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
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.

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

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

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

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

(2) Transfer two and one-half percent of adjusted gross receipts from all thoroughbred racetracks with West Virginia Lottery table games to the special funds established by each
thoroughbred racetrack table games licensees for the payment of regular racetrack purses, the amount being divided equally between the special funds of each thoroughbred racetrack table games licensee and transfer two and one-half percent of adjusted gross receipts from all greyhound racetracks with West Virginia Lottery table games to the special funds established by each greyhound racetrack table games licensees for the payment of regular racetrack purses, the amount being divided equally between the special funds of each greyhound racetrack table games licensee;

(3) Transfer two percent of the adjusted gross receipts from all licensed racetracks to 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. The total amount transferred under this subdivision shall be divided pro rata among the development funds for each racetrack table games licensee based on relative adjusted receipts from each racetrack. The amounts transferred to these funds may not be used for the benefit of any person or activity other than at or associated with a racetrack table games licensee;

(4) Transfer one percent of the adjusted gross receipts from each licensed racetrack to the county commissions of the counties where racetracks with West Virginia Lottery table games are located. The one percent transferred under this subdivision shall be divided pro rata among the counties with a racetrack with West Virginia Lottery table games based on relative adjusted gross receipts from each county’s racetrack: Provided, That the county board of education of a growth county, as that term is defined in section three, article twenty, chapter seven of this code, which has enacted the Local Powers Act, and in which county a racetrack is
located that has participated in the West Virginia Thoroughbred Development Fund since on or before January 1, 1991, shall receive the one percent of adjusted gross receipts as provided in this subdivision for the purpose of capital improvements;

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

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

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

(6) Transfer one half of one percent of the adjusted gross receipts to the governing bodies of municipalities in which a racetrack table games licensee is located. The municipalities shall each receive an equal share of the total amount allocated under this subdivision: Provided, That distribution under this subdivision may not be made to any municipality which did not have a licensed racetrack within its municipal boundaries as they existed on January 1, 2007: Provided, however, That if no racetrack table games licensee is located within a municipality, a transfer may not be made under this subdivision; and
(7) Distribute the remaining amounts, hereinafter referred to as the net amounts in the Racetrack Table Games Funds, in accordance with the provisions of subsection (d) of this section.

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

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

(2) Transfer two and one-half percent of adjusted gross receipts from all thoroughbred racetracks with West Virginia Lottery table games to the special funds established by each thoroughbred racetrack table games licensee for the payment of regular racetrack purses, the amount being divided equally between the special funds of each thoroughbred racetrack table games licensee and transfer two and one-half percent of adjusted gross receipts from all greyhound racetracks with West Virginia Lottery table games to the special funds established by each greyhound racetrack table games licensee for the payment of regular racetrack purses, the amount being divided equally between the special funds of each greyhound racetrack table games licensee;

(3) Transfer two percent of the adjusted gross receipts from all licensed racetracks to 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. The total amount transferred under this subdivision shall be divided pro rata among the development funds for each racetrack table games licensee based on relative adjusted receipts from each racetrack. The amounts transferred to these funds may not be used for the benefit of any person or activity other than at or associated with a racetrack table games licensee;

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

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

(A) One half of the money transferred by this subdivision shall be allocated to the municipalities within each county, other than a county described in paragraph (C) of this subdivision, having a racetrack table games licensee based on relative adjusted gross receipts from West Virginia Lottery table games from those racetracks and the total amount
allocated to the municipalities within a county shall be
divided pro rata among the municipalities based on each
municipality’s population determined at the most recent
United States decennial census of population: Provided,
That: (i) For each allocation, when a municipality is
physically located in two or more counties, only that portion
of its population residing in the county where the authorized
table games are located shall be considered; (ii) a single
municipality in a county where West Virginia Lottery
racetrack table games are played may not receive a total share
under this paragraph that is in excess of seventy-five percent
of the total distribution under this paragraph for the county in
which the municipality is located; and (iii) a municipality
receiving moneys under this paragraph may not receive an
amount which is less than that received by a municipality
under provisions of subdivision (4), subsection (d) of this
section.

(B) One half of the money transferred under this
subdivision shall be allocated pro rata to the municipalities
within all the counties, other than a county described in
paragraph (C) of this subdivision, having a racetrack table
games licensee based on each municipality’s population
determined at the most recent United States decennial census
of population: Provided, That: (i) A municipality which
received funds above its pro rata share pursuant to
subparagraph (iii), paragraph (A) of this subdivision shall not
receive an allocation under this paragraph; (ii) for each
allocation, when a municipality is physically located in two or
more counties, only that portion of its population residing in
the county where the authorized table games are located shall
be considered; and (iii) a single municipality in a county where
West Virginia Lottery racetrack games are played may not
receive a total share under this paragraph that is in excess of
twenty-five percent of the total transfers under this paragraph.
(C) Notwithstanding the provisions of paragraphs (A) and (B) of this subdivision, when a racetrack is located in a growth county, as that term is defined in section three, article twenty, chapter seven of this code, which has enacted the Local Powers Act, and in which county a racetrack is located that has participated in the West Virginia Thoroughbred Development Fund since on or before January 1, 1991, the county board of education shall receive two thirds of the share of adjusted gross receipts from West Virginia Lottery table games from the racetrack in the county as provided in this subdivision and the municipalities within the county shall share the remaining one third of the total amount allocated as provided in this paragraph. The municipal one-third share shall be divided pro rata among the municipalities based on each municipality’s population determined at the most recent United States decennial census of population. All money transferred under this paragraph shall be used by the county board of education and by the municipalities for the purpose of capital improvements;

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

(7) Distribute the remaining amounts, hereinafter referred to as the net amounts in the Racetrack Table Games Funds, in accordance with the provisions of subsection (d) of this section.
(d) From the net amounts in the Racetrack Table Games Fund, the commission shall:

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

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

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

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

(e) All expenses of the commission incurred in the administration and enforcement of this article shall be paid
from the Racetrack Table Games Fund, including reimbursement of state law-enforcement agencies for services performed at the request of the commission pursuant to this article. The commission’s expenses associated with a particular racetrack with authorized table games under this article may not exceed three percent of the total annual adjusted gross receipts received from that licensee’s operation of table games under this article, including, but not limited to, all license fees or other amounts attributable to the licensee’s operation of table games under this article, except as provided in subdivision (2), subsection (a) of this section. However, for the fiscal year following the licensing of every licensed racetrack to offer West Virginia lottery racetrack table games under this article and for the fiscal year thereafter, the commission’s expenses associated with a particular racetrack with authorized table games under this article may not exceed four percent of the total annual adjusted gross receipts received from that licensee’s operation of table games under this article, including, but not limited to, all license fees or other amounts attributable to the licensee’s operation of table games under this article, except as provided in subdivision (2), subsection (a) of this section. These expenses shall either be allocated to the racetrack with West Virginia Lottery table games for which the expense is incurred, if practicable, or be treated as general expenses related to all racetrack table games facilities and be allocated pro rata among the racetrack table games facilities based on the ratio that annual adjusted gross receipts from operation of table games at each racetrack with West Virginia Lottery table games bears to total annual adjusted gross receipts from operation of table games at all racetracks with West Virginia Lottery table games during the fiscal year of the state. From this allowance, the commission shall transfer at least $100,000 but not more than $500,000 into the Compulsive Gambling Treatment Fund created in section 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 17th day of June, 2009.

Governor