

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 243**

*SENATOR WELD, original sponsor*

[Originating in the Committee on Finance; Reported  
on January 25, 2019]



1 A BILL to amend and reenact §29-22A-10b of the Code of West Virginia, 1931, as amended,  
2 relating to modifying the requirement that a racetrack must have participated in the West  
3 Virginia Thoroughbred Development Fund since, on, or before January 1, 1999, in order  
4 for counties to receive two percent of the net terminal income where the video lottery  
5 terminals are located.

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

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

**§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 commission  
6 shall deposit in the state Excess Lottery Revenue Fund created in §29-22-18a of this code;

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

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

13 (A) Any amount by which the total amount under this section and §29-22A-10(c)(3) of this  
14 code is in excess of the two percent received during fiscal year 1999 by a county in which a  
15 racetrack that offers thoroughbred horse racing is located ~~that has participated in the West~~  
16 ~~Virginia thoroughbred development fund since on or before January 1, 1999~~ shall be divided as  
17 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 two percent received during fiscal year 1999 by a county in which a  
24 racetrack other than a racetrack described in ~~paragraph (A) of this proviso~~ §29-22A-10b(a)(3)(A)  
25 of this code is located and where the racetrack has been located in a municipality within the county  
26 since on or before January 1, 1999, 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~~ §29-22A-10b(a)(3)(A)  
31 or §29-22A-10b(a)(3)(B) of this code;

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

36 (5) The West Virginia Thoroughbred Development Fund created under §19-23-13b of this  
37 code and the West Virginia Greyhound Breeding Development Fund created under §19-23-10 of  
38 this code shall receive an equal share of a total of not less than one and one-half percent of the  
39 net terminal income;

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

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

43 (8) The Tourism Promotion Fund established in §5B-2-12 of this code shall receive three  
44 percent of the net terminal income: *Provided*, That for each fiscal year beginning after June 30,

45 2004, this three percent of net terminal income shall be distributed pursuant to the provisions of  
46 §29-22A-10(c)(8)(B) of this code;

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

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

63 (10) (A) One percent of the net terminal income shall be deposited in equal amounts in  
64 the Capitol Dome and Improvements Fund created under §5A-4-2 of this code and Cultural  
65 Facilities and ~~capitol~~ Capital Resources Matching Grant Program Fund created under §29-1-3 of  
66 this code; and

67 (B) Notwithstanding any provision of §29-22A-10b(a)(10)(A) of this code to the contrary,  
68 for each fiscal year beginning after June 30, 2004, this one percent of net terminal income shall  
69 be 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.

NOTE: The purpose of this bill concerns the requirement that a racetrack must have participated in the West Virginia thoroughbred development fund since on or before January 1, 1999 in order for counties to receive two percent of the net terminal income where the video lottery terminals are located.

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