House Bill No. 106

(By Mr. Speaker, Mr. Kiss, and Delegate Trump)
[By Request of the Executive]

Passed June 14, 2006

In Effect from Passage
AN ACT to amend and reenact §29-22-18 of the Code of West Virginia, 1931, as amended, to amend and reenact §29-22A-10 of said code, and to amend and reenact §29-22B-1408 of said code, all relating to surplus administrative funds of the state lottery commission; creating the Revenue Center Construction Fund; authorizing the deposit of certain lottery administrative funds into the fund for the construction of a new state office building; and providing for authorization to expend money in the fund.

Be it enacted by the Legislature of West Virginia:

That §29-22-18 of the Code of West Virginia, 1931, as amended, be amended and reenacted, that §29-22A-10 of said code be amended and reenacted, and that §29-22B-1408 of said code be amended and reenacted, all to read as follows:

CHAPTER 29. MISCELLANEOUS
BOARDS AND OFFICERS.

ARTICLE 22. STATE LOTTERY ACT.
§29-22-18. State lottery fund; appropriations and deposits; not part of general revenue; no transfer of state funds after initial appropriation; use and repayment of initial appropriation; allocation of fund for prizes, net profit and expenses; surplus; state lottery education fund; state lottery senior citizens fund; allocation and appropriation of net profits; Revenue Center Construction Fund.

(a) There is hereby continued a special revenue fund in the state treasury which shall be designated and known as the "state lottery fund". The fund consists of all appropriations to the fund and all interest earned from investment of the fund and any gifts, grants or contributions received by the fund. All revenues received from the sale of lottery tickets, materials and games shall be deposited with the state treasurer and placed into the "state lottery fund". The revenue shall be disbursed in the manner provided in this section for the purposes stated in this section and shall not be treated by the auditor and treasurer as part of the general revenue of the state.

(b) No appropriation, loan or other transfer of state funds may be made to the commission or lottery fund after the initial appropriation.

(c) A minimum annual average of forty-five percent of the gross amount received from each lottery shall be allocated and disbursed as prizes.

(d) Not more than fifteen percent of the gross amount received from each lottery may be allocated to and may be disbursed as necessary for fund operation and administration expenses: Provided, That for the period beginning the first day of January, two thousand two, through the thirtieth day of June, two thousand three, not more than seventeen percent of the gross amount received from each lottery shall be allocated to
and may be disbursed as necessary for fund operation and administration expenses.

(e) The excess of the aggregate of the gross amount received from all lotteries over the sum of the amounts allocated by subsections (c) and (d) of this section shall be allocated as net profit. In the event that the percentage allotted for operations and administration generates a surplus, the surplus shall be allowed to accumulate to an amount not to exceed two hundred fifty thousand dollars. On a monthly basis, the director shall report to the joint committee on government and finance of the Legislature any surplus in excess of two hundred fifty thousand dollars and remit to the state treasurer the entire amount of those surplus funds in excess of two hundred fifty thousand dollars which shall be allocated as net profit: Provided, That at the close of each of the fiscal years ending the thirtieth day of June two thousand six, two thousand seven, two thousand eight, two thousand nine, two thousand ten and two thousand eleven, the portion of the fifteen percent allowance for fund operation and administration expenses provided in subsection (d) of this section that remains unspent for fund operation and administrative expenses of the lottery in each respective fiscal year, not to exceed twenty million dollars in any fiscal year, shall be transferred to the Revenue Center Construction Fund created by subsection (l) of this section for the purpose of constructing a state office building.

(f) After first satisfying the requirements for funds dedicated to the school building debt service fund in subsection (h) of this section to retire the bonds authorized to be issued pursuant to section eight, article nine-d, chapter eighteen of this code, and then satisfying the requirements for funds dedicated to the education, arts, sciences and tourism debt service fund in subsection (l) of this section to retire the bonds authorized to be issued pursuant to section eleven-a, article six, chapter five of this code, any and all remaining funds in the state lottery fund
shall be made available to pay debt service in connection with any revenue bonds issued pursuant to section eighteen-a of this article, if and to the extent needed for such purpose from time to time. The Legislature shall annually appropriate all of the remaining amounts allocated as net profits in subsection (e) of this section, in such proportions as it considers beneficial to the citizens of this state, to: (1) The lottery education fund created in subsection (g) of this section; (2) the school construction fund created in section six, article nine-d, chapter eighteen of this code; (3) the lottery senior citizens fund created in subsection (j) of this section; and (4) the division of natural resources created in section three, article one, chapter twenty of this code and the West Virginia development office as created in section one, article two, chapter five-b of this code, in accordance with subsection (k) of this section. No transfer to any account other than the school building debt service account, the education, arts, sciences and tourism debt service fund, the economic development project fund created under section eighteen-a, article twenty-two, chapter twenty-nine of this code, or any fund from which debt service is paid under subsection (c), section eighteen-a of this article, may be made in any period of time in which a default exists in respect to debt service on bonds issued by the school building authority, the state building commission, the economic development authority or which are otherwise secured by lottery proceeds. No additional transfer may be made to any account other than the school building debt service account and the education, arts, sciences and tourism debt service fund when net profits for the preceding twelve months are not at least equal to one hundred fifty percent of debt service on bonds issued by the school building authority and the state building commission which are secured by net profits.

(g) There is hereby continued a special revenue fund in the state treasury which shall be designated and known as the “lottery education fund.” The fund shall consist of the amounts
allocated pursuant to subsection (f) of this section, which shall
be deposited into the lottery education fund by the state
treasurer. The lottery education fund shall also consist of all
interest earned from investment of the lottery education fund
and any other appropriations, gifts, grants, contributions or
moneys received by the lottery education fund from any source.
The revenues received or earned by the lottery education fund
shall be disbursed in the manner provided below and may not
be treated by the auditor and treasurer as part of the general
revenue of the state. Annually, the Legislature shall appropriate
the revenues received or earned by the lottery education fund to
the state system of public and higher education for these
educational programs it considers beneficial to the citizens of
this state.

(h) On or before the twenty-eighth day of each month, as
long as revenue bonds or refunding bonds are outstanding, the
lottery director shall allocate to the school building debt service
fund created pursuant to the provisions of section six, article
nine-d, chapter eighteen of this code, as a first priority from the
net profits of the lottery for the preceding month, an amount
equal to one tenth of the projected annual principal, interest and
coverage ratio requirements on any and all revenue bonds and
refunding bonds issued, or to be issued, on or after the first day
of April, one thousand nine hundred ninety-four, as certified to
the lottery director in accordance with the provisions of section
six, article nine-d, chapter eighteen of this code. In no event
shall the monthly amount allocated exceed one million eight
hundred thousand dollars, nor may the total allocation of the net
profits to be paid into the school building debt service fund, as
provided in this section, in any fiscal year exceed the lesser of
the principal and interest requirements certified to the lottery
director or eighteen million dollars. In the event there are
insufficient funds available in any month to transfer the amount
required to be transferred pursuant to this subsection to the
school debt service fund, the deficiency shall be added to the
amount transferred in the next succeeding month in which revenues are available to transfer the deficiency. A lien on the proceeds of the state lottery fund up to a maximum amount equal to the projected annual principal, interest and coverage ratio requirements, not to exceed twenty-seven million dollars annually, may be granted by the school building authority in favor of the bonds it issues which are secured by the net lottery profits.

When the school improvement bonds, secured by profits from the lottery and deposited in the school debt service fund, mature, the profits shall become available for debt service on additional school improvement bonds as a first priority from the net profits of the lottery or may at the discretion of the authority be placed into the school construction fund created pursuant to the provisions of section six, article nine-d, chapter eighteen of this code.

(i) Beginning on or before the twenty-eighth day of July, one thousand nine hundred ninety-six, and continuing on or before the twenty-eighth day of each succeeding month thereafter, as long as revenue bonds or refunding bonds are outstanding, the lottery director shall allocate to the education, arts, sciences and tourism debt service fund created pursuant to the provisions of section eleven-a, article six, chapter five of this code, as a second priority from the net profits of the lottery for the preceding month, an amount equal to one tenth of the projected annual principal, interest and coverage ratio requirements on any and all revenue bonds and refunding bonds issued, or to be issued, on or after the first day of April, one thousand nine hundred ninety-six, as certified to the lottery director in accordance with the provisions of that section. In no event may the monthly amount allocated exceed one million dollars nor may the total allocation paid into the education, arts, sciences and tourism debt service fund, as provided in this section, in any fiscal year exceed the lesser of the principal and
interest requirements certified to the lottery director or ten
million dollars. In the event there are insufficient funds
available in any month to transfer the amount required pursuant
to this subsection to the education, arts, sciences and tourism
debt service fund, the deficiency shall be added to the amount
transferred in the next succeeding month in which revenues are
available to transfer the deficiency. A second-in-priority lien on
the proceeds of the state lottery fund up to a maximum amount
equal to the projected annual principal, interest and coverage
eratio requirements, not to exceed fifteen million dollars
annually, may be granted by the state building commission in
favor of the bonds it issues which are secured by the net lottery
profits.

When the bonds, secured by profits from the lottery and
deposited in the education, arts, sciences and tourism debt
service fund, mature, the profits shall become available for debt
service on additional bonds as a second priority from the net
profits of the lottery.

(j) There is hereby continued a special revenue fund in the
state treasury which shall be designated and known as the
“lottery senior citizens fund.” The fund shall consist of the
amounts allocated pursuant to subsection (f) of this section,
which amounts shall be deposited into the lottery senior citizens
fund by the state treasurer. The lottery senior citizens fund shall
also consist of all interest earned from investment of the lottery
senior citizens fund and any other appropriations, gifts, grants,
contributions or moneys received by the lottery senior citizens
fund from any source. The revenues received or earned by the
lottery senior citizens fund shall be distributed in the manner
provided below and may not be treated by the auditor or
treasurer as part of the general revenue of the state. Annually,
the Legislature shall appropriate the revenues received or
earned by the lottery senior citizens fund to such senior citizens
medical care and other programs as it considers beneficial to
the citizens of this state.
(k) The division of natural resources and the West Virginia development office, as appropriated by the Legislature, may use the amounts allocated to them pursuant to subsection (f) of this section for one or more of the following purposes: (1) The payment of any or all of the costs incurred in the development, construction, reconstruction, maintenance or repair of any project or recreational facility, as these terms are defined in section four, article five, chapter twenty of this code, pursuant to the authority granted to it under article five, chapter twenty of this code; (2) the payment, funding or refunding of the principal of, interest on or redemption premiums on any bonds, security interests or notes issued by the parks and recreation section of the division of natural resources under article five, chapter twenty of this code; or (3) the payment of any advertising and marketing expenses for the promotion and development of tourism or any tourist facility or attraction in this state.

(l)(1) A special revenue account in the state treasury is hereby created as of the twenty-first day of June, two thousand six, which is designated and known as the "Revenue Center Construction Fund." The Fund shall consist of the amounts allocated to the Fund pursuant to subsection (e) of this section; section ten, article twenty-two-a of this chapter; and section one thousand four hundred eight, article twenty-two-b of this chapter, which amounts shall be deposited into the Fund by the state treasurer. In no fiscal year shall the transfer from these three sources total more than twenty million dollars in the aggregate. The Fund shall also consist of all interest earned from investment of the Fund and any other appropriations, gifts, grants, contributions or moneys received by the Fund from any source. The revenues received or earned by the Fund shall be used by the State Lottery Commission to construct a new state office building subject to the provisions of subdivision (2) of this subsection.
(2) No moneys of the Revenue Center Construction Fund may be expended except upon appropriation of the Legislature and until: (A) the Capitol Building Commission has approved and submitted to the Secretary of Administration a comprehensive long term master plan for the capital improvement and development of the state capitol complex; (B) a copy of the master plan has been provided to the Joint Committee on Finance and Administration; and thereafter, (C) the Legislature by concurrent resolution authorizes construction of a new state office building and the expenditure of moneys from the fund for that purpose.

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 race-
tracks 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 the deduction is the net terminal income. The amount deducted for administrative costs and expenses of the commission may not exceed four percent of gross terminal income: Provided, That any amounts deducted by the commission for its actual costs and expenses that exceeds its actual costs and expenses shall be deposited into the state lottery fund. For the fiscal years ending the thirtieth day of June, two thousand six, two thousand seven, two thousand eight, two thousand nine, two thousand ten and two thousand eleven, the term “actual costs and expenses” shall include transfers of no more than twenty million dollars in any year to the Revenue Center Construction Fund created by subsection (I), section eighteen, article twenty-two of this chapter for the purpose of constructing a state office building. For all fiscal years beginning on or after the first day of July, two thousand one, the commission shall not receive an amount of gross terminal income in excess of the amount of gross terminal income received during the fiscal year ending on the thirtieth day of June, two thousand one, but four percent of any amount of gross terminal income received in excess of the amount of gross terminal income received during the fiscal year ending on the thirtieth day of June, two thousand one, shall be deposited into the fund established in section eighteen-a, article twenty-two of this chapter.

(c) Net terminal income shall be divided as set out in this subsection. For all fiscal years beginning on or after the first day of July, two thousand one, any amount of net terminal income received in excess of the amount of net terminal income
received during the fiscal year ending on the thirtieth day of June, two thousand one, shall be divided as set out in section ten-b of this article. The licensed racetrack’s share is 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 state lottery fund as provided in section ten-a of this article;

(2) Until the first day of July, two thousand five, fourteen percent of net terminal income at a licensed racetrack shall be deposited in the special fund established 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, on and after the first day of July, two thousand five, the rate shall be seven percent of net terminal income;

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

(A) Beginning the first day of July, one thousand nine hundred ninety-nine, and thereafter, any amount in excess of the two percent received during the fiscal year one thousand nine hundred ninety-nine by a county in which a racetrack is located that has participated in the West Virginia thoroughbred development fund since on or before the first day of January, one thousand nine hundred ninety-nine shall be divided as follows:

(i) The county shall receive fifty percent of the excess amount; and
(ii) The municipalities of the county shall receive fifty percent of the excess amount, said fifty percent to be divided among the municipalities on a per capita basis as determined by the most recent decennial United States census of population; and

(B) Beginning the first day of July, one thousand nine hundred ninety-nine, and thereafter, any amount in excess of the two percent received during the fiscal year one thousand nine hundred ninety-nine by a county in which a racetrack other than a racetrack described in paragraph (A) of this proviso is located and where the racetrack has been located in a municipality within the county since on or before the first day of January, one thousand nine hundred ninety-nine shall be divided, if applicable, as follows:

(i) The county shall receive fifty percent of the excess amount; and

(ii) The municipality shall receive fifty percent of the excess amount; and

(C) This proviso shall not affect the amount to be received under this subdivision by any other county other than a county described in paragraph (A) or (B) of this proviso;

(4) 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 of said article shall
receive an equal share of a total of not less than one and one-half percent of the net terminal income;

(6) The West Virginia racing commission shall receive one percent of the net terminal income which shall be deposited and used as provided in section thirteen-c, article twenty-three, chapter nineteen of this code.

(7) A licensee shall receive forty-six and one-half percent of net terminal income.

(8)(A) The tourism promotion fund established in section twelve, article two, chapter five-b of this code shall receive three percent of the net terminal income: Provided, That for the fiscal year beginning the first day of July, two thousand three, the tourism commission shall transfer from the tourism promotion fund five million dollars of the three percent of the net terminal income described in this section and section ten-b of this article into the fund administered by the West Virginia economic development authority pursuant to section seven, article fifteen, chapter thirty-one of this code, five million dollars into the capitol renovation and improvement fund administered by the department of administration pursuant to section six, article four, chapter five-a of this code and five million dollars into the tax reduction and federal funding increased compliance fund; and

(B) Notwithstanding any provision of paragraph (A) of this subdivision to the contrary, for each fiscal year beginning after the thirtieth day of June, two thousand four, this three percent of net terminal income and the three percent of net terminal income described in paragraph (B), subdivision (8), subsection (a), section ten-b of this article shall be distributed as provided in this paragraph as follows:

(i) 1.375 percent of the total amount of net terminal income described in this section and in section ten-b of this article shall
be deposited into the tourism promotion fund created under section twelve, article two, chapter five-b of this code;

(ii) 0.375 percent of the total amount of net terminal income described in this section and in section ten-b of this article shall be deposited into the development office promotion fund created under section three-b, article two, chapter five-b of this code;

(iii) 0.5 percent of the total amount of net terminal income described in this section and in section ten-b of this article shall be deposited into the research challenge fund created under section ten, article one-b, chapter eighteen-b of this code;

(iv) 0.6875 percent of the total amount of net terminal income described in this section and in section ten-b of this article shall be deposited into the capitol renovation and improvement fund administered by the department of administration pursuant to section six, article four, chapter five-a of this code; and

(v) 0.0625 percent of the total amount of net terminal income described in this section and in section ten-b of this article shall be deposited into the 2004 capitol complex parking garage fund administered by the department of administration pursuant to section five-a, article four, chapter five-a of this code;

(9)(A) On and after the first day of July, two thousand five, seven percent of net terminal income shall be deposited into the workers’ compensation debt reduction fund created in section five, article two-d, chapter twenty-three of this code: Provided, That in any fiscal year when the amount of money generated by this subdivision totals eleven million dollars, all subsequent distributions under this subdivision shall be deposited in the special fund established by the licensee and used for the payment of regular purses in addition to the other amounts
provided for in article twenty-three, chapter nineteen of this code;

(B) The deposit of the seven percent of net terminal income into the worker’s compensation debt reduction fund pursuant to this subdivision shall expire and not be imposed with respect to these funds and shall be deposited in the special fund established by the licensee and used for payment of regular purses in addition to the other amounts provided for in article twenty-three, chapter nineteen of this code, on and after the first day of the month following the month in which the governor certifies to the legislature that: (I) The revenue bonds issued pursuant to article two-d, chapter twenty-three of this code, have been retired or payment of the debt service provided for, and (ii) that an independent certified actuary has determined that the unfunded liability of the old fund, as defined in chapter twenty-three of this code, has been paid or provided for in its entirety; and

(10) The remaining one percent of net terminal income shall be deposited as follows:

(A) For the fiscal year beginning the first day of July, two thousand three, 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. Upon payment in full of the bonded
indebtedness on the veterans 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 veterans memorial archives within the cultural center
to serve as a repository for the documents and records pertain-
ing to the veterans memorial, to restore and maintain the
monuments and memorial on the capitol grounds: 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 the remainder of the one percent
of net terminal income shall be deposited in equal amounts in
the capitol dome and improvements fund created under section
two, article four, chapter five-a of this code and cultural
facilities and capitol resources matching grant program fund
created under section three, article one of this chapter.

(B) For each fiscal year beginning after the thirtieth day of
June, two thousand four:
(i) 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

(ii) The remainder of the one percent of net terminal income and all of the one percent of net terminal income described in paragraph (B), subdivision (9), subsection (a), section ten-b of this article twenty-two-a shall be distributed as follows: The net terminal income shall be deposited in equal amounts into the capitol dome and capitol improvements fund created under section two, article four, chapter five-a of this code and the cultural facilities and capitol resources matching grant program fund created under section three, article one, chapter twenty-nine of this code until a total of one million five hundred thousand dollars is deposited into the cultural facilities and capitol resources matching grant program fund; thereafter, the remainder shall be deposited into the capitol dome and capitol improvements fund.

(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. The 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 shall 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 the 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 shall 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.

ARTICLE 22B. LIMITED VIDEO LOTTERY.

§29-22B-1408. Distribution of state's share of gross terminal income.

(a) The state's share of gross terminal income is calculated as follows:

(1) The commission shall deposit two percent of gross terminal income into the state lottery fund for the commission's costs and expenses incurred in administering this article. From this amount, not less than one hundred fifty thousand dollars nor more than one million dollars per fiscal year, as determined by the commission each year, shall be transferred to the compulsive gambling treatment fund created in section 29-22A-19 of this chapter. In the event that the percentage allotted under this subsection for the commission's costs and expenses incurred in administering this article generates a surplus, the surplus shall be allowed to accumulate to an amount not to exceed two hundred fifty thousand dollars. On a monthly basis, the director shall report to the joint committee on government and finance of the Legislature any surplus in excess of two
hundred fifty thousand dollars and remit to the state treasurer the entire amount of those surplus funds in excess of two hundred fifty thousand dollars to be deposited in the fund established in section 29-22-18a of this chapter: Provided, That at the close of each of the fiscal years ending the thirtieth day of June two thousand six, two thousand seven, two thousand eight, two thousand nine, two thousand ten and two thousand eleven, the portion of the two percent allowance for administrative expenses provided in this subdivision (1) that remains unspent for costs and expenses incurred in administering this article, not to exceed twenty million dollars in any fiscal year, shall be transferred to the Revenue Center Construction Fund created by subsection (l) of section eighteen, article twenty-two of this chapter for the purpose of constructing a state office building.

(2) Gross profits are determined by deducting the percentage described in subdivision (1) of this subsection, from gross terminal income.

(3) The commission shall receive thirty percent of gross profits as defined in subdivision (2) of this subsection except as otherwise provided in this subdivision. On the first day of June, 2002, the commission shall calculate the aggregate average daily gross terminal income for all operating video lottery terminal during the preceding three month period. Thereafter, the commission shall make the calculation on the first day of the month preceding the months of October, January, April and July of each year. So long as the aggregate average gross terminal income per day for the operating video lottery terminals does not exceed sixty dollars, the commission's share of gross profits shall continue to be thirty percent for the succeeding quarter of the year beginning the first day of July. Beginning on the first day of July, 2002 and the first days of October, January, April and July in 2002 and thereafter, if the commission's calculation of aggregate average daily gross terminal
income per video lottery terminal yields an amount greater than sixty dollars, one of the following schedules apply: If the amount is greater than sixty dollars per day but not greater than eighty dollars per day, the commission’s share of gross profits for the ensuing quarter beginning the first day of the quarter of the year described in this subdivision shall be thirty-four percent; if the amount is greater than eighty dollars per day but not greater than one hundred dollars per day, the commission’s share of gross profits for the ensuing quarter beginning the first day of the quarter of the year described in this subdivision shall be thirty-eight percent; if the amount is greater than one hundred dollars per day but not greater than one hundred twenty dollars per day, the commission’s share of gross profits for the ensuing quarter beginning the first day of the quarter of the year described in this subdivision shall be forty-two percent; if the amount is greater than one hundred twenty dollars per day but not greater than one hundred forty dollars per day, the commission’s share of gross profits for the ensuing quarter beginning the first day of the quarter of the year described in this subdivision shall be forty-six percent; if the amount is greater than one hundred forty dollars per day, the commission’s share of gross profits for the ensuing quarter beginning the first day of the quarter of the year described in this subdivision shall be fifty percent. This amount shall be known as net terminal income.

(b) Net terminal income shall be distributed by the commission as follows:

(1)(A) Beginning the first day of July, 2002, a county and the incorporated municipalities within that county shall receive two percent of the net terminal income generated by limited video lottery terminals located within the county;

(B) From this two percent of net terminal income, each municipality shall receive a share that bears the same proportion to the total two percent of net terminal income as the
population of the municipality bears to the total population of
the county as determined by the most recent decennial United
States census of population, and the county shall receive the
remaining portion of the two percent of net terminal income;
and

(2) Any remaining funds shall be deposited into the state
excess lottery revenue fund established in section eighteen-a,
article twenty-two of this chapter.

(c) The licensed operators and limited video lottery retailers
shall receive the balance of gross terminal income remaining
after deduction of the state’s share as calculated pursuant to this
section.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy White  
Chairman Senate Committee

McBryan  
Chairman House Committee

Originating in the House.

In effect from passage.

Darrell Holmes  
Clerk of the Senate

Gregg M. Layne  
Clerk of the House of Delegates

Earl Ray Tomblin  
President of the Senate

Timothy W. Evans  
Speaker of the House of Delegates

The within is approved this the 28th day of June, 2006.

Earl Ray Tomblin  
Governor