WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1998

ENROLLED

SENATE BILL NO. 761

(By Senator Crago, et al)

PASSED March 12, 1998
In Effect From Passage
ENROLLED

Senate Bill No. 761

(BY SENATORS CRAIGO, ANDERSON, BAILEY, CHAFIN, HELMICK, JACKSON, LOVE, MACNAUGHTAN, PLYMALE, PREZIOSO, SHARPE, WALKER, BOLEY, DUGAN, MCKENZIE, MINEAR AND SPROUSE)

[Passed March 12, 1998; 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 to distribution of proceeds from net terminal income of racetrack video lottery proceeds; funding of veterans memorial archives, restoration and maintenance of monuments; funding the construction and maintenance of a parking garage on the state capitol complex; and funding maintenance and repairs of the Morris square properties.

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. 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.

(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
revenue fund of the state to be appropriated by the
Legislature;

(2) Fourteen percent of net terminal income at a licensed
racetrack shall be deposited in the special fund estab-
lished by the licensee, and used for payment of regular
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
income;

(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 employees 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
greyhound 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 devel-
opment 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 estab-
lished by the licensee and used for payment of regular
purses, in addition 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 terminal income;

(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 mark-
ers will be placed in the event that there are not sufficient
funds to complete the placement of veterans grave mark-
ers in any one year, or at all. Upon payment in full of the
bonded indebtedness on the veteran’s memorial, one
hundred thousand dollars of the one percent of net
terminal income provided for in this subdivision shall 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 veter-
ans 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 not
more than twenty thousand dollars be deposited in the
“John F. ‘Jack’ Bennett Fund”: Provided, however, That
five hundred thousand dollars of the one percent of net
terminal income shall be deposited in the state treasury in
a special fund of the department of administration,
created under section five, article four, chapter five-a of
this code to be used for construction and maintenance of
a parking garage on the state capitol complex, and:
Provided further, That the remainder of the one percent of
net terminal income shall be deposited in a special fund of
the department of administration created under section
due, article four, chapter five-a of this code to be used to
maintain and make repairs to the Morris square proper-
(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 commis-
sion 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.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee.

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 27th day of March, 1998.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/24/98
Time 3:00pm