WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED

HOUSE BILL No. 4169

(By Delegate Mr. Speaker, Mr. Chandler,
and Delegate Ashley)
[By Request of the Executive]

Passed March 9, 1996

In Effect from Passage
AN ACT to amend and reenact section ten, article twenty-two-a, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating generally to race track video lottery; the division of net terminal income; the completion of the veterans memorial by deposit of income from video lottery terminals into the division of culture and history fund; providing for the annual payment of the bond indebtedness of the veterans memorial; providing that after the bonded indebtedness of the veterans memorial is paid that twenty thousand dollars be paid into a special revenue fund to provide markers for veterans graves; authorizing legislative rules; providing for the establishment of a veterans memorial archives within the division of culture and history; establishing the position of director of monuments; specifying effective dates; and providing for the restoration and maintenance of monuments located on the capitol grounds.

Be it enacted by the Legislature of West Virginia:

That section ten, article twenty-two-a, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 22A. RACE TRACK VIDEO LOTTERY.

§29-22A-10. Accounting and reporting; commission to provide communications protocol data; distribu-
tion 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.

(a) The commission shall provide to manufacturers, or applicants applying for a manufacturer's permit, the protocol documentation data necessary to enable the respective manufacturer's video lottery terminals to communicate with the commission's central computer for transmitting auditing program information and for activation and disabling of video lottery terminals.

(b) The gross terminal income of a licensed racetrack shall be remitted to the commission through the electronic transfer of funds. Licensed racetracks shall furnish to the commission all information and bank authorizations required to facilitate the timely transfer of moneys to the commission. Licensed racetracks must provide the commission thirty days' advance notice of any proposed account changes in order to assure the uninterrupted electronic transfer of funds. From the gross terminal income remitted by the licensee to the commission, the commission shall deduct an amount sufficient to reimburse the commission for its actual costs and expenses incurred in administering racetrack video lottery at the licensed racetrack, and the resulting amount after such deduction shall be the net terminal income. The amount deducted for administrative costs and expenses of the commission may not exceed four percent of gross terminal income.

(c) Net terminal income shall be divided as set out in this subsection. The licensed racetrack's share shall be 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 general reve-
nue fund of the state to be appropriated by the Legisla-
ture;

(2) Fourteen percent of net terminal income at a li-
censed racetrack shall be deposited in the special fund
established by the licensee, and used for payment of regu-
lar purses in addition to other amounts provided for in
article twenty-three, chapter nineteen of this code;

(3) The county where the video lottery terminals are
located shall receive two percent of the net terminal in-
come;

(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 employ-
ees 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 grey-
hound breeding development fund created under section
ten, article twenty-three, chapter nineteen of this code shall
receive an equal share of a total of not less than one and
one-half percent of the net terminal income: *Provided,*
That for any racetrack which does not have a breeder's
program supported by the thoroughbred development
fund or the greyhound breeding development fund, the
one and one-half percent provided for in this subdivision
shall be deposited in the special fund established by the
licensee and used for payment of regular purses, in addi-
tion to other amounts provided for in subdivision (2) of
this subsection and article twenty-three, chapter nineteen
of this code.

(6) The West Virginia thoroughbred breeders classic
shall receive one percent of the net terminal income which
shall be used for purses. The moneys shall be deposited
in the separate account established for the classic under
section thirteen, article twenty-three, chapter nineteen of
this code;

(7) A licensee shall receive forty-seven percent of net
(8) The tourism promotion fund established in section nine, article one, chapter five-b of this code shall receive three percent of the net terminal income; and

(9) The veterans memorial program shall receive one percent of the net terminal income until sufficient moneys have been received to complete the veterans memorial on the grounds of the state capitol complex in Charleston, West Virginia. The moneys shall be deposited in the state treasury in the division of culture and history special fund created under section three, article one-i, chapter twenty-nine of this code: Provided, That only after sufficient moneys have been deposited in the fund to complete the veterans memorial and to pay in full the annual bonded indebtedness on the veterans memorial, not more than twenty thousand dollars of the one percent of net terminal income provided for in this subdivision shall be deposited 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. The remainder of the one percent of terminal shall then continue to 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 and to pay the salary and benefits of a director of
monuments. The director of monuments shall be responsible for restoring and maintaining all monuments and memorials situated upon the grounds of the capitol in Charleston, West Virginia, and, to the extent there are moneys remaining in this fund thereafter, the director of monuments may use the balance to landscape the capitol grounds. The director of monuments shall be under the supervision of and report to the commissioner of the division of culture and history. The provisions of this subdivision relating to the creation of the position of director of monuments shall be effective the first day of January, one thousand nine hundred ninety-seven.

(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, which 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 must 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 such 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 must 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

Takes effect from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within is approved this the 29th day of [Month], 1996.

[Signature]
Governor