

HB 102  
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FILED

2009 JUN 17 PM 4: 32

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
FIRST EXTRAORDINARY SESSION, 2009



**ENROLLED**

**House Bill No. 102**

(By Mr. Speaker, Mr. Thompson)  
[By Request of the Executive]



Passed June 2, 2009

In Effect Ninety Days from Passage

**ENROLLED**

**FILED**

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**H. B. 102**

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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(BY MR. SPEAKER, MR. THOMPSON)  
[BY REQUEST OF THE EXECUTIVE]

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[Passed June 2, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §29-22C-27 of the Code of West Virginia, 1931, as amended, relating to the allocation of adjusted gross receipts from pari-mutuel racetracks with West Virginia Lottery racetrack table games; increasing the share allocated to certain municipalities and counties after each pari-mutuel racetrack in the state is licensed to offer West Virginia Lottery racetrack table games; providing a corresponding adjustment of funds transferred to the state; providing for the allocation of funds in growth counties that have enacted the Local Powers Act; and increasing for two fiscal years the share allocated to the Lottery Commission for administration and enforcement upon the occurrence of certain conditions.

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

That §29-22C-27 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 22C. WEST VIRGINIA LOTTERY RACETRACK  
TABLE GAMES ACT.**

**§29-22C-27. West Virginia Lottery Racetrack Table Games Fund; Community-Based Service Fund; State Debt Reduction Fund; distribution of funds.**

1           (a)(1) The special fund in the State Treasury known as  
2 the West Virginia Lottery Racetrack Table Games Fund is  
3 continued and all tax collected under this article shall be  
4 deposited with the State Treasurer and placed in the West  
5 Virginia Lottery Racetrack Table Games Fund. The fund  
6 shall be an interest-bearing account with all interest or other  
7 return earned on the money of the fund credited to and  
8 deposited in the fund.

9           (2) Notwithstanding any provision of this article to the  
10 contrary, all racetrack table games license fees received by  
11 the commission pursuant to section eight of this article shall  
12 be deposited into the Community-Based Service Fund which  
13 is continued in the State Treasury. Moneys of the fund shall  
14 be expended by the Bureau of Senior Services upon  
15 appropriation of the Legislature solely for the purpose of  
16 enabling the aged and disabled citizens of this state to  
17 maintain their residency in the community-based setting  
18 through the provision of home and community-based  
19 services.

20           (b) From the gross amounts deposited into the Racetrack  
21 Table Games Fund pursuant to subsection (a) of this section,  
22 the commission shall:

23           (1) Retain an amount for the administrative expenses of  
24 the commission as determined by the commission in  
25 accordance with subsection (e) of this section;

26           (2) Transfer two and one-half percent of adjusted gross  
27 receipts from all thoroughbred racetracks with West Virginia  
28 Lottery table games to the special funds established by each

29 thoroughbred racetrack table games licensees for the payment  
30 of regular racetrack purses, the amount being divided equally  
31 between the special funds of each thoroughbred racetrack  
32 table games licensee and transfer two and one-half percent of  
33 adjusted gross receipts from all greyhound racetracks with  
34 West Virginia Lottery table games to the special funds  
35 established by each greyhound racetrack table games  
36 licensees for the payment of regular racetrack purses, the  
37 amount being divided equally between the special funds of  
38 each greyhound racetrack table games licensee;

39 (3) Transfer two percent of the adjusted gross receipts  
40 from all licensed racetracks to the West Virginia  
41 Thoroughbred Development Fund created under section  
42 thirteen-b, article twenty-three, chapter nineteen of this code  
43 and the West Virginia Greyhound Breeding Development  
44 Fund created under section ten, article twenty-three, chapter  
45 nineteen of this code. The total amount transferred under this  
46 subdivision shall be divided pro rata among the development  
47 funds for each racetrack table games licensee based on  
48 relative adjusted receipts from each racetrack. The amounts  
49 transferred to these funds may not be used for the benefit of  
50 any person or activity other than at or associated with a  
51 racetrack table games licensee;

52 (4) Transfer one percent of the adjusted gross receipts  
53 from each licensed racetrack to the county commissions of  
54 the counties where racetracks with West Virginia Lottery  
55 table games are located. The one percent transferred under  
56 this subdivision shall be divided pro rata among the counties  
57 with a racetrack with West Virginia Lottery table games  
58 based on relative adjusted gross receipts from each county's  
59 racetrack: *Provided*, That the county board of education of  
60 a growth county, as that term is defined in section three,  
61 article twenty, chapter seven of this code, which has enacted  
62 the Local Powers Act, and in which county a racetrack is

63 located that has participated in the West Virginia  
64 Thoroughbred Development Fund since on or before January  
65 1, 1991, shall receive the one percent of adjusted gross  
66 receipts as provided in this subdivision for the purpose of  
67 capital improvements;

68 (5) Transfer two percent of the adjusted gross receipts  
69 from each licensed racetrack to the governing bodies of  
70 municipalities within counties where racetracks with West  
71 Virginia Lottery table games are located, which shall be  
72 allocated as follows:

73 (A) One half of the amounts transferred under this  
74 subdivision shall be allocated to the municipalities within  
75 each county having a racetrack table games licensee, based  
76 on relative adjusted gross receipts from West Virginia  
77 Lottery table games from those racetracks and the total  
78 amount allocated to the municipalities within a county shall  
79 be divided pro rata among the municipalities based on each  
80 municipality's population determined at the most recent  
81 United States decennial census of population: *Provided,*  
82 That: (i) For each allocation, when a municipality is  
83 physically located in two or more counties, only that portion  
84 of its population residing in the county where the authorized  
85 table games are located shall be considered; (ii) a single  
86 municipality in a county where West Virginia Lottery  
87 racetrack table games are played may not receive a total share  
88 under this paragraph that is in excess of seventy-five percent  
89 of the total distribution under this paragraph for the county in  
90 which the municipality is located; and (iii) a municipality  
91 receiving moneys under this paragraph may not receive an  
92 amount which is less than that received by a municipality  
93 under provisions of subdivision (4), subsection (d) of this  
94 section; and

95 (B) One half of the amounts transferred under this  
96 subdivision shall be allocated pro rata to the municipalities

97 within all the counties, having a racetrack table games  
98 licensee based on each municipality's population determined  
99 at the most recent United States decennial census of  
100 population: *Provided, That:* (i) A municipality which  
101 received funds above its pro rata share pursuant to subpart  
102 (iii), paragraph (A) of this subdivision may not receive an  
103 allocation under this paragraph; (ii) for each allocation, when  
104 a municipality is physically located in two or more counties,  
105 only that portion of its population residing in the county  
106 where the authorized table games are located shall be  
107 considered; and (iii) a single municipality in a county where  
108 West Virginia Lottery racetrack games are played may not  
109 receive a total share under this paragraph that is in excess of  
110 twenty-five percent of the total transfers under this  
111 paragraph: *Provided, however,* That the county board of  
112 education of a growth county, as that term is defined in  
113 section three, article twenty, chapter seven of this code,  
114 which has enacted the Local Powers Act, and in which  
115 county a racetrack is located that has participated in the West  
116 Virginia Thoroughbred Development Fund since on or before  
117 January 1, 1991, shall receive the two percent of adjusted  
118 gross receipts as provided in this subdivision for the purpose  
119 of capital improvements;

120 (6) Transfer one half of one percent of the adjusted gross  
121 receipts to the governing bodies of municipalities in which a  
122 racetrack table games licensee is located. The municipalities  
123 shall each receive an equal share of the total amount allocated  
124 under this subdivision: *Provided, That* distribution under this  
125 subdivision may not be made to any municipality which did  
126 not have a licensed racetrack within its municipal boundaries  
127 as they existed on January 1, 2007: *Provided, however,* That  
128 if no racetrack table games licensee is located within a  
129 municipality, a transfer may not be made under this  
130 subdivision; and

131 (7) Distribute the remaining amounts, hereinafter referred to  
132 as the net amounts in the Racetrack Table Games Funds, in  
133 accordance with the provisions of subsection (d) of this section.

134 (c) Beginning with the fiscal year following the licensing  
135 of every licensed racetrack to offer West Virginia lottery  
136 racetrack table games under this article, subsection (b) of this  
137 section shall be superseded and replaced by this subsection  
138 for distribution of the balances in the fund established by  
139 subsection (a) of this section. From the gross amounts  
140 deposited into the fund, the commission shall:

141 (1) Retain an amount for the administrative expenses of  
142 the commission as determined by the commission in  
143 accordance with subsection(e) of this section;

144 (2) Transfer two and one-half percent of adjusted gross  
145 receipts from all thoroughbred racetracks with West Virginia  
146 Lottery table games to the special funds established by each  
147 thoroughbred racetrack table games licensee for the payment  
148 of regular racetrack purses, the amount being divided equally  
149 between the special funds of each thoroughbred racetrack  
150 table games licensee and transfer two and one-half percent of  
151 adjusted gross receipts from all greyhound racetracks with  
152 West Virginia Lottery table games to the special funds  
153 established by each greyhound racetrack table games licensee  
154 for the payment of regular racetrack purses, the amount being  
155 divided equally between the special funds of each greyhound  
156 racetrack table games licensee;

157 (3) Transfer two percent of the adjusted gross receipts  
158 from all licensed racetracks to the West Virginia  
159 Thoroughbred Development Fund created under section  
160 thirteen-b, article twenty-three, chapter nineteen of this code  
161 and the West Virginia Greyhound Breeding Development  
162 Fund created under section ten, article twenty-three, chapter

163 nineteen of this code. The total amount transferred under this  
164 subdivision shall be divided pro rata among the development  
165 funds for each racetrack table games licensee based on  
166 relative adjusted receipts from each racetrack. The amounts  
167 transferred to these funds may not be used for the benefit of  
168 any person or activity other than at or associated with a  
169 racetrack table games licensee;

170 (4) Transfer two percent of the adjusted gross receipts  
171 from each licensed racetrack to the county commissions of  
172 the counties where racetracks with West Virginia Lottery  
173 table games are located. The money transferred under this  
174 subdivision shall be divided pro rata among the counties with  
175 a racetrack with West Virginia Lottery table games based on  
176 relative adjusted gross receipts from each county's racetrack:  
177 *Provided*, That the county board of education of a growth  
178 county, as that term is defined in section three, article twenty,  
179 chapter seven of this code, which has enacted the Local  
180 Powers Act, and in which a racetrack is located that has  
181 participated in the West Virginia Thoroughbred Development  
182 Fund since on or before January 1, 1991, shall receive one  
183 half of that county's share of adjusted gross receipts as  
184 provided in this subdivision for the purpose of capital  
185 improvements;

186 (5) Transfer three percent of the adjusted gross receipts  
187 from each licensed racetrack to the governing bodies of  
188 municipalities within counties where racetracks with West  
189 Virginia Lottery table games are located, which shall be  
190 allocated as follows:

191 (A) One half of the money transferred by this subdivision  
192 shall be allocated to the municipalities within each county,  
193 other than a county described in paragraph (C) of this  
194 subdivision, having a racetrack table games licensee based on  
195 relative adjusted gross receipts from West Virginia Lottery  
196 table games from those racetracks and the total amount

197 allocated to the municipalities within a county shall be  
198 divided pro rata among the municipalities based on each  
199 municipality's population determined at the most recent  
200 United States decennial census of population: *Provided,*  
201 That: (i) For each allocation, when a municipality is  
202 physically located in two or more counties, only that portion  
203 of its population residing in the county where the authorized  
204 table games are located shall be considered; (ii) a single  
205 municipality in a county where West Virginia Lottery  
206 racetrack table games are played may not receive a total share  
207 under this paragraph that is in excess of seventy-five percent  
208 of the total distribution under this paragraph for the county in  
209 which the municipality is located; and (iii) a municipality  
210 receiving moneys under this paragraph may not receive an  
211 amount which is less than that received by a municipality  
212 under provisions of subdivision (4), subsection (d) of this  
213 section.

214 (B) One half of the money transferred under this  
215 subdivision shall be allocated pro rata to the municipalities  
216 within all the counties, other than a county described in  
217 paragraph (C) of this subdivision, having a racetrack table  
218 games licensee based on each municipality's population  
219 determined at the most recent United States decennial census  
220 of population: *Provided,* That: (i) A municipality which  
221 received funds above its pro rata share pursuant to  
222 subparagraph (iii), paragraph (A) of this subdivision shall not  
223 receive an allocation under this paragraph; (ii) for each  
224 allocation, when a municipality is physically located in two or  
225 more counties, only that portion of its population residing in  
226 the county where the authorized table games are located shall  
227 be considered; and (iii) a single municipality in a county where  
228 West Virginia Lottery racetrack games are played may not  
229 receive a total share under this paragraph that is in excess of  
230 twenty-five percent of the total transfers under this paragraph.

231 (C) Notwithstanding the provisions of paragraphs (A) and  
232 (B) of this subdivision, when a racetrack is located in a  
233 growth county, as that term is defined in section three, article  
234 twenty, chapter seven of this code, which has enacted the  
235 Local Powers Act, and in which county a racetrack is located  
236 that has participated in the West Virginia Thoroughbred  
237 Development Fund since on or before January 1, 1991, the  
238 county board of education shall receive two thirds of the  
239 share of adjusted gross receipts from West Virginia Lottery  
240 table games from the racetrack in the county as provided in  
241 this subdivision and the municipalities within the county shall  
242 share the remaining one third of the total amount allocated  
243 as provided in this paragraph. The municipal one-third share  
244 shall be divided pro rata among the municipalities based on  
245 each municipality's population determined at the most recent  
246 United States decennial census of population. All money  
247 transferred under this paragraph shall be used by the county  
248 board of education and by the municipalities for the purpose  
249 of capital improvements;

250 (6) Transfer one half of one percent of the adjusted gross  
251 receipts to the governing bodies of municipalities in which a  
252 racetrack table games licensee is located. The municipalities  
253 shall each receive an equal share of the total amount allocated  
254 under this subdivision: *Provided*, That distribution under this  
255 subdivision may not be made to any municipality that did not  
256 have a licensed racetrack within its municipal boundaries as  
257 they existed on January 1, 2007: *Provided, however*, That if  
258 no racetrack table games licensee is located within a  
259 municipality, a transfer may not be made under this  
260 subdivision; and

261 (7) Distribute the remaining amounts, hereinafter referred  
262 to as the net amounts in the Racetrack Table Games Funds,  
263 in accordance with the provisions of subsection (d) of this  
264 section.

265 (d) From the net amounts in the Racetrack Table Games  
266 Fund, the commission shall:

267 (1) Transfer seventy-six percent to the state Debt  
268 Reduction Fund which is hereby continued in the State  
269 Treasury. Moneys of the fund shall be expended solely for  
270 the purpose of accelerating the reduction of existing  
271 unfunded liabilities and existing bond indebtedness of the  
272 state and shall be expended or transferred only upon  
273 appropriation of the Legislature;

274 (2) Transfer four percent, divided pro rata based on  
275 relative adjusted gross receipts from the individual licensed  
276 racetracks for and on behalf of all employees of each licensed  
277 racing association, into a special fund to be established by the  
278 Racing Commission to be used for payment into the pension  
279 plan for all employees of each licensed racing association;

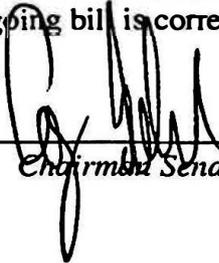
280 (3) Transfer ten percent, to be divided and paid in equal  
281 shares, to each county commission in the state that is not  
282 eligible to receive a distribution under subdivision (4),  
283 subsection (b) of this section: *Provided*, That funds transferred  
284 to county commissions under this subdivision shall be used only  
285 to pay regional jail expenses and the costs of infrastructure  
286 improvements and other capital improvements; and

287 (4) Transfer ten percent, to be divided and paid in equal  
288 shares, to the governing bodies of each municipality in the  
289 state that is not eligible to receive a distribution under  
290 subdivisions (5) and (6), subsection (b) of this section:  
291 *Provided*, That funds transferred to municipalities under this  
292 subdivision shall be used only to pay for debt reduction in  
293 municipal police and fire pension funds and the costs of  
294 infrastructure improvements and other capital improvements.

295 (e) All expenses of the commission incurred in the  
296 administration and enforcement of this article shall be paid

297 from the Racetrack Table Games Fund, including  
298 reimbursement of state law-enforcement agencies for services  
299 performed at the request of the commission pursuant to this  
300 article. The commission's expenses associated with a  
301 particular racetrack with authorized table games under this  
302 article may not exceed three percent of the total annual  
303 adjusted gross receipts received from that licensee's operation  
304 of table games under this article, including, but not limited to,  
305 all license fees or other amounts attributable to the licensee's  
306 operation of table games under this article, except as provided  
307 in subdivision (2), subsection (a) of this section. However, for  
308 the fiscal year following the licensing of every licensed  
309 racetrack to offer West Virginia lottery racetrack table games  
310 under this article and for the fiscal year thereafter, the  
311 commission's expenses associated with a particular racetrack  
312 with authorized table games under this article may not exceed  
313 four percent of the total annual adjusted gross receipts received  
314 from that licensee's operation of table games under this article,  
315 including, but not limited to, all license fees or other amounts  
316 attributable to the licensee's operation of table games under  
317 this article, except as provided in subdivision (2), subsection  
318 (a) of this section. These expenses shall either be allocated to  
319 the racetrack with West Virginia Lottery table games for which  
320 the expense is incurred, if practicable, or be treated as general  
321 expenses related to all racetrack table games facilities and be  
322 allocated pro rata among the racetrack table games facilities  
323 based on the ratio that annual adjusted gross receipts from  
324 operation of table games at each racetrack with West Virginia  
325 Lottery table games bears to total annual adjusted gross  
326 receipts from operation of table games at all racetracks with  
327 West Virginia Lottery table games during the fiscal year of the  
328 state. From this allowance, the commission shall transfer at  
329 least \$100,000 but not more than \$500,000 into the  
330 Compulsive Gambling Treatment Fund created in section  
331 nineteen, article twenty-two-a of this chapter.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
\_\_\_\_\_  
Chairman Senate Committee

  
\_\_\_\_\_  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

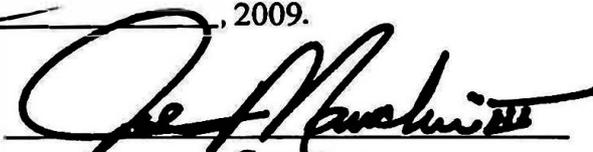
  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is approved this the 17<sup>th</sup>  
day of June, 2009.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

JUN 16 2009

Time 9:10am