

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

### **Originating**

## **Senate Bill 630**

BY SENATORS BLAIR, ARVON, BOLEY, BOSO, DRENNAN,  
FACEMIRE, GAUNCH, MANN, MARONEY, PALUMBO,  
PLYMALE, PREZIOSO, STOLLINGS, SYPOLT, TAKUBO, AND  
UNGER

[Originating in the Committee on Finance; Reported  
on February 26, 2018]



1 A BILL to amend and reenact §29-22A-10d and §29-22A-10e of the Code of West Virginia, 1931,  
2 as amended, all relating to changes in distribution of racetrack video lottery net terminal  
3 income, excess net terminal income, and excess lottery fund.

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

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

**§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), §29-22A-10(c)(2), §29-22A-10(c)(3), §29-  
7 22A-10(c)(4), §29-22A-10(c)(5), §29-22A-10(c)(7), and §29-22A-10(c)(9) of this code, shall be  
8 reduced by 100 percent. Payments shall not be made pursuant to §29-22A-10 of this code, other  
9 than those excepted by this subsection, and are made in lieu thereof in an amount to be  
10 determined by appropriation from the state Excess Lottery Revenue Fund.

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

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

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

24 (f) Notwithstanding any other provision of this code to the contrary, after payment of debt  
25 service from the state Excess Lottery Revenue Fund, all other distributions required by §29-22-  
26 18a of this code and the distributions appropriated pursuant to this section shall be paid on a pro  
27 rata basis.

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

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

44 (B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of  
45 paragraph (B), subdivision (9), subsection (c), section ten of this article or any other provision of

46 this code to the contrary, the Governor may, by Executive Order, redirect one-half of the deposits  
47 of revenues derived from net terminal income imposed under this article, for any period  
48 commencing after June 30, 2016, and ending before July 1, 2017, to the General Revenue Fund,  
49 instead of to the funds otherwise mandated in this article, in article two-d, chapter twenty-three of  
50 this code or in any other provision of this code, until certification of the Governor to the Legislature  
51 that an independent actuary has determined that the unfunded liability of the Old Fund, as defined  
52 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), §29-22A-10b(a)(2), §29-22A-10b(a)(3),  
4 §29-22A-10b(a)(4), §29-22A-10b(a)(5), §29-22A-10b(a)(7), and §29-22A-10b(a)(9) of this code  
5 shall be reduced by 100 percent. Payments shall not be made pursuant to §29-22A-10b of this  
6 code, other than those excepted by this subsection, and are made in lieu thereof in an amount to  
7 be determined by appropriation from the state Excess Lottery Revenue Fund.

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

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

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

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

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

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

41 (B) Notwithstanding any provision of subdivision (1) of this subsection or any provision of  
42 paragraph (B), subdivision (9), subsection (a), section ten-b of this article or any other provision

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

NOTE: The purpose of this bill is to allocate a certain amount of net and excess terminal income from racetrack video lottery distributed to licensed racetrack purse funds once the Workers' Compensation Debt Reduction Fund is fully funded, as originally intended in the 2005 enabling legislation and in current code §29-22A-10(c)(9) and code §29-22A-10b(a)(9).

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