

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 624

BY SENATOR UNGER

[Introduced February 19, 2018; Referred
to the Committee on Government Organization; and
then to the Committee on the Judiciary]

1 A BILL to amend and reenact §29-22A-10, §29-22A-10b, §29-22A-10d, and §29-22A-10e of the
 2 Code of West Virginia, 1931, as amended, all relating to racetrack video lottery; and
 3 changes in distribution of net terminal income to the thoroughbred and greyhound
 4 development funds at the licensed racetracks of origin.

Be it enacted by the Legislature of West Virginia:

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

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

1 (a) The commission shall provide to manufacturers, or applicants applying for a
 2 manufacturer's permit, the protocol documentation data necessary to enable the respective
 3 manufacturer's video lottery terminals to communicate with the commission's central computer
 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 30 days' advance notice of any
 10 proposed account changes in order to assure the uninterrupted electronic transfer of funds. From
 11 the gross terminal income remitted by the licensee to the commission:

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

15 deducted for administrative costs and expenses of the commission may not exceed 4 percent of
16 gross terminal income: *Provided*, That any amounts deducted by the commission for its actual
17 costs and expenses that exceeds its actual costs and expenses shall be deposited into the State
18 Lottery Fund. For the fiscal years ending June 30, 2011 through June 30, 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~~ may not
23 receive an amount of gross terminal income in excess of the amount of gross terminal income
24 received during the fiscal year ending on June 30, 2001, but 4 percent of any amount of gross
25 terminal income received in excess of the amount of gross terminal income received during the
26 fiscal year ending on June 30, 2001, shall be deposited into the fund established in section §29-
27 22-18a of this code; 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 4 percent administrative costs and expenses allowance provided for in subdivision (1), subsection
35 (b) of this section for that year. For each \$2 expended by a licensed racetrack for facility
36 modernization improvements at the racetrack, having a useful life of three or more years and
37 placed in service after July 1, 2011, the licensed racetrack shall receive \$1 in recoupment from
38 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
44 provided in this subdivision must be retained by the licensee in its West Virginia licensed location
45 for a period of not less than five years from the date of initial installation.

46 (c) The amount resulting after the deductions required by subsection (b) of this section
47 constitutes net terminal income that shall be divided as set out in this subsection. For all fiscal
48 years beginning on or after July 1, 2001, any amount of net terminal income received in excess
49 of the amount of net terminal income received during the fiscal year ending on June 30, 2001,
50 shall be divided as set out in section §29-22A-10b of this code. The licensed racetrack's share is
51 in lieu of all lottery agent commissions and is considered to cover all costs and expenses required
52 to be expended by the licensed racetrack in connection with video lottery operations. The division
53 shall be made as follows:

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

56 (2) Until July 1, 2005, 14 percent of net terminal income at a licensed racetrack shall be
57 deposited in the special fund established by the licensee, and used for payment of regular purses
58 in addition to other amounts provided for in §19-23-1 *et seq.* of this code, on and after July 1,
59 2005, the rate shall be 7 percent of net terminal income;

60 (3) The county where the video lottery terminals are located shall receive 2 percent of the
61 net terminal income: *Provided, That:*

62 (A) Beginning July 1, 1999, and thereafter, any amount in excess of the 2 percent received
63 during the fiscal year 1999 by a county in which a racetrack is located that has participated in the
64 West Virginia Thoroughbred Development Fund since on or before January 1, 1999 shall be
65 divided as follows:

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

67 (ii) The municipalities of the county shall receive 50 percent of the excess amount, said
68 50 percent to be divided among the municipalities on a per capita basis as determined by the
69 most recent decennial United States census of population; and

70 (B) Beginning July 1, 1999, and thereafter, any amount in excess of the 2 percent received
71 during the fiscal year 1999 by a county in which a racetrack other than a racetrack described in
72 paragraph (A) of this proviso is located and where the racetrack has been located in a municipality
73 within the county since on or before January 1, 1999 shall be divided, if applicable, as follows:

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

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

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

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

82 (5) (A) The West Virginia Thoroughbred Development Fund created under §19-23-13b of
83 this code ~~and the West Virginia Greyhound Breeding Development Fund created under section~~
84 ~~ten of said article shall receive an equal share of a total of not less than 1.5 percent of the net~~
85 ~~terminal income~~ originating at licensed thoroughbred racetrack;

86 (B) For the fiscal year commencing on July 1, 2018, and each fiscal year thereafter, the
87 West Virginia Greyhound Breeding Development Fund created by this section shall receive 1.5
88 percent of the net terminal income originating at licensed greyhound tracks;

89 (6) The West Virginia Racing Commission shall receive 1 percent of the net terminal
90 income which shall be deposited and used as provided in §19-23-13c of this code.

91 (7) A licensee shall receive 46.5 percent of net terminal income.

92 (8)(A) The Tourism Promotion Fund established in §5B-2-12 of this code shall receive 3

93 percent of the net terminal income: *Provided*, That for the fiscal year beginning July 1, 2003, the
94 tourism commission shall transfer from the Tourism Promotion Fund \$5 million of the 3 percent of
95 the net terminal income described in this section and §29-22A-10b of this code into the fund
96 administered by the West Virginia Economic Development Authority pursuant to §31-15-7 of this
97 code, \$5 million into the Capitol Renovation and Improvement Fund administered by the
98 Department of Administration pursuant to §5A-4-6 of this code and \$5 million into the Tax
99 Reduction and Federal Funding Increased Compliance Fund; and

100 (B) Notwithstanding any provision of paragraph (A) of this subdivision to the contrary, for
101 each fiscal year beginning after June 30, 2004, this 3 percent of net terminal income and the 3
102 percent of net terminal income described in §29-22A-10(b)(a)(8)(B) of this code shall be
103 distributed as provided in this paragraph as follows:

104 (i) 1.375 percent of the total amount of net terminal income described in this section and
105 §29-22A-10b of this code shall be deposited into the Tourism Promotion Fund created under §5B-
106 2-12 of this code;

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

110 (iii) 0.5 percent of the total amount of net terminal income described in this section and in
111 §29-22A-10b of this code shall be deposited into the Research Challenge Fund created under
112 §18B-1B-10 of this code;

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

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

119 (9)(A) On and after July 1, 2005, 7 percent of net terminal income shall be deposited into
120 the Workers' Compensation Debt Reduction Fund created in §23-2D-5 of this code: *Provided,*
121 That in any fiscal year when the amount of money generated by this subdivision totals \$11 million,
122 all subsequent distributions under this subdivision shall be deposited in the special fund
123 established by the licensee and used for the payment of regular purses in addition to the other
124 amounts provided in §19-23-1 *et seq.* of this code;

125 (B) The deposit of the 7 percent of net terminal income into the Worker's Compensation
126 Debt Reduction Fund pursuant to this subdivision shall expire and not be imposed with respect to
127 these funds and shall be deposited in the special fund established by the licensee and used for
128 payment of regular purses in addition to the other amounts provided in §19-23-1 *et seq.* of this
129 code, on and after the first day of the month following the month in which the Governor certifies
130 to the Legislature that: (i) The revenue bonds issued pursuant to §23-2D-1 *et seq.* of this code,
131 have been retired or payment of the debt service provided for; and (ii) that an independent certified
132 actuary has determined that the unfunded liability of the old fund, as defined in §23-1-1 *et seq.* of
133 this code, has been paid or provided for in its entirety; and

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

135 (A) For the fiscal year beginning July 1, 2003, the veterans memorial program shall receive
136 one percent of the net terminal income until sufficient moneys have been received to complete
137 the veterans memorial on the grounds of the State Capitol Complex in Charleston, West Virginia.
138 The moneys shall be deposited in the State Treasury in the Division of Culture and History special
139 fund created under §29-11-3 of this code: *Provided,* That only after sufficient moneys have been
140 deposited in the fund to complete the veterans memorial and to pay in full the annual bonded
141 indebtedness on the veterans memorial, not more than \$20,000 of the 1 percent of net terminal
142 income provided in this subdivision shall be deposited into a special revenue fund in the State
143 Treasury, to be known as the "John F. 'Jack' Bennett Fund". The moneys in this fund shall be
144 expended by the Division of Veterans Affairs to provide for the placement of markers for the

145 graves of veterans in perpetual cemeteries in this state. The Division of Veterans Affairs shall
146 promulgate legislative rules pursuant to the ~~provisions of~~ §29A-3-1 *et seq.* of this code specifying
147 the manner in which the funds are spent, determine the ability of the surviving spouse to pay for
148 the placement of the marker and setting forth the standards to be used to determine the priority
149 in which the veterans grave markers will be placed in the event that there are not sufficient funds
150 to complete the placement of veterans grave markers in any one year, or at all. Upon payment in
151 full of the bonded indebtedness on the veterans memorial, \$100,000 of the 1 percent of net
152 terminal income provided in this subdivision shall be deposited in the special fund in the Division
153 of Culture and History created under §29-11-3 of this code and be expended by the Division of
154 Culture and History to establish a West Virginia veterans memorial archives within the Cultural
155 Center to serve as a repository for the documents and records pertaining to the veterans
156 memorial, to restore and maintain the monuments and memorial on the capitol grounds: *Provided,*
157 *however,* That \$500,000 of the 1 percent of net terminal income shall be deposited in the State
158 Treasury in a special fund of the Department of Administration, created under §5A-4-5 of this
159 code, to be used for construction and maintenance of a parking garage on the state Capitol
160 Complex; and the remainder of the 1 percent of net terminal income shall be deposited in equal
161 amounts in the Capitol Dome and Improvements Fund created under §5A-4-2 of this code and
162 Cultural Facilities and Capitol Resources Matching Grant Program Fund created under §29-1-3
163 of this code.

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

165 (i) Five hundred thousand dollars of the 1 percent of net terminal income shall be deposited
166 in the State Treasury in a special fund of the Department of Administration, created under §5A-4-
167 5 of this code, to be used for construction and maintenance of a parking garage on the State
168 Capitol Complex; and

169 (ii) The remainder of the one percent of net terminal income and all of the 1 percent of net
170 terminal income described in §29-22A-10b(a)(9)(B) of this code shall be distributed as follows:

171 The net terminal income shall be deposited in equal amounts into the Capitol Dome and Capitol
172 Improvements Fund created under §5A-4-2 of this code and the Cultural Facilities and Capitol
173 Resources Matching Grant Program Fund created under §29-1-3 of this code until a total of
174 \$1,500,000 is deposited into the Cultural Facilities and Capitol Resources Matching Grant
175 Program Fund; thereafter, the remainder shall be deposited into the Capitol Dome and Capitol
176 Improvements Fund.

177 (d) Each licensed racetrack shall maintain in its account an amount equal to or greater
178 than the gross terminal income from its operation of video lottery machines, to be electronically
179 transferred by the commission on dates established by the commission. Upon a licensed
180 racetrack's failure to maintain this balance, the commission may disable all of a licensed
181 racetrack's video lottery terminals until full payment of all amounts due is made. Interest shall
182 accrue on any unpaid balance at a rate consistent with the amount charged for state income tax
183 delinquency under §11-1-1 *et seq.* of this code. The interest shall begin to accrue on the date
184 payment is due to the commission.

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

193 (f) Until an accounting discrepancy is resolved in favor of the licensed racetrack, the
194 commission may make no credit adjustments. For any video lottery terminal reflecting a
195 discrepancy, the licensed racetrack shall submit to the commission the maintenance log which
196 includes current mechanical meter readings and the audit ticket which contains electronic meter

197 readings generated by the terminal's software. If the meter readings and the commission's records
198 cannot be reconciled, final disposition of the matter shall be determined by the commission. Any
199 accounting discrepancies which cannot be otherwise resolved shall be resolved in favor of the
200 commission.

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

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

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

§29-22A-10b. Distribution of excess net terminal income.

1 (a) For all years beginning on or after July 1, 2001, any amount of net terminal income
2 generated annually by a licensed racetrack in excess of the amount of net terminal income
3 generated by that licensed racetrack during the fiscal year ending on June 30, 2001, shall be

4 divided as follows:

5 (1) The Commission shall receive 41 percent of net terminal income, which the
6 Commission shall deposit in the state Excess Lottery Revenue Fund created in §29-22-18a of
7 this code;

8 (2) Until July 1, 2005, 8 percent of net terminal income at a licensed racetrack shall be
9 deposited in the special fund established by the licensee and used for payment of regular purses
10 in addition to other amounts provided in §19-23-1 *et seq.* of this code; on and after July 1, 2005,
11 the rate shall be 4 percent of net terminal income;

12 (3) The county where the video lottery terminals are located shall receive 2 percent of the
13 net terminal income *Provided, That:*

14 (A) Any amount by which the total amount under this section and §29-22A-10(c)(3) of this
15 code is in excess of the 2 percent received during fiscal year 1999 by a county in which a racetrack
16 is located that has participated in the West Virginia thoroughbred development fund since on or
17 before January 1, 1999, shall be divided as follows:

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

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

22 (B) Any amount by which the total amount under this section and §29-22A-10(c)(3) of this
23 code is in excess of the 2 percent received during fiscal year 1999 by a county in which a racetrack
24 other than a racetrack described in paragraph (A) of this proviso is located and where the
25 racetrack has been located in a municipality within the county since on or before January 1, 1999,
26 shall be divided, if applicable, as follows:

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

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

29 (C) This proviso shall not affect the amount to be received under this subdivision by any

30 county other than a county described in paragraph (A) or (B) of this proviso;

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

35 (5) (A) The West Virginia Thoroughbred Development Fund created under §19-23-13b of
36 this code and the ~~West Virginia greyhound breeding development fund created under section ten~~
37 ~~of said article shall receive an equal share of a total of not less than~~ 1.5 percent of the net terminal
38 income originating at licensed thoroughbred racetracks;

39 (B) For the fiscal year commencing on July 1, 2018, and each fiscal year thereafter, the
40 West Virginia Greyhound Breeding Development Fund created by this section shall receive 1.5
41 percent of the net terminal income originating at licensed greyhound tracks;

42 (6) The West Virginia Racing Commission shall receive 1 percent of the net terminal
43 income which shall be deposited and used as provided in §19-23-13c of this code;

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

45 (8) The tourism promotion fund established in §5B-2-12 of this code shall receive 3 percent
46 of the net terminal income: *Provided*, That for each fiscal year beginning after June 30, 2004, this
47 3 percent of net terminal income shall be distributed pursuant to §29-22-10(c)(8)(B) of this code;

48 (9) (A) On and after July 1, 2005, 4 percent of net terminal income shall be deposited into
49 the Workers' Compensation Debt Reduction Fund created in §23-2D-5 of this code: *Provided*,
50 That in any fiscal year when the amount of money generated by this subdivision together with the
51 total allocation transferred by the operation of §29-22A-10(c)(9) of this code totals \$11,000,000,
52 all subsequent distributions under this subdivision (9) during that fiscal year shall be deposited in
53 the special fund established by the licensee and used for payment of regular purses in addition
54 to other amounts provided in §19-23-1 *et seq.* of this code;

55 (B) The deposit of the 4 percent of net terminal income into the Worker's Compensation

56 Debt Reduction Fund pursuant to this subdivision shall expire and not be imposed with respect to
 57 these funds, which shall be deposited in the special fund established by the licensee and used
 58 for payment of regular purses in addition to the other amounts provided in §19-23-1 *et seq.* of this
 59 code on and after the first day of the month following the month in which the Governor certifies to
 60 the Legislature that: (i) The revenue bonds issued pursuant to §23-2D-1 *et seq.* of this code have
 61 been retired or payment of the debt service is provided for; and (ii) that an independent certified
 62 actuary has determined that the unfunded liability of the Old Fund, as defined in §23-1-1 *et seq.*
 63 of this code, has been paid or provided in its entirety; and

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

67 (B) Notwithstanding any provision of paragraph (A) of this subdivision to the contrary, for
 68 each fiscal year beginning after June 30, 2004, this 1 percent of net terminal income shall be
 69 distributed pursuant to the provisions of §29-22A-10(c)(9)(B)(ii) of this code.

70 (b) The Commission may establish orderly and effective procedures for the collection and
 71 distribution of funds under this section in accordance with the provisions of this section and §29-
 72 22A-10 of this code.

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

1 (a) Notwithstanding any provision of §29-22A-10(b) of this code to the contrary, for the
 2 fiscal year beginning July 1, 2014, and each fiscal year thereafter, the commission may transfer
 3 up to \$9 million as actual costs and expenses to the Licensed Racetrack Modernization Fund.

4 (b) Notwithstanding any provision of §29-22A-10(c) of this code to the contrary, for the
 5 fiscal year beginning July 1, 2014, and each fiscal year thereafter, each distribution, except those
 6 distributions to be made pursuant to §29-22A-10 (c) (1) (2) (3) (4) (5) and (7) of this code, shall
 7 be reduced by 100 percent. Payments ~~shall~~ may not be made pursuant to §29-22A-10 of this

8 code, other than those excepted by this subsection, and are made in lieu thereof in an amount to
9 be determined by appropriation from the State Excess Lottery Revenue Fund.

10 (c) The total amount of reductions resulting from subsection (b) of this section shall be
11 paid into the State Excess Lottery Revenue Fund, created by §29-22-18a of this code. For the
12 fiscal year beginning July 1, 2014, and each fiscal year thereafter, distributions to be made
13 pursuant to §29-22A-10 (c) (2) and (5) of this code shall be reduced by 10 percent, and the
14 amounts resulting from the reduction shall be paid into the State Excess Lottery Revenue Fund.

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

19 (e) Prior to payment of any appropriation made pursuant to this section, debt service
20 payments payable from the State Excess Lottery Fund shall first be paid in accordance with the
21 provisions of §29-22-18a, §29-22-18d and §29-22-18e of this code and in the priority as defined
22 by §29-22-18f (c) of this code.

23 (f) 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 §29-22-
25 18a of this code and the distributions appropriated pursuant to this section shall be paid on a pro
26 rata basis.

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

34 to appropriation.

35 ~~(2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision~~
 36 ~~of paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision~~
 37 ~~of this code to the contrary, if the budget shortfall, as determined by the state Budget Office as of~~
 38 ~~December 1, 2015, is greater than \$100 million, then the Governor may, by Executive Order,~~
 39 ~~redirect deposits of revenues derived from net terminal income imposed under this article, for any~~
 40 ~~period commencing after February 29, 2016 and ending before July 1, 2016, to the General~~
 41 ~~Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter~~
 42 ~~twenty-three of this code or in any other provision of this code.~~

43 ~~(B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of~~
 44 ~~paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision of~~
 45 ~~this code to the contrary, the Governor may, by Executive Order, redirect one-half of the deposits~~
 46 ~~of revenues derived from net terminal income imposed under this article, for any period~~
 47 ~~commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund,~~
 48 ~~instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of~~
 49 ~~this code or in any other provision of this code, until certification of the Governor to the Legislature~~
 50 ~~that an independent actuary has determined that the unfunded liability of the Old Fund, as defined~~
 51 ~~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 §29-22A-10b (a) of this code to the contrary, for the
 2 fiscal year beginning July 1, 2014, and each fiscal year thereafter, each distribution, except those
 3 distributions to be made pursuant to §29-22A-10b (a) (1) (2) (3) (4) (5) and (7) of this code, shall
 4 be reduced by one hundred percent. Payments shall not be made pursuant to 29-22A-10) (b) of
 5 this code, other than those excepted by this subsection, and are made in lieu thereof in an amount

6 to be determined by appropriation from the State Excess Lottery Revenue Fund.

7 (b) The total amount of reductions resulting from subsection (a) of this section shall be
8 paid into the State Excess Lottery Revenue Fund created in §29-22-18a of this code. For the
9 fiscal year beginning July 1, 2014, and each fiscal year thereafter, distributions to be made
10 pursuant to §29-22A-10b (a) (2) and (5) of this code shall be reduced by 10 percent, and the
11 amounts resulting from the reduction shall be paid into the State Excess Lottery Revenue Fund.

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

16 (d) Prior to payment of any appropriation made pursuant to this section, debt service
17 payments payable from the State Excess Lottery Fund shall first be paid in accordance with the
18 provisions of §29-22-18a, §29-22-18d and §29-22-18e of this code and in the priority as defined
19 by §29-22-18f(c) of this code.

20 (e) Notwithstanding any other provision of this code to the contrary, after payment of debt
21 service from the State Excess Lottery Revenue Fund, all other distributions required by §29-22-
22 18a of this code and the distributions appropriated pursuant to this section shall be paid on a pro
23 rata basis.

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

32 ~~(2)(A) Notwithstanding any provision of subdivision (1) of this subsection or any provision~~
33 ~~of paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision~~
34 ~~of this code to the contrary, if the budget shortfall, as determined by the state Budget Office as of~~
35 ~~December 1, 2015, is greater than \$100 million, then the Governor may, by Executive Order,~~
36 ~~redirect deposits of revenues derived from net terminal income imposed under this article, for any~~
37 ~~period commencing after February 29, 2016 and ending before July 1, 2016, to the General~~
38 ~~Revenue Fund, instead of to the funds otherwise mandated in this article, in article two-d, chapter~~
39 ~~twenty-three of this code or in any other provision of this code.~~

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

NOTE: The purpose of this bill is to reallocate a certain amount of net terminal income from racetrack video lottery distributed to the thoroughbred and greyhound development funds at the licensed racetracks of origin.

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