

1 *MULLAR*
 2 *Thomas* BILL NO. *677* *Johnston* *McFadden*
 3 INTRODUCED BY *John H. Anderson* *James* *John Kelly*
 4 *Amundson* *Cosy* *Fedrick* *Murphy*

5 A BILL FOR AN ACT ENTITLED: "AN ACT CONCERNING THE
 6 ESTABLISHMENT AND OPERATION OF A STATE LOTTERY; CREATING THE
 7 BUREAU OF THE STATE LOTTERY IN THE DEPARTMENT OF REVENUE;
 8 PRESCRIBING ITS FUNCTIONS, POWERS, AND DUTIES AND
 9 APPROPRIATING TWO HUNDRED FIFTY THOUSAND DOLLARS."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Short title. This act may be cited as the
 12 "Montana Lottery Law".

13 Section 2. Purpose. The purpose of this act is to
 14 implement Article III, section 9 of the Montana constitution
 15 by establishing a lottery to be operated by the state, the
 16 net proceeds of which are to be allocated to local
 17 government general funds.

18 Section 3. Definitions. As used in the act:

- 19 (1) "Department" means the department of revenue.
- 20 (2) "Division" means the liquor division of the
21 department.
- 22 (3) "Lottery" or "state lottery" means the lottery
23 established and operated under this act.
- 24 (4) "Chief" means the person in charge of the state
25 lottery.

1 (5) "Bureau" means the bureau of lottery created by
2 this act.

3 Section 4. Lottery bureau -- creation. There is a
4 lottery bureau in the liquor division of the department of
5 revenue.

6 Section 5. Bureau chief -- salary. The bureau is
7 under the immediate supervision and direction of a chief.
8 The chief shall be a person qualified by training and
9 experience to carry out the provisions of this act. The
10 director of the department shall select the chief who shall
11 devote his entire time and attention to the duties of his
12 office and shall not engage in any other profession or
13 occupation. He shall receive a salary as provided by law,
14 but not less than eighteen thousand dollars (\$18,000) per
15 year.

16 Section 6. Department duties. The department shall:

- 17 (1) undertake a full and thorough study of lotteries
18 in the United States and other countries. The department
19 then shall promulgate rules to govern the establishment and
20 operation of the Montana state lottery, in order that the
21 state lottery may be initiated at the earliest feasible and
22 practicable time, and that the state lottery may produce the
23 maximum amount of net revenues. (If a gambling commission
24 is formed before this act is effective, that commission
25 shall perform this function);

1 (2) amend, repeal, or supplement its rules as it
2 considers necessary;

3 (3) advise and make recommendations to the chief
4 regarding the operation and administration of the lottery;

5 (4) report monthly to the governor and the legislature
6 the total lottery revenues, prize disbursements and other
7 expenses for the preceding month; and make an annual report,
8 which shall include a full and complete statement of lottery
9 revenues, prize disbursements and other expenses and
10 recommendations for those changes in this act it considers
11 necessary, to the governor and the legislature.

12 (5) report immediately to the governor and the
13 legislature any matters which require immediate changes in
14 the laws of this state in order to prevent abuses and
15 evasions of this act or rules promulgated hereunder, or to
16 rectify undesirable conditions in connection with the
17 administration or operation of the lottery;

18 (6) carry on a continuous study and investigation of
19 the lottery throughout the state:

20 (a) for the purpose of ascertaining any defects in
21 this act or the rules promulgated hereunder;

22 (b) for the purpose of formulating recommendations for
23 changes in this act and the rules promulgated hereunder to
24 prevent abuses and evasions;

25 (c) to guard against the use of this act and the rules

1 issued hereunder as a cloak for the carrying on of organized
2 gambling and crime; and

3 (d) to insure that this law and promulgated rules
4 shall be in a form and administered to serve the true
5 purposes of this act;

6 (7) make a continuous study and investigation of:

7 (a) the operation and the administration of similar
8 laws which may be in effect in other states or countries;

9 (b) any literature on the subject which from time to
10 time may be published or available;

11 (c) federal laws which may affect the operation of the
12 lottery; and

13 (d) the reaction of Montana citizens to existing and
14 potential features of the lottery with a view to
15 recommending or effecting changes that will tend to serve
16 the purposes of this act.

17 Section 7. Chief -- duties. The chief shall:

18 (1) supervise and administer the operation of the
19 lottery in accordance with the provisions of this act and
20 with the rules of the department;

21 (2) subject to the approval of the department, appoint
22 deputies required to carry out the functions and duties of
23 the bureau;

24 (3) subject to the approval of the department, appoint
25 professional, technical and clerical assistants and

1 employees necessary to perform the duties imposed upon the
2 bureau by this act;

3 (4) confer regularly as necessary or desirable and not
4 less than once every month with the department on the
5 operation and administration of the lottery;

6 (5) make available for inspection by the department,
7 upon request, all books, records, files, and other
8 information and documents of the bureau; advise the
9 department and recommend matters he considers necessary and
10 advisable to improve the operation and administration of the
11 lottery;

12 (6) subject to the approval of the department and the
13 applicable laws relating to public contracts, enter into
14 contracts for the operation of the lottery, or any part
15 thereof, and into contracts for the promotion of the
16 lottery. No contract awarded or entered into by the chief
17 may be assigned by the holder thereof except by specific
18 approval of the department;

19 (7) certify monthly to the department a full and
20 complete statement of lottery revenues, prize disbursements
21 and other expenses for the preceding month.

22 Section 8. Subpoena -- contempt. The department may
23 issue subpoenas to compel the attendance of witnesses and
24 the production of documents, papers, books, records and
25 other evidence before it in any matter over which it has

1 jurisdiction, control or supervision. The department may
2 administer oaths and affirmations to persons whose testimony
3 is required. If a person subpoenaed to attend in a
4 proceeding or hearing fails to obey the command of the
5 subpoena without reasonable cause, or if a person in
6 attendance in a proceeding or hearing refuses, without
7 lawful cause, to be examined or to answer a legal or
8 pertinent question or to exhibit a book, account, record or
9 other document as ordered by the department, the department
10 may apply to a judge of the district court, upon proof by
11 affidavit of the facts, for an order returnable in not less
12 than two (2) nor more than ten (10) days, or as the court
13 shall prescribe, directing that person to show cause before
14 the court why he should not comply with the subpoena or the
15 order.

16 Upon return of the order, the court before whom the
17 matter comes for hearing shall examine the person under
18 oath, and if the court determines after giving this person
19 an opportunity to be heard, that he refused without legal
20 excuse to comply with the subpoena or the order of the
21 department, the court may order the person to immediately
22 comply with the subpoena and failure to obey the order of
23 the court may be punished as contempt.

24 Section 9. Payment of prize. No right of a person to
25 a prize drawn is assignable, except that payment of a prize

1 drawn may be paid to the estate of a deceased prize winner,
 2 and except that a person, under an appropriate judicial
 3 order, may be paid the prize to which the winner is
 4 entitled. The chief shall be discharged of all further
 5 liability upon payment of a prize under this section.

6 Section 10. Unclaimed prizes. Unclaimed prize money
 7 for the prize on a winning ticket or share shall be retained
 8 by the chief for the person entitled thereto for one (1)
 9 year after the drawing in which the prize was won. If no
 10 claim is made for the money within that time, the prize
 11 money shall be allocated in the same manner as lottery
 12 revenues are allocated under this act.

13 Section 11. Prizes to minors. If the person entitled
 14 to a prize or any winning ticket is under the age of
 15 eighteen (18) years, and the prize is less than five
 16 thousand dollars (\$5000), the chief may direct payment of
 17 the prize by delivery, to an adult member of the minor's
 18 family or a guardian of the minor, of a check or draft
 19 payable to the order of the minor. If the person entitled
 20 to a prize or a winning ticket is under the age of eighteen
 21 (18) years, and the prize is five thousand dollars (\$5,000)
 22 or more, the chief may direct payment to the minor by
 23 depositing the amount of the prize in a bank to the credit
 24 of an adult member of the minor's family or a guardian of
 25 the minor as custodian for the minor. The person named

1 custodian has the same duties and powers as a person
 2 designated as a custodian under the Uniform Gifts to Minors
 3 Act, Title 67, chapter 18, and for the purpose of this
 4 section the terms "adult member of a minor's family",
 5 "guardian of a minor" and "bank" have the same meaning as in
 6 that act. The chief is discharged of all further liability
 7 upon payment of a prize to a minor under this section.

8 Section 12. Earmarked fund. There is created and
 9 established a separate account in the earmarked revenue
 10 fund, to be known as the "state lottery account". This
 11 account shall consist of all revenues received from the sale
 12 of lottery tickets or shares, and all other moneys credited
 13 or transferred thereto from any other fund or source under
 14 law.

15 Section 13. Order of allocation of lottery funds.
 16 After the payment of prizes to the holders of winning
 17 tickets or shares, the moneys remaining in the state lottery
 18 account shall be appropriated and distributed on July 1 of
 19 every year in the following order:

20 (1) for the expenses of the bureau in its operation of
 21 the lottery;

22 (2) repayment of the moneys appropriated from the
 23 general fund to the state lottery account; and

24 (3) participating local government general funds.

25 Section 14. Allocation of funds. On or before June 30

1 each year, the treasurer shall allocate to each county and
 2 incorporated city or town, for deposit in the respective
 3 general fund, a portion of the money collected from the
 4 lottery and not distributed as prizes. The portion for each
 5 local government, which has not rejected the funds, is
 6 determined by the direct proportion that the population of
 7 each county, city and town bears to the total population of
 8 all counties, and incorporated cities and towns as shown in
 9 the latest federal census.

10 Section 15. Appropriations. There is appropriated to
 11 the department of revenue, liquor division, lottery bureau,
 12 from the general fund two hundred fifty thousand dollars
 13 (\$250,000) for the biennium ending June 30, 1977, for the
 14 purposes of the bureau in carrying out its functions and
 15 duties under this act. This appropriation shall be repaid
 16 to the general fund as soon as practicable from the net
 17 revenues accruing in the state lottery fund after the
 18 payment of prizes to holders of winning tickets or shares
 19 and expenses of the bureau.

20 Section 16. Audits. The legislative auditor shall
 21 conduct an annual post-audit of all accounts and
 22 transactions of the division and bureau and other special
 23 post-audits as he considers necessary.

24 Section 17. Lottery limitations. Any lottery
 25 conducted under this act is subject to the following:

1 (1) Drawings are conducted weekly at a convenient time
 2 and in a public place.

3 (2) Drawing results are posted at state retail liquor
 4 stores and copies are available to the public at those
 5 stores.

6 (3) State retail liquor stores offer for sale lottery
 7 tickets in wholesale lots.

8 (4) Prizes may be collected at once or over a ten (10)
 9 year period.

10 (5) Prizes not collected within one (1) year from the
 11 date of drawing are invested in municipal bonds.

12 (6) Transportation of lottery tickets is provided by
 13 the division.

14 (7) Collection of funds generated by the sale of
 15 lottery tickets is provided by the division.

16 (8) All purchases of lottery tickets from a state
 17 retail liquor store are by cash, certified check, or as
 18 provided by the store for the sale of liquor.

19 (9) At least seventy percent (70%) of the funds
 20 generated by the lottery shall be returned as prizes.

21 (10) The lottery is operated to create the least
 22 possible growth to governmental bureaucracy.

23 Section 18. Local option. A city, town or county of
 24 this state, that desires to reject funds allocated to that
 25 local government under this act, shall certify that desire

1 to the state treasurer. This certification shall be a
 2 verified copy of the results of an election in which the
 3 question of rejection of lottery funds is presented to the
 4 people of that local government and a majority voted to
 5 reject the funds.

6 Section 19. Prizes tax free. Prizes won by a natural
 7 person who resides in this state are exempt from taxation
 8 under the laws of Montana.

9 Section 20. Minors may not purchase. No ticket or
 10 share may be sold to a person under the age of eighteen
 11 (18), but this may not be considered to prohibit the
 12 purchase of a ticket or share for the purpose of making a
 13 gift, by a person eighteen (18) years of age or older, to a
 14 person less than eighteen (18) years old. A person who
 15 knowingly sells or offers to sell a lottery ticket or share
 16 to a person under the age of eighteen (18) is guilty of a
 17 misdemeanor.

18 Section 21. Violations -- penalties. An employee of
 19 the state of Montana who influences the outcome of a
 20 drawing, other than as prescribed by departmental rule shall
 21 be dismissed from his position and is not eligible for any
 22 state position for five (5) years.

23 (2) A person who influences the outcome of any drawing
 24 with intent that the outcome inure to the benefit of
 25 another, other than by chance, is guilty of a felony and

1 upon conviction shall be imprisoned in the state prison for
 2 a term not to exceed five (5) years.

-End-

Select Comm. on Gambling,
reported without recommendation
as amended.

1 HOUSE BILL NO. 677
2 INTRODUCED BY FABREGA, JACK MOORE, KELLY, JOHN ANDERSON,
3 HUENNEKENS, CASEY, FEDERICO, MURPHY, MULAR,
4 JOHNSTON, MCFADDEN
5

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7 ESTABLISHMENT AND OPERATION OF A STATE LOTTERY; CREATING THE
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1 (4) "Chief" means the person in charge of the state
2 lottery.

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4 this act.

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6 lottery bureau in the liquor division of the department of
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9 under the immediate supervision and direction of a chief.
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11 experience to carry out the provisions of this act. The
12 director of the department shall select the chief who shall
13 devote his entire time and attention to the duties of his
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16 but not less than eighteen thousand dollars (\$18,000) per
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22 operation of the Montana state lottery, in order that the
23 state lottery may be initiated at the earliest feasible and
24 practicable time, and that the state lottery may produce the
25 maximum amount of net revenues. (If a gambling commission

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2 shall perform this function);

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4 considers necessary;

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10 which shall include a full and complete statement of lottery
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14 (5) report immediately to the governor and the
15 legislature any matters which require immediate changes in
16 the laws of this state in order to prevent abuses and
17 evasions of this act or rules promulgated hereunder, or to
18 rectify undesirable conditions in connection with the
19 administration or operation of the lottery;

20 (6) carry on a continuous study and investigation of
21 the lottery throughout the state:

22 (a) for the purpose of ascertaining any defects in
23 this act or the rules promulgated hereunder;

24 (b) for the purpose of formulating recommendations for
25 changes in this act and the rules promulgated hereunder to

1 prevent abuses and evasions;

2 (c) to guard against the use of this act and the rules
3 issued hereunder as a cloak for the carrying on of organized
4 gambling and crime; and

5 (d) to insure that this law and promulgated rules
6 shall be in a form and administered to serve the true
7 purposes of this act;

8 (7) make a continuous study and investigation of:

9 (a) the operation and the administration of similar
10 laws which may be in effect in other states or countries;

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12 time may be published or available;

13 (c) federal laws which may affect the operation of the
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17 recommending or effecting changes that will tend to serve
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21 lottery in accordance with the provisions of this act and
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23 (2) subject to the approval of the department, appoint
24 deputies required to carry out the functions and duties of
25 the bureau;

1 (3) subject to the approval of the department, appoint
2 professional, technical and clerical assistants and
3 employees necessary to perform the duties imposed upon the
4 bureau by this act;

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7 operation and administration of the lottery;

8 (5) make available for inspection by the department,
9 upon request, all books, records, files, and other
10 information and documents of the bureau; advise the
11 department and recommend matters he considers necessary and
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13 lottery;

14 (6) subject to the approval of the department and the
15 applicable laws relating to public contracts, enter into
16 contracts for the operation of the lottery, or any part
17 thereof, and into contracts for the promotion of the
18 lottery. No contract awarded or entered into by the chief
19 may be assigned by the holder thereof except by specific
20 approval of the department;

21 (7) certify monthly to the department a full and
22 complete statement of lottery revenues, prize disbursements
23 and other expenses for the preceding month.

24 Section 8. Subpoena -- contempt. The department may
25 issue subpoenas to compel the attendance of witnesses and

1 the production of documents, papers, books, records and
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6 proceeding or hearing fails to obey the command of the
7 subpoena without reasonable cause, or if a person in
8 attendance in a proceeding or hearing refuses, without
9 lawful cause, to be examined or to answer a legal or
10 pertinent question or to exhibit a book, account, record or
11 other document as ordered by the department, the department
12 may apply to a judge of the district court, upon proof by
13 affidavit of the facts, for an order returnable in not less
14 than two (2) nor more than ten (10) days, or as the court
15 shall prescribe, directing that person to show cause before
16 the court why he should not comply with the subpoena or the
17 order.

18 Upon return of the order, the court before whom the
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20 oath, and if the court determines after giving this person
21 an opportunity to be heard, that he refused without legal
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24 comply with the subpoena and failure to obey the order of
25 the court may be punished as contempt.

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 2 a prize drawn is assignable, except that payment of a prize
 3 drawn may be paid to the estate of a deceased prize winner,
 4 and except that a person, under an appropriate judicial
 5 order, may be paid the prize to which the winner is
 6 entitled. The chief shall be discharged of all further
 7 liability upon payment of a prize under this section.

8 Section 10. Unclaimed prizes. Unclaimed prize money
 9 for the prize on a winning ticket or share shall be retained
 10 by the chief for the person entitled thereto for one (1)
 11 year after the drawing in which the prize was won. If no
 12 claim is made for the money within that time, the prize
 13 money shall be allocated in the same manner as lottery
 14 revenues are allocated under this act.

15 Section 11. Prizes to minors. If the person entitled
 16 to a prize or any winning ticket is under the age of
 17 eighteen (18) years, and the prize is less than five
 18 thousand dollars (\$5000), the chief may direct payment of
 19 the prize by delivery, to an adult member of the minor's
 20 family or a guardian of the minor, of a check or draft
 21 payable to the order of the minor. If the person entitled
 22 to a prize or a winning ticket is under the age of eighteen
 23 (18) years, and the prize is five thousand dollars (\$5,000)
 24 or more, the chief may direct payment to the minor by
 25 depositing the amount of the prize in a bank to the credit

1 of an adult member of the minor's family or a guardian of
 2 the minor as custodian for the minor. The person named
 3 custodian has the same duties and powers as a person
 4 designated as a custodian under the Uniform Gifts to Minors
 5 Act, Title 67, chapter 18, and for the purpose of this
 6 section the terms "adult member of a minor's family",
 7 "guardian of a minor" and "bank" have the same meaning as in
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 6 lottery and not distributed as prizes. The portion for each
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 8 determined by the ~~direct-proportion-that-the-population-of~~
 9 ~~each-county,-city-and-town-bears-to-the-total-population-of~~
 10 ~~all-counties,-and-incorporated-cities-and-towns-as-shown--in~~
 11 ~~the-latest-federal-census~~ VOLUME OF SALES OF LOTTERY TICKETS
 12 SOLD IN THE AREA OF JURISDICTION OF THAT LOCAL GOVERNMENT.

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 15 from the general fund two hundred fifty thousand dollars
 16 (\$250,000) for the biennium ending June 30, 1977, for the
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 18 duties under this act. This appropriation shall be repaid
 19 to the general fund as soon as practicable from the net
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 25 transactions of the division and bureau and other special

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 7 stores and copies are available to the public at those
 8 stores.

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 10 tickets in wholesale lots.

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 14 date of drawing are invested in municipal bonds.

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 16 the division.

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 18 lottery tickets is provided by the division.

19 (8) All purchases of lottery tickets from a state
 20 retail liquor store are by cash, certified check, or as
 21 provided by the store for the sale of liquor.

22 (9) At least seventy percent (70%) of the funds
 23 generated by the lottery shall be returned as prizes.

24 (10) The lottery is operated to create the least
 25 possible growth to governmental bureaucracy.

1 (11) THE PRICE OF A LOTTERY TICKET SHALL NOT EXCEED ONE
 2 DOLLAR (\$1).

3 Section 18. Local option. A city, town or county of
 4 this state, that desires to reject funds allocated to that
 5 local government under this act, shall certify that desire
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 7 verified copy of the results of an election in which the
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 19 person less than eighteen (18) years old. A person who
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 2 state position for five (5) years.

3 (2) A person who influences the outcome of any drawing
 4 with intent that the outcome inure to the benefit of
 5 another, other than by chance, is guilty of a felony and
 6 upon conviction shall be imprisoned in the state prison for
 7 a term not to exceed five (5) years.

8 SECTION 22. NONAPPLICABILITY OF PRESENT STATUTES. THE
 9 PROVISIONS OF TITLE 94, CHAPTER 8, PART 3, DO NOT APPLY TO A
 10 LOTTERY SET UP UNDER THIS ACT.

-End-