

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2938

BY DELEGATES ESPINOSA, BARRETT, HARDY, CLARK,

HOUSEHOLDER AND SUMMERS

[Introduced March 05, 2021; Referred to the
Committee on the Judiciary then Finance]

1 A BILL to amend and reenact §29-22A-10b of the Code of West Virginia, 1931, as amended,
2 relating to changes in distribution of net terminal income.

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 the first day of July, two thousand one, any amount
2 of net terminal income generated annually by a licensed racetrack in excess of the amount of net
3 terminal income generated by that licensed racetrack during the fiscal year ending on June 30,
4 2001, shall be 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, 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 §19-23-1 *et seq.* of this code; on and after July 1, 2005,
11 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 §29-22A-10(c)(3) of this
15 code is in excess of the two percent received during fiscal year 1999 by a county in which a
16 racetrack is located that has participated in the West Virginia thoroughbred development fund
17 since on or 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 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 is located and where
25 the racetrack has been located in a municipality within the county since on or before January 1,
26 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;

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 one and one-half percent of~~
38 ~~the net terminal income originating at licensed thoroughbred racetracks.~~

39 (B) For the fiscal year commencing on July 1, 2021, and each fiscal year thereafter, the
40 West Virginia greyhound breeding development fund created under §29-22A-10 of this code shall
41 receive one and one-half percent of the net terminal income originating at licensed greyhound
42 tracks;

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

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

46 (8) The tourism promotion fund established in §5B-2-12 of this code shall receive three
47 percent of the net terminal income: *Provided*, That for each fiscal year beginning after June 30,

48 2004, this three percent of net terminal income shall be distributed pursuant to the provisions of
49 §29-22A-10(c)(8)(B) of this code;

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

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

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

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

72 (b) The Commission may establish orderly and effective procedures for the collection and
73 distribution of funds under this section in accordance with the provisions of this section and §29-

74 22A-10 of this code.

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.