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ENROLLED

Senate Bill No. 237

(By Senators McCabe, Snyder, Browning, Unger, Guills, Yost, Stollings, Chafin, Plymale, Edgell, Foster, Bowman, Kessler, Caruth and Palumbo)

[Passed March 13, 2010; in effect from passage.]

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §13-2H-1,

CHAPTER 13. PUBLIC BONDED INDEBTEDNESS.

ARTICLE 2H. LOTTERY REVENUE BOND ACT.


This article may be known as and may be cited as the Lottery Revenue Bond Act.


Unless the context clearly indicates otherwise, as used in this article:

(a) “Board of education” means a 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, and is receiving lottery revenues.

(b) “Governmental body” means any municipality, county or board of education that receives lottery revenues.

(c) “Lottery revenues” means the funds distributed to a governmental body pursuant to the provisions of sections ten and ten-b, article twenty-two-a, chapter twenty-nine of this code; section one thousand four hundred eight, article twenty-two-b of said chapter, or section twenty-seven, article twenty-two-c of said chapter or section twenty-two, article twenty-five, chapter twenty-nine of this code.
(d) "Lottery revenue bonds" means bonds, debentures, notes, certificates of participation, certificates of beneficial interest, certificates of ownership or other evidences of indebtedness or ownership that are issued by a governmental body, the proceeds of which are used directly or indirectly to finance or refinance public projects pursuant to this article and are secured by the lottery revenues of the governmental body.

(e) "Lottery revenue fund" means the fund required to be established by the governmental body to deposit lottery revenues if the governmental body issues lottery revenue bonds.

(f) "Public project" means any project approved by a governmental body to acquire, improve, renovate, extend, enlarge, increase, repair, construct, equip, maintain and operate public buildings, structures, fixtures, property, public infrastructure and appurtenant facilities of any type or types for which the governmental body is permitted by law to expend public funds including, but not limited to, those projects as defined in section one, article sixteen, chapter eight of this code. Additionally, a public project would include all roads and transportation infrastructure.


In addition to any other powers which a county or municipality may now have, each county, by and through its county commission, and each municipality, by and through its council or other governing body in lieu thereof, may: (a) Acquire, whether by purchase, construction, gift, lease or otherwise, one or more public projects, or additions thereto, which shall be located within this state; and (b) issue and deliver lottery revenue bonds secured by lottery revenues to finance or refinance public projects.

(a) The county commission may issue lottery revenue bonds of the county as provided in this section to finance or refinance all or part of a public project and pledge all or any part of the lottery revenues for the payment of the principal of and interest on such lottery revenue bonds and for reserves therefor: Provided, That a county commission receiving lottery revenues pursuant to the provisions of subdivision (3), subsection (c), section twenty-seven, article twenty-two-c, chapter twenty-nine of this code may only pledge fifty percent of the lottery revenues to the payment of principal and interest on the lottery revenue bonds and for reserves therefor. Any pledge of lottery revenue funds for lottery revenue bonds is a prior and superior charge on the lottery revenues and Lottery Revenue Fund over the use of any of the moneys to pay for the cost of any of the purposes on a cash basis.

(b) The lottery revenue bonds may be authorized and issued by the county commission to finance or refinance, in whole or in part, public projects in an aggregate principal amount not exceeding the amount which the county commission determines can be paid as to both principal and interest and reasonable margins for a reserve therefor from the lottery revenues and the Lottery Revenue Fund. A county commission issuing lottery revenue bonds shall establish a fund to deposit lottery revenues and call such fund the Lottery Revenue Fund. The county commission shall thereafter deposit all lottery revenues pledged to the payment of principal and interest of lottery revenue bonds into the Lottery Revenue Fund.

(c) The issuance of lottery revenue bonds may be authorized by an order of the county commission. The lottery revenue bonds shall: (1) Bear a date or dates; (2) mature at a time or times not exceeding forty years from their respective dates; (3) be in a specific denomination; (4) be in a registered form with exchangeability and interchangeability privileges; (5) be payable in a medium of
payment and at a place or places within or without the state; (6) be subject to terms of prior redemption at those prices; and (7) may have such other terms and provisions as determined by the county commission. The lottery revenue bonds shall be signed by the president of the county commission under the seal of the county commission, attested by the clerk of the county commission. Lottery revenue bonds may be sold in a manner as the county commission determines is for the best interests of the county.

(d) The county commission may enter into: (1) Trust agreements with banks or trust companies within or without the state and in trust agreements or orders authorizing the issuance of bonds; (2) valid and legally binding covenants with the holders of the lottery revenue bonds as to the custody, safeguarding and disposition of the proceeds of the lottery revenue bonds, the moneys in the Lottery Revenue Fund, sinking funds, reserve funds or any other moneys or funds; as to the rank and priority, if any, or different issues of lottery revenue bonds by the county commission under the provisions of this section; (3) agreements as to such provisions as payment, term, security, default and remedy provisions as the county commission shall consider necessary or desirable; and

(4) Agreements as to any other matters or provisions which are considered necessary and advisable by the county commission in the best interests of the county and to enhance the marketability of such lottery revenue bonds.

(e) The lottery revenue bonds are negotiable instruments under the Uniform Commercial Code of this state and are not obligations or debts of the state or of the county issuing the bonds and the credit or taxing power of the state or county may not be pledged therefor, but the
lottery revenue bonds may be payable only from the revenue pledged therefor as provided in this section.

(f) A holder of lottery revenue bonds has a lien against the lottery revenues and the Lottery Revenue Fund for payment of the lottery revenue bond and the interest thereon and may bring suit to enforce the lien.

(g) A county commission may issue and secure additional bonds payable out of the lottery revenues and the Lottery Revenue Fund which bonds may rank on a parity with, or be subordinate or superior to, other bonds issued by the county commission and payable from the Lottery Revenue Fund.


(a) A municipality may issue lottery revenue bonds as provided in this section to finance or refinance all or part of a public project and pledge all or any part of the lottery revenues for the payment of the principal of and interest on the lottery revenue bonds and for reserves therefor: Provided, That a municipality receiving lottery revenues pursuant to the provisions of subdivision (4), subsection (c), section twenty-seven, article twenty-two-c, chapter twenty-nine of this code may only pledge fifty percent of the lottery revenues to the payment of principal and interest on the lottery revenue bonds and for reserves therefor. Any pledge of lottery revenue funds for lottery revenue bonds is a prior and superior charge on the lottery revenues and Lottery Revenue Fund over the use of any of the moneys to pay for the cost of any of such purposes on a cash basis.

(b) The lottery revenue bonds may be authorized and issued by the municipality to finance or refinance, in whole or in part, public projects in an aggregate principal amount not exceeding the amount which the municipality determines can be paid as to both principal and interest
and reasonable margins for a reserve therefor from the lottery revenues and the Lottery Revenue Fund. A municipality issuing lottery revenue bonds shall establish a fund to deposit lottery revenues and call the fund the Lottery Revenue Fund. The municipality shall thereafter deposit all lottery revenues pledged to the payment of principal and interest of lottery revenue bonds into the Lottery Revenue Fund.

(c) The issuance of lottery revenue bonds may be authorized by an ordinance of the municipality and such lottery revenue bonds shall be issued pursuant to the provisions of article sixteen, chapter eight of this code.

(d) The lottery revenue bonds are negotiable instruments under the Uniform Commercial Code of this state and may not be considered to be obligations or debts of the state or of the municipality issuing the bonds and the credit or taxing power of the state or municipality may not be pledged therefor, but the lottery revenue bonds may be payable only from the revenue pledged therefor as provided in this section.

(e) A holder of lottery revenue bonds has a lien against the lottery revenues and the Lottery Revenue Fund for payment of the lottery revenue bond and the interest thereon and may bring suit to enforce the lien.

(f) A municipality may issue and secure additional bonds payable out of the lottery revenues and the Lottery Revenue Fund which bonds may rank on a parity with, or be subordinate or superior to, other bonds issued by the municipality and payable from the Lottery Revenue Fund.


(a) A board of education may issue and deliver lottery revenue bonds secured by lottery revenues to finance or
refinance public projects. The board of education may issue lottery revenue bonds of the school district as provided in this section to finance or refinance all or part of a public project and pledge all or any part of the lottery revenues for the payment of the principal of and interest on lottery revenue bonds and for reserves therefor. Any pledge of lottery revenue funds for lottery revenue bonds is a prior and superior charge on the lottery revenues and Lottery Revenue Fund over the use of any of the moneys to pay for the cost of any of such purposes on a cash basis.

(b) Lottery revenue bonds may be authorized and issued by the board of education to finance or refinance, in whole or in part, public projects in an aggregate principal amount not exceeding the amount which the board of education determines can be paid as to both principal and interest and reasonable margins for a reserve therefor from the lottery revenues and the Lottery Revenue Fund. A board of education issuing lottery revenue bonds shall establish a fund to deposit lottery revenues and call the fund the Lottery Revenue Fund. The board of education shall thereafter deposit all lottery revenues pledged to the payment of principal and interest of lottery revenue bonds into the Lottery Revenue Fund.

(c) The issuance of lottery revenue bonds may be authorized by an order of the board of education and the lottery revenue bonds shall: (1) Bear a specific date or dates; (2) mature at such time or times not exceeding forty years from their respective dates; (3) be in a specific denomination; (4) be in registered form with exchangeability and interchangeability privileges; (5) be payable in the medium of payment and at a specific place or places within or without the state; (6) be subject to terms of prior redemption at specific prices; and (7) have such other terms and provisions as determined by the board of education. The lottery revenue bonds shall be signed by the president of the board of education under the seal of the board of
education, attested by the secretary of the board of 
education. Lottery revenue bonds may be sold in the 
manner as the board of education determines is for the 
best interests of the school district.

(d) The board of education may enter into: (1) Trust 
agreements with banks or trust companies, within or 
without the state; (2) trust agreements or the orders 
authorizing the issuance of the bonds; (3) valid and legally 
binding covenants with the holders of the lottery revenue 
bonds as to the custody, safeguarding and disposition of 
the proceeds of the lottery revenue bonds, the moneys in 
the Lottery Revenue Fund, sinking funds, reserve funds or 
any other moneys or funds; (4) agreements as to the rank 
and priority, if any, or different issues of lottery revenue 
bonds by the board of education under the provisions of 
this section; (5) agreements as to the provisions of pay-
ment, term, security, default and remedy provisions as the 
board of education may consider necessary or desirable; 
and (6) agreements as to any other matters or provisions 
which are considered necessary and advisable by the 
board of education in the best interests of the school 
district and to enhance the marketability of such lottery 
revenue bonds.

(e) The lottery revenue bonds are negotiable instruments 
under the Uniform Commercial Code of this state and may 
not be considered to be obligations or debts of the state or 
of the board of education issuing the bonds and the credit 
or taxing power of the state or board of education may not 
be pledged therefor, but the lottery revenue bonds may be 
payable only from the revenue pledged therefor as pro-
vided in this section.

(f) A holder of lottery revenue bonds has a lien against 
the lottery revenues and the Lottery Revenue Fund for 
payment of the lottery revenue bond and the interest 
thereon and may bring suit to enforce the lien.
(g) A board of education may issue and secure additional bonds payable out of the lottery revenues or Lottery Revenue Fund which bonds may rank on a parity with, or be subordinate or superior to, other bonds issued by the board of education and payable from the Lottery Revenue Fund.


(a) The proceeds from the sale of any bonds issued under authority of this article may be applied only for the purpose for which the bonds were issued: Provided, That any accrued interest received in any sale shall be applied to the payment of the principal of or the interest on the bonds sold. If for any reason any portion of the proceeds are not needed for the purpose for which the bonds were issued, then the unneeded portion of the proceeds shall be applied to the purchase of bonds for cancellation or payment of the principal of or the interest on the bonds or held in reserve for the payment thereof.

(b) The costs of any public project shall be considered to include the following:

(1) Capital costs, including, but not limited to, the actual costs of the construction of public works or improvements, capital improvements and facilities, new buildings, structures and fixtures, the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures and fixtures, the removal or containment of, or the restoration of soil or groundwater affected by environmental pollution, environmental remediation, the acquisition of equipment and site clearing, grading and preparation;

(2) Financing costs, including, but not limited to, any interest paid to holders of evidences of indebtedness issued to pay for project costs, all costs of issuance and any redemption premiums, credit enhancement or other related costs;
(3) Real property acquisition costs;

(4) Professional service costs, including, but not limited to, those costs incurred for architectural planning, engineering and legal advice and services;

(5) Imputed administrative costs, including, but not limited to, reasonable charges for time spent by governmental body employees in connection with the implementation of a project;

(6) Relocation costs, including, but not limited to, those relocation payments made following condemnation and job training and retraining and costs for utility relocation; and

(7) Organizational costs, including, but not limited to, the costs of conducting environmental impact and other studies and the costs of informing the public with respect to the implementation of project plans.


The lottery revenue bonds issued pursuant to this article may contain a provision therein to the effect that they, or any of them, may be called for redemption at any time prior to maturity by the governmental body and at such redemption prices or premiums, which terms shall be stated in the bond.


Any lottery revenue bonds issued hereunder and at any time outstanding may, at any time and from time to time, be refunded by a county, municipality or board of education by the issuance of its refunding bonds in such amount as the governmental body may determine necessary to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon; to make any improvements or alterations in the public project; and any
9 premiums and commissions necessary to be paid in connection therewith. Any refunding may be effected whether the bonds to be refunded have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof for the redemption of the bonds to be refunded thereby or by exchange of the refunding bonds for the bonds to be refunded thereby: Provided, That the holders of any bonds so to be refunded may not be compelled without their consent to surrender their bonds for payment or exchange prior to the date on which they are payable or, if they are called for redemption, prior to the date on which they are by their terms subject to redemption. Any refunding bonds issued under the authority of this article shall be payable from the lottery revenues, the Lottery Revenue Fund or from other moneys or the principal of and interest on or other investment yield from investments or proceeds of bonds or other applicable funds and moneys, including investments of proceeds of any refunding bonds, and are subject to the provisions contained in section five, six or seven of this article, as applicable.

§13-2H-10. Joint establishment by two or more governmental bodies.

1 Any two or more governmental bodies may jointly acquire by construction or purchase, or both, or finance one or more public projects or additions thereto by the issuance and delivery of lottery revenue bonds in which case such governmental bodies shall jointly exercise all the rights, authority, power and duties herein conferred upon a county commission, a municipality or a board of education when acting singly and they shall also be subject to the same limitations, restrictions and conditions as are herein imposed on a singly governmental body in connection with the acquisition or finance of a public project. Notwithstanding the signing and sealing requirements set
forth in section four, five or six of this article, one of such
governing bodies may sign and seal bonds issued pursuant
to this article on both its own behalf and on behalf of all
other participating governing bodies, and signature in the
manner set forth in the said section four, five or six, as
applicable, by one governing body shall be effect as to all
other participating governing bodies. The respective
governing bodies, acting jointly, may also provide by
agreement among themselves, any other terms and condi-
tions of such joint participation.


1 The lottery revenue bonds issued pursuant to this article
2 and the income therefrom are exempt from all taxation by
3 the State of West Virginia, or by any county, school
4 district, municipality or political subdivision thereof,
5 except inheritance, estate and transfer taxes; and the real
6 and personal property which a county commission, a
7 municipality or board of education may acquire pursuant
8 to the provisions of this article shall be exempt from
9 taxation by the state, or any county, municipality or other
10 levying body, as public property, so long as the same is
11 owned by such county, municipality or board of education.


1 This article may not be construed as a restriction or
2 limitation upon any powers which a county, municipality
3 or board of education might otherwise have under any
4 laws of this state, but shall be construed as alternative or
5 additional. This article may not be construed as requiring
6 an election by the voters of a county, municipality or
7 board of education prior to the issuance of bonds hereun-
der by a county, municipality or board of education and
8 may not be construed as requiring any proceeding under
9 any law or laws, other than that which is required by this
10 article.
§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 on a pro rata basis 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. County commissions may pledge this money to make payments on lottery revenue bonds issued pursuant to article two-h, chapter thirteen of this code. 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 race-
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 public projects, as defined in section two, article two-h, chapter thirteen of this code or to make payments on lottery revenue bonds issued to finance public projects;

(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. Municipalities may pledge the money to make payments on lottery revenue bonds issued pursuant to article two-h, chapter thirteen of this code. This money 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 public projects, as defined in section two, article two-h, chapter thirteen of this code, or to make payments on lottery revenue bonds issued to finance the public projects;

(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. The municipality may pledge this money to make payments on lottery revenue bonds issued pursuant to article two-h, chapter thirteen of this code; 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 on a pro rata basis between the special funds of each thoroughbred racetrack table games licensee and transfer two and one-half percent of adjusted
171 gross receipts from all greyhound racetracks with West
172 Virginia Lottery table games to the special funds estab-
173 lished by each greyhound racetrack table games licensee
174 for the payment of regular racetrack purses, the amount
175 being divided equally between the special funds of each
176 greyhound racetrack table games licensee;

177 (3) Transfer two percent of the adjusted gross receipts
178 from all licensed racetracks to the West Virginia Thor-
179 oughbred Development Fund created under section
180 thirteen-b, article twenty-three, chapter nineteen of this
181 code and the West Virginia Greyhound Breeding Develop-
182 ment Fund created under section ten, article twenty-three,
183 chapter nineteen of this code. The total amount trans-
184 ferred under this subdivision shall be divided pro rata
185 among the development funds for each racetrack table
186 games licensee based on relative adjusted receipts from
187 each racetrack. The amounts transferred to these funds
188 may not be used for the benefit of any person or activity
189 other than at or associated with a racetrack table games
190 licensee;

191 (4) Transfer two percent of the adjusted gross receipts
192 from each licensed racetrack to the county commissions of
193 the counties where racetracks with West Virginia Lottery
194 table games are located. The money transferred under this
195 subdivision shall be divided pro rata among the counties
196 with a racetrack with West Virginia Lottery table games
197 based on relative adjusted gross receipts from each
198 county’s racetrack: Provided, That the county board of
199 education of a growth county, as that term is defined in
200 section three, article twenty, chapter seven of this code,
201 which has enacted the Local Powers Act, and in which a
202 racetrack is located that has participated in the West
203 Virginia Thoroughbred Development Fund since on or
204 before January 1, 1991, shall receive one half of that
205 county’s share of adjusted gross receipts as provided in
206 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
(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: Provided, however, That up to fifty percent of these funds may be pledged to make payments on
lottery revenue bonds issued pursuant to article two-h, chapter thirteen of this code; 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: Provided, however, That up to fifty percent of these funds may be pledged to make payments on lottery revenue bonds issued pursuant to article two-h, chapter thirteen of this code.

(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.
The 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 .......... Day of ........................., 2010.

Governor