WEST VIRGINIA CODE CHAPTER 29 ARTICLE 22

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§29-22-1. Short title.

This article shall be known and may be cited as the "State Lottery Act."

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§29-22-2. Legislative findings and intent.

The Legislature finds and declares that the purpose of this article is to establish and implement a state-operated lottery under the supervision of the state Lottery Commission and the director of the state lottery office who shall be appointed by the Governor and hold broad authority to administer the system in a manner which will provide the state with a highly efficient operation.

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§29-22-3. Definitions.

(a) "State Lottery Commission" or "commission" means the state Lottery Commission created by this article.

(b) "Director" means the individual appointed by the Governor to provide management and administration necessary to direct the state lottery office.

(c) "Lottery" means the public gaming systems or games established and operated by the state lottery office.

(d) "Lottery tickets" or "tickets" means tickets or other tangible evidence of participation used in lottery games or gaming systems.

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§29-22-4. State Lottery Commission created; composition; qualifications; appointment; terms of office; chairman's removal; vacancies; compensation and expenses; quorum; oath and bond.

(a) There is hereby created a State Lottery Commission which shall consist of seven members, all residents and citizens of the state, one who shall be a lawyer, one who shall be a certified public accountant, one who shall be a computer expert, one who shall have not less than five years' experience in law enforcement and one who shall be qualified by experience and training in the field of marketing. The two remaining members shall be representative of the public at large. The commission shall carry on a continuous study and investigation of the lottery throughout the state and advise and assist the director of the state lottery. The commission members shall be appointed by the Governor, by and with the advice and consent of the Senate, no later than July 1, 1985. The terms of members first appointed expire as designated by the Governor at the time of appointment: One at the end of one year; two at the end of two years; one at the end of three years; two at the end of four years; and one at the end of five years. As vacancies occur, appointments to fill vacancies shall be made so that at least three members are appointed from each congressional district. No more than four members of such commission shall belong to the same political party. Members serve overlapping terms of five years and are eligible for successive appointments to the commission. On July 1 of each year, the commission shall select a chairman from its membership. The Governor may remove any commission member for cause, notwithstanding the provisions of §6-6-4 of this code. Vacancies shall be filled in the same manner as the original appointment but only for the remainder of the term. No person convicted of a felony shall be eligible for appointment nor appointed as a commissioner.

(b) The board shall pay each member the same compensation as is paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law for each day or portion thereof engaged in the discharge of official duties and shall reimburse each member for actual and necessary expenses incurred in the discharge of official duties: *Provided*, That the per mile rate to be reimbursed shall be the same rate as authorized for members of the Legislature. All such payments shall be made from the State Lottery Fund.

(c) At least one meeting per month shall be held by the commission. Additional meetings may be held at the call of the chairman, director, or majority of the commission members.

(d) A majority of the members constitutes a quorum for the transaction of business, and all actions require a majority vote of the members present.

(e) Before entering upon the discharge of the duties as commissioner, each commissioner shall take and subscribe to the oath of office prescribed in section five, article IV of the Constitution of West Virginia and shall enter into a bond in the penal sum of $100,000 with a corporate surety authorized to engage in business in this state, conditioned upon the faithful discharge and performance of the duties of the office. The executed oath and bond shall be filed in the office of the Secretary of State.

§29-22-5. State Lottery Commission; powers and duties; cooperation of other agencies.

(a) The commission has the authority to:

(1) Promulgate rules in accordance with chapter twenty-nine-a of this code: Provided, That those rules promulgated by the commission that are necessary to begin the lottery games selected shall be exempted from the provisions of chapter twenty-nine-a of this code in order that the selected games may commence as soon as possible;

(2) Establish rules for conducting lottery games, a manner of selecting the winning tickets and manner of payment of prizes to the holders of winning tickets;

(3) Select the type and number of public gaming systems or games, to be played in accordance with the provisions of this article;

(4) Contract, if deemed desirable, with the educational broadcasting authority to provide services through its microwave interconnection system to make available to public broadcasting stations servicing this state and, at no charge, for rebroadcast to commercial broadcasting stations within this state, any public gaming system or games drawing;

(5) Enter into interstate and international lottery agreements with other states or foreign countries, or any combination of one or more states and one or more foreign countries;

(6) Adopt an official seal;

(7) Maintain a principal office and, if necessary, regional suboffices at locations properly designated or provided;

(8) Prescribe a schedule of fees and charges;

(9) Sue and be sued;

(10) Lease, rent, acquire, purchase, own, hold, construct, equip, maintain, operate, sell, encumber and assign rights of any property, real or personal, consistent with the objectives of the commission as set forth in this article;

(11) Designate one of the deputy directors to serve as acting director during the absence of the director;

(12) Hold hearings on any matter of concern to the commission relating to the lottery, subpoena witnesses, administer oaths, take testimony, require the production of evidence and documentary evidence and designate hearing examiners and employees to so act; and

(13) To make and enter into all agreements and do all acts necessary or incidental to the performance of its duties and the exercise of its powers under this article.

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(b) Departments, boards, commissions or other agencies of this state shall provide assistance to the state lottery office upon the request of the director.

(c) Upon the request of the deputy director for the security and licensing division in conjunction with the director, the Attorney General, department of public safety and all other law-enforcement agencies shall furnish to the director and the deputy director such information as may tend to assure the security, honesty, fairness and integrity in the operation and administration of the lottery as they may have in their possession, including, but not limited to, manual or computerized information and data. The director is to designate such employees of the security and licensing division as may be necessary to act as enforcement agents. Such agents are authorized to investigate complaints made to the commission or the state lottery office concerning possible violation of the provisions of this article and determine whether to recommend criminal prosecution. If it is determined that action is necessary, an agent, after approval of the director, is to make such recommendation to the prosecuting attorney in the county wherein the violation occurred or to any appropriate law-enforcement agency.

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§29-22-6. Lottery director; appointment; qualifications; oath and bond; salary.

(a) There is hereby created the position of the lottery director whose duties include the management and administration of the state lottery office. The director shall be qualified by training and experience to direct the operations of the lottery, and shall be appointed, within ninety days of the effective date of this article, by the Governor and shall serve at the will and pleasure of the Governor. No person shall be appointed as lottery director who has been convicted of a felony or crime involving moral turpitude.

(b) The director serves on a full-time basis and may not be engaged in any other profession or occupation.

(c) The director:

(1) Shall have a good reputation, particularly as a person of honesty and integrity, and shall favorably pass a thorough background investigation prior to appointment;

(2) The director shall not hold political office in the government of the state either by election or appointment while serving as director;

(3) The director shall be a citizen of the United States and must become a resident of the state within ninety days of appointment;

(4) The director shall receive an annual salary as provided for by the Governor; and

(5) The director and his or her executive secretary are ineligible for civil service coverage as provided in section four, article six, chapter twenty-nine of this code.

(d) Before entering upon the discharge of the duties as director, the director shall take and subscribe to the oath of office prescribed in section 5, article IV of the Constitution of West Virginia and shall enter into a bond in the penal sum of $100,000 with a corporate surety authorized to engage in business in this state, conditioned upon the faithful discharge and performance of the duties of the office. The executed oath and bond shall be filed in the office of the Secretary of State.

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§29-22-7. Divisions of the state lottery office.

There shall be established within the state lottery office a security and licensing division; a personnel, data processing, accounting and administration division; and a marketing, education and information division. Each division shall be under the supervision of a deputy director who shall administer and coordinate the operation of authorized activities in the respective division. Each deputy director shall have had three years management experience in areas pertinent to his prospective responsibilities and an additional three years of experience in the same field.

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§29-22-8. Lottery director; powers and duties; deputy directors; hiring of staff; civil service coverage; submission of proposed appropriations.

(a) The director shall have the authority to:

(1) Appoint, with the approval of the commission, a deputy director for each of the divisions established in this article. The deputy directors appointed shall serve at the will and pleasure of the director at an annual salary established by the commission. Deputy directors shall not be eligible for civil service coverage as provided in §29-6-4 of this code;

(2) The director shall hire, pursuant to the approval of the commission, such professional, clerical, technical, and administrative personnel as may be necessary to carry out the provisions of this article. Each person employed by the commission shall execute an authorization to allow an investigation of that person's background: *Provided*, That the director and the commission shall apply §29-22-8(d) and §29-22-8(e) of this code in determining whether an applicant's prior criminal convictions bear a rational nexus to the occupation being sought.

(3) Designate the number and types of locations at which tickets may be sold.

(b) Effective July 1, 1986, all employees of the commission, except as otherwise provided herein, shall be in the classified service under the provisions of §29-6-1 *et seq.* of this code.

(c) The director shall, pursuant to the approval of the commission, prepare and submit the annual proposed appropriations for the commission to the Governor.

(d) The director and the Lottery Commission may not disqualify an applicant from initial employment because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the activity required for employment. In determining whether a criminal conviction bears a rational nexus to a profession or occupation, the director and the Lottery Commission shall consider at a minimum:

(1) The nature and seriousness of the crime for which the individual was convicted;

(2) The passage of time since the commission of the crime;

(3) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation; and

(4) Any evidence of rehabilitation or treatment undertaken by the individual.

(e) Notwithstanding any other provision of this code to the contrary, if an applicant is disqualified from employment because of a prior criminal conviction, the director and the Lottery Commission shall permit the applicant to apply for initial employment if:

(1) A period of five years has elapsed from the date of conviction or the date of release from

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incarceration, whichever is later;

(2) The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

(3) The conviction was not for an offense of a violent or sexual nature: *Provided*, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from employment, to be determined by the Lottery Commission.

(f) An individual with a criminal record who has not previously applied for employment may petition the Lottery Commission at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining employment. This petition shall include sufficient details about the individual's criminal record to enable the Lottery Commission to identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of the conviction. The Lottery Commission shall provide the determination within 60 days of receiving the petition from the applicant. The Lottery Commission may charge a fee to recoup its costs for each petition.

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§29-22-9. Initiation and operation of lottery; restrictions; prohibited themes, games, machines, or devices; distinguishing numbers; winner selection; public drawings; witnessing of results; testing and inspection of equipment; price of tickets; claim for and payment of prizes; invalid, counterfeit tickets; estimated prizes and odds of winning; participant bound by lottery rules and validation procedures; security procedures; additional games; electronic and computer systems.

(a) The commission shall initiate operation of the state lottery on a continuous basis at the earliest feasible and practical time, first initiating operation of the preprinted instant winner type lottery. The lottery shall be initiated and shall continue to be operated so as to produce the maximum amount of net revenues to benefit the public purpose described in this article consonant with the public good. Other state government departments, boards, commissions, agencies, and their officers shall cooperate with the Lottery Commission so as to aid the Lottery Commission in fulfilling these objectives.

(b) The commission shall promulgate rules and regulations specifying the types of lottery games to be conducted by the lottery. These rules and regulations shall provide that:

(1) No lottery may use the results of any amateur or professional sporting event, dog race, or horse race to determine the winner except as authorized under §29-22D-1 et seq. of this code.

(2) Electronic video lottery systems must include a central site system of monitoring the lottery terminals utilizing an online or dial-up inquiry.

(3) In a lottery utilizing a ticket, each ticket shall bear a unique number distinguishing it from each other ticket.

(4) No lottery utilizing a machine may use machines which dispense coins or currency.

(5) Selection of the winner must be predicted totally on chance.

(6) Any drawings or winner selections shall be held in public and witnessed by an independent accountant designated by the director for such purposes.

(7) All lottery equipment and materials shall be regularly inspected and tested, before and after any drawings or winner selections, by independent qualified technicians.

(8) The director shall establish the price for each lottery and determine the method of selecting winners and the manner of payment of prizes, including providing for payment by the purchase of annuities for prizes payable in installments.

(9) All claims for prizes shall be examined and no prize shall be paid as a result of altered, stolen, or counterfeit tickets or materials, or which fail to meet validation rules or regulations established for a lottery. No prize shall be paid more than once and, in the event of a binding determination by the commission that more than one person is entitled to a

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particular prize, the sole remedy of the claimants shall be the award to each of them of an equal share in the single prize.

(10) A detailed tabulation of the estimated number of prizes of each particular prize denomination that are expected to be awarded in each lottery, or the estimated odds of winning such prizes shall be printed on any lottery ticket, where feasible, or in descriptive materials, and shall be available at the offices of the commission.

(11) No prizes shall be paid which are invalid and not contemplated by the prize structure of the lottery involved.

(12) By purchasing a ticket or participation in a lottery, a participant agrees to abide by, and be bound by, the lottery rules which apply to the lottery or game play involved. An abbreviated form of such rules may appear on tickets and shall appear on descriptive materials and shall be available at the offices of the commission. A participant in a lottery agrees that the determination of whether the participant is a valid winner is subject to the lottery or game play rules and the winner validation tests established by the commission. The determination of the winner by the commission shall be final and binding upon all participants in a lottery and shall not be subject to review or appeal.

(13) The commission shall institute such security procedures as it deems necessary to ensure the honesty and integrity of the winner selection process for each lottery. All such security and validation procedures and techniques shall be, and remain, confidential and shall not be subject to any discovery procedure in any civil, judicial, administrative, or other proceeding, nor subject to the provisions of §29B-1-1 et seq. of this code.

(c) The commission shall proceed with operation of such additional lottery games, including the implementation of games utilizing a variety of existing or future technological advances at the earliest feasible date. The commission may operate lottery games utilizing electronic computers and electronic computer terminal devices and systems, which systems must include a central site system of monitoring the lottery terminals utilizing direct communication systems, or other technological advances and procedures, ensuring honesty and integrity in the operation of the lottery.

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§29-22-9a. Veterans instant lottery scratch-off game.

(a) Beginning September 1, 2000, the commission shall establish an instant lottery scratch-off game designated as the veterans benefit game, which is offered by the lottery.

(b) Notwithstanding the provisions of section eighteen of this article, all net profits received from the sale of veterans benefit game lottery tickets, materials and games are deposited with the state Treasurer into the Veterans Lottery Fund created under subsection (c) of this section. The Legislature may make appropriations from this fund for operational costs from moneys remaining in the Veterans Lottery Fund after the acquisition, design, construction, equipping, furnishing, including, without limitation, the payment of debt service on bonds issued to finance the foregoing, have been paid. Funds from the Veterans Lottery Fund for the acquisition, design, construction, equipping, furnishing, including, without limitation, the payment of debt service on bonds issued to finance the construction of a veterans nursing home and/or veterans cemetery, shall be transferred to the Veterans Nursing Home Building Fund and the Veterans Cemetery Fund upon written request of the Director of the Division of Veterans Affairs to the Investment Management Board and the state Treasurer in accordance with the provisions of this section. Once the payment of the principal and interest, any required operational costs and architectural and other project costs associated with construction are paid in full for the construction and operation of the initial veterans skilled nursing facility or veterans cemetery, the Legislature may appropriate from the fund created under this section moneys for the construction, including the architectural fees and other associated costs, equipping and operation of additional skilled nursing facilities and/or cemeteries for veterans of the Armed Forces of the United States Military: Provided, That in addition to the payment of the above-mentioned items, funds may be deposited in the Veterans Cemetery Fund created in section eleven-a, article one, chapter nine-a of this code and, thereafter, the Legislature may appropriate any excess funds to the General Revenue Fund.

(c) There is hereby created in the state Treasury a special revenue fund designated and known as the Veterans Lottery Fund which shall consist of all revenues derived from the veterans benefit game and any appropriations to the fund by the Legislature and all interest or other returns earned from investment of the fund.

(d) There is hereby created in the state Treasury a special revenue fund designated and known as the Veterans Nursing Home Building Fund which shall consist of all funds for the acquisition, design, construction, equipping, furnishing, including, without limitation, the payment of debt service on bonds issued to finance the foregoing. Following the selection of the architect, the director shall certify the estimated total cost of the architect and all construction and associated costs to the Joint Committee on Government and Finance prior to the transfer of funds for construction. If funds transferred exceed the estimated costs certified to the joint committee, the director shall certify the additional costs to the joint committee.

(e) There is hereby created in the state Treasury a special revenue fund designated and

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known as the Veterans Nursing Home Debt Service Fund to which the required funding from the Veterans Nursing Home Building Fund is transferred to refund revenue bonds to pay the principal, interest, redemption premium and coverage ratio requirement, if any, on the revenue bonds issued under the provisions of section seven, article twenty-nine-a, chapter sixteen of this code. The Veterans Nursing Home Debt Service Fund has first priority to all funds in the Veterans Nursing Home Building Fund established herein not otherwise designated or specified by the donor. Beginning on or before July 28, 2003, and continuing until June 28, 2035, the Treasurer shall allocate to the Veterans Nursing Home Debt Service Fund from the Veterans Nursing Home Building Fund, as a first priority, an amount equal to one tenth of the projected annual principal, interest, redemption premium and coverage ratio requirement on any and all revenue bonds and refunding bonds issued, or to be issued, on or after July 1, 2003, under the provisions of said section in connection with a veterans nursing home as certified to the Treasurer and the Investment Management Board by the Director of the Division of Veterans Affairs. In the event there are insufficient funds available in any month to transfer the amount required pursuant to this subsection to the Veterans Nursing Home 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.

(f) The commission shall change the design or theme of the veterans benefit game regularly so that the game remains competitive with the other instant lottery scratch-off games offered by the commission. The tickets for the instant lottery game created in this section shall clearly state that the profits derived from the game are being used to benefit veterans in this state.

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§29-22-10. Licensed lottery sales agents; restrictions; annual license and fee; factors; application; bond; age; nonassignable license; organizations qualified; commissions; display of license; geographic distribution; monopoly prohibited; lottery retailers; preprinted instant type lottery tickets; fee; certificate of authority; security; bond.

(a) The commission shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code for the licensing of lottery sales agents for the sale and dispensing of lottery tickets, materials and lottery games, and the operations of electronic computer terminals therefor, subject to the following:

(1) The commission shall issue its annual license to the lottery sales agents for each lottery outlet and for a fee established by the commission to cover its costs, but not to exceed $1,000. Application for licensing as a lottery sales agent shall be on forms prescribed and furnished by the director;

(2) No licensee may engage in business exclusively as a lottery sales agent;

(3) The commission shall ensure geographic distribution of lottery sales agents throughout the state;

(4) Before issuance of a license to an applicant, the commission shall consider factors such as the financial responsibility, security, background, accessibility of the place of business or activity to the public, public convenience and the volume of expected sales;

(5) No person under the age of twenty-one may be licensed as an agent. No licensed agent may employ any person under the age of eighteen for sales or dispensing of lottery tickets or materials or operation of a lottery terminal;

(6) A license is valid only for the premises stated on the license;

(7) The director may issue a temporary license when determined necessary;

(8) A license is not assignable or transferable;

(9) Before a license is issued, an agent shall be bonded for an amount and in the form and manner determined by the director, or shall provide other security, in an amount, form and manner determined by the director, that will ensure the performance of the agent's duties and responsibilities as a licensed lottery agent or the indemnification of the commission;

(10) The commission may issue licenses to any legitimate business, organization, person or entity, including, but not limited to, civic or fraternal organizations; parks and recreation commissions or similar authorities; senior citizen centers, state-owned stores, persons lawfully engaged in nongovernmental business on state property, persons lawfully engaged in the sale of alcoholic beverages; political subdivisions or their agencies or departments, state agencies, commission-operated agencies; persons licensed under the provisions of

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article twenty-three, chapter nineteen of this code; and religious, charitable or seasonal businesses;

(11) Licensed lottery sales agents shall receive seven percent of gross sales as commission for the performance of their duties: Provided, That a portion of the commission not to exceed one and one quarter percent of gross sales may be paid from unclaimed prize moneys accumulated under section sixteen of this article. In addition, the commission may promulgate a bonus-incentive plan as additional compensation not to exceed one percent of annual gross sales. The method and time of payment shall be determined by the commission;

(12) Licensed lottery sales agents shall prominently display the license on the premises where lottery sales are made; and

(13) No person or entity or subsidiary, agent or subcontractor of that person or entity may receive or hold more than twenty-five percent of the licenses to act as licensed lottery sales agent in any one county or municipality nor more than five percent of the licenses issued throughout this state: Provided, That the limitations of twenty-five percent and five percent in this subdivision do not apply if it is determined by the commission that there are not a sufficient number of qualified applicants for licenses to comply with these requirements.

(b) The commission shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code specifying the terms and conditions for contracting with lottery retailers for sale of preprinted instant type lottery tickets and may provide for the dispensing of the tickets through machines and devices. Tickets may be sold or dispensed in any public or private store, operation or organization, without limitation. The commission may establish an annual fee not to exceed $50 for those persons, per location or site, and shall issue a certificate of authority to act as a lottery retailer to them. The commission shall establish procedures to ensure the security, honesty and integrity of the lottery and distribution system. The commission shall establish the method of payment, commission structure, methods of payment of winners, including payment in merchandise and tickets, and may require prepayment by lottery retailers, require bond or security for payment and require deposit of receipts in accounts established therefor. Retailers shall prominently display the certificate of authority issued by the commission on the premises where lottery sales are made.

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§29-22-11. Prohibited acts; restrictions on sales agents and retailers; unauthorized sales; sales to minors; gifts to minors; prizes to commission officers and staff prohibited; criminal penalties for prohibited acts.

(a) No person may sell lottery tickets or materials unless authorized by the commission to so act. No person may perform the functions of a licensed lottery sales agent unless licensed by the commission. No person may perform the functions of a lottery retailer unless authorized therefor by the commission. No person may sell a lottery ticket or material at a price greater than that established by the commission; except, that nothing in this section may be construed to prevent any person from giving a lottery ticket or material to another as a gift or bonus. No person other than a licensed lottery sales agent or an employee thereof, while acting within the scope of such employment, shall sell lottery tickets, and then only on the premises stated on the license.

(b) No ticket shall be sold to any person under the age of eighteen years. This section does not prohibit the purchase of a ticket by a person eighteen years of age or older for the purpose of making the ticket a gift to a person less than that age.

(c) No ticket may be purchased by and no prizes received by or awarded to any officers or employees of the commission or any member of their immediate household.

(d) Any person who violates the provisions of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $50 nor more than $500, or imprisoned in the county jail not more than one year, or both fined and imprisoned.

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§29-22-12. Crimes; forgery, counterfeiting, etc. of lottery tickets; penalties.

Any person who, with intent to defraud, falsely makes, alters, forges, utters, passes, or counterfeits a lottery ticket is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $1,000, or be confined in a state correctional facility for not more than one year, or both fined and confined.

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§29-22-13. Prohibited acts; conflict of interest; prohibited gifts and gratuities.

(1) The commissioners, the director, the deputy directors and the employees of the lottery may not, directly or indirectly, individually, or as a member of a partnership or as a shareholder of a corporation have an interest in dealing in a lottery.

(2) A member of the commission, the director, and an employee of the lottery or a member of their immediate families may not ask for, offer to accept, or receive any gift, gratuity or other thing of value from any person, corporation, association or firm contracting or seeking to contract with the state to supply gaming equipment or materials for use in the operation of a lottery or from an applicant for a license to sell tickets in the lottery or from a licensee.

(3) A person, corporation, association or firm contracting or seeking to contract with the state to supply gaming equipment or materials for use in the operation of a lottery, an applicant for a license to sell tickets in the lottery or a licensee may not offer a member of the commission, an employee of the lottery, or a member of their immediate families any gift, gratuity or other thing of value.

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§29-22-14. Administrative violations of articles; hearing; administrative penalties.

(a) In addition to any criminal penalty imposed under the provisions of this article or any other chapter of this code:

(1) No person shall be appointed, employed or continue to serve in any position or employment with the commission who has been convicted of any violation of this article, or of any felony or any crime related to theft or gambling or involving moral turpitude. The commission shall remove or discharge any person so convicted.

(2) No person shall be licensed as a lottery sales agent nor authorized to act as a lottery retailer who has been convicted of any violation of this article, or of any felony or any crime related to theft or gambling or involving moral turpitude. The commission shall revoke the license or the authority of any person so convicted.

(3) No person shall be permitted to act as vendor to the commission who has been convicted of any violation of this article, or of any felony or any crime related to theft, bribery or gambling or involving moral turpitude. The commission shall deny the privilege of acting as a vendor to the commission for any person so convicted.

(b) Any person aggrieved by any action of the commission under the provisions of this article may in writing to the commission request a hearing which shall be held before the commission or its duly authorized representative. Upon receipt of the request for a hearing, the commission shall set a hearing date within thirty days of the receipt of the request and shall notify the aggrieved party in writing at least seven days in advance of the hearing date of the time, date and place of the hearing. The commission shall issue an order within thirty days after the hearing date, either affirming or reversing the action of the director. The provisions of chapter twenty-nine-a of this code shall apply to such hearings.

(c) After hearing and determination that any provision of this article or rule or regulation of the commission has been violated, the commission may impose a penalty not to exceed $100 per violation.

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§29-22-15. Payment of prizes to minors.

If the person entitled to a prize or any winning ticket is under the age of eighteen years, and such prize is less than $5,000, the director may direct payment of the prize by delivery to an adult member of the minor's family or a legal guardian of the minor of a check or draft payable to the order of the minor. If the person entitled to a prize or any winning ticket is under the age of eighteen years, and the prize is $5,000 or more, the director may direct payment to the minor by depositing the amount of the prize in any bank to the credit of an adult member of the minor's family or a legal guardian of the minor as guardian for the minor. The person so named as guardian shall have qualified under and shall have the same duties and powers as a person designated as a guardian in the manner as provided in article ten, chapter forty-four of this code. The commission and director shall be discharged of all further liability upon payment of a prize pursuant to this section.

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§29-22-15a. Option for winners of draw games to remain anonymous.

(a) A person entitled to collect a gross prize equal to or exceeding $1 million from a winning West Virginia State Lottery draw game ticket may remain anonymous: Provided, That such anonymity only applies to disclosure by the West Virginia State Lottery, and its employees and officers, of the name, personal contact information, and likeness of the person so entitled: Provided, however, That this provision shall not be construed to prevent or impede the lawful disclosure of such information in any court of record or administrative forum pursuant to lawful legal process or disclosure of such information to any taxing agency of any local, state, or federal government or any local, state, or federal agency lawfully entitled to such information, including agencies of another state and lottery agencies of states participating in a multistate or multijurisdictional lottery: Provided further, That the name, personal contact information, and likeness of the person so entitled shall not be subject to disclosure under the Freedom of Information Act set forth in §29B-1-1 et seq. of this code.

(b) If the person entitled to collect a gross prize equal to or exceeding $1 million from a winning draw game ticket desires to remain anonymous, he or she shall contact the State Lottery Director in writing or appear at the state lottery headquarters in person, concerning his or her desire to remain anonymous: Provided, That such a request only permits the person's name, personal contact information, and likeness to remain anonymous. The State Lottery Director may provide by legislative, procedural, or interpretive rule such administrative and timeliness requirements for submission of a request for anonymity as may be necessary or convenient, promulgation of which is hereby authorized.

(1) At the time of his or her request to remain anonymous, the person shall provide his or her contact information, including any personal telephone number, residential address, electronic mail address, and a properly executed Internal Revenue Service Form W-2G.

(2) When a group forms a lottery pool to purchase lottery tickets and the lottery pool wins the prize, only those members of the lottery pool that each, individually, win a gross prize equal to or exceeding $1 million, or who, as a result of their lottery pool membership, are entitled to a share of a gross prize equal to or exceeding $1 million or more, may elect to remain anonymous.

(c) Any request to remain anonymous may be made in writing, by certified mail addressed to the West Virginia State Lottery Director, P.O. Box 2067, Charleston, West Virginia 25327, by electronic mail to an email address that is to be established by the West Virginia State Lottery prior to the effective date of this section, or in person at the state lottery headquarters. Once established, the secure email address shall be posted on the West Virginia Lottery's website prior to the effective date of this section: Provided, That notwithstanding other provisions of this subsection, the West Virginia State Lottery Director may prescribe by emergency, legislative, procedural, or interpretive rule such transmittal, documentation, timing, and administrative requirements as may be necessary or convenient for submission and processing of requests for anonymity, and such rule requirements and

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conditions may differ from, and shall supersede, those set forth in this subsection.

(d) Upon receiving a request to remain anonymous, the director shall contact the person requesting anonymity and schedule an appointment to meet at any county, regional, or state lottery office to confirm the winning number and to otherwise make arrangements to protect the anonymity of the requesting person.

(e)The requirements of this section enacted in 2018 are effective on January 1, 2019. The amendments to this section enacted in 2019 shall take effect upon passage and apply to prizes awarded on and after that date.

(f) Definitions. — For purposes of this section:

(1) Annuity. — The term "annuity" means periodic payments of a lottery prize which are payable over a period greater than one year and which are treated under Section 72 of the Internal Revenue Code, as defined in §11-21-9 of this code, as amounts received as an annuity, whether or not the periodic payments are variable in amount.

(2) Gross prize. — The term "gross prize" means the value, whether in money or other property, proceeding from and resulting from a lottery win, without any deduction for gaming losses, the cost of ticket purchases, the amount paid to obtain a chance to win, the amount paid for eligibility to play, or eligibility for selection as a prize recipient or any expenses or reductions of any kind. Gross prize includes amounts received whether paid in cash, cash equivalents, or property, or any noncash form, including real property, personal property, and services. Real property, personal property, and services must be valued at fair market value for purposes of this section. Gross prize includes amounts paid in a lump sum or structured as an annuity paid over time or as installment payments.

(A) A gross prize paid or payable as an annuity or a stream of installment payments shall be valued as the total aggregate amount of annuity payments or installment payments to be received over the life of the annuity or stream of installment payments, without discount for present value or the time value of money or payments.

(B) In the case of annuities or a stream of installment payments payable for a fixed period of time, the annuity or a stream of installment payments shall, for the limited purpose of determining the $1 million threshold amount specified in subsection (a) of this section, be valued over such fixed period.

(C) In the case of annuities or a stream of installment payments payable for life or for an indefinite period of time of 30 years or more, the annuity or stream of installment payments shall, for the limited purpose of determining the $1 million threshold amount specified in §29-22-15a(a) of this code, be valued as if it were paid over a fixed period of 30 years.

(D) In the case of annuities or a stream of installment payments payable for an indefinite but limited period of time of less than 30 years, the annuity or stream of installment payments

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shall, for the limited purpose of determining the $1 million threshold amount specified in §29-22-15a(a) of this code, be valued as if it were paid over a fixed period equal to the maximum period of years, or period of time over which it may be paid.

(E) In the case of an annuity or a stream of installment payments, payments of which are to be adjusted by an inflation factor or other factor over time, the annuity or stream of installment payments shall, for the limited purpose of determining the $1 million threshold amount specified in §29-22-15a(a) of this code, be valued at the aggregate amount of payments to be received over the life of the annuity or stream of installment payments as if all payments are equal to the first payment, without adjustment for inflation or other factors.

(3) Lottery pool. — The term "lottery pool" means a group of lottery players who pool their money to buy lottery tickets, and who purchase tickets for a single drawing.

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§29-22-16. Disposition of unclaimed prize money.

Unclaimed prize money for the prize on a winning ticket shall be retained by the director for the person entitled thereto for one hundred eighty days after the drawing in which the prize was won or for one hundred eighty days after the announced end of a game. If no claim is made for said money within one hundred eighty days, the prize money reverts to the state Lottery Fund for the purposes of paying a portion of the sales commission to lottery sales agents pursuant to section ten of this article or for awarding additional prizes. The commission shall promulgate rules for the awarding of additional prizes.

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§29-22-17. Lottery proceeds; accounting therefor; deposit into account of State Treasurer; reports; funds to be held in trust; failure to collect, account or deposit; personal liability.

(a) The commission shall establish rules and regulations for accounting for sales of lottery tickets and materials and accounting for all funds from sales and dispensing of lottery tickets, materials and games. Such regulations shall require all licensed lottery sales agents and lottery retailers to deposit in the bank account of the state Treasurer in banks regularly used by said agents or retailers and approved by the director all moneys received by such agents and retailers from the sale of lottery tickets, materials and games, within twenty-four hours of the receipt thereof, and in accordance with the provisions of section two, article two, chapter twelve of the Code of West Virginia, 1931, as amended, unless the director specifies a different time within which the deposit must be made. The State Treasurer shall credit all funds so deposited to the credit of the state Lottery Fund. The director shall require such reports of lottery receipts and transactions in the sale of lottery tickets and materials in such form and containing such information as the director deems necessary.

(b) All funds from the sale of lottery tickets, materials and games are the funds of the state and until deposited in the accounts and in the manner specified by the director are held in trust by the person or entity receiving them for deposit. If a person or entity fails to collect, account for or deposit such funds to the accounts and in the manner specified by the director, such person and entity shall be personally liable for the full amount of such funds. If the person so failing is an association, corporation or other entity, the officers thereof shall be personally liable, jointly and severally, for any default on the part of the association, corporation or entity, and payment may be enforced against them as against the association, corporation or entity.

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§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.

(a) There is 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.

(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 $250,000. On a monthly basis, the director shall report to the Joint Committee on Government and Finance of the Legislature any surplus in excess of $250,000 and remit to the State Treasurer the entire amount of those surplus funds in excess of $250,000 which shall be allocated as net profit.

(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, then satisfying the requirements for funds dedicated to the Education, Arts, Sciences and Tourism Debt Service Fund, in subsection (i) of this section to retire the bonds authorized to be issued pursuant to section eleven-a, article six, chapter five of this code and section sixteen-a, article fifteen, chapter thirty-one of this code, and then satisfying the requirements for funds dedicated to the Community and Technical College Capital Improvement Fund in subsection (j) of this section to retire the bonds for community and technical college capital improvements authorized to be issued pursuant to section eight, article ten, chapter eighteen-b of this code, any and all remaining funds in the State Lottery Fund shall be made available to pay

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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 (k) 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 (l) of this section. No transfer to any account other than the School Building Debt Service Fund, the Education, Arts, Sciences and Tourism Debt Service Fund, the Community and Technical College Capital Improvement 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 Higher Education Policy 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, and the Community and Technical College Capital Improvement 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, the State Building Commission, the Higher Education Policy Commission and the Economic Development Authority which are secured by net profits.

(g) There is 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

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requirements on any and all revenue bonds and refunding bonds issued, or to be issued, on or after April 1, 1994, 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 $1.8 million 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 $18 million. 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 $27 million 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 July 28, 1996, and continuing on or before the twenty-eighth day of each succeeding month thereafter, as long as revenue bonds or refunding bonds issued in accordance with section eleven-a, article six, chapter five or section sixteen-a, article fifteen, chapter thirty-one of this code 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 April 1, 1996, as certified to the lottery director in accordance with the provisions of section eleven-a, article six, chapter five or section sixteen-a, article fifteen, chapter thirty-one of this code. In no event may the monthly amount allocated exceed $1 million 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 $10 million. 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 ratio requirements, not to exceed $15 million annually, may be granted by the State Building Commission or the Economic Development Authority in favor of the bonds issued in accordance with section eleven-a, article six, chapter five or section sixteen-a, article fifteen, chapter thirty-one of this code.

(j) Beginning on or before July 28, 2008, 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 Community and Technical College Capital Improvement Fund, created pursuant to section eight, article ten, chapter eighteen-b of this code, as a third priority from 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 April 1, 2008, as certified by the lottery director in accordance with the provisions of that section. In no event may the monthly amount allocated exceed $500,000 nor may the total allocation paid to the Community and Technical Capital Improvement 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 $5 million. In the event there are insufficient funds available in any month to transfer the amount required pursuant to this subsection to the Community and Technical College Capital Improvement Fund, the deficiency shall be added to the amount transferred in the next succeeding month in which revenues are available to transfer the deficiency.

(1) A third-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 ratio requirements, not exceeding $7.5 million annually, may be granted by the Higher Education Policy Commission in favor of the bonds it issues which are secured by the net lottery profits.

(2) When the community and technical college capital improvement bonds secured by profits from the lottery and deposited in the Community and Technical College Capital Improvement Fund mature, the profits shall become available for debt service on additional community and technical college capital improvement bonds as a third priority from the net profits of the lottery.

(3) The Council for Community and Technical College Education shall approve all community and technical college capital improvement projects prior to the distribution of bond proceeds.

(4) Prior to the issuance of community and technical college revenue bonds pursuant to this subsection, the lottery director shall transfer $5 million to the Community and Technical College Improvement Fund, less any amounts needed for initial debt service payments, to be used on a cash basis for community and technical college capital improvements and capital projects.

(k) There is 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

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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 any senior citizens medical care and other programs it considers beneficial to the citizens of this state.

(l) 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.

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§29-22-18a. State Excess Lottery Revenue Fund.

(a) The State Lottery Fund in the State Treasury which is designated and known as the State Excess Lottery Revenue Fund is continued. 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 under the provisions of §29-22A-10b and §29-22A-10c of this code and under §29-22B-101 et seq., of this code, except the amounts due the commission under §29-22B-1408(a)(1) of this code, shall be deposited in the State Treasury and placed into the State Excess Lottery Revenue 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 State Auditor and the State Treasurer as part of the general revenue of the state.

(b) For the fiscal year beginning July 1, 2002, the commission shall deposit: (1) $65 million into the subaccount of the State Excess Lottery Revenue Fund hereby created in the State Treasury to be known as the General Purpose Account to be expended pursuant to appropriation of the Legislature; (2) $10 million into the Education Improvement Fund for appropriation by the Legislature to the PROMISE Scholarship Fund created in §18C-7-7 of this code; (3) $19 million into the Economic Development Project Fund created in subsection (e) of this section for the issuance of revenue bonds and to be spent in accordance with the provisions of said subsection; (4) $20 million into the School Building Debt Service Fund created in §18-9D-6 of this code for the issuance of revenue bonds; (5) $40 million into the West Virginia Infrastructure Fund created in §31-15A-9 of this code to be spent in accordance with the provisions of said article; (6) $10 million into the Higher Education Improvement Fund for Higher Education; and (7) $5 million into the State Park Improvement Fund for Park Improvements. For the fiscal year beginning July 1, 2003, the commission shall deposit: (1) $65 million into the General Purpose Account to be expended pursuant to appropriation of the Legislature; (2) $17 million into the Education Improvement Fund for appropriation by the Legislature to the PROMISE Scholarship Fund created in §18C-7-7 of this code; (3) $19 million into the Economic Development Project Fund created in subsection (e) of this section for the issuance of revenue bonds and to be spent in accordance with the provisions of said subsection; (4) $20 million into the School Building Debt Service Fund created in §18-9D-6 of this code for the issuance of revenue bonds; (5) $40 million into the West Virginia Infrastructure Fund created in §31-15A-9 of this code to be spent in accordance with the provisions of said article; (6) $10 million into the Higher Education Improvement Fund for Higher Education; and (7) $7 million into the State Park Improvement Fund for Park Improvements.

(c) For the fiscal year beginning July 1, 2004, and subsequent fiscal years through the fiscal year ending June 30, 2009, the commission shall deposit: (1) $65 million into the General Purpose Account to be expended pursuant to appropriation of the Legislature; (2) $27 million into the Education Improvement Fund for appropriation by the Legislature to the PROMISE Scholarship Fund created in §18C-7-7 of this code; (3) $19 million into the Economic Development Project Fund created in subsection (e) of this section for the issuance of revenue bonds and to be spent in accordance with the provisions of said

subsection; (4) $19 million into the School Building Debt Service Fund created in §18-9D-6 of this code for the issuance of revenue bonds: *Provided*, That for the fiscal year beginning July 1, 2008, and subsequent fiscal years, no moneys shall be deposited in the School Building Debt Service Fund pursuant to this subsection and instead $19 million shall be deposited into the Excess Lottery School Building Debt Service Fund; (5) $40 million into the West Virginia Infrastructure Fund created in §31-15A-9 of this code to be spent in accordance with the provisions of said article; (6) $10 million into the Higher Education Improvement Fund for Higher Education; and (7) $5 million into the State Park Improvement Fund for Park Improvements. No portion of the distributions made as provided in this subsection and subsection (b) of this section, except distributions made in connection with bonds issued under subsection (e) of this section, may be used to pay debt service on bonded indebtedness until after the Legislature expressly authorizes issuance of the bonds and payment of debt service on the bonds through statutory enactment or the adoption of a concurrent resolution by both houses of the Legislature. Until subsequent legislative enactment or adoption of a resolution that expressly authorizes issuance of the bonds and payment of debt service on the bonds with funds distributed under this subsection and subsection (b) of this section, except distributions made in connection with bonds issued under subsection (d) of this section, the distributions may be used only to fund capital improvements that are not financed by bonds and only pursuant to appropriation of the Legislature.

(d) For the fiscal year beginning July 1, 2009, and subsequent fiscal years, the commission shall deposit: (1) $65 million into the General Purpose Account to be expended pursuant to appropriation of the Legislature; (2) $29 million into the Education Improvement Fund for appropriation by the Legislature to the PROMISE Scholarship Fund created in §18C-7-7 of this code; (3) $19 million into the Economic Development Project Fund created in subsection (e) of this section for the issuance of revenue bonds and to be spent in accordance with the provisions of said subsection; (4) $19 million into the Excess Lottery School Building Debt Service Fund created in §18-9D-6 of this code; (5) $40 million into the West Virginia Infrastructure Fund created in §31-15A-9 of this code to be spent in accordance with the provisions of said article; (6) $10 million into the Higher Education Improvement Fund for Higher Education; and (7) $5 million into the State Park Improvement Fund for Park Improvements. No portion of the distributions made as provided in this subsection and subsection (b) of this section, except distributions made in connection with bonds issued under subsection (e) of this section, may be used to pay debt service on bonded indebtedness until after the Legislature expressly authorizes issuance of the bonds and payment of debt service on the bonds through statutory enactment or the adoption of a concurrent resolution by both houses of the Legislature. Until subsequent legislative enactment or adoption of a resolution that expressly authorizes issuance of the bonds and payment of debt service on the bonds with funds distributed under this subsection and subsection (b) of this section, except distributions made in connection with bonds issued under subsection (e) of this section, the distributions may be used only to fund capital improvements that are not financed by bonds and only pursuant to appropriation of the Legislature.

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(e) The Legislature finds and declares that in order to attract new business, commerce, and industry to this state, to retain existing business and industry providing the citizens of this state with economic security, and to advance the business prosperity of this state and the economic welfare of the citizens of this state, it is necessary to provide public financial support for constructing, equipping, improving, and maintaining economic development projects, capital improvement projects, and infrastructure which promote economic development in this state.

(1) The West Virginia Economic Development Authority created and provided for in §31-15-1 et seq., of this code shall, by resolution, in accordance with the provisions of this article and §31-15-1 et seq., of this code, and upon direction of the Governor, issue revenue bonds of the Economic Development Authority in no more than two series to pay for all or a portion of the cost of constructing, equipping, improving, or maintaining projects under this section or to refund the bonds at the discretion of the authority. Any revenue bonds issued on or after July 1, 2002, which are secured by state excess lottery revenue proceeds shall mature at a time or times not exceeding 30 years from their respective dates. The principal of and the interest and redemption premium, if any, on the bonds shall be payable solely from the special fund provided in this section for the payment.

(2) The special revenue fund named the Economic Development Project Fund into which shall be deposited the amounts to be deposited in the fund as specified in subsections (b), (c), and (d) of this section is continued. The Economic Development Project Fund shall consist of all such moneys, all appropriations to the fund, all interest earned from investment of the fund, and any gifts, grants, or contributions received by the fund. All amounts deposited in the fund shall be pledged to the repayment of the principal, interest, and redemption premium, if any, on any revenue bonds or refunding revenue bonds authorized by this section, including any and all commercially customary and reasonable costs and expenses which may be incurred in connection with the issuance, refunding, redemption, or defeasance of the bonds. The West Virginia Economic Development Authority may further provide in the resolution and in the trust agreement for priorities on the revenues paid into the Economic Development Project Fund that are necessary for the protection of the prior rights of the holders of bonds issued at different times under the provisions of this section. The bonds issued pursuant to this subsection shall be separate from all other bonds which may be or have been issued, from time to time, under the provisions of this article.

(3) After the West Virginia Economic Development Authority has issued bonds authorized by this section and after the requirements of all funds have been satisfied, including any coverage and reserve funds established in connection with the bonds issued pursuant to this subsection, any balance remaining in the Economic Development Project Fund may be used for the redemption of any of the outstanding bonds issued under this subsection which, by their terms, are then redeemable for the purchase of the outstanding bonds at the market price, but not to exceed the price, if any, at which redeemable, and all bonds redeemed or purchased shall be immediately canceled and shall not again be issued.

(4) Bonds issued under this subsection shall state on their face that the bonds do not

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constitute a debt of the State of West Virginia; that payment of the bonds, interest, and charges thereon cannot become an obligation of the State of West Virginia; and that the bondholders' remedies are limited in all respects to the Special Revenue Fund established in this subsection for the liquidation of the bonds.

(5) The West Virginia Economic Development Authority shall expend the bond proceeds from the revenue bond issues authorized and directed by this section for projects certified under the provision of this subsection: *Provided*, That the bond proceeds shall be expended in accordance with the requirements and provisions of §21-5A-1 et seq., of this code and either §5-22-1 et seq., or §5-22A-1 et seq., of this code, as the case may be: *Provided, however*, That if the bond proceeds are expended pursuant to §5-22A-1 et seq., of this code and if the Design-Build Board created under said article determines that the execution of a design-build contract in connection with a project is appropriate pursuant to the criteria set forth in said article and that a competitive bidding process was used in selecting the design builder and awarding the contract, the determination shall be conclusive for all purposes and shall be considered to satisfy all the requirements of said article.

(6) For the purpose of certifying the projects that will receive funds from the bond proceeds, a committee is hereby established and comprised of the Governor, or his or her designee, the Secretary of the Department of Revenue, the Executive Director of the West Virginia Development Office, and six persons appointed by the Governor: *Provided*, That at least one citizen member must be from each of the state's three congressional districts. The committee shall meet as often as necessary and make certifications from bond proceeds in accordance with this subsection. The committee shall meet within 30 days of the effective date of this section.

(7) Applications for grants submitted on or before July 1, 2002, shall be considered refiled with the committee. Within 10 days from the effective date of this section as amended in the year 2003, the lead applicant shall file with the committee any amendments to the original application that may be necessary to properly reflect changes in facts and circumstances since the application was originally filed with the committee.

(8) When determining whether or not to certify a project, the committee shall take into consideration the following:

(A) The ability of the project to leverage other sources of funding;

(B) Whether funding for the amount requested in the grant application is or reasonably should be available from commercial sources;

(C) The ability of the project to create or retain jobs, considering the number of jobs, the type of jobs, whether benefits are or will be paid, the type of benefits involved, and the compensation reasonably anticipated to be paid persons filling new jobs or the compensation currently paid to persons whose jobs would be retained;

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(D) Whether the project will promote economic development in the region and the type of economic development that will be promoted;

(E) The type of capital investments to be made with bond proceeds and the useful life of the capital investments; and

(F) Whether the project is in the best interest of the public.

(9) A grant may not be awarded to an individual or other private person or entity. Grants may be awarded only to an agency, instrumentality, or political subdivision of this state or to an agency or instrumentality of a political subdivision of this state.

The project of an individual or private person or entity may be certified to receive a low-interest loan paid from bond proceeds. The terms and conditions of the loan, including, but not limited to, the rate of interest to be paid and the period of the repayment, shall be determined by the Economic Development Authority after considering all applicable facts and circumstances.

(10) Prior to making each certification, the committee shall conduct at least one public hearing, which may be held outside of Kanawha County. Notice of the time, place, date, and purpose of the hearing shall be published in at least one newspaper in each of the three congressional districts at least 14 days prior to the date of the public hearing.

(11) The committee may not certify a project unless the committee finds that the project is in the public interest and the grant will be used for a public purpose. For purposes of this subsection, projects in the public interest and for a public purpose include, but are not limited to:

(A) Sports arenas, fields, parks, stadiums, and other sports and sports-related facilities;

(B) Health clinics and other health facilities;

(C) Traditional infrastructure, such as water and wastewater treatment facilities, pumping facilities, and transmission lines;

(D) State-of-the-art telecommunications infrastructure;

(E) Biotechnical incubators, development centers, and facilities;

(F) Industrial parks, including construction of roads, sewer, water, lighting, and other facilities;

(G) Improvements at state parks, such as construction, expansion, or extensive renovation of lodges, cabins, conference facilities, and restaurants;

(H) Railroad bridges, switches, and track extension or spurs on public or private land

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necessary to retain existing businesses or attract new businesses;

(I) Recreational facilities, such as amphitheaters, walking and hiking trails, bike trails, picnic facilities, restrooms, boat docking and fishing piers, basketball and tennis courts, and baseball, football, and soccer fields;

(J) State-owned buildings that are registered on the National Register of Historic Places;

(K) Retail facilities, including related service, parking and transportation facilities, appropriate lighting, landscaping, and security systems to revitalize decaying downtown areas; and

(L) Other facilities that promote or enhance economic development, educational opportunities, or tourism opportunities thereby promoting the general welfare of this state and its residents.

(12) Prior to the issuance of bonds under this subsection, the committee shall certify to the Economic Development Authority a list of those certified projects that will receive funds from the proceeds of the bonds. Once certified, the list may not thereafter be altered or amended other than by legislative enactment.

(13) If any proceeds from sale of bonds remain after paying costs and making grants and loans as provided in this subsection, the surplus may be deposited in an account in the State Treasury known as the Economic Development Project Bridge Loan Fund administered by the Economic Development Authority created in §31-15-1 et seq., of this code. Expenditures from the fund are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 et seq., of this code and upon fulfillment of the provisions of §5A-2-1 et seq., of this code. Loan repayment amounts, including the portion attributable to interest, shall be paid into the fund created in this subdivision.

(f) If the commission receives revenues in an amount that is not sufficient to fully comply with the requirements of subsections (b), (c), (d), (i), and (m) of this section, the commission shall first make the distribution to the Economic Development Project Fund; second, make the distribution or distributions to the other funds from which debt service is to be paid; third, make the distribution to the Education Improvement Fund for appropriation by the Legislature to the PROMISE Scholarship Fund; and fourth, make the distribution to the General Purpose Account: *Provided*, That, subject to the provisions of this subsection, to the extent the revenues are not pledged in support of revenue bonds which are or may be issued, from time to time, under this section, the revenues shall be distributed on a pro rata basis.

(g) Each fiscal year, the commission shall, after meeting the requirements of subsections (b), (c), (d), (i) and (m) of this section and after transferring to the State Lottery Fund created under §29-22-18 of this code an amount equal to any transfer from the State Lottery Fund to

the Excess Lottery Fund pursuant to §29-22-18(f) of this code, deposit 50 percent of the amount by which annual gross revenue deposited in the State Excess Lottery Revenue Fund exceeds $225 million in a fiscal year in a separate account in the State Lottery Fund to be available for appropriation by the Legislature.

(h) When bonds are issued for projects under subsections (d) and (e) of this section or for the School Building Authority, infrastructure, higher education, or park improvement purposes described in this section that are secured by profits from lotteries deposited in the State Excess Lottery Revenue Fund, the Lottery Director shall allocate first to the Economic Development Project Fund an amount equal to one tenth of the projected annual principal, interest, and coverage requirements on any and all revenue bonds issued, or to be issued as certified to the Lottery Director; and second, to the fund or funds from which debt service is paid on bonds issued under this section for the School Building Authority, infrastructure, higher education, and park improvements an amount equal to one tenth of the projected annual principal, interest, and coverage requirements on any and all revenue bonds issued, or to be issued as certified to the Lottery Director. In the event there are insufficient funds available in any month to transfer the amounts required pursuant to this subsection, the deficiency shall be added to the amount transferred in the next succeeding month in which revenues are available to transfer the deficiency.

(i) Prior to the distributions provided in subsection (d) of this section, the Lottery Commission shall deposit into the General Revenue Fund amounts necessary to provide reimbursement for the refundable credit allowable under §11-21-21 of this code.

(j)(1) The Legislature considers the following as priorities in the expenditure of any surplus revenue funds:

(A) Providing salary and/or increment increases for professional educators and public employees;

(B) Providing adequate funding for the Public Employees Insurance Agency; and

(C) Providing funding to help address the shortage of qualified teachers and substitutes in areas of need, both in number of teachers and in subject matter areas.

(2) The provisions of this subsection may not be construed by any court to require any appropriation or any specific appropriation or level of funding for the purposes set forth in this subsection.

(k) The Legislature further directs the Governor to focus resources on the creation of a prescription drug program for senior citizens by pursuing a Medicaid waiver to offer prescription drug services to senior citizens; by investigating the establishment of purchasing agreements with other entities to reduce costs; by providing discount prices or rebate programs for seniors; by coordinating programs offered by pharmaceutical manufacturers that provide reduced cost or free drugs; by coordinating a collaborative effort

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among all state agencies to ensure the most efficient and cost-effective program possible for the senior citizens of this state; and by working closely with the state's congressional delegation to ensure that a national program is implemented. The Legislature further directs that the Governor report his or her progress back to the Joint Committee on Government and Finance on an annual basis until a comprehensive program has been fully implemented.

(l) After all of the expenditures in subsections (a) through (i) of this section have been satisfied in any fiscal year, the next $2 million shall be distributed as follows:

(1) On the last day of the fiscal year that begins on July 1, 2010, and for each fiscal year thereafter, 46 percent shall be placed in the general purse fund of a thoroughbred racetrack licensee that did not participate in the Thoroughbred Development Fund for at least four consecutive calendar years prior to December 31, 1992, for payment of regular purses;

(2) Forty-three and one-half percent shall be distributed to the racing commission special account — unredeemed pari-mutuel tickets, established on behalf of a thoroughbred racetrack licensee that did participate in the Thoroughbred Development Fund for at least four consecutive calendar years prior to December 31, 1992;

(3) Five and one-half percent shall be distributed to the racing commission special account — unredeemed pari-mutuel tickets, established on behalf of a thoroughbred racetrack licensee that did not participate in the Thoroughbred Development Fund for at least four consecutive calendar years prior to December 31, 1992; and

(4) Five percent shall be distributed to the racing commission special account – Greyhound Breeding Development Fund.

(m) For the fiscal year beginning July 1, 2019, and subsequent fiscal years, the commission shall deposit $11 million to be distributed into the special funds established by the respective licensees and used for the payment of regular purses in addition to the other amounts provided in §19-23-1 et seq. of this code; such distribution shall be on a pro rata basis based upon the actual purse earnings of each such licensee as specified in §29-22A-10(c)(2) and §29-22A-10b(a)(2) of this code.

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§29-22-18b. Definition of term "state employees."

As used in subsection (b), section eighteen-a of this article, the term "state employees" does not include those state employees who are employed within the higher education system of the state or within the judicial or legislative branches of the government of this state.

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§29-22-18c. Increase in allocation to Higher education Improvement Fund from State Excess Lottery Revenue Fund.

Notwithstanding any provision of subsection (d), section eighteen-a of this article to the contrary, the deposit of $10 million into the Higher Education Improvement Fund for Higher Education set forth above is for the fiscal year beginning July 1, 2009, only. For the fiscal year beginning July 1, 2010, and subsequent fiscal years, the commission shall deposit $15 million into the Higher Education Improvement Fund for Higher Education.

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§29-22-18d. Increase in allocation to West Virginia Infrastructure Fund from State Excess Lottery Revenue Fund.

Notwithstanding any provision of subsection (d), section eighteen-a of this article to the contrary, the deposit of $40 million into the West Virginia Infrastructure Fund set forth above is for the fiscal year beginning July 1, 2010, only. For the fiscal year beginning July 1, 2011, and each fiscal year thereafter, in lieu of the deposits required under subdivision (5), subsection (d), section eighteen-a of this article, the commission shall, first, deposit $6 million into the West Virginia Infrastructure Lottery Revenue Debt Service Fund created in subsection (h), section nine, article fifteen-a, chapter thirty-one of this code, to be spent in accordance with the provisions of that subsection and, second, deposit $40 million into the West Virginia Infrastructure Fund created in subsection (a), section nine, article fifteen-a, chapter thirty-one of this code, to be spent in accordance with the provisions of that article: Provided, That for the fiscal year beginning July 1, 2014, the deposit to the West Virginia Infrastructure Fund shall be $20 million: Provided, however, That notwithstanding the provisions of subsection (a), section ten, article fifteen-a, chapter thirty-one of this code, for the fiscal year beginning July 1, 2014, any moneys disbursed from the West Virginia Infrastructure Fund in the form of grants may not exceed fifty percent of the total funds available for the funding of projects: Provided further, That for the fiscal year beginning July 1, 2015, the deposit to the West Virginia Infrastructure Fund shall be $30 million: And provided further, That notwithstanding the provisions of subsection (a), section ten, article fifteen-a, chapter thirty-one of this code, for the fiscal year beginning July 1, 2015, any moneys disbursed from the West Virginia Infrastructure Fund in the form of grants may not exceed fifty percent of the total funds available for the funding of projects: And provided further, That for the fiscal year beginning July 1, 2016, the deposit to the West Virginia Infrastructure Fund shall be $20 million: And provided further, That notwithstanding the provisions of subsection (a), section ten, article fifteen-a, chapter thirty-one of this code, for the fiscal year beginning July 1, 2016, any moneys disbursed from the West Virginia Infrastructure Fund in the form of grants may not exceed fifty percent of the total funds available for the funding of projects.

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§29-22-18e. Increase in allocation to State Park Improvement Fund from State Excess Lottery Revenue Fund to permit the issuance of bonds for improvements to Cacapon Resort State Park and Beech Fork State Park.

Notwithstanding any provision of §29-22-18a(d) of this code to the contrary, the deposit of $5 million into the State Park Improvement Fund is for the fiscal year beginning July 1, 2012, only. For the fiscal year beginning July 1, 2013, and each fiscal year through the fiscal year ending June 30, 2018, in lieu of the deposits required under §29-22-18a(d)(7)of this code, the commission shall first deposit an amount equal to the certified debt service requirement, not to exceed $3 million in any one fiscal year, into the Cacapon and Beech Fork State Park Lottery Revenue Debt Service Fund created in §31-15-16b of this code, to be used in accordance with the provisions of §31-15-16b of this code, and second, deposit $5 million into the State Park Improvement Fund, established in §29-22-18a(d) of this code, to be used in accordance with the provisions of §29-22-18a(d) of this code. For the fiscal year beginning July 1, 2018, and each fiscal year thereafter, in lieu of the deposits required under §29-22-18a(d)(7) of this code, the commission shall first: (1) Deposit an amount equal to the certified debt service requirement, not to exceed $2.1 million in any one fiscal year, into the Cacapon and Beech Fork State Park Lottery Revenue Debt Service Fund created in §31-15-16b of this code, to be used in accordance with the provisions of §31-15-16b of this code; and (2) deposit an amount equal to the certified debt service requirement, not to exceed $5.9 million in any one fiscal year, into the State Parks Lottery Revenue Debt Service Fund created in §31-15-16d of this code and if the certified debt service requirement is less than $5.9 million, deposit an amount equal to the difference between the certified debt service requirement and $5.9 million into the State Park Improvement Fund, established in §29-22-18a(d) of this code, to be used in accordance with the provisions of §29-22-18a(d) of this code: Provided, That the amounts deposited into the State Park Improvement Fund shall not exceed $5 million in aggregate in any one fiscal year.

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§29-22-18f. Backup pledge of bonds supported by the State Lottery Fund and the State Excess Lottery Revenue Fund; payment of bond debt service.

(a) Any and all remaining funds in the State Excess Lottery Revenue Fund after payment of debt service pursuant to sections eighteen-a, eighteen-d, eighteen-e and eighteen-h of this article shall be made available to pay debt service in connection with any revenue bonds issued pursuant to section eighteen of this article, if and to the extent needed for such purpose from time to time.

(b) Notwithstanding any other provision of this code to the contrary, after first satisfying the requirements for funds dedicated to pay debt service in accordance with bonds payable from the State Lottery Fund pursuant to section eighteen of this article, any and all remaining funds in the State Lottery Fund shall be made available to pay debt service in connection with revenue bonds issued pursuant to sections eighteen-a, eighteen-d, eighteen-e, and eighteen-h of this article, if and to the extent needed for such purpose from time to time.

(c) Notwithstanding the provisions of subsection (h), section eighteen-a of this article, when bonds are issued for projects under subsection (d) or (e) of section eighteen-a of this article, or for the School Building Authority, infrastructure pursuant to section eighteen-d of this article, higher education, state park improvements pursuant to section eighteen-e of this article, or improvements to the West Virginia Science and Cultural Center and any other site acquired necessary to preserve any history of the State of West Virginia pursuant to section eighteen-h of this article that are secured by profits from lotteries deposited in the State Excess Lottery Revenue Fund, the Lottery Director shall allocate first to the fund or funds from which debt service is paid on bonds issued under section eighteen-a of this article for the School Building Authority, infrastructure pursuant to section eighteen-d of this article, higher education, state park improvements pursuant to section eighteen-e of this article, and improvements to the West Virginia Science and Cultural Center and any other site acquired necessary to preserve any history of the State of West Virginia pursuant to section eighteen-h of this article an amount equal to one tenth of the projected annual principal, interest and coverage requirements on any and all revenue bonds issued, or to be issued as certified to the Lottery Director. In the event there are insufficient funds available in any month to transfer the amounts required pursuant to this subsection, the deficiency shall be added to the amount transferred in the next succeeding month in which revenues are available to transfer the deficiency.

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§29-22-18g. Additional allocation of net profits from the State Lottery Fund to Fire Protection Fund, County Fire Protection Fund and All County Fire Protection Fund.

(a) Notwithstanding any other provision of this code to the contrary, following the end of each fiscal year, after the Lottery Commission has met the requirements for the allocation of net profits from the State Lottery Fund as required under §29-22-18 of this code and any other provisions of this code, and after satisfying the requirements for funds dedicated to pay debt service in accordance with bonds payable from the State Lottery Fund and for other purposes as required by §29-22-18 and §29-22-18f of this code, the Lottery Commission shall annually allocate and transfer from any remaining and available net profits for the fiscal year in the State Lottery Fund the following:

(1) The sum of $6 million, or the sum of the remaining and available net profits, whichever is less, to the Fire Protection Fund created in §33-3-33 of this code, which sum transferred shall be distributed in accordance with the provisions of that section;

(2) The sum of $3 million, or the sum of the remaining and available net profits, whichever is less, to the County Fire Protection Fund created in §7-5B-1 of this code, which sum transferred shall be distributed in accordance with the provisions of that section; and

(3) The sum of $3 million, or the sum of the remaining and available net profits, whichever is less, to the All County Fire Protection Fund created in §7-5B-2 of this code, which sum transferred shall be distributed in accordance with the provisions of that section.

(b) In the event that remaining and available net profits for the fiscal year in the State Lottery Fund are not sufficient to meet the allocation and transfer of net profits as directed under subsection (a) of this section, then the amounts allocated and transferred under subsection (a) of this section from any remaining and available net profits for the fiscal year shall be reduced on a pro rata basis.

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§29-22-18h. Allocation to Cultural Center Improvements Revenue Debt Service Fund from State Excess Lottery Revenue Fund to permit the issuance of bonds for improvements to West Virginia Science and Cultural Center.

Notwithstanding any provision of §29-22-18a(d) of this code to the contrary, the deposit of $19 million into the Economic Development Project Fund is for the fiscal year beginning July 1, 2025, only. For the fiscal year beginning July 1, 2026, and each fiscal year thereafter through the fiscal year ending June 30, 2047, in lieu of the deposit required under §29-22-18a(d)(3)of this code, the commission shall first deposit an amount equal to the certified debt service requirement, not to exceed $12 million in any one fiscal year, into the Cultural Center Improvements Revenue Debt Service Fund created in §31-15-16e of this code, to be used in accordance with the provisions of §31-15-16e of this code.

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§29-22-18i. Additional allocation of net profits from the State Lottery Fund to certain emergency medical services funds.

(a) Notwithstanding any other provision of this code to the contrary, following the end of each fiscal year, after the Lottery Commission has met the requirements for the allocation of net profits from the State Lottery Fund as required under §29-22-18 of this code and any other provisions of this code, and after satisfying the requirements for funds dedicated to pay debt service in accordance with bonds payable from the State Lottery Fund and for other purposes as required by §29-22-18, §29-22-18f, and §29-22-18g of this code, the Lottery Commission shall annually allocate and transfer from any remaining and available net profits for the fiscal year in the State Lottery Fund to the following:

(1) The sum of $6 million, or the sum of the remaining and available net profits, whichever is less, to the Emergency Medical Services Crisis Response and Mental Health Treatment Fund established in §16-4C-25 of this code, which sum transferred shall be distributed in accordance with the provisions of that section;

(2) The sum of $3 million, or the sum of the remaining and available net profits, whichever is less, to the County Emergency Medical Services Fund created in §7-5C-1 of this code, which sum transferred shall be distributed in accordance with the provisions of that section; and

(3) The sum of $3 million, or the sum of the remaining and available net profits, whichever is less, to the All-County Emergency Medical Services Fund created in §7-5C-2 of this code, which sum transferred shall be distributed in accordance with the provisions of that section.

(b) In the event that remaining and available net profits for the fiscal year in the State Lottery Fund are not sufficient to meet the allocation and transfer of net profits as directed under subsection (a) of this section, then the amounts allocated and transferred under subsection (a) of this section from any remaining and available net profits for the fiscal year shall be reduced on a pro rata basis.

WV Legislature

§29-22-19. Post audit of accounts and transactions of office.

Before July 1, 2001 and at least every two fiscal years thereafter, the Legislative Auditor shall conduct a post audit of all accounts and transactions of the state lottery office. The cost of the audit shall be paid out of the state Lottery Fund moneys designated for payment of operating expenses. The commission shall have an annual audit performed by an independent certified public accountant, and the audits may be accepted by the Legislative Auditor in lieu of performance of its post audit.

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§29-22-20. Monthly and annual reports.

(a) The director shall, upon the twentieth day of each month, provide the Joint Committee on Government and Finance of the Legislature with a report reviewing the lottery operations, including, but not limited to, the amount of gross sales, the amount of net profit, the types of games being played, the number of licensed sales agents, the names and amounts of winners and any other information requested by the Legislature or by the Joint Committee on Government and Finance.

(b) The director shall, no later than the tenth day of each regular session of the Legislature, provide to the Legislature, legislative Auditor, Governor and State Treasurer an annual report focused upon subjects of interest concerning lottery operations, including, but not limited to, an annual financial analysis of the lottery operations, a discussion of the types of games played and revenues generated, a statement of expenditures for the last fiscal year, a summary of the benefit programs and recommendations to the Legislature.

WV Legislature

§29-22-21. Officials who may appear at lottery drawing.

No elected or appointed official, other than the members of the Lottery Commission, the director or deputy directors, may preside or appear at any lottery drawing.

WV Legislature

§29-22-22.

Repealed.

Acts, 2004 Reg. Sess., Ch. 59.

WV Legislature

§29-22-23. Procurement; disclosures by vendors and related persons and entities; authorizing background investigation; unenforceability of contracts in contravention of section.

(a) The commission shall utilize the provisions of article three, chapter five-a of this code in the procurement of all commodities, printing, services and goods, materials, lottery tickets and other items necessary for the commission and lottery, subject to the provisions of subsection (b) of this section.

(b) For the printing of tickets used in any lottery game, any goods or services involving the receiving or recording of number selection of any lottery game, or any goods or services involving the determination of winners on any lottery game, which are hereby referred to as major procurements, the commission shall evaluate the competence, integrity, character, reputation and background of the vendor. To allow for this evaluation, potential vendors shall supply the following information prior to the submission of an initial bid or proposal and on or before July 1, of each year thereafter;

(1) If the vendor is a corporation, the officers, directors and each stockholder in such corporation; except that, in the case of stockholders of publicly held equity securities of a publicly traded corporation, only the names and address of those known to the corporation to own beneficially five percent or more of such securities need be disclosed; and

(2) If the vendor is a partnership or joint venture, all of the general and limited partners or joint venturers; if such general and limited partners or joint venturers are themselves a partnership, joint venture, trust, association, corporation, subsidiary or intermediary corporation, the same information required by this section shall be supplied for such entities also;

(3) If the vendor is a trust, the name of the trustee;

(4) If the vendor is an association, the members, officers and directors; and

(5) If the vendor intends to or does subcontract to another person or entity any integral or substantial portion of the work to be performed in supplying such materials or equipment, then the vendor shall supply the above-mentioned information for all such persons or entities.

(6) The following information shall also be submitted:

(A) Other jurisdictions in which the vendor has contracts to supply gaming materials or equipment and the types of gaming materials or equipment involved therewith;

(B) The details of any felony conviction of a criminal offense, state or federal, of the vendor or any person whose name and address are required by this section;

(C) The details of any disciplinary action of a judicial nature relating to gaming taken by any

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state or person against the vendor or any person whose name and address are required by this section;

(D) The number of years the vendor has been in the business of supplying gaming materials or equipment;

(E) A disclosure of each state and jurisdiction in which the vendor has been denied, or has had revoked a gaming license of any kind, and the disposition of such in each such state or jurisdiction. If any gaming license has been revoked or has not been renewed or any gaming license application has been either denied or is pending and has remained pending for more than six months, all of the facts and circumstances underlying such failure to receive such license must be disclosed;

(F) A disclosure of the details of any bankruptcy, insolvency, reorganization or any pending litigation relating to gaming of each vendor;

(G) A signed authorization by each vendor and officer thereof allowing the deputy director for security to conduct a background investigation of such person; and

(H) Such other information, accompanied by such documents, as the commission, by rule or contract procurement documents, may require as being necessary or appropriate in the public interest to accomplish the purposes of this section.

(c) No contract for the supply of gaming materials or equipment for use in the operation of the state lottery is enforceable against the state if the provisions of this section are not complied with.

WV Legislature

§29-22-24. Disclosures by vendors and related persons and entities of political contributions.

(a) For purposes of this section:

"Vendor" means any person required to make any disclosure under the provisions of section twenty-three of this article.

"Major procurement" has the same meaning as set out in section twenty-three of this article.

(b) Prior to the submission of the initial bid or proposal, and on or before July 1, of each year thereafter, a vendor who is submitting an initial bid or proposal to, or who has submitted such within the preceding twelve months to, or who has a current contract with, the state Lottery Commission or any state agency, board or commission or political subdivision, for any major procurement, shall file with the Secretary of State a detailed itemized disclosure statement, subscribed and sworn to before an officer authorized to administer oaths, setting forth each contribution to any local, state or federal political candidate or political committee in this state, made in the preceding three years, or a statement that no such contributions have been made.

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§29-22-25. Preemption of state laws or local regulation.

(a) No state or local law or regulation providing any penalty, disability, restriction, regulation or prohibition for the manufacture, transportation, storage, distribution, advertising, possession or sale of any lottery tickets or materials or for the operation of any lottery shall apply to authorized operations by or for the state lottery or commission.

(b) The provisions of this article preempt all regulations, rules, ordinances and laws of any county or municipality in conflict herewith: Provided, That nothing herein shall invalidate any zoning law, or Sunday closing law under article ten, chapter sixty-one of this code.

(c) Nothing in this article shall be deemed to permit the operation of any lottery otherwise prohibited by the laws of this state, not owned and operated by this state and permitted by this article.

WV Legislature

§29-22-26.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

WV Legislature

§29-22-27. Penalties for criminal violations.

(a) Any person violating any of the provisions of this article, except sections eleven and twelve of this article, is guilty of a misdemeanor, and, upon conviction thereof, for the first offense, shall be fined not less than one hundred nor more than $500, or imprisoned in the county jail not more than one year, or both fined and imprisoned.

(b) Any person violating any of the provisions of this article, except sections eleven and twelve of this article, shall, for the second offense, be guilty of a felony, and, upon conviction thereof, shall be fined not more than $1,000, or be imprisoned in the penitentiary for not less than one year, or both fined and imprisoned.

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§29-22-27a. Payment of prizes to the Bureau for Child Support enforcement.

(a) Upon notification by the Bureau for Child Support enforcement that a person who is entitled to all or part of a lottery prize is delinquent in the payment of child support or spousal support, the director shall forward to the Bureau for Child Support enforcement the prize or portion to be distributed directly from the state lottery office that is available to be applied to the delinquent support payment.

(b) The director shall enter into a written agreement with the Bureau for Child Support enforcement for the purpose of establishing a procedure for the collection of prizes as set forth in subsection (a) of this section. The director shall include in the agreement a method by which the Bureau for Child Support enforcement will receive the names of lottery winners as expeditiously as possible.

WV Legislature

§29-22-28. Severability.

If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this article, and to this end the provisions of this article are declared to be severable.

WV Legislature

§29-22-29. Moneys transferred or allocated to nongovernmental entities are state moneys and have been so in the past; right to audit state moneys transferred to nongovernmental entities.

(a) Moneys transferred by the commission under provisions of this article and articles twenty-two-a, twenty-two-b, twenty-two-c and twenty-five of this chapter to nongovernmental recipients, are state moneys and have been state moneys in prior fiscal periods.

(b) All nongovernmental entities that have received state moneys as described in subsection (a) of this section are subject to audit by the commission. An audit provided for by this section may be conducted by employees or agents of the commission. An audit provided for by this section may also be conducted by the Legislative Auditor.

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§29-22-30. Responsible Gaming and Research and Industry Development Act; gaming data research and analysis for scholarly purposes; higher education curriculum development; preparation of report.

(a) Short Title – The provisions of this section may be cited as "The Responsible Gaming and Research and Industry Development Act."

(b)(1) For the purposes of research only, West Virginia University shall be permitted to analyze transactional data and metrics of the type collected and maintained by the West Virginia Lottery as of March 1, 2024, related to gaming operations conducted in the state. For purposes of this section, "transactional data and metrics" refers to items such as demographic data, usage data, utilization of responsible gaming features, account suspension, complaints and financial information, including deposits, withdrawals, bonus usage, balance statements and bet-level data, as determined in the sole discretion of the West Virginia Lottery.

(2) Data provided by the West Virginia Lottery to West Virginia University for research purposes pursuant to this section is:

(A) To be transmitted in an anonymized manner by the West Virginia Lottery to West Virginia University, through hashing or other means, and excluding all personally identifiable information;

(B) Not a public record; and

(C) Is exempt from public inspection and copying under the West Virginia Freedom of Information Act, §29B-1-1 *et seq*. of this code.

(3) The university, upon receiving data, shall not disclose the data provided to this section to any person, except:

(A) For the purpose of conducting the research described in this section;

(B) As part of a peer-reviewed research report; or

(C) To gaming operators pursuant to a written request delivered to the West Virginia Lottery.

(c) West Virginia University shall develop a new program or alter or expand existing programs to include courses, training, certificates, initiatives or other methods designated to foster innovation in gaming technology development, and prepare students for careers in racing, gaming, gaming operations, hospitality management, guest relations, entertainment, and other amenities typically offered in conjunction with gaming operations.

(d) Commencing on January 1, 2026, and continuing annually thereafter, the State Lottery Commission, or a successor agency or agencies, shall annually cause a comprehensive report

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to be prepared and distributed to the Joint Committee on Government and Finance on the impact of casino, video lottery, iGaming, racing, iLottery, and sports wagering on players and on the state's economy, innovation in gaming technologies and gaming operations resulting from West Virginia University's research authorized under this section, curriculum developed to educate future leaders in the state's gaming and racing industries, and policy proposals developed by the West Virginia Lottery from the research authorized under this section. The report shall be prepared and distributed with the cooperation of West Virginia University.

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