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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1985

—●—

## ENROLLED

Com. Sub. for  
HOUSE BILL No. 1929

(By ~~Mr.~~ Del. Rollins & Del. Love)

—●—

Passed April 13, 1985

In Effect From Passage

**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**  
**H. B. 1929**  
(By DELEGATE ROLLINS and DELEGATE LOVE)

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[Passed April 13, 1985; in effect from passage.]

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AN ACT to amend and reenact section nine, article fifteen, and section twelve, article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend chapter twenty-nine of said code by adding thereto a new article, designated article twenty-two, relating to taxation; consumers sales tax, exemption of lottery sales therefrom; personal income tax, exemption of lottery prizes therefrom; relating to the state lottery act; short title; legislative findings and intent; definitions; state lottery commission created; composition; qualifications; appointment; terms of office; removal; vacancies; chairperson; meetings; quorum; compensation and expenses; oath and bond; powers and duties; cooperation of other agencies; designation of enforcement agents; lottery director; appointment; qualifications; oath and bond; salary; divisions of the state lottery office; lottery director; powers and duties; appointment of deputy directors; hiring of staff; civil service coverage; submission of proposed appropriations; initiation and operation of lottery; restrictions; prohibited themes, games, machines or devices; distinguishing numbers; winner selection; public drawings; witnessing 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; licensed lottery sales agents; restrictions; annual license and fee; factors; application; bond; age; nonassignable license; bond; organizations qualified; commissions; display of license; geographic distribution; monopoly prohibited; lottery retailers; preprinted instant type lottery tickets; fee; certificate of authority; security; bond; prohibited acts; crimes; selling without license; unauthorized sales; sales to minors; gifts to minors; prizes to commission officers and staff prohibited; criminal penalties for prohibited acts; crimes; forgery, counterfeiting of lottery tickets; criminal penalties; prohibited acts; conflicts of interest; prohibited gifts, gratuities; administrative violations of article; hearings; administrative penalties; payment of prizes to minors; disposition of unclaimed prize money; 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; 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; appropriation of net profits; post audit of accounts and transactions of office; monthly and annual reports; official's name not to appear on lottery materials or advertising; official not to appear at any lottery drawing, exceptions; exemption of lottery prizes from state and local taxation; procurement; disclosures by vendors and related persons and entities; authorizing background investigations; unenforceability of contracts in contravention of section; disclosures by vendors and related persons and entities of political contributions; preemption of state laws or local regulation; termination of state lottery commission; penalties for criminal violations; and severability.

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

That section nine, article fifteen, and section twelve, article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that chapter twenty-nine of said code be amended by adding thereto a new article, designated ~~section~~ <sup>article</sup> twenty-two, all to read as follows:

**CHAPTER 11. TAXATION.**

OK  
E.A.  
D.R.X.

**ARTICLE 15. CONSUMERS SALES TAX.**

**§11-15-9. Exemptions.**

1 The following sales and services shall be exempt:

2 (1) Sales of gas, steam and water delivered to consumers  
3 through mains or pipes, and sales of electricity;

4 (2) Sales of textbooks required to be used in any of the  
5 schools of this state;

6 (3) Sales of property or services to the state, its institutions  
7 or subdivisions, and to the United States, including agencies  
8 of federal, state or local governments for distribution in public  
9 welfare or relief work;

10 (4) Sales of motor vehicles which are titled by the  
11 department of motor vehicles and which are subject to the tax  
12 imposed by section four, article three, chapter seventeen-a of  
13 the code;

14 (5) Sales of property or services to churches and bona fide  
15 charitable organizations who make no charge whatsoever for  
16 the services they render: *Provided*, That the exemption herein  
17 granted shall apply only to services, equipment, supplies and  
18 materials directly used or consumed by these organizations,  
19 and shall not apply to purchases of gasoline or special fuel;

20 (6) Sales of property or services to corporations or  
21 organizations qualified under section 501(c)(3) of the Internal  
22 Revenue Code of 1954, as amended, or under section 501(c)(4)  
23 of the Internal Revenue Code of 1954, as amended, who make  
24 casual and occasional sales not conducted in a repeated  
25 manner or in the ordinary course of repetitive and successive  
26 transactions of like character: *Provided*, That the exemption  
27 herein granted shall apply only to services, equipment, supplies  
28 and materials directly used or consumed by these organizations  
29 and shall not apply to purchases of gasoline or special fuel;

30 (7) Sales of property or services to persons engaged in this  
31 state in the business of contracting, manufacturing, transpor-  
32 tation, transmission, communication or in the production of  
33 natural resources: *Provided*, That the exemption herein  
34 granted shall apply only to services, machinery, supplies and  
35 materials directly used or consumed in the businesses or  
36 organizations named above, and shall not apply to purchases

37 of gasoline or special fuel;

38 (8) An isolated transaction in which any tangible personal  
39 property is sold, transferred, offered for sale, or delivered by  
40 the owner thereof or by his representative for the owner's  
41 account, such sale, transfer, offer for sale or delivery not being  
42 made in the ordinary course of repeated and successive  
43 transactions of like character by such owner or on his account  
44 by such representative;

45 (9) Sales of tangible personal property and services rendered  
46 for use or consumption in connection with the conduct of the  
47 business of selling tangible personal property to consumers or  
48 dispensing a service subject to tax under this article or which  
49 would be subject to tax under this article but for the  
50 exemption for food provided in section eleven of this article  
51 and sales of tangible personal property and services rendered  
52 for use or consumption in connection with the commercial  
53 production of an agricultural product the ultimate sale of  
54 which will be subject to the tax imposed by this article or  
55 which would have been subject to tax under this article but  
56 for the exemption for food provided in section eleven of this  
57 article: *Provided*, That sales of tangible personal property and  
58 services to be used or consumed in the construction of or  
59 permanent improvement to real property and sales of gasoline  
60 and special fuel shall not be exempt;

61 (10) Sales of tangible personal property for the purpose of  
62 resale in the form of tangible personal property: *Provided*,  
63 That sales of gasoline and special fuel by distributors and  
64 importers shall be taxable except when the sale is to another  
65 distributor for resale;

66 (11) Sales of property or services to nationally chartered  
67 fraternal or social organizations for the sole purpose of free  
68 distribution in public welfare or relief work: *Provided*, That  
69 sales of gasoline and special fuel shall be taxable;

70 (12) Sales and services, fire fighting, or station house  
71 equipment, including construction and automotive, made to  
72 any volunteer fire department organized and incorporated  
73 under the laws of the state of West Virginia: *Provided*, That  
74 sales of gasoline and special fuel shall be taxable;

75 (13) Sales of newspapers when delivered to consumers by

76 route carriers;

77 (14) Sales of drugs dispensed upon prescription and sales  
78 of insulin to consumers for medical purposes;

79 (15) Sales of radio and television broadcasting time,  
80 newspaper and outdoor advertising space for the advertisement  
81 of goods or services;

82 (16) Sales and services performed by day care centers;

83 (17) Casual and occasional sales of property or services not  
84 conducted in a repeated manner or in the ordinary course of  
85 repetitive and successive transactions of like character by  
86 corporations or organizations qualified under section 501(c)(3)  
87 of the Internal Revenue Code of 1954, as amended, or under  
88 section 501(c)(4) of the Internal Revenue Code of 1954, as  
89 amended;

90 (18) Bank safety deposit boxes;

91 (19) Sales of property or services to a school which has  
92 approval from the West Virginia board of regents to award  
93 degrees, which has its principal campus in this state, and which  
94 is exempt from federal and state income taxes under section  
95 501(c)(3) of the Internal Revenue Code of 1954, as amended:  
96 *Provided*, That sales of gasoline and special fuel shall be  
97 taxable;

98 (20) Sales of mobile homes to be utilized by purchasers as  
99 their principal year-round residence and dwelling: *Provided*,  
100 That these mobile homes shall be subject to tax at the three  
101 percent rate; and

102 (21) Sales of lottery tickets and materials by licensed lottery  
103 sales agents and lottery retailers authorized by the state lottery  
104 commission, under the provisions of article twenty-two,  
105 chapter twenty-nine of this code.

## ARTICLE 21. PERSONAL INCOME TAX.

### §11-21-12. West Virginia adjusted gross income of resident individual.

1 (a) *General*.—The West Virginia adjusted gross income of  
2 a resident individual means his federal adjusted gross income  
3 as defined in the laws of the United States for the taxable year  
4 with the modifications specified in this section.

5       (b) *Modifications increasing federal adjusted gross in-*  
6 *come.*—There shall be added to federal adjusted gross income  
7 the following items, except that modifications (5), (6) and (7)  
8 shall be required only with respect to tax periods ending on  
9 or after the first day of January, one thousand nine hundred  
10 eighty-two:

11       (1) Interest income on obligations of any state other than  
12 this state, or of a political subdivision of any such other state  
13 unless created by compact or agreement to which this state  
14 is a party;

15       (2) Interest or dividend income on obligations or securities  
16 of any authority, commission or instrumentality of the United  
17 States, which the laws of the United States exempt from  
18 federal income tax but not from state income taxes;

19       (3) Income taxes imposed by this state or any other taxing  
20 jurisdiction, to the extent deductible in determining federal  
21 adjusted gross income and not credited against federal income  
22 tax;

23       (4) Interest on indebtedness incurred or continued to  
24 purchase or carry obligations or securities the income from  
25 which is exempt from tax under this article, to the extent  
26 deductible in determining federal adjusted gross income;

27       (5) Interest on a depository institution tax-exempt savings  
28 certificate which is allowed as an exclusion from federal gross  
29 income under section 128 of the Internal Revenue Code, for  
30 the federal taxable year;

31       (6) The amount allowed as a deduction from federal gross  
32 income under section 221 of the Internal Revenue Code by  
33 married couples who file a joint federal return for the federal  
34 taxable year; and

35       (7) The deferral value of certain income that is not  
36 recognized for federal tax purposes, which value shall be an  
37 amount equal to a percentage of the amount allowed as a  
38 deduction in determining federal adjusted gross income  
39 pursuant to the accelerated cost recovery system under section  
40 168 of the Internal Revenue Code for the federal taxable year,  
41 with the percentage of the federal deduction to be added as  
42 follows with respect to the following recovery property: Three-  
43 year property—no modification; five-year property—ten

44 percent; ten-year property—fifteen percent; fifteen-year public  
45 utility property—twenty-five percent; and fifteen-year real  
46 property—thirty-five percent: *Provided*, That this modification  
47 shall not apply to any person whose federal deduction is  
48 determined by the use of the straight line method.

49 (c) *Modifications reducing federal adjusted gross income.*—  
50 There shall be subtracted from federal adjusted gross income:

51 (1) Interest income on obligations of the United States and  
52 its possessions to the extent includible in gross income for  
53 federal income tax purposes;

54 (2) Interest or dividend income on obligations or securities  
55 of any authority, commission or instrumentality of the United  
56 States to the extent includible in gross income for federal  
57 income tax purposes but exempt from state income taxes  
58 under the laws of the United States;

59 (3) Any gain from the sale or other disposition of property  
60 having a higher fair market value on the first day of January,  
61 one thousand nine hundred sixty-one, than the adjusted basis  
62 at said date for federal income tax purposes: *Provided*, That  
63 the amount of this adjustment is limited to that portion of any  
64 such gain which does not exceed the difference between such  
65 fair market value and such adjusted basis: *Provided, however*,  
66 That if such gain is considered a long-term capital gain for  
67 federal income tax purposes, the modification shall be limited  
68 to forty percent of such portion of the gain;

69 (4) The amount of any refund or credit for overpayment of  
70 income taxes imposed by this state, or any other taxing  
71 jurisdiction, to the extent properly included in gross income  
72 for federal income tax purposes;

73 (5) Annuities, retirement allowances, returns of contribu-  
74 tions and any other benefit received under the public  
75 employees retirement system, the department of public safety  
76 death, disability and retirement fund, the state teachers  
77 retirement system, and all forms of military retirement,  
78 including regular armed forces, reserves and national guard,  
79 including any survivorship annuities derived therefrom, to the  
80 extent includible in gross income for federal income tax  
81 purposes;

82 (6) Retirement income received in the form of pensions and



83 annuities after the thirty-first day of December, one thousand  
84 nine hundred seventy-nine, under any police or firemen's  
85 retirement system, including any survivorship annuities derived  
86 therefrom, to the extent includible in gross income for federal  
87 income tax purposes;

88 (7) Federal adjusted gross income in the amount of eight  
89 thousand dollars received from any source after the thirty-first  
90 day of December, one thousand nine hundred seventy-nine, by  
91 any person who has attained the age of sixty-five on or before  
92 the last day of the taxable year, or by any person certified  
93 by proper authority as permanently and totally disabled,  
94 regardless of age, on or before the last day of the taxable year,  
95 to the extent includible in federal adjusted gross income for  
96 federal tax purposes: *Provided*, That if a person has a medical  
97 certification from a prior year and he is still permanently and  
98 totally disabled, a copy of the original certificate is acceptable  
99 as proof of disability. A copy of the form filed for the federal  
100 disability income tax exclusion is acceptable: *Provided*,  
101 *however*, That

102 (i) Where the total modification under subdivisions (1), (2),  
103 (5) and (6) of this subsection is eight thousand dollars per  
104 person or more, no deduction shall be allowed under this  
105 subdivision, and

106 (ii) Where the total modification under subdivisions (1), (2),  
107 (5) and (6) of this subsection is less than eight thousand dollars  
108 per person, the total modification allowed under this  
109 subdivision for all gross income received by such person shall  
110 be limited to the difference between eight thousand dollars and  
111 the sum of modifications under such subdivisions;

112 (8) Federal adjusted gross income in the amount of eight  
113 thousand dollars received from any source after the thirty-first  
114 day of December, one thousand nine hundred seventy-nine, by  
115 the surviving spouse of any person who had attained the age  
116 of sixty-five or who had been certified as permanently and  
117 totally disabled, to the extent includible in federal adjusted  
118 gross income for federal tax purposes: *Provided*, That

119 (i) Where the total modification under subdivisions (1), (2),  
120 (5), (6) and (7) of this subsection is eight thousand dollars or  
121 more, no deduction shall be allowed under this subdivision,  
122 and

123 (ii) Where the total modification under subdivisions (1), (2),  
 124 (5), (6) and (7) of this subsection is less than eight thousand  
 125 dollars per person, the total modification allowed under this  
 126 subdivision for all gross income received by such person shall  
 127 be limited to the difference between eight thousand dollars and  
 128 the sum of such subdivisions;

129 (9) Any pay or allowances received, after the thirty-first day  
 130 of December, one thousand nine hundred seventy-nine, by  
 131 West Virginia residents who have not attained the age of sixty-  
 132 five, as compensation for active service in the armed forces  
 133 of the United States: *Provided*, That such deduction shall be  
 134 limited to an amount not to exceed four thousand dollars;

135 (10) Gross income to the extent included in federal adjusted  
 136 gross income under section 86 of the Internal Revenue Code  
 137 for federal income tax purposes; and

138 (11) The amount of any lottery prize awarded by the West  
 139 Virginia state lottery commission, to the extent properly  
 140 included in gross income for federal income tax purposes.

141 (d) *Modification for West Virginia fiduciary adjustment.*—  
 142 There shall be added to or subtracted from federal adjusted  
 143 gross income, as the case may be, the taxpayer's share, as  
 144 beneficiary of an estate or trust, of the West Virginia fiduciary  
 145 adjustment determined under section nineteen of this article.

146 (e) *Partners.*—The amounts of modifications required to be  
 147 made under this section by a partner, which relate to items  
 148 of income, gain, loss or deduction of a partnership, shall be  
 149 determined under section seventeen of this article.

150 (f) *Husband and wife.*—If husband and wife determine their  
 151 federal income tax on a joint return but determine their West  
 152 Virginia income taxes separately, they shall determine their  
 153 West Virginia adjusted gross incomes separately as if their  
 154 federal adjusted gross incomes had been determined separately.

## CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

### ARTICLE 22. STATE LOTTERY ACT.

#### §29-22-1. Short title.

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

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

1 The Legislature finds and declares that the purpose of this  
2 article is to establish and implement a state-operated lottery  
3 under the supervision of the state lottery commission and the  
4 director of the state lottery office who shall be appointed by  
5 the governor and hold broad authority to administer the  
6 system in a manner which will provide the state with a highly  
7 efficient operation.

**§29-22-3. Definitions.**

1 (a) "State lottery commission" or "commission" means the  
2 state lottery commission created by this article.

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

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

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

**§29-22-4. State lottery commission created; composition; qualifica-  
tions; appointment; terms of office; removal; vacan-  
cies; compensation and expenses; quorum; oath and  
bond.**

*Chairman;*  
*OK*  
*E.H.*  
*D.L.K.*

1 (a) There is hereby created a state lottery commission which  
2 shall consist of seven members, all residents and citizens of  
3 the state, one who shall be a lawyer, one who shall be a  
4 certified public accountant, one who shall be a computer  
5 expert, one who shall have not less than five years experience  
6 in law enforcement and one who shall be qualified by  
7 experience and training in the field of marketing. The two  
8 remaining members shall be representative of the public at  
9 large. The commission shall carry on a continuous study and  
10 investigation of the lottery throughout the state and advise and  
11 assist the director of the state lottery. The commission  
12 members shall be appointed by the governor, by and with the  
13 advice and consent of the Senate, no later than the first day  
14 of July, one thousand nine hundred eighty-five. At least one  
15 member shall be appointed from each congressional district

16 existing as of the twenty-eight<sup>h</sup> day of January, one thousand  
17 nine hundred eighty-two. The terms of members first  
18 appointed expire as designated by the governor at the time of  
19 appointment: One at the end of one year; two at the end of  
20 two years; one at the end of three years; two at the end of  
21 four years; and one at the end of five years. No more than  
22 four members of such commission shall belong to the same  
23 political party. Members serve overlapping terms of five years  
24 and are eligible for successive appointments to the commission.  
25 On the first day of July of each year, the commission shall  
26 select a chairman from its membership. The governor may  
27 remove any commission member for cause, notwithstanding  
28 the provisions of section four, article six, chapter six of this  
29 code. Vacancies shall be filled in the same manner as the  
30 original appointment but only for the remainder of the term.  
31 No person convicted of a felony or crime involving moral  
32 turpitude shall be eligible for appointment nor appointed as  
33 a commissioner.

34 (b) The members of the lottery commission receive one  
35 hundred dollars for each day or portion thereof spent in the  
36 discharge of their official duties. Members are reimbursed for  
37 reasonable and necessary expenses incurred in the discharge  
38 of their official duties. All such payments shall be made from  
39 the state lottery fund.

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

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

47 (e) Before entering upon the discharge of the duties as  
48 commissioner, each commissioner shall take and subscribe to  
49 the oath of office prescribed in section 5, article IV of the  
50 Constitution of West Virginia and shall enter into a bond in  
51 the penal sum of one hundred thousand dollars with a  
52 corporate surety authorized to engage in business in this state,  
53 conditioned upon the faithful discharge and performance of  
54 the duties of the office. The executed oath and bond shall be  
55 filed in the office of the secretary of state.

**§29-22-5. State lottery commission; powers and duties; cooperation of other agencies.**

- 1 (a) The commission shall have the authority to:
- 2 (1) Promulgate rules in accordance with chapter twenty-
- 3 nine-a of this code: *Provided*, That those rules promulgated
- 4 by the commission that are necessary to begin the lottery
- 5 games selected shall be exempted from the provisions of
- 6 chapter twenty-nine-a of this code in order that the selected
- 7 games may commence as soon as possible;
- 8 (2) Establish rules for conducting lottery games, a manner
- 9 of selecting the winning tickets and manner of payment of
- 10 prizes to the holders of winning tickets;
- 11 (3) Select the type and number of public gaming systems
- 12 or games, to be played in accordance with the provisions of
- 13 this article.
- 14 (4) Contract, if deemed desirable, with the educational
- 15 broadcasting authority to provide services through its
- 16 microwave interconnection system to make available to public
- 17 broadcasting stations servicing this state, and, at no charge,
- 18 for rebroadcast to commercial broadcasting stations within
- 19 this state, any public gaming system or games drawing;
- 20 (5) Enter into ~~an~~ <sup>by D.J.X.</sup> interstate lottery agreements with other
- 21 states;
- 22 (6) Adopt an official seal.
- 23 (7) Maintain a principal office and, if necessary, regional
- 24 sub-offices at locations properly designated or provided;
- 25 (8) Prescribe a schedule of fees and charges;
- 26 (9) Sue and be sued;
- 27 (10) Lease, rent, acquire, purchase, own, hold, construct,
- 28 equip, maintain, operate, sell, encumber and assign rights of
- 29 any property, real or personal, consistent with the objectives
- 30 of the commission as set forth in this article;
- 31 (11) Designate one of the deputy directors to serve as acting
- 32 director during the absence of the director;
- 33 (12) Hold hearings on any matter of concern to the
- 34 commission relating to the lottery, subpoena witnesses,

35 administer oaths, take testimony, require the production of  
36 evidence and documentary evidence, and designate hearing  
37 examiners and employees to so act; and

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

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

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

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

1 (a) There is hereby created the position of the lottery  
2 director whose duties include the management and adminis-  
3 tration of the state lottery office. The director shall be qualified  
4 by training and experience to direct the operations of the  
5 lottery, and shall be appointed, within ninety days of the  
6 effective date of this article, by the governor and shall serve  
7 at the will and pleasure of the governor. No person shall be  
8 appointed as lottery director who has been convicted of a  
9 felony or crime involving moral turpitude.

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

12 (c) The director:

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

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

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

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

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

27 (d) Before entering upon the discharge of the duties as  
28 director, the director shall take and subscribe to the oath of  
29 office prescribed in section 5, article IV of the Constitution  
30 of West Virginia and shall enter into a bond in the penal sum  
31 of one hundred thousand dollars with a corporate surety  
32 authorized to engage in business in this state, conditioned  
33 upon the faithful discharge and performance of the duties of  
34 the office. The executed oath and bond shall be filed in the  
35 office of the secretary of state.

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

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

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

1 (a) The director shall have the authority to:

2 (1) Appoint, with the approval of the commission, a deputy  
3 director for each of the divisions established in this article. The  
4 deputy directors appointed shall serve at the will and pleasure  
5 of the director at an annual salary established by the  
6 commission. Deputy directors shall not be eligible for civil  
7 service coverage as provided in section four, article six, chapter  
8 twenty-nine of this code;

9 (2) The director shall hire, pursuant to the approval of the  
10 commission, such professional, clerical, technical and adminis-  
11 trative personnel as may be necessary to carry out the  
12 provisions of this article. No person shall be employed by the  
13 lottery who has been convicted of a felony or other crime  
14 involving moral turpitude. Each person employed by the  
15 commission shall execute an authorization to allow an  
16 investigation of that person's background;

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

19 (b) Effective the first day of July, one thousand nine  
20 hundred eighty-six, all employees of the commission, except  
21 as otherwise provided herein, shall be in the classified service  
22 under the provisions of article six, chapter twenty-nine of this  
23 code.

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

**§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.**



1 (a) The commission shall initiate operation of the state  
2 lottery on a continuous basis at the earliest feasible and  
3 practical time, first initiating operation of the pre-printed  
4 instant winner type lottery. The lottery shall be initiated and  
5 shall continue to be operated so as to produce the maximum  
6 amount of net revenues to benefit the public purpose described  
7 in this article consonant with the public good. Other state  
8 government departments, boards, commissions, agencies, and  
9 their officers shall cooperate with the lottery commission so  
10 as to aid the lottery commission in fulfilling these objectives.

11 (b) The commission shall promulgate rules and regulations  
12 specifying the types of lottery games to be conducted by the  
13 lottery: *Provided, That:*

14 (1) No lottery may use the theme of bingo, roulette, dice  
15 or similar game, or similar games commonly associated with  
16 casino gaming.

17 (2) No lottery may use the results of any amateur or  
18 professional sporting event, dog race or horse race to  
19 determine the winner.

20 (3) Electronic video lottery systems must include a central  
21 site system of monitoring the lottery terminals utilizing an on-  
22 line or dial-up inquiry.

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

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

27 (6) Selection of the winner must be predicated totally on  
28 chance.

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

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

35 (9) The director shall establish the price for each lottery and  
36 determine the method of selecting winners and the manner of  
37 payment of prizes, including providing for payment by the

38 purchase of annuities for prizes payable in installments.

39 (10) All claims for prizes shall be examined and no prize  
40 shall be paid as a result of altered, stolen or counterfeit tickets  
41 or materials, or which fail to meet validation rules or  
42 regulations established for a lottery. No prize shall be paid  
43 more than once, and, in the event of a binding determination  
44 by the commission that more than one person is entitled to  
45 a particular prize, the sole remedy of the claimants shall be  
46 the award to each of them of an equal share in the single prize.

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

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

55 (13) By purchasing a ticket or participation in a lottery, a  
56 participant agrees to abide by, and be bound by, the lottery  
57 rules which apply to the lottery or game play involved. An  
58 abbreviated form of such rules may appear on tickets and shall  
59 appear on descriptive materials and shall be available at the  
60 offices of the commission. A participant in a lottery agrees that  
61 the determination of whether the participant is a valid winner  
62 is subject to the lottery or game play rules and the winner  
63 validation tests established by the commission. The determi-  
64 nation of the winner by the commission shall be final and  
65 binding upon all participants in a lottery and shall not be  
66 subject to review or appeal.

67 (14) The commission shall institute such security procedures  
68 as it deems necessary to ensure the honesty and integrity of  
69 the winner selection process for each lottery. All such security  
70 and validation procedures and techniques shall be, and remain,  
71 confidential, and shall not be subject to any discovery  
72 procedure in any civil judicial, administrative, or other  
73 proceeding, nor subject to the provisions of article one, chapter  
74 twenty-nine-b of the code of West Virginia, one thousand nine  
75 hundred thirty-one, as amended.

76 (c) The commission shall proceed with operation of such

77 additional lottery games, including the implementation of  
78 games utilizing a variety of existing or future technological  
79 advances at the earliest feasible date. The commission may  
80 operate lottery games utilizing electronic computers and  
81 electronic computer terminal devices and systems, which  
82 systems must include a central site system of monitoring the  
83 lottery terminals utilizing direct communication systems, or  
84 other technological advances and procedures, ensuring honesty  
85 and integrity in the operation of the lottery.

**§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.**

1 (a) The commission shall promulgate rules and regulations  
2 for the licensing of lottery sales agents for the sale and  
3 dispensing of lottery tickets, materials and lottery games, and  
4 the operations of electronic computer terminals therefor,  
5 subject to the following:

6 (1) The commission shall issue its annual license to such  
7 lottery sales agents for each lottery outlet and for such fee as  
8 is established by the commission to cover its costs thereof, but  
9 not to exceed one thousand dollars. Application for licensing  
10 as a lottery sales agent shall be on forms to be prescribed and  
11 furnished by the director.

12 (2) No licensee may engage in business exclusively as a  
13 lottery sales agent.

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

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

21 (5) No person under the age of twenty-one may be licensed  
22 as an agent. No licensed agent shall employ any person under  
23 the age of eighteen for sales or dispensing of lottery tickets

24 or materials or operation of a lottery terminal.

25 (6) A license is valid only for the premises stated thereon.

26 (7) The director may issue a temporary license when  
27 deemed necessary.

28 (8) A license is not assignable or transferable.

29 (9) Before a license is issued, an agent shall be bonded for  
30 an amount and in the form and manner to be determined by  
31 the director.

32 (10) The commission may issue licenses to any legitimate  
33 business, organization, person or entity, including, but not  
34 limited to, civic or fraternal organizations, parks and  
35 recreation commissions or similar authorities, senior citizen  
36 centers, state owned stores, persons lawfully engaged in  
37 nongovernmental business on state property, persons lawfully  
38 engaged in the sale of alcoholic beverages, political subdivi-  
39 sions or their agencies or departments, state agencies,  
40 commission operated agencies, persons licensed under the  
41 provisions of article twenty-three, chapter nineteen of this  
42 code, religious, charitable or seasonal businesses.

43 (11) Licensed lottery sales agents shall receive five percent  
44 of gross sales as commission for the performance of their  
45 duties. In addition, the commission may promulgate a bonus-  
46 incentive plan as additional compensation not to exceed one  
47 percent of annual gross sales. The method and time of  
48 payment shall be determined by the commission.

49 (12) Licensed lottery sales agents shall prominently display  
50 the license on the premises where lottery sales are made.

51 (13) No person or entity or subsidiary, agent or subcontrac-  
52 tor thereof shall receive or hold more than twenty-five percent  
53 of the licenses to act as licensed lottery sales agent in any one  
54 county or municipality nor more than five percent of the  
55 licenses issued throughout this state: *Provided*, That the  
56 limitations of twenty-five percent and five percent in this  
57 subdivision shall not apply if it is determined by the  
58 commission that there are not a sufficient number of qualified  
59 applicants for licenses to comply with these requirements.

60 (b) The commission shall promulgate rules and regulations  
61 specifying the terms and conditions for contracting with lottery

62 retailers for sale of pre-printed instant type lottery tickets and  
63 may provide for the dispensing of such tickets through  
64 machines and devices. Tickets may be sold or dispensed in any  
65 public or private store, operation or organization, without  
66 limitation. The commission may establish an annual fee not  
67 to exceed fifty dollars for such persons, per location or site,  
68 and shall issue a certificate of authority to act as a lottery  
69 retailer to such persons. The commission shall establish  
70 procedures to ensure the security, honesty and integrity of the  
71 lottery and distribution system. The commission shall establish  
72 the method of payment, commission structure, methods of  
73 payment of winners, including payment in merchandise and  
74 tickets, and may require pre-payment by lottery retailers,  
75 require bond or security for payment and require deposit of  
76 receipts in accounts established therefor. Retailers shall  
77 prominently display the certificate of authority issued by the  
78 commission on the premises where lottery sales are made.

**§29-22-11. Prohibited acts; crimes selling without license; unauthorized sales; sales to minors; gifts to minors; prizes to commission officers and staff prohibited; criminal penalties for prohibited acts.**

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

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

19 (c) No ticket may be purchased by and no prizes received

20 by or awarded to any officers or employees of the commission  
21 or any member of their immediate household.

22 (d) Any person who violates the provisions of this section  
23 is guilty of a misdemeanor, and, upon conviction thereof, shall  
24 be fined not less than fifty dollars nor more than five hundred  
25 dollars, or imprisoned in the county jail not more than one  
26 year, or both fined and imprisoned.

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

1 Any person who, with intent to defraud, falsely makes,  
2 alters, forges, utters, passes or counterfeits a lottery ticket is  
3 guilty of a felony, and, upon conviction thereof, shall be fined  
4 not more than one thousand dollars, or be imprisoned in the  
5 penitentiary for not less than one year or both fined and  
6 imprisoned.

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

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

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

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

**§29-22-14. Administrative violations of article; hearing; administra-**

**tive penalties.**

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

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

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

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

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

33 (c) After hearing and determination that any provision of  
34 this article or rule or regulation of the commission has been  
35 violated, the commission may impose a penalty not to exceed  
36 one hundred dollars per violation.

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

1 If the person entitled to a prize or any winning ticket is  
 2 under the age of eighteen years, and such prize is less than  
 3 five thousand dollars, the director may direct payment of the  
 4 prize by delivery to an adult member of the minor's family  
 5 or a legal guardian of the minor of a check or draft payable  
 6 to the order of the minor. If the person entitled to a prize  
 7 or any winning ticket is under the age of eighteen years, and  
 8 the prize is five thousand dollars or more, the director may  
 9 direct payment to the minor by depositing the amount of the  
 10 prize in any bank to the credit of an adult member of the  
 11 minor's family or a legal guardian of the minor as guardian  
 12 for the minor. The person so named as guardian shall have  
 13 qualified under and shall have the same duties and powers as  
 14 a person designated as a guardian in the manner as provided  
 15 in article ten, chapter forty-four of this code. The commission  
 16 and director shall be discharged of all further liability upon  
 17 payment of a prize pursuant to this section.

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

1 Unclaimed prize money for the prize on a winning ticket  
 2 shall be retained by the director for the person entitled thereto  
 3 for one hundred eighty days after the drawing in which the  
 4 prize was won or for one hundred eighty days after the  
 5 announced end of a game. If no claim is made for said money  
 6 within one hundred eighty days, the prize money reverts to  
 7 the state lottery fund for the purpose of awarding additional  
 8 prizes. The commission shall promulgate rules, for the  
 9 awarding of additional prizes.

**§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.**

1 (a) The commission shall establish rules and regulations for  
 2 accounting for sales of lottery tickets and materials and  
 3 accounting for all funds from sales and dispensing of lottery  
 4 tickets, materials and games. Such regulations shall require all  
 5 licensed lottery sales agents and lottery retailers to deposit in  
 6 the bank account of the state treasurer in banks regularly used  
 7 by said agents or retailers and approved by the director all  
 8 moneys received by such agents and retailers from the sale of  
 9 lottery tickets, materials and games, within twenty-four hours



10 of the receipt thereof, and in accordance with the provisions  
11 of section two, article two, chapter twelve of the code of West  
12 Virginia, one thousand nine hundred thirty-one, as amended,  
13 unless the director specifies a different time within which the  
14 deposit must be made. The state treasurer shall credit all funds  
15 so deposited to the credit of the state lottery fund. The director  
16 shall require such reports of lottery receipts and transactions  
17 in the sale of lottery tickets and materials in such form and  
18 containing such information as the director deems necessary.

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

**§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; appropriation of net  
profits.**

1 (a) There is hereby created a special fund in the state  
2 treasury which shall be designated and known as the "state  
3 lottery fund." The fund shall consist of all appropriations to  
4 the fund and all interest earned from investment of the fund,  
5 and any gifts, grants or contributions received by the fund.  
6 All revenues received from the sale of lottery tickets, materials  
7 and games shall be deposited with the state treasurer and  
8 palced into the "state lottery fund." The revenue shall be  
9 disbursed in the manner herein provided for the purposes  
10 stated herein and shall not be treated by the auditor and  
11 treasurer as part of the general revenue of the state.

12 (b) No appropriation, loan, or other transfer of state funds

13 shall be made to the commission or lottery fund after the  
14 initial appropriation. The initial appropriation shall be used  
15 solely for the establishment and operation of the commission  
16 and lottery operations during the period until the lottery  
17 becomes a revenue-producing agency but no longer than  
18 eighteen months. After such period, but in no event longer  
19 than eighteen months from the effective date of this article,  
20 the commission shall commence repayment to the state general  
21 revenue fund of the amount of the initial appropriation from  
22 the general revenue fund to be repaid in equal installments  
23 over the ensuing twelve months from the funds provided in  
24 subsection (e) below.

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

28 (d) A minimum annual average of forty percent of the gross  
29 amount received from each lottery shall be allocated as net  
30 profit. The director is authorized to expend the necessary  
31 percentage of the amount allocated as net profit, not to exceed  
32 fifteen percent thereof, for the purposes of entering into  
33 contractual arrangements for the acquisition, financing, lease  
34 and lease-purchase, and other financing transactions, of lottery  
35 goods and services, including tickets, equipment, machinery,  
36 electronic computer systems and terminals, and supplies and  
37 maintenance therefor, for the first thirty-six months of  
38 operation, and may apportion the costs, expenses and  
39 expenditures related thereto among the commission, vendor or  
40 vendors and licensed lottery sales agents.

41 (e) Not more than fifteen percent of the gross amount  
42 received from each lottery shall be allocated to and may be  
43 disbursed as necessary for fund operation and administration  
44 expenses: *Provided*, That in the initial year of operation not  
45 more than twenty percent may be so allocated and disbursed.  
46 In the event that the percentage allotted for operations and  
47 administration generates a surplus, the surplus will be allowed  
48 to accumulate to an amount not to exceed two hundred fifty  
49 thousand dollars. On a monthly basis the director shall report  
50 to the joint committee on government and finance of the  
51 Legislature any surplus in excess of two hundred fifty  
52 thousand dollars and remit to the state treasurer the entire  
53 amount of those surplus funds in excess of two hundred fifty

54 thousand dollars which shall be allocated as net profit.

55 (f) Annually, the Legislature shall appropriate the amounts  
56 allocated as net profit above for such purposes as it deems  
57 beneficial to the citizens of this state.

**§29-22-19. Postaudit of accounts and transactions of office.**

1 The legislative auditor shall conduct a yearly post audit of  
2 all accounts and transactions of the state lottery office. The  
3 cost of the audit shall be paid out of the state lottery fund  
4 moneys designated for payment of operating expenses. The  
5 commission shall have an annual audit performed by an  
6 independent certified public accountant.

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

1 (a) The director shall, upon the tenth day of each month  
2 provide the joint committee on government and finance of the  
3 Legislature with a report reviewing the lottery operations,  
4 including, but not limited to, the amount of gross sales, the  
5 amount of net profit, the types of games being played, the  
6 number of licensed sales agents, the names and amounts of  
7 winners and any other information requested by the Legisla-  
8 ture or by the joint committee on government and finance.

9 (b) The director shall, no later than the tenth day of each  
10 regular session of the Legislature, provide to the Legislature,  
11 legislative auditor, governor and state treasurer an annual  
12 report focused upon subjects of interest concerning lottery  
13 operations, including, but not limited to, an annual financial  
14 analysis of the lottery operations, a discussion of the types of  
15 games played and revenues generated, a statement of  
16 expenditures for the last fiscal year, a summary of the benefit  
17 programs and recommendations to the Legislature.

**§29-22-21. Officials' name not to appear on lottery materials or at drawing.**

1 No elected or appointed official's name shall appear on any  
2 lottery ticket or material or in connection with any advertis-  
3 ment, nor shall any elected or appointed official, other than  
4 the members of the lottery commission, the director or deputy  
5 directors, preside or appear at any lottery drawing.

**§29-22-22. Exemption of lottery prizes from state and local taxation.**

1 No state or local taxes of any type whatsoever shall be  
2 imposed upon any prize awarded by the state lottery.

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

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

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

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

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

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

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

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

38 (6) The following information shall also be submitted:

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

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

45 (C) The details of any disciplinary action of a judicial nature  
46 relating to gaming taken by any state or person against the  
47 vendor or any person whose name and address are required  
48 by this section;

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

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

59 (F) A disclosure of the details of any bankruptcy, insol-  
60 vency, reorganization, or any pending litigation relating to  
61 gaming of each vendor;

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

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

69 (c) No contract for the supply of gaming materials or

70 equipment for use in the operation of the state lottery is  
71 enforceable against the state if the provisions of this section  
72 are not complied with.

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

1 (a) For purposes of this section:

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

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

6 (b) Prior to the submission of the initial bid or proposal,  
7 and on or before the first day of July of each year thereafter,  
8 a vendor who is submitting an initial bid or proposal to, or  
9 who has submitted such within the preceding twelve months  
10 to, or who has a current contract with, the state lottery  
11 commission or any state agency, board or commission or  
12 political subdivision, for any major procurement, shall file with  
13 the secretary of state a detailed itemized disclosure statement,  
14 subscribed and sworn to before an officer authorized to  
15 administer oaths, setting forth each contribution to any local,  
16 state or federal political candidate or political committee in  
17 this state, made in the preceding three years, or a statement  
18 that no such contributions have been made.

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

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

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

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

15 by this article.

**§29-22-26. Termination of state lottery commission.**

1 The state lottery commission shall be terminated pursuant  
2 to the provisions of article ten, chapter four of this code on  
3 the first day of July, one thousand nine hundred ninety-one,  
4 unless sooner terminated or unless continued or reestablished  
5 pursuant to such article and chapter.

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

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

7 (b) Any person violating any of the provisions of this  
8 article, except sections eleven and twelve of this article, shall,  
9 for the second offense, be guilty of a felony, and, upon  
10 conviction thereof, shall be fined not more than one thousand  
11 dollars, or be imprisoned in the penitentiary for not less than  
12 one year or both fined and imprisoned.

**§29-22-28. Severability.**

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

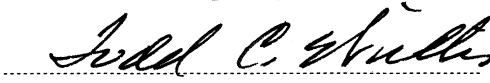
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

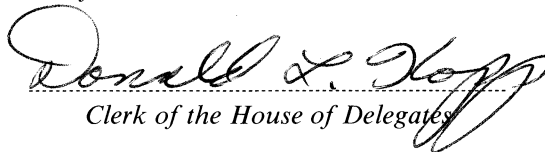
  
Chairman Senate Committee


  
Chairman House Committee

Originating in the House.

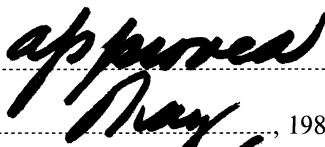
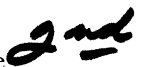
Takes effect from passage.

  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within  this the   
day of \_\_\_\_\_, 1985.

  
Governor



PRESENTED TO THE

GOVERNOR

Date 4/30/85

Time 6:44 p.m.