall be published within fifteen days following the receipt of the outstanding and unredeemed pari-mutuel ticket moneys by the commission from the licensee as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for the publication shall be the county in which the horse or dog race meeting was held and the county in which the televised racing day wagering was conducted in this state.

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

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

(1) The unredeemed pari-mutuel tickets attributable to each licensee horse racetrack together with funds distributed pursuant to section eighteen-a, article twenty-two, chapter twenty-nine of this code shall be used for claims received pursuant to this subsection by the Racing Commission each calendar quarter: *Provided*, That the first distribution after the effective date of amendments to this section made during the 2010 regular legislative session shall not occur until February 2011, and then each calendar quarter thereafter. Any claims made pursuant to this subsection must be submitted to the Racing Commission no later than fifteen days after the race where the funds are awarded. The funds in the two special accounts - unredeemed pari-mutuel tickets shall be distributed based on claims received from each horse racetrack as follows:

(A) To the owner of the winning horse in any horse race at a horse race meeting held or conducted by any licensee: *Provided*, That the owner of the horse is at the time of the horse race a bona fide resident of this state, a sum equal to ten percent of the purse won by the horse at that race: *Provided, however*, That in the event there are more than ten races in any performance, the award to the resident owner of the winning horse will be that fractional share of the purse with a numerator of one and a denominator representing the number of races on the day of the

performance. The commission may require proof that the owner was, at the time of the race, a bona fide resident of this state. Upon proof by the owner that he or she filed a personal income tax return in this state for the previous two years and that he or she owned real or personal property in this state and paid taxes in this state on real or personal property for the previous two years, he or she shall be presumed to be a bona fide resident of this state; and

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

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

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

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

75 (d) Any unredeemed pari-mutuel tickets received from licensee dog racetracks shall be
76 combined into a single balance and distributed quarterly to the West Virginia Racing Commission
77 special account - West Virginia Greyhound Breeding Development Fund. The deposit made
78 pursuant to this subsection does not create a continuing obligation of payment except to the extent
79 that there are unredeemed pari-mutuel tickets from the licensee dog racetracks.

80 (e) The amendments to this section made during the 2010 regular legislative session shall
81 become effective July 1, 2010.

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

86 (1) A transfer of \$2,500,000 from the State Excess Lottery Revenue Fund available on the
87 last day of the fiscal year which began July 1, 2009 shall be made to the nonappropriated fund
88 with the State Treasurer known as the Unredeemed Pari-Mutuel Tickets Fund. The Racing
89 Commission shall also transfer to the account with the State Treasurer moneys from the Racing
90 Commission special accounts - unredeemed pari-mutuel tickets for deposits received in each of
91 those accounts that have been credited with unredeemed pari-mutuel tickets for races completed
92 at any licensee racetrack as of June 30, 2010, and any other moneys appropriated by the
93 Legislature. Unredeemed pari-mutuel tickets for races completed after June 30, 2010 must
94 remain in the special accounts - unredeemed pari-mutuel tickets to satisfy future payments
95 pursuant to this section.

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

(g) The commission shall submit to the Legislative Auditor a quarterly report and accounting of the income and expenditures in the special account created by this section known as the West Virginia Racing Commission special account - unredeemed pari-mutuel tickets.

(h) Nothing contained in this article shall prohibit one person from qualifying for all or more than one of the aforesaid awards or for awards under section thirteen-b of this article.

(i) The cost of publication of the notice provided for in this section shall be paid from the funds in the hands of the State Treasurer collected from the pari-mutuel pools' tax provided for in section ten of this article, when not otherwise provided in the budget; but no such costs shall be paid unless an itemized account thereof, under oath, be first filed with the State Auditor.

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

(k) The provisions of this section relating to the Greyhound Breeding Development Fund are hereby altered and amended by the provisions of section ten-a of this article as enacted during the 2017 legislative session.

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

(a) Funds received by the Racing Commission pursuant to subdivision (6), subsection (c), section ten, article twenty-two-a, chapter twenty-nine of this code, and subdivision (5), subsection (a), section ten-b, article twenty-two-a, chapter twenty-nine of this code, after the effective date of this section together with the balance in the bank account previously established by the commission to receive those funds shall be deposited in a banking institution of its choice in a

6 special account to be known as "West Virginia Racing Commission Racetrack Video Lottery
7 Account". Notice of the amount, date and place of each deposit shall be given by the Racing
8 Commission, in writing, to the State Treasurer.

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

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

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

21 (3) For each fiscal year, once the amounts provided in subdivisions (1) and (2) of this
22 subsection have been deposited into separate bank accounts for use in connection with the West
23 Virginia Thoroughbred Breeders Classics and the West Virginia Derby, the commission shall
24 return to each racetrack all additional amounts deposited which originate during that fiscal year
25 from each respective racetrack pursuant to subdivision (6), subsection (c), section ten, article
26 twenty-two-a, chapter twenty-nine of this code, which returned excess funds shall be used as
27 follows:

28 (A) For each dog racetrack, one half of the returned excess funds shall be used for capital
29 improvements at the racetrack and one half of the returned excess funds shall be deposited into
30 the West Virginia Racing Commission Special Account - West Virginia Greyhound Breeding
31 Development Fund.

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

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

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

(d) The provisions of this section relating to the Greyhound Breeding Development Fund are hereby altered and amended by the provisions of section ten-a of this article as enacted during the 2017 legislative session.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 22. STATE LOTTERY ACT.

§29-22-18a. State Excess Lottery Revenue Fund.

(a) The State Lottery Fund in the State Treasury which is designated and known as the State Excess Lottery Revenue Fund is continued. The fund consists of all appropriations to the fund and all interest earned from investment of the fund and any gifts, grants or contributions received by the fund. All revenues received under the provisions of sections ten-b and ten-c, article twenty-two-a of this chapter and under article twenty-two-b of this chapter, except the amounts due the commission under subdivision (1), subsection (a), section one thousand four

7 hundred eight, article twenty-two-b of this chapter, shall be deposited in the State Treasury and
8 placed into the State Excess Lottery Revenue Fund. The revenue shall be disbursed in the
9 manner provided in this section for the purposes stated in this section and shall not be treated by
10 the State Auditor and the State Treasurer as part of the general revenue of the state.

11 (b) For the fiscal year beginning July 1, 2002, the commission shall deposit: (1) \$65 million
12 into the subaccount of the State Excess Lottery Revenue Fund hereby created in the State
13 Treasury to be known as the General Purpose Account to be expended pursuant to appropriation
14 of the Legislature; (2) \$10 million into the Education Improvement Fund for appropriation by the
15 Legislature to the PROMISE Scholarship Fund created in section seven, article seven, chapter
16 eighteen-c of this code; (3) \$19 million into the Economic Development Project Fund created in
17 subsection (e) of this section for the issuance of revenue bonds and to be spent in accordance
18 with the provisions of said subsection; (4) \$20 million into the School Building Debt Service Fund
19 created in section six, article nine-d, chapter eighteen of this code for the issuance of revenue
20 bonds; (5) \$40 million into the West Virginia Infrastructure Fund created in section nine, article
21 fifteen-a, chapter thirty-one of this code to be spent in accordance with the provisions of said
22 article; (6) \$10 million into the Higher Education Improvement Fund for Higher Education; and (7)
23 \$5 million into the State Park Improvement Fund for Park Improvements. For the fiscal year
24 beginning July 1, 2003, the commission shall deposit: (1) \$65 million into the General Purpose
25 Account to be expended pursuant to appropriation of the Legislature; (2) \$17 million into the
26 Education Improvement Fund for appropriation by the Legislature to the PROMISE Scholarship
27 Fund created in section seven, article seven, chapter eighteen-c of this code; (3) \$19 million into
28 the Economic Development Project Fund created in subsection (e) of this section for the issuance
29 of revenue bonds and to be spent in accordance with the provisions of said subsection; (4) \$20
30 million into the School Building Debt Service Fund created in section six, article nine-d, chapter
31 eighteen of this code for the issuance of revenue bonds; (5) \$40 million into the West Virginia
32 Infrastructure Fund created in section nine, article fifteen-a, chapter thirty-one of this code to be

33 spent in accordance with the provisions of said article; (6) \$10 million into the Higher Education
34 Improvement Fund for Higher Education; and (7) \$7 million into the state Park Improvement Fund
35 for park improvements.

36 (c) For the fiscal year beginning July 1, 2004, and subsequent fiscal years through the
37 fiscal year ending June 30, 2009, the commission shall deposit: (1) \$65 million into the General
38 Purpose Account to be expended pursuant to appropriation of the Legislature; (2) \$27 million into
39 the Education Improvement Fund for appropriation by the Legislature to the PROMISE
40 Scholarship Fund created in section seven, article seven, chapter eighteen-c of this code; (3) \$19
41 million into the Economic Development Project Fund created in subsection (e) of this section for
42 the issuance of revenue bonds and to be spent in accordance with the provisions of said
43 subsection; (4) \$19 million into the School Building Debt Service Fund created in section six,
44 article nine-d, chapter eighteen of this code for the issuance of revenue bonds: *Provided*, That for
45 the fiscal year beginning July 1, 2008, and subsequent fiscal years, no moneys shall be deposited
46 in the School Building Debt Service Fund pursuant to this subsection and instead \$19 million shall
47 be deposited into the Excess Lottery School Building Debt Service Fund; (5) \$40 million into the
48 West Virginia Infrastructure Fund created in section nine, article fifteen-a, chapter thirty-one of
49 this code to be spent in accordance with the provisions of said article; (6) \$10 million into the
50 Higher Education Improvement Fund for Higher Education; and (7) \$5 million into the state Park
51 Improvement Fund for park improvements. No portion of the distributions made as provided in
52 this subsection and subsection (b) of this section, except distributions made in connection with
53 bonds issued under subsection (e) of this section, may be used to pay debt service on bonded
54 indebtedness until after the Legislature expressly authorizes issuance of the bonds and payment
55 of debt service on the bonds through statutory enactment or the adoption of a concurrent
56 resolution by both houses of the Legislature. Until subsequent legislative enactment or adoption
57 of a resolution that expressly authorizes issuance of the bonds and payment of debt service on
58 the bonds with funds distributed under this subsection and subsection (b) of this section, except

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

(d) For the fiscal year beginning July 1, 2009, and subsequent fiscal years, the commission shall deposit: (1) \$65 million into the General Purpose Account to be expended pursuant to appropriation of the Legislature; (2) \$29 million into the Education Improvement Fund for appropriation by the Legislature to the PROMISE Scholarship Fund created in section seven, article seven, chapter eighteen-c of this code; (3) \$19 million into the Economic Development Project Fund created in subsection (e) of this section for the issuance of revenue bonds and to be spent in accordance with the provisions of said subsection; (4) \$19 million into the Excess Lottery School Building Debt Service Fund created in section six, article nine-d, chapter eighteen of this code; (5) \$40 million into the West Virginia Infrastructure Fund created in section nine, article fifteen-a, chapter thirty-one of this code to be spent in accordance with the provisions of said article; (6) \$10 million into the Higher Education Improvement Fund for Higher Education; and (7) \$5 million into the state Park Improvement Fund for park improvements. No portion of the distributions made as provided in this subsection and subsection (b) of this section, except distributions made in connection with bonds issued under subsection (e) of this section, may be used to pay debt service on bonded indebtedness until after the Legislature expressly authorizes issuance of the bonds and payment of debt service on the bonds through statutory enactment or the adoption of a concurrent resolution by both houses of the Legislature. Until subsequent legislative enactment or adoption of a resolution that expressly authorizes issuance of the bonds and payment of debt service on the bonds with funds distributed under this subsection and subsection (b) of this section, except distributions made in connection with bonds issued under subsection (e) of this section, the distributions may be used only to fund capital improvements that are not financed by bonds and only pursuant to appropriation of the Legislature.

(e) The Legislature finds and declares that in order to attract new business, commerce

85 and industry to this state, to retain existing business and industry providing the citizens of this
86 state with economic security and to advance the business prosperity of this state and the
87 economic welfare of the citizens of this state, it is necessary to provide public financial support for
88 constructing, equipping, improving and maintaining economic development projects, capital
89 improvement projects and infrastructure which promote economic development in this state.

90 (1) The West Virginia Economic Development Authority created and provided for in article
91 fifteen, chapter thirty-one of this code shall, by resolution, in accordance with the provisions of
92 this article and article fifteen, chapter thirty-one of this code, and upon direction of the Governor,
93 issue revenue bonds of the Economic Development Authority in no more than two series to pay
94 for all or a portion of the cost of constructing, equipping, improving or maintaining projects under
95 this section or to refund the bonds at the discretion of the authority. Any revenue bonds issued on
96 or after July 1, 2002, which are secured by State Excess Lottery revenue proceeds shall mature
97 at a time or times not exceeding thirty years from their respective dates. The principal of and the
98 interest and redemption premium, if any, on the bonds shall be payable solely from the special
99 fund provided in this section for the payment.

100 (2) The Special Revenue Fund named the Economic Development Project Fund into
101 which shall be is deposited the amounts to be deposited in the fund as specified in subsections
102 (b), (c) and (d) of this section is continued. The Economic Development Project Fund shall consist
103 of all such moneys, all appropriations to the fund, all interest earned from investment of the fund
104 and any gifts, grants or contributions received by the fund. All amounts deposited in the fund shall
105 be pledged to the repayment of the principal, interest and redemption premium, if any, on any
106 revenue bonds or refunding revenue bonds authorized by this section, including any and all
107 commercially customary and reasonable costs and expenses which may be incurred in
108 connection with the issuance, refunding, redemption or defeasance of the bonds. The West
109 Virginia Economic Development Authority may further provide in the resolution and in the trust
110 agreement for priorities on the revenues paid into the Economic Development Project Fund that

are necessary for the protection of the prior rights of the holders of bonds issued at different times under the provisions of this section. The bonds issued pursuant to this subsection shall be separate from all other bonds which may be or have been issued, from time to time, under the provisions of this article.

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

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

(5) The West Virginia Economic Development Authority shall expend the bond proceeds from the revenue bond issues authorized and directed by this section for projects certified under the provision of this subsection: *Provided*, That the bond proceeds shall be expended in accordance with the requirements and provisions of article five-a, chapter twenty-one of this code and either article twenty-two or twenty-two-a, chapter five of this code, as the case may be: *Provided, however*, That if the bond proceeds are expended pursuant to article twenty-two-a, chapter five of this code and if the Design-Build Board created under said article determines that the execution of a design-build contract in connection with a project is appropriate pursuant to the criteria set forth in said article and that a competitive bidding process was used in selecting the

design builder and awarding the contract, the determination shall be conclusive for all purposes and shall be considered to satisfy all the requirements of said article.

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

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

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

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

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

(C) The ability of the project to create or retain jobs, considering the number of jobs, the type of jobs, whether benefits are or will be paid, the type of benefits involved and the compensation reasonably anticipated to be paid persons filling new jobs or the compensation currently paid to persons whose jobs would be retained;

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

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

163 the capital investments; and

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

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

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

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

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

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

180 (B) Health clinics and other health facilities;

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

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

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

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

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

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

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

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

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

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

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

(13) If any proceeds from sale of bonds remain after paying costs and making grants and loans as provided in this subsection, the surplus may be deposited in an account in the State Treasury known as the Economic Development Project Bridge Loan Fund administered by the Economic Development Authority created in article fifteen, chapter thirty-one of this code. Expenditures from the fund are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter five-a of this code. Loan repayment amounts, including the portion attributable to interest, shall be paid into the fund created in this subdivision.

(f) If the commission receives revenues in an amount that is not sufficient to fully comply

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

(g) Each fiscal year, the commission shall, after meeting the requirements of subsections (b), (c), (d) and (i) of this section and after transferring to the State Lottery Fund created under section eighteen of this article an amount equal to any transfer from the State Lottery Fund to the Excess Lottery Fund pursuant to subsection (f), section eighteen of this article, deposit fifty percent of the amount by which annual gross revenue deposited in the State Excess Lottery Revenue Fund exceeds \$225 million in a fiscal year in a separate account in the State Lottery Fund to be available for appropriation by the Legislature.

(h) When bonds are issued for projects under subsection (d) (e) of this section or for the School Building Authority, infrastructure, higher education or park improvement purposes described in this section that are secured by profits from lotteries deposited in the State Excess Lottery Revenue Fund, the Lottery Director shall allocate first to the Economic Development Project Fund an amount equal to one tenth of the projected annual principal, interest and coverage requirements on any and all revenue bonds issued, or to be issued as certified to the Lottery Director; and second, to the fund or funds from which debt service is paid on bonds issued under this section for the School Building Authority, infrastructure, higher education and park improvements an amount equal to one tenth of the projected annual principal, interest and coverage requirements on any and all revenue bonds issued, or to be issued as certified to the Lottery Director. In the event there are insufficient funds available in any month to transfer the

amounts required pursuant to this subsection, the deficiency shall be added to the amount transferred in the next succeeding month in which revenues are available to transfer the deficiency.

(i) Prior to the distributions provided in subsection (d) of this section, the Lottery Commission shall deposit into the General Revenue Fund amounts necessary to provide reimbursement for the refundable credit allowable under section twenty-one, article twenty-one, chapter eleven of this code.

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

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

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

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

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

(k) The Legislature further directs the Governor to focus resources on the creation of a prescription drug program for senior citizens by pursuing a Medicaid waiver to offer prescription drug services to senior citizens; by investigating the establishment of purchasing agreements with other entities to reduce costs; by providing discount prices or rebate programs for seniors; by coordinating programs offered by pharmaceutical manufacturers that provide reduced cost or free drugs; by coordinating a collaborative effort among all state agencies to ensure the most efficient and cost-effective program possible for the senior citizens of this state; and by working closely with the state's congressional delegation to ensure that a national program is implemented. The Legislature further directs that the Governor report his or her progress back to the Joint Committee

on Government and Finance on an annual basis until a comprehensive program has been fully implemented.

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

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

(2) Forty-three and one half percent shall be distributed to the Racing Commission special account - unredeemed pari-mutual tickets established on behalf of a thoroughbred racetrack licensee that did participate in the Thoroughbred Development Fund for at least four consecutive calendar years prior to December 31, 1992;

(3) Five and one half percent shall be distributed to the Racing Commission special account - unredeemed pari-mutuel tickets established on behalf of a thoroughbred racetrack licensee that did not participate in the Thoroughbred Development Fund for at least four consecutive calendar years prior to December 31, 1992; and

(4) Five percent shall be distributed to the West Virginia Racing Commission special account - Greyhound Breeding Development Fund.

(m) The provisions of this section relating to the Greyhound Breeding Development Fund are hereby altered and amended by the provisions of section ten-a, article twenty-three, chapter nineteen of this code as enacted during the 2017 legislative session.

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

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

(a) No video lottery license or permit may be granted unless the commission has

determined that the applicant satisfies all of the following qualifications:

(1) An applicant for a video lottery license or its predecessor in interest must, prior to January 1, 1994, have held a valid racing license granted by the West Virginia Racing Commission under provisions of article twenty-three, chapter nineteen of this code; Provided, That, an applicant shall not be required to hold a current racing license to renew its video lottery license.

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

(3) An applicant must be a person whose background, including criminal record, reputation and associations, does not pose a threat to the security and integrity of the lottery or to the public interest of the state. All new applicants for licenses and permits issued by the commission shall furnish fingerprints for a national criminal records check by the Criminal Identification Bureau of the West Virginia State Police and the Federal Bureau of Investigation. The fingerprints shall be furnished by all persons required to be named in the application and shall be accompanied by a signed authorization for the release of information by the Criminal Investigation Bureau and the Federal Bureau of Investigation. The commission may require any applicant seeking the renewal of a license or permit to furnish fingerprints for a national criminal records check by the Criminal Identification Bureau of the West Virginia State Police and the Federal Bureau of Investigation. A person who has been convicted of any violation of article twenty-two of this chapter or of this article or of any crime related to theft, bribery, gambling or involving moral turpitude is not eligible for any license or permit. The commission shall revoke the license or permit of any person who is convicted of any such crime after a license or permit is granted.

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

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

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

~~(6) A racetrack applying for a video lottery license or a license renewal must present to the commission evidence of the existence of an agreement, regarding the proceeds from video lottery terminals, between the applicant and the representative of a majority of the horse owners and trainers, the representative of a majority of the pari-mutuel clerks and the representative of a majority of the breeders or the representative of a majority of the kennel owners for the applicable racetrack who hold permits required by section two, article twenty-three, chapter nineteen of this code~~

~~(7)~~ (6) A racetrack applying for a video lottery license or a license renewal must file with the commission a copy of any current or proposed agreement between the applicant and any manufacturer for the sale, lease or other assignment to the racetrack of video lottery terminals, the electronic computer components of the terminals, the random number generator of the terminals, or the cabinet in which it is housed. Once filed with the commission, the agreement is a public document subject to the provisions of article one, chapter twenty-nine-b of this code.

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

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

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

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

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

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

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

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

80 (f) An applicant who knowingly fails to reveal any fact material to qualification or who
81 knowingly submits false or misleading material information is ineligible for a video lottery license
82 or permit.

§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
4 for 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 thirty 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
16 of 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, 2020, the term "actual
19 costs and expenses" may include transfers of up to \$10 million in surplus allocations for each
20 fiscal year, as calculated by the commission when it has closed its books for the fiscal year, to
21 the Licensed Racetrack Modernization Fund created by subdivision (2), subsection (b) of this
22 section. For all fiscal years beginning on or after July 1, 2001, the commission shall not receive
23 an amount of gross terminal income in excess of the amount of gross terminal income received
24 during the fiscal year ending on June 30, 2001, but four percent of any amount of gross terminal
25 income received in excess of the amount of gross terminal income received during the fiscal year
26 ending on June 30, 2001, shall be deposited into the fund established in section eighteen-a, article
27 twenty-two of this chapter; and

28 (2) A Licensed Racetrack Modernization Fund is created within the Lottery Fund. For all
29 fiscal years beginning on or after July 1, 2011, and ending with the fiscal year beginning July 1,
30 2020, the commission shall deposit such amounts as are available according to subdivision (1),
31 subsection (b) of this section into a separate facility modernization account maintained within the
32 Licensed Racetrack Modernization Fund for each racetrack. Each racetrack's share of each year's
33 deposit shall be calculated in the same ratio as each racetrack's apportioned contribution to the
34 four percent administrative costs and expenses allowance provided for in subdivision (1),
35 subsection (b) of this section for that year. For each two dollars expended by a licensed racetrack
36 for facility modernization improvements at the racetrack, having a useful life of three or more years
37 and placed in service after July 1, 2011, the licensed racetrack shall receive \$1 in recoupment
38 from its facility modernization account. If the licensed racetrack's facility modernization account
39 contains a balance in any fiscal year, the unexpended balance from that fiscal year will be
40 available for matching for one additional fiscal year, after which time, the remaining unused
41 balance carried forward shall revert to the Lottery Fund. For purposes of this section, the term
42 "facility modernization improvements" includes acquisitions of new and unused video lottery
43 terminals and related equipment. Video lottery terminals financed through the recoupment

provided in this subdivision must be retained by the licensee in its West Virginia licensed location for a period of not less than five years from the date of initial installation.

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

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

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

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

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

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

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

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

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

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

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

(4) One percent of net terminal income shall be paid for and on behalf of all employees of the Licensed Racing Association by making a deposit into a special fund to be established by the Racing Commission to be used for payment into the pension plan for all employees of the Licensed Racing Association;

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

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

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

(8)(A) The Tourism Promotion Fund established in section twelve, article two, chapter five-b of this code shall receive three percent of the net terminal income: *Provided*, That for the fiscal year beginning July 1, 2003, the tourism commission shall transfer from the Tourism Promotion Fund \$5 million of the three percent of the net terminal income described in this section and section ten-b of this article into the fund administered by the West Virginia Economic Development

Authority pursuant to section seven, article fifteen, chapter thirty-one of this code, \$5 million into the Capitol Renovation and Improvement Fund administered by the Department of Administration pursuant to section six, article four, chapter five-a of this code and \$5 million into the Tax Reduction and Federal Funding Increased Compliance Fund; and

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

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

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

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

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

(v) 0.0625 percent of the total amount of net terminal income described in this section and in section ten-b of this article shall be deposited into the 2004 Capitol Complex Parking Garage Fund administered by the Department of Administration pursuant to section five-a, article four, chapter five-a of this code;

(9)(A) On and after July 1, 2005, seven percent of net terminal income shall be deposited

122 into the Workers' Compensation Debt Reduction Fund created in section five, article two-d,
123 chapter twenty-three of this code: *Provided*, That in any fiscal year when the amount of money
124 generated by this subdivision totals \$11 million, all subsequent distributions under this subdivision
125 shall be deposited in the special fund established by the licensee and used for the payment of
126 regular purses in addition to the other amounts provided in article twenty-three, chapter nineteen
127 of this code;

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

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

139 (A) For the fiscal year beginning July 1, 2003, the veterans memorial program shall receive
140 one percent of the net terminal income until sufficient moneys have been received to complete
141 the veterans memorial on the grounds of the state Capitol Complex in Charleston, West Virginia.
142 The moneys shall be deposited in the State Treasury in the Division of Culture and History Special
143 Fund created under section three, article one-i, chapter twenty-nine of this code: *Provided*, That
144 only after sufficient moneys have been deposited in the fund to complete the veterans memorial
145 and to pay in full the annual bonded indebtedness on the veterans memorial, not more than
146 \$20,000 of the one percent of net terminal income provided in this subdivision shall be deposited
147 into a Special Revenue Fund in the State Treasury, to be known as the "John F. 'Jack' Bennett

Fund". The moneys in this fund shall be expended by the Division of Veterans Affairs to provide for the placement of markers for the graves of veterans in perpetual cemeteries in this state. The Division of Veterans Affairs shall promulgate legislative rules pursuant to the provisions of article three, chapter twenty-nine-a of this code specifying the manner in which the funds are spent, determine the ability of the surviving spouse to pay for the placement of the marker and setting forth the standards to be used to determine the priority in which the veterans grave markers will be placed in the event that there are not sufficient funds to complete the placement of veterans grave markers in any one year, or at all. Upon payment in full of the bonded indebtedness on the veterans memorial, \$100,000 of the one percent of net terminal income provided in this subdivision shall be deposited in the special fund in the Division of Culture and History created under section three, article one-i, chapter twenty-nine of this code and be expended by the Division of Culture and History to establish a West Virginia veterans memorial archives within the Cultural Center to serve as a repository for the documents and records pertaining to the veterans memorial, to restore and maintain the monuments and memorial on the capitol grounds: *Provided, however,* That \$500,000 of the one percent of net terminal income shall be deposited in the State Treasury in a special fund of the Department of Administration, created under section five, article four, chapter five-a of this code, to be used for construction and maintenance of a parking garage on the State Capitol Complex; and the remainder of the one percent of net terminal income shall be deposited in equal amounts in the Capitol Dome and Improvements Fund created under section two, article four, chapter five-a of this code and Cultural Facilities and Capitol Resources Matching Grant Program Fund created under section three, article one of this chapter.

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

(i) Five hundred thousand dollars of the one percent of net terminal income shall be deposited in the State Treasury in a special fund of the Department of Administration, created under section five, article four, chapter five-a of this code, to be used for construction and maintenance of a parking garage on the State Capitol Complex; and

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

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

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

(f) Until an accounting discrepancy is resolved in favor of the licensed racetrack, the

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

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

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

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

(j) The provisions of this section relating to the Greyhound Breeding Development Fund

226 are hereby altered and amended by the provisions of section ten-a, article twenty-three, chapter
227 nineteen of this code as enacted during the 2017 legislative session.

§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 forty-one percent of net terminal income, which the
6 commission shall deposit in the State Excess Lottery Revenue Fund created in section eighteen-
7 a, article twenty-two of this chapter;

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 article twenty-three, chapter nineteen of this code; on
11 and after July 1, 2005, 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 subdivision (3),
15 subsection (c), section ten of this article is in excess of the two percent received during fiscal year
16 1999 by a county in which a racetrack is located that has participated in the West Virginia
17 Thoroughbred Development Fund since on or before January 1, 1999, shall be divided as follows:

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

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

22 (B) Any amount by which the total amount under this section and subdivision (3),
23 subsection (c), section ten of this article is in excess of the two percent received during fiscal year

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

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

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

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

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

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

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

(7) A licensee shall receive forty-two percent of net terminal income;

(8) The tourism promotion fund established in section twelve, article two, chapter five-b of this code shall receive three percent of the net terminal income: *Provided*, That for each fiscal year beginning after June 30, 2004, this three percent of net terminal income shall be distributed pursuant to the provisions of paragraph (B), subdivision (8), subsection (c), section ten of this article;

(9) (A) On and after July 1, 2005, four percent of net terminal income shall be deposited into the Workers' Compensation Debt Reduction Fund created in section five, article two-d,

chapter twenty-three of this code: *Provided*, That in any fiscal year when the amount of money generated by this subdivision together with the total allocation transferred by the operation of subdivision (9), subsection (c), section ten of this article totals \$11 million, all subsequent distributions under this subdivision (9) during that fiscal year shall be deposited in the special fund established by the licensee and used for payment of regular purses in addition to other amounts provided in article twenty-three, chapter nineteen of this code;

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

(10) (A) One percent of the net terminal income shall be deposited in equal amounts in the Capitol Dome and Improvements Fund created under section two, article four, chapter five-a of this code and cultural facilities and capitol resources matching grant program fund created under section three, article one of this chapter; and

(B) Notwithstanding any provision of paragraph (A) of this subdivision to the contrary, for each fiscal year beginning after June 30, 2004, this one percent of net terminal income shall be distributed pursuant to the provisions of subparagraph (ii), paragraph (B), subdivision (9), subsection (c), section ten of this article.

(b) The commission may establish orderly and effective procedures for the collection and distribution of funds under this section in accordance with the provisions of this section and section

ten of this article.

(c) The provisions of this section relating to the Greyhound Breeding Development Fund are hereby altered and amended by the provisions of section ten-a, article twenty-three, chapter nineteen of this code as enacted during the 2017 legislative session.

§29-22A-10d. Changes in distribution of net terminal income; distributions from excess lottery fund.

(a) Notwithstanding any provision of subsection (b), section ten of this article to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, the commission may transfer up to \$9 million as actual costs and expenses to the Licensed Racetrack Modernization Fund.

(b) Notwithstanding any provision of subsection (c), section ten of this article to the contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, each distribution, except those distributions to be made pursuant to subdivisions (1), (2), (3), (4), (5) and (7), subsection (c), section ten of this article, shall be reduced by one hundred percent. For fiscal year beginning July 1, 2017, and each fiscal year thereafter, the distribution to the special fund established by the licensee, and used for payment of regular purses, pursuant to subdivision (2), subsection (c), section ten of this article shall only include amounts to be distributed to each thoroughbred racetrack video lottery licensee. Payments shall not be made pursuant to section ten of this article, other than those excepted by this subsection, and are made in lieu thereof in an amount to be determined by appropriation from the State Excess Lottery Revenue Fund.

(c) The total amount of reductions resulting from subsection (b) of this section shall be paid into the State Excess Lottery Revenue Fund, created by section eighteen-a, article twenty-two of this chapter. For the fiscal year beginning July 1, 2014, and each fiscal year thereafter, distributions to be made pursuant to subdivisions (2) and (5), subsection (c), section ten of this article shall be reduced by ten percent, and the amounts resulting from the reduction shall be paid into the State Excess Lottery Revenue Fund.

21 (d) Notwithstanding any other provision of this code to the contrary, for the fiscal year
22 beginning July 1, 2014, and each fiscal year thereafter, moneys deposited to the State Excess
23 Lottery Revenue Fund pursuant to this section shall be expended by the lottery in accordance
24 with appropriations.

25 (e) Prior to payment of any appropriation made pursuant to this section, debt service
26 payments payable from the State Excess Lottery Fund shall first be paid in accordance with the
27 provisions of sections eighteen-a, eighteen-d and eighteen-e, article twenty-two of this chapter
28 and in the priority as defined by subsection (c), section eighteen-f, article twenty-two of this
29 chapter.

30 (f) Notwithstanding any other provision of this code to the contrary, after payment of debt
31 service from the State Excess Lottery Revenue Fund, all other distributions required by section
32 eighteen-a, article twenty-two of this chapter and the distributions appropriated pursuant to this
33 section shall be paid on a pro rata basis.

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

42 (2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision
43 of paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision
44 of this code to the contrary, if the budget shortfall, as determined by the state budget office as of
45 December 1, 2015, is greater than \$100 million, then the Governor may, by executive order,
46 redirect deposits of revenues derived from net terminal income imposed under this article, for any

47 period commencing after February 29, 2016 and ending before July 1, 2016, to the General
48 Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter
49 twenty-three of this code or in any other provision of this code.

50 (B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of
51 paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision of
52 this code to the contrary, the Governor may, by executive order, redirect one-half of the deposits
53 of revenues derived from net terminal income imposed under this article, for any period
54 commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund,
55 instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of
56 this code or in any other provision of this code, until certification of the Governor to the Legislature
57 that an independent actuary has determined that the unfunded liability of the Old Fund, as defined
58 in chapter twenty three of this code, has been paid or provided for in its entirety.

**§29-22A-10e. Changes in distribution of excess net terminal income; distributions from
excess lottery fund.**

1 (a) Notwithstanding any provision of subsection (a), section ten-b of this article to the
2 contrary, for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, each
3 distribution, except those distributions to be made pursuant to subdivisions (1), (2), (3), (4), (5)
4 and (7), subsection (a), section ten-b of this article, shall be reduced by one hundred percent. For
5 fiscal year beginning July 1, 2017, and each fiscal year thereafter, the distribution to the special
6 fund established by the licensee, and used for payment of regular purses, pursuant to subdivision
7 (2), subsection (a), section ten-b of this article may only include amounts to be distributed to each
8 thoroughbred racetrack video lottery licensee. Payments shall not be made pursuant to section
9 ten-b of this article, other than those excepted by this subsection, and are made in lieu thereof in
10 an amount to be determined by appropriation from the State Excess Lottery Revenue Fund.

11 (b) The total amount of reductions resulting from subsection (a) of this section shall be
12 paid into the State Excess Lottery Revenue Fund created in section eighteen-a, article twenty-

two of this chapter. For the fiscal year beginning July 1, 2014, and each fiscal year thereafter, distributions to be made pursuant to subdivisions (2) and (5), subsection (a), section ten-b of this article shall be reduced by ten percent, and the amounts resulting from the reduction shall be paid into the State Excess Lottery Revenue Fund.

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

(d) Prior to payment of any appropriation made pursuant to this section, debt service payments payable from the State Excess Lottery Fund shall first be paid in accordance with the provisions of sections eighteen-a, eighteen-d, and eighteen-e, article twenty-two of this chapter and in the priority as defined by subsection (c), section eighteen-f, article twenty-two of this chapter.

(e) Notwithstanding any other provision of this code to the contrary, after payment of debt service from the State Excess Lottery Revenue Fund, all other distributions required by section eighteen-a, article twenty-two of this chapter and the distributions appropriated pursuant to this section shall be paid on a pro rata basis.

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

(2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision

39 of paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision
40 of this code to the contrary, if the budget shortfall, as determined by the state budget office as of
41 December 1, 2015, is greater than \$100 million, then the Governor may, by executive order,
42 redirect deposits of revenues derived from net terminal income imposed under this article, for any
43 period commencing after February 29, 2016 and ending before July 1, 2016, to the General
44 Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter
45 twenty-three of this code or in any other provision of this code.

46 (B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of
47 paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision
48 of this code to the contrary, the Governor may, by executive order, redirect one-half of the deposits
49 of revenues derived from net terminal income imposed under this article, for any period
50 commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund,
51 instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of
52 this code or in any other provision of this code, until certification of the Governor to the Legislature
53 that an independent actuary has determined that the unfunded liability of the Old Fund, as defined
54 in chapter twenty three of this code, has been paid or provided for in its entirety.

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

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

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

5 (b) Grant of license. -- Upon the passage of a local option election in a county in
6 accordance with the provisions of section seven of this article, the commission shall immediately
7 grant a West Virginia Lottery table games license, and a license for the right to conduct West
8 Virginia Lottery table games as assignee to the intellectual property rights of the state, to allow

9 the licensee to conduct West Virginia table games at the licensed pari-mutuel racetrack identified
10 on the local option election ballot, provided that racetrack holds a valid racetrack video lottery
11 license issued by the commission pursuant to article twenty-two-a of this chapter ~~and a valid~~
12 ~~racetrack license granted by the West Virginia Racing Commission pursuant to the provisions of~~
13 ~~article twenty-three, chapter nineteen of this code~~ and has otherwise met the requirements for
14 licensure under the provisions of this article and the rules of the commission.

15 (c) Location. -- A racetrack table games license authorizes the operation of West Virginia
16 Lottery table games on the grounds of the particular licensed facility identified in the racetrack
17 video lottery license issued pursuant to article twenty-two-a and the license to conduct horse or
18 dog racing issued pursuant to article twenty-three, chapter nineteen of this code.

19 (d) Floor plan submission requirement. -- Prior to commencing the operation of any table
20 games in a designated gaming area, a racetrack table games licensee shall submit to the
21 commission for its approval a detailed floor plan depicting the location of the designated gaming
22 area in which table games gaming equipment will be located and its proposed arrangement of the
23 table games gaming equipment. Any floor plan submission that satisfies the requirements of the
24 rules promulgated by the commission shall be considered approved by the commission unless
25 the racetrack table games licensee is notified in writing to the contrary within one month of filing
26 a detailed floor plan.

27 (e) Management service contracts. --

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

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

36 (3) Prohibition on assignment or transfer. -- A management services contract may not be
37 assigned or transferred to a third party.

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

46 (f) Coordination of licensed activities. -- In order to coordinate various licensed activities
47 within racetrack facilities, the following provisions apply to licensed racetrack facilities:

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

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

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

58 (g) Fees, expiration date and renewal. --

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

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

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

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

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

(3) Annual license surcharge for failure to construct hotel on premises. -- It is the intent of the Legislature that each racetrack for which a racetrack table games license has been issued be or become a destination tourism resort facility. To that end, it is important that each racetrack for which a racetrack table games license has been issued operate a hotel with significant amenities. Therefore, in addition to all other taxes and fees required by the provisions of this article, there is hereby imposed, upon each racetrack for which a racetrack table games license has been issued an annual license surcharge, payable to the commission in the amount of \$2,500,000 if that racetrack does not operate a hotel on its racing property that contains at least one hundred fifty guest rooms with significant amenities within three years of the passage of the local option election in its county authorizing table games at the racetrack, provided the time for completion of the hotel shall be extended by the same number of days as the completion of the hotel is delayed by a force majeure events or conditions beyond the reasonable control of the racetrack

licensee. The surcharge shall be paid upon each renewal of its racetrack table games license made after the expiration of the three year period, and may be extended by the above force majeure events or conditions, until the racetrack opens a qualifying hotel.

(4) If the licensee fails to apply to renew its license under article twenty-three, chapter nineteen and article twenty-two-a, chapter twenty-nine of this code until after the license expires, the commission shall renew its license under this article at the time it renews its license under article twenty-two-a of this chapter provided the licensee has paid the annual license fee required by this section and during the preceding license year the licensee complied with all provisions of this article, all rules adopted by the commission and all final orders of the commission applicable to the licensee.

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

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

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

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

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

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

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

§29-22C-27. West Virginia Lottery Racetrack Table Games Fund; Community-Based Service Fund; State Debt Reduction Fund; distribution of funds.

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

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

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

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

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

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

(4) Transfer one percent of the adjusted gross receipts from each licensed racetrack to the county commissions of the counties where racetracks with West Virginia Lottery table games are located. County commissions may pledge this money to make payments on lottery revenue bonds issued pursuant to article two-h, chapter thirteen of this code. The one percent transferred under this subdivision shall be divided pro rata among the counties with a racetrack with West

Virginia Lottery table games based on relative adjusted gross receipts from each county's racetrack: *Provided*, That the county board of education of a growth county, as that term is defined in section three, article twenty, chapter seven of this code, which has enacted the Local Powers Act, and in which county a racetrack is located that has participated in the West Virginia Thoroughbred Development Fund since on or before January 1, 1991, shall receive the one percent of adjusted gross receipts as provided in this subdivision for the purpose of public projects, as defined in section two, article two-h, chapter thirteen of this code or to make payments on lottery revenue bonds issued to finance public projects;

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

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

(B) One half of the amounts transferred under this subdivision shall be allocated pro rata to the municipalities within all the counties, having a racetrack table games licensee based on each municipality's population determined at the most recent United States decennial census of population: *Provided, That:* (i) A municipality which received funds above its pro rata share pursuant to subpart (iii), paragraph (A) of this subdivision may not receive an allocation under this paragraph; (ii) for each allocation, when a municipality is physically located in two or more counties, only that portion of its population residing in the county where the authorized table games are located shall be considered; and (iii) a single municipality in a county where West Virginia Lottery racetrack games are played may not receive a total share under this paragraph that is in excess of twenty-five percent of the total transfers under this paragraph: *Provided, however,* That the county board of education of a growth county, as that term is defined in section three, article twenty, chapter seven of this code, which has enacted the Local Powers Act, and in which county a racetrack is located that has participated in the West Virginia Thoroughbred Development Fund since on or before January 1, 1991, shall receive the two percent of adjusted gross receipts as provided in this subdivision for the purpose of public projects, as defined in section two, article two-h, chapter thirteen of this code, or to make payments on lottery revenue bonds issued to finance the public projects;

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

(7) Distribute the remaining amounts, hereinafter referred to as the net amounts in the

Racetrack Table Games Funds, in accordance with the provisions of subsection (d) of this section.

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

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

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

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

(4) Transfer two percent of the adjusted gross receipts from each licensed racetrack to the

county commissions of the counties where racetracks with West Virginia Lottery table games are located. The money transferred under this subdivision shall be divided pro rata among the counties with a racetrack with West Virginia Lottery table games based on relative adjusted gross receipts from each county's racetrack: *Provided*, That the county board of education of a growth county, as that term is defined in section three, article twenty, chapter seven of this code, which has enacted the Local Powers Act, and in which a racetrack is located that has participated in the West Virginia Thoroughbred Development Fund since on or before January 1, 1991, shall receive one half of that county's share of adjusted gross receipts as provided in this subdivision for the purpose of capital improvements;

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

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

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

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

(6) Transfer one half of one percent of the adjusted gross receipts to the governing bodies of municipalities in which a racetrack table games licensee is located. The municipalities shall each receive an equal share of the total amount allocated under this subdivision: *Provided, That*

169 distribution under this subdivision may not be made to any municipality that did not have a
170 licensed racetrack within its municipal boundaries as they existed on January 1, 2007: *Provided,*
171 *however,* That if no racetrack table games licensee is located within a municipality, a transfer may
172 not be made under this subdivision; and

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

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

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

180 (2) Transfer four percent, divided pro rata based on relative adjusted gross receipts from
181 the individual licensed racetracks for and on behalf of all employees of each Licensed Racing
182 Association, into a special fund to be established by the Racing Commission to be used for
183 payment into the pension plan for all employees of each Licensed Racing Association;

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

191 (4) Transfer ten percent, to be divided and paid in equal shares, to the governing bodies
192 of each municipality in the state that is not eligible to receive a distribution under subdivisions (5)
193 and (6), subsection (b) of this section: *Provided,* That funds transferred to municipalities under
194 this subdivision shall be used only to pay for debt reduction in municipal police and fire pension

195 funds and the costs of infrastructure improvements and other capital improvements: *Provided,*
196 *however,* That up to fifty percent of these funds may be pledged to make payments on lottery
197 revenue bonds issued pursuant to article two-h, chapter thirteen of this code.

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

221 of this chapter.

222 (f) The provisions of this section relating to the Greyhound Breeding Development Fund
223 are hereby altered and amended by the provisions of section ten-a, article twenty-three, chapter
224 nineteen of this code as enacted during the 2017 legislative session.

**§29-22C-27a. Changes in distribution of adjusted gross receipts; distributions from Excess
Lottery Fund.**

1 (a) Notwithstanding any provision of section twenty-seven of this article to the contrary,
2 for the fiscal year beginning July 1, 2014, and each fiscal year thereafter, the distribution directed
3 pursuant to subdivision (1), subsection (d) of that section shall be reduced by one hundred
4 percent. For fiscal year beginning July 1, 2017, and each fiscal year thereafter, the distribution to
5 the special fund established by the licensee, and used for payment of regular purses, pursuant to
6 subdivision (2), subsection (c), section twenty-seven of this article shall only include amounts to
7 be distributed to each thoroughbred racetrack table games licensee.

8 (b) The total amount of reductions resulting from subsection (a) of this section shall be
9 paid into the State Excess Lottery Revenue Fund created in section eighteen-a, article twenty-
10 two of this chapter. For the fiscal year beginning July 1, 2014, and each fiscal year thereafter,
11 distributions to be made pursuant to subdivisions (2) and (3), subsection (c), section twenty-seven
12 of this article shall be reduced by ten percent, and the amounts resulting from the reduction shall
13 be paid into the State Excess Lottery Revenue Fund.

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

18 (d) Prior to payment of any appropriation made pursuant to this section, debt service
19 payments payable from the State Excess Lottery Fund shall first be paid in accordance with the
20 provisions of sections eighteen-a, eighteen-d and eighteen-e, article twenty-two of this chapter

21 and in the priority as defined by subsection (c), section eighteen-f, article twenty-two of this
22 chapter.

23 (e) Notwithstanding any other provision of this code to the contrary, after payment of debt
24 service from the State Excess Lottery Revenue Fund, all other distributions required by section
25 eighteen-a, article twenty-two of this chapter and the distributions appropriated pursuant to this
26 section shall be paid on a pro rata basis.

NOTE: The purpose of this bill is to transfer all the funds now existing or created in the future in the Greyhound Breeding Development Fund to the Excess Lottery Revenue Fund.

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