

SENATE BILL NO. 324

2/04 Introduced  
2/05 Referred to State Administration  
2/06 Fiscal Note Requested  
2/15 Hearing  
2/19 Fiscal Note Received  
2/23 Committee Report-Bill Pass As Amended  
2/23 Statement of Intent Attached  
2/25 2nd Reading Pass As Amended  
2/27 3rd Reading Do Not Pass  
2/27 Bill Killed

1 *Senate P. Smith* BILL NO. *324* *Madore*  
 2 INTRODUCED BY *James Carver* *James Jacobson*  
 3 *Van Halbeek* *James* *Hoffay* *Chrysdemus* *Kingston*  
 4 BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A STATE  
 5 LOTTERY AND PROVIDING FOR A COMMISSION, DIRECTOR, AND  
 6 PERSONNEL TO OPERATE THE STATE LOTTERY; PROVIDING THAT  
 7 ELECTRONIC VIDEO GAME MACHINES OPERATED BY THE STATE LOTTERY  
 8 ARE NOT SLOT MACHINES; PROVIDING THAT THE MONTANA CARD GAMES  
 9 ACT AND BINGO AND RAFFLES LAW DO NOT APPLY TO THE STATE  
 10 LOTTERY; AMENDING SECTIONS 23-5-101, 23-5-202, 23-5-302,  
 11 AND 23-5-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
 12 DATE." *Menahan* *Montoya*  
 13  
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 15 NEW SECTION. Section 1. Short title. [Sections 1  
 16 through 20] may be cited as the "Montana State Lottery Act  
 17 of 1985".  
 18 NEW SECTION. Section 2. Definitions. As used in  
 19 [sections 1 through 20], the following definitions apply:  
 20 (1) "Commission" means the state lottery commission  
 21 created by [section 3].  
 22 (2) "Director" means the director appointed by the  
 23 commission under [section 4] to administer and manage the  
 24 state lottery.  
 25 (3) "Lottery" or "state lottery" means the Montana

1 state lottery created and operated pursuant to [sections 1  
 2 through 20].  
 3 (4) "Lottery game" means any procedure, including any  
 4 on-line or other procedure using a machine or electronic  
 5 device, by which one or more prizes are distributed among  
 6 persons who have paid for a chance to win a prize and  
 7 includes but is not limited to weekly (or other, longer time  
 8 period) winner games, instant winner games, daily numbers  
 9 games, electronic video machine games, and sports pool  
 10 games, except sports pools governed by Title 23, chapter 5,  
 11 part 5.  
 12 NEW SECTION. Section 3. State lottery commission --  
 13 allocation -- composition -- compensation -- quorum. (1)  
 14 There is a state lottery commission.  
 15 (2) The commission consists of five members, who shall  
 16 reside in Montana, appointed by the governor.  
 17 (3) At least one commissioner must have 5 years of  
 18 experience as a law enforcement officer. At least one  
 19 commissioner must be an attorney admitted to the practice of  
 20 law in Montana. At least one commissioner must be a  
 21 certified public accountant licensed in Montana.  
 22 (4) After initial appointments, each commissioner  
 23 shall be appointed to a 4-year term of office, and the terms  
 24 shall be staggered.  
 25 (5) A commissioner may be removed by the governor for

1 good cause. An office that for any reason becomes vacant  
2 must be filled within 30 days by the governor, and the  
3 commissioner filling the vacancy shall serve for the rest of  
4 the unexpired term.

5 (6) The commission shall appoint one of its members as  
6 chairman.

7 (7) Three or more commissioners constitute a quorum to  
8 do business, and action may be taken by a majority of a  
9 quorum.

10 (8) Commissioners are entitled to compensation, to be  
11 paid out of the state lottery fund, at the rate of \$100 for  
12 each day in which they are engaged in the performance of  
13 their duties and are entitled to travel, meals, and lodging  
14 expenses, to be paid out of the state lottery fund, as  
15 provided for in Title 2, chapter 18, part 5.

16 (9) The commission is allocated to the department of  
17 commerce for administrative purposes only, except that only  
18 subsections (1)(a), (1)(c), (2)(e), (3)(a), and (3)(b) of  
19 2-15-121 apply to the commission.

20 NEW SECTION. Section 4. Powers and duties of  
21 commission. The commission shall:

22 (1) establish and operate a state lottery and may not  
23 become involved in any other gambling or gaming;

24 (2) appoint, and may remove for good cause, a director  
25 of the state lottery as provided in [section 5];

1 (3) determine policies for the operation of the state  
2 lottery, supervise the director and his staff, and meet with  
3 the director at least once every 3 months to make and  
4 consider recommendations, set policies, determine types and  
5 forms of lottery games to be operated by the state lottery,  
6 and transact other necessary business;

7 (4) determine the price of each ticket or chance and  
8 the number and size of prizes;

9 (5) provide for the conduct of drawings of winners of  
10 lottery games;

11 (6) carry out, with the director, a continuing study  
12 of the state lotteries of Montana and other states to make  
13 the state lottery more efficient, profitable, and secure  
14 from violations of the law;

15 (7) study the possibility of working with other  
16 lottery states to offer regional lottery games;

17 (8) prepare quarterly and annual reports on all  
18 aspects of the operation of the state lottery, including but  
19 not limited to types of games, gross revenue, prize money  
20 paid, operating expenses, net revenue to the state,  
21 contracts with gaming suppliers, and recommendations for  
22 changes to [sections 1 through 20], and deliver a copy of  
23 each report to the governor, the department of  
24 administration, the legislative auditor, the president of  
25 the senate, the speaker of the house of representatives, and

1 each member of the appropriate committee of each house of  
2 the legislature as determined by the president of the senate  
3 and the speaker of the house; and

4 (9) adopt rules necessary to carry out [sections 1  
5 through 20].

6 NEW SECTION. Section 5. Director -- appointment --  
7 compensation -- qualifications. (1) The director is  
8 appointed by the commission, which may remove him for good  
9 cause.

10 (2) The director must be qualified by training and  
11 experience to direct the state lottery. He must be a  
12 full-time employee and may not engage in any other  
13 occupation.

14 (3) The director's salary is equal to 90% of the  
15 salary of the director of the department of commerce.

16 NEW SECTION. Section 6. Powers and duties of  
17 director. (1) The director shall:

18 (a) administer the operation of the state lottery in  
19 accordance with [sections 1 through 20] and the rules and  
20 other directives of the commission;

21 (b) appoint an assistant director for security and  
22 employ and direct personnel necessary to the operation of  
23 the state lottery;

24 (c) license lottery ticket or chance sales agents and  
25 suspend or revoke licenses pursuant to [sections 1 through

1 20] and commission rules; and

2 (d) maintain, with the assistant director for  
3 security, the security of the state lottery.

4 (2) With the concurrence of the commission or pursuant  
5 to commission direction or rules, the director may enter  
6 into contracts of no longer than 6 months for materials,  
7 equipment, and supplies to be used in the operation of the  
8 state lottery, for the design and installation of games, for  
9 consultant services, and for promotion of the lottery. No  
10 contract is legal or enforceable that provides for the  
11 management of the state lottery or for the entire operation  
12 of its games by any private person or firm. When a contract  
13 is awarded, a performance bond satisfactory to the  
14 commission and executed by a surety company authorized to do  
15 business in this state or otherwise secured in a manner  
16 satisfactory to the commission, in an amount equal to the  
17 price of the contract, must be delivered to the commission.

18 NEW SECTION. Section 7. Assistant director for  
19 security -- qualifications -- duties. (1) The director shall  
20 appoint an assistant director for security.

21 (2) The assistant director for security must be  
22 qualified by training and experience, have at least 5 years  
23 of law enforcement experience, and be knowledgeable and  
24 experienced in computer security.

25 (3) The assistant director for security shall:

1 (a) be responsible for a security division to assure  
2 security, honesty, fairness, and integrity in the operation  
3 and administration of the lottery, including but not limited  
4 to an examination of the background of all prospective  
5 employees, ticket or chance sales agents, lottery vendors,  
6 and lottery contractors;

7 (b) in conjunction with the director, confer with the  
8 attorney general or his designee to promote and ensure  
9 security, honesty, fairness, and integrity of the operation  
10 and administration of the lottery; and

11 (c) in conjunction with the director, report any  
12 alleged violation of law to the attorney general and any  
13 other appropriate law enforcement authority for further  
14 investigation and action.

15 NEW SECTION. Section 8. Ticket or chance sales agents  
16 -- licenses. (1) Lottery tickets or chances may be sold only  
17 by ticket or chance sales agents licensed by the director in  
18 accordance with this section.

19 (2) The commission shall by rule determine the places  
20 at which state lottery game tickets or chances may be sold.

21 (3) (a) Before issuing a license, the director shall  
22 consider:

23 (i) the financial responsibility and security of the  
24 person and his business or activity;

25 (ii) the accessibility of his place of business or

1 activity to the public; and

2 (iii) the sufficiency of existing licenses to serve the  
3 public convenience and the volume of the expected sales.

4 (b) No person under 18 years of age may sell lottery  
5 tickets or chances.

6 (c) A license as an agent to sell lottery tickets or  
7 chances may not be issued to any person to engage in  
8 business exclusively as a lottery ticket or chance sales  
9 agent.

10 (4) The director may issue temporary licenses upon  
11 conditions he considers necessary.

12 (5) License applicants must be charged a \$50 fee to  
13 cover the cost of investigating and processing the  
14 application.

15 (6) The director may require a bond from any licensed  
16 agent in an amount provided in the commission's rules and  
17 may purchase a blanket bond covering the activities of  
18 licensed agents.

19 (7) A licensed agent shall display his license or a  
20 copy thereof conspicuously in accordance with the  
21 commission's rules.

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

23 (9) No employee of a ticket or chance sales agent may  
24 be required to sell lottery game tickets or chances if the  
25 sale is against his religious or moral beliefs.

1 (10) Sales agents are entitled to no more than a 5%  
2 commission on tickets and chances sold.

3 (11) The director may require each sales agent to keep  
4 a complete and up-to-date set of records and accounts fully  
5 showing his sales and provide it for inspection upon request  
6 of the commission, the director, the department of  
7 administration, or the office of the attorney general.

8 (12) Payments by sales agents to the state lottery must  
9 be by check, bankdraft, electronic fund transfer, or other  
10 recorded, noncash, financial transfer method as determined  
11 by the director.

12 (13) A license may be suspended or revoked for failure  
13 to maintain the license qualifications provided in  
14 subsection (3) or for violation of any provision of  
15 [sections 1 through 20] or a commission rule. Prior to  
16 suspension or revocation, the licensee must be given notice  
17 and an opportunity for a hearing.

18 NEW SECTION. Section 9. Sales restrictions. (1) The  
19 price of each lottery game ticket or chance must be clearly  
20 stated thereon. The price of a lottery game chance vended  
21 by a machine or electronic device must be clearly stated on  
22 the machine or device.

23 (2) Tickets and chances may not be sold to or  
24 purchased by persons under 18 years of age.

25 (3) Tickets and chances must be paid for in cash.

1 (4) Tickets and chances may not be sold to or  
2 purchased by commissioners, the director, his staff, gaming  
3 suppliers doing business with the state lottery, suppliers'  
4 officers and employees, any person auditing or investigating  
5 the state lottery, or members of their families living with  
6 them.

7 (5) The names of elected officials may not appear on  
8 any ticket or chance.

9 NEW SECTION. Section 10. Disclosure of odds. The  
10 director shall make adequate disclosure of the odds with  
11 respect to each state lottery game by stating the odds in  
12 lottery game advertisements and by posting the odds at each  
13 place in which tickets or chances are sold.

14 NEW SECTION. Section 11. State lottery fund. There is  
15 a fund of the enterprise fund type, as defined in 17-2-102,  
16 to be known as the state lottery fund. The gross revenue  
17 from the state lottery, consisting of money from the sale of  
18 lottery tickets and chances, ticket or chance sales agent  
19 license fees, unclaimed prizes, or any other source, must be  
20 deposited in the fund, except that, at the discretion of the  
21 director, money for prizes paid immediately by a sales agent  
22 and money equaling the sales agent's commission may be drawn  
23 by a sales agent from his gross revenue before depositing  
24 his gross revenue with the state lottery.

25 NEW SECTION. Section 12. Disposition of revenue. (1)

1 Forty-five percent of the money paid for tickets or chances  
2 in each separate state lottery game must be paid out as  
3 prize money for the game.

4 (2) Up to 20% of the gross revenue from the state  
5 lottery may be used by the director to pay the operating  
6 expenses of the state lottery. Commissions paid to lottery  
7 ticket or chance sales agents are a state lottery operating  
8 expense.

9 (3) That part of all gross revenue not used for the  
10 payment of prizes and operating expenses is net revenue and  
11 must be paid quarterly from the enterprise fund established  
12 by [section 11] as follows:

13 (a) 50% into the state general fund;

14 (b) 50% of the net revenue generated in each county  
15 must be paid into the general fund of that county. Fifty  
16 percent of the net revenue paid into the general fund of  
17 each county must be paid by that county to the general funds  
18 of the incorporated cities and towns and consolidated local  
19 governments in that county in the ratio which the population  
20 within the corporate limits of each city, town, or  
21 consolidated local government bears to the total population  
22 of the county. The population of each city, town, and  
23 consolidated local government shall be determined by the  
24 last preceding official federal census.

25 NEW SECTION. Section 13. Felony and gambling-related

1 convictions -- ineligibility for lottery positions. No  
2 person who has been convicted of a felony or a  
3 gambling-related offense under federal law or the law of any  
4 state may be a commissioner, director, assistant director,  
5 employee of the state lottery, or licensed ticket or chance  
6 sales agent.

7 NEW SECTION. Section 14. Conflict of interest. No  
8 commissioner, director, assistant director, state lottery  
9 employee, licensed ticket or chance sales agent, or member  
10 of his family living with him may have a financial interest  
11 in any gaming supplier or any contract between the state  
12 lottery and a gaming supplier or accept any gift or thing of  
13 value from a gaming supplier.

14 NEW SECTION. Section 15. Drawings for and payment of  
15 prizes -- unclaimed prizes. (1) All drawings must be held in  
16 public. The selection of winning tickets may not be  
17 performed by an employee of the lottery or by a member of  
18 the commission. All drawings must be witnessed by a  
19 professional staff employee of the legislative auditor's  
20 office, and all lottery drawing equipment used in public  
21 drawings to select winning prizes or participants for prizes  
22 must be examined by the director's staff and a professional  
23 staff employee of the legislative auditor's office prior to  
24 and after each public drawing.

25 (2) The commission may provide for the immediate

1 payment of prizes by the ticket or chance sales agent who  
 2 sold the winning ticket or chance whenever the amount of the  
 3 prize is less than an amount set by commission rule.  
 4 Payment may not be made directly by an electronic game,  
 5 machine, or device, or by a computer terminal.

6 (3) Prizes over \$100,000 may in the discretion of the  
 7 director be paid either in one lump sum or in equal yearly  
 8 installments without interest over a period of not more than  
 9 10 years, except that each installment payment must be at  
 10 least \$20,000.

11 (4) Prizes not claimed within 6 months are forfeited  
 12 and must be paid into the state lottery fund. No interest is  
 13 due on a prize when a claim is delayed but made within 6  
 14 months.

15 (5) The right to a prize is not assignable, but prizes  
 16 may be paid to a deceased winner's estate or to a person  
 17 designated by judicial order.

18 NEW SECTION. Section 16. Disclosures by gaming  
 19 suppliers. (1) Any person, firm, association, or corporation  
 20 that submits a bid or proposal for a contract to supply  
 21 lottery equipment, tickets, or other material or consultant  
 22 services for use in the operation of the state lottery shall  
 23 disclose at the time of such bid or proposal:

24 (a) the supplier's business name and address and the  
 25 names and addresses of the following:

1 (i) if the supplier is a partnership, all of the  
 2 general and limited partners;

3 (ii) if the supplier is a trust, the trustee and all  
 4 persons entitled to receive income or benefit from the  
 5 trust;

6 (iii) if the supplier is an association, the members,  
 7 officers, and directors;

8 (iv) if the supplier is a corporation, the officers,  
 9 directors, and each owner or holder, directly or indirectly,  
 10 of any equity security or other evidence of ownership of any  
 11 interest in the corporation; except that, in the case of  
 12 owners or holders of publicly held equity securities of a  
 13 publicly traded corporation, only the names and addresses of  
 14 those owning or holding 5% or more of the publicly held  
 15 securities must be disclosed;

16 (v) if the supplier is a subsidiary company, each  
 17 intermediary company, holding company, or parent company  
 18 involved therewith and the officers, directors, and  
 19 stockholders of each; except that, in the case of owners or  
 20 holders of publicly held securities of an intermediary  
 21 company, holding company, or parent company which is a  
 22 publicly traded corporation, only the names and addresses of  
 23 those owning or holding 5% or more of the publicly held  
 24 securities must be disclosed;

25 (b) if the supplier is a corporation, all the states



1 in which the supplier is authorized to do business and the  
2 nature of that business;

3 (c) other jurisdictions in which the supplier has  
4 contracts to supply gaming materials, equipment, or  
5 consultant services;

6 (d) the details of any conviction, state or federal,  
7 of the supplier or any person whose name and address are  
8 required by subsection (1)(a) of a criminal offense  
9 punishable by imprisonment for more than 1 year;

10 (e) the details of any disciplinary action taken by  
11 any state against the supplier or any person whose name and  
12 address are required by subsection (1)(a) regarding any  
13 matter related to gaming consultant services or the selling,  
14 leasing, offering for sale or lease, buying, or servicing of  
15 gaming materials or equipment;

16 (f) audited annual financial statements for the  
17 preceding 5 years;

18 (g) a statement of the gross receipts realized in the  
19 preceding year from gaming consultant services and the sale,  
20 lease, or distribution of gaming materials or equipment to  
21 states operating lotteries and to private persons licensed  
22 to conduct gambling, differentiating that portion of the  
23 gross receipts attributable to transactions with states  
24 operating lotteries from that portion of the gross receipts  
25 attributable to transactions with private persons licensed

1 to conduct gambling;

2 (h) the name and address of any source of gaming  
3 materials or equipment for the supplier;

4 (i) the number of years the supplier has been in the  
5 business of supplying gaming consultant services or gaming  
6 materials or equipment; and

7 (j) any other information, accompanied by any  
8 documents the commission by rule may reasonably require as  
9 being necessary or appropriate in the public interest to  
10 accomplish the purposes of [sections 1 through 20].

11 (2) No person, firm, association, or corporation  
12 contracting to supply gaming equipment or materials or  
13 consultant services to the state for use in the operation of  
14 the state lottery may have any financial interest or  
15 connection with any person, firm, association, or  
16 corporation licensed as a ticket or chance sales agent.

17 (3) No contract for supplying consultant services or  
18 gaming materials or equipment for use in the operation of  
19 the state lottery is enforceable against the state unless  
20 the requirements of this section have been fulfilled.

21 NEW SECTION. Section 17. Annual audit. The  
22 legislative auditor shall conduct an annual audit of the  
23 state lottery. The costs of the audit must be paid out of  
24 the state lottery fund. A copy of the audit report must be  
25 delivered to the commission, the director, the governor, the

1 president of the senate, the speaker of the house of  
 2 representatives, and each member of the appropriate  
 3 committee of each house of the legislature as determined by  
 4 the president of the senate and the speaker of the house.

5 NEW SECTION. Section 18. Study of lottery security.  
 6 (1) After the first 9 months of sales to the public and  
 7 every 2 years after that, the commission shall engage an  
 8 independent firm experienced in security procedures,  
 9 including but not limited to computer security and systems  
 10 security, to conduct a comprehensive study and evaluation of  
 11 all aspects of security in the operation of the lottery. The  
 12 study must include:

- 13 (a) personnel security;
- 14 (b) lottery sales agent security;
- 15 (c) lottery contractor security;
- 16 (d) security of manufacturing operations of lottery  
 17 contractors;
- 18 (e) security against ticket or chance counterfeiting  
 19 and alteration and other means of fraudulently winning;
- 20 (f) security of drawings among entries or finalists;
- 21 (g) computer security;
- 22 (h) data communications security;
- 23 (i) database security;
- 24 (j) systems security;
- 25 (k) lottery premises and warehouse security;

- 1 (l) security in distribution;
- 2 (m) security involving validation and payment  
 3 procedures;
- 4 (n) security involving unclaimed prizes;
- 5 (o) security aspects applicable to each particular  
 6 lottery game;
- 7 (p) security of drawings in games where winners are  
 8 determined by drawings;
- 9 (q) the completeness of security against locating  
 10 winners in lottery games with preprinted winners by persons  
 11 involved in their production, storage, distribution,  
 12 administration, or sales; and
- 13 (r) any other aspects of security applicable to any  
 14 particular lottery game and to the lottery and its  
 15 operations.
- 16 (2) The security audit report must be presented to the  
 17 commission, the director, the governor, the president of the  
 18 senate, and the speaker of the house of representatives.

19 NEW SECTION. Section 19. Investigations and legal  
 20 services and proceedings. (1) The attorney general shall  
 21 provide legal services for the state lottery at the request  
 22 of the director, assistant director for security, or  
 23 commission. The attorney general shall make reasonable  
 24 efforts to ensure that there is continuity in the legal  
 25 services provided and that the attorneys providing legal

1 services have expertise in the field.

2 (2) The attorney general shall make investigations and  
3 prosecute or defend, on behalf of the director and  
4 commission, suits and other proceedings involving the state  
5 lottery or necessary to carry out the purposes of [sections  
6 1 through 20].

7 (3) The commission, director, and assistant director  
8 for security may also carry out investigations. The attorney  
9 general must be informed of each investigation before it  
10 begins and must be informed of the results of the  
11 investigation.

12 (4) Upon the request of the assistant director for  
13 security, the attorney general and the department of justice  
14 must give the assistant director for security such  
15 information as may tend to assure security, honesty,  
16 fairness, and integrity in the operation and administration  
17 of the lottery as they may have in their possession,  
18 including but not limited to manual or computerized  
19 information and data.

20 NEW SECTION. Section 20. Penalties. It is a  
21 misdemeanor, punishable by a fine not to exceed \$500 or  
22 imprisonment in the county jail for a term not to exceed 6  
23 months, or both, to knowingly or purposely:

24 (1) require an employee to sell lottery tickets or  
25 chances in violation of [section 8(9)];

1 (2) violate [section 8(11)];

2 (3) sell a lottery ticket or chance to a person under  
3 18 years of age;

4 (4) violate [subsection (3) or (4) of section 9];

5 (5) serve as a commissioner, director, assistant  
6 director, employee, or licensed agent of the state lottery  
7 in violation of [section 13];

8 (6) violate [section 14];

9 (7) violate [section 16]; or

10 (8) influence the winning of a prize through the use  
11 of coercion, fraud, deception, or tampering with lottery  
12 equipment or materials.

13 Section 21. Section 23-5-101, MCA, is amended to read:

14 "23-5-101. Definitions. (1) A slot machine is defined  
15 as a machine operated by inserting a coin, token, chip,  
16 trade check, or paper currency therein by the player and  
17 from the play of which he obtains or may obtain money,  
18 checks, chips, tokens, or paper currency redeemable in  
19 money. Electronic video game machines operated by the state  
20 lottery are not slot machines. Merchandise vending machines  
21 where the element of chance does not enter into their  
22 operation are not within the provisions of this part.

23 (2) In addition to their ordinary meaning, the words  
24 "person" or "persons", as used in this part, include both  
25 natural and artificial persons and all partnerships,

1 corporations, associations, clubs, fraternal orders, and  
2 societies, including religious, fraternal, and charitable  
3 organizations."

4 Section 22. Section 23-5-202, MCA, is amended to read:

5 "23-5-202. Application. This part shall not apply to  
6 the provisions of part 4 of this chapter, to [sections 1  
7 through 20], or to the giving away of cash or merchandise  
8 attendance prizes or premiums by public drawings at  
9 agricultural fairs or rodeo associations in this state, and  
10 the county fair commissioners of agricultural fairs or rodeo  
11 associations in this state may give away at such fairs cash  
12 or merchandise attendance prizes or premiums by public  
13 drawings."

14 Section 23. Section 23-5-302, MCA, is amended to read:

15 "23-5-302. Definitions. As used in this part and  
16 unless the context requires otherwise, the following terms  
17 or phrases have the following meanings:

18 (1) "Authorized card game" means any card game  
19 permitted by this part.

20 (2) "Card game" means any game played with cards for  
21 which the prize is money or any item of value, except games  
22 played on electronic video game machines operated by the  
23 state lottery."

24 Section 24. Section 23-5-402, MCA, is amended to read:

25 "23-5-402. Definitions. As used in this part, unless

1 the context requires otherwise, the following terms or  
2 phrases shall have the following meanings:

3 (1) "Game of chance" means the specific kind of game  
4 of chance commonly known as:

5 (a) "bingo" or "keno", in which prizes are awarded on  
6 the basis of designated numbers or symbols on a card which  
7 conform to numbers or symbols selected at random, except  
8 games played on electronic video game machines operated by  
9 the state lottery;

10 (b) "raffles", which are conducted by drawing for  
11 prizes.

12 (2) "Equipment" means:

13 (a) with respect to bingo or keno, the receptacle and  
14 numbered objects drawn from it, the master board upon which  
15 such objects are placed as drawn, the cards or sheets  
16 bearing numbers or other designations to be covered and the  
17 objects used to cover them, the boards or signs, however  
18 operated, used to announce or display the numbers or  
19 designations as they are drawn, public address system, and  
20 all other articles essential to the operation, conduct, and  
21 playing of bingo or keno; or

22 (b) with respect to raffles, the implements, devices,  
23 and machines designed, intended, or used for the conduct of  
24 raffles and the identification of the winning number or unit  
25 and the ticket or other evidence of right to participate in

1 raffles."

2 NEW SECTION. Section 25. Initial appointment and  
3 terms of commissioners. Initial appointments to the  
4 commission must be made within 30 days after [the effective  
5 date of this act]. Two of the initial appointees shall serve  
6 for 2 years, two shall serve for 3 years, and one shall  
7 serve for 4 years.

8 NEW SECTION. Section 26. Initial duties of commission  
9 -- lottery study -- first game. (1) The commission shall  
10 immediately conduct an initial study of other state  
11 lotteries.

12 (2) The commission shall begin the operation of state  
13 lottery games at the earliest practicable time and in any  
14 event within 150 days after [the effective date of this  
15 act].

16 NEW SECTION. Section 27. Temporary state treasury  
17 line of credit for expense of starting state lottery. There  
18 is a temporary line of credit that may be drawn by the  
19 director of the state lottery from the state general fund  
20 and deposited in the state lottery fund, in the amount of  
21 \$1,500,000. This temporary line of credit may be drawn upon  
22 only during the first 12 months after the effective date of  
23 [sections 1 through 20] and only for the purpose of  
24 financing the initial expenses of starting the state  
25 lottery. The director may draw upon all or part of this

1 temporary line of credit. Any funds advanced under the  
2 temporary line of credit must be repaid to the general fund  
3 within 1 year of the advance. Interest must be paid at an  
4 annual simple interest rate of 10% on funds advanced,  
5 commencing on the day funds are advanced and until the funds  
6 are repaid.

7 NEW SECTION. Section 28. Severability. If a part of  
8 this act is invalid, all valid parts that are severable from  
9 the invalid part remain in effect. If a part of this act is  
10 invalid in one or more of its applications, the part remains  
11 in effect in all valid applications that are severable from  
12 the invalid applications.

13 NEW SECTION. Section 29. Effective date. This act is  
14 effective on passage and approval.

-End-

## STATE OF MONTANA

## FISCAL NOTE

REQUEST NO. FNN 358-85

Form BD-15

In compliance with a written request received February 6 19 85, there is hereby submitted a Fiscal Note for S.B. 324 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

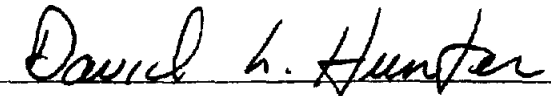
DESCRIPTION OF PROPOSED LEGISLATION:

An act establishing a state lottery and providing for a commission, director, and personnel to operate the state lottery; providing that electronic video game machines operated by the state lottery are not slot machines; providing that the Montana card games act and bingo and raffles law do not apply to the state lottery.

ASSUMPTIONS:

## Department of Commerce

1. This fiscal note is written assuming that a lottery is the only activity that will be implemented. However, the grant of authority to the commission would allow implementation of almost any casino type game provided that the game could be adapted to ticket or electronic video form.
2. The act allocates the lottery to the Department of Commerce for administrative purposes, but excludes the Department of Commerce from accounting, payroll, personnel, budgeting, and other administrative functions. The Department of Commerce would realize no increased costs resulting from the lottery.
3. Revenue estimates were derived from research conducted regarding the gross per capita sales of other states. Two options have been provided. Option I is based on a mathematical model that determines gross sales from population and disposable income statistics as reported by states with lotteries. This method produced a gross per capita sales amount of \$16 for Montana. This estimate represents a most likely scenario consistent with the average of gross per capita sales observed in Arizona, Maine, New Hampshire and Vermont. Option II is based on Arizona's gross per capita sales of \$26. The fiscal impact of this option has been provided to reflect the maximum revenue potential of this proposal.
4. Costs of administration for the lottery would be a maximum of 20% of gross sales. The 5% sales commission to vendors is included within administrative costs.
5. Based on data from Arizona, it is assumed it will take 8 months before the lottery is operational.



BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Feb 18, 1985

ASSUMPTIONS: (continued)

Legislative Auditor:

1. That lottery drawings will be held in Helena each week of the year.
2. Witnessing, including examination of the equipment prior to and after each public drawing will be required and will cost \$80 each.
3. That good controls are established centrally over the lottery system with accountability for money and tickets for each lottery drawing.

FISCAL SUMMARY

OPTION I

Average of Arizona, Maine, New Hampshire and Vermont  
 \$16 Per Capita Gross Sales

OPTION II

Arizona's Experience  
 \$26 Per Capita Gross Sales

	<u>FY1986*</u>	<u>FY1987</u>	<u>FY1986*</u>	<u>FY1987</u>
Total Revenue	\$6,584,000	\$13,168,000	\$10,699,000	\$21,398,000
Total Costs	<u>4,260,489</u>	<u>8,507,358</u>	<u>6,944,721</u>	<u>13,867,078</u>
Net Revenue	<u>\$2,323,511</u>	<u>\$ 4,660,642</u>	<u>\$ 3,754,279</u>	<u>\$ 7,530,922</u>
State General Fund	\$1,161,756	\$ 2,330,321	\$ 1,877,140	\$ 3,765,461
Local Governments	<u>1,161,755</u>	<u>2,330,321</u>	<u>1,877,139</u>	<u>3,765,461</u>
Net Revenue	<u>\$2,323,511</u>	<u>\$ 4,660,642</u>	<u>\$ 3,754,279</u>	<u>\$ 7,530,922</u>

\*Assumes partial implementation due to start up delay.

OPTION I:

FISCAL IMPACT: Based on the average of Arizona, Maine, New Hampshire and Vermont (\$16 per capita gross sales)

Expenditures:	<u>FY 86</u>	<u>FY 87</u>
<u>Lottery Commission</u>		
Current	\$ -0-	\$ -0-
Proposed		
Personal Services	\$ 283,053	566,106
Operating Expenses	924,771	1,849,541
Equipment	2,650	5,300
Prizes	<u>2,962,800</u>	<u>5,925,600</u>
Total Expenditures		
Proprietary Fund	\$4,173,274	\$ 8,346,547
<u>Legislative Auditor</u>		
Current	\$ -0-	\$ -0-
Proposed		
Personal Services	\$ 5,267	\$ 8,650
Operating Expenses	<u>1,400</u>	<u>2,300</u>
Total Proprietary Fund		
Increase	\$ 6,667	\$ 10,950
<u>Department of Justice</u>		
Current	\$ -0-	\$ -0-
Proposed		
Personal Services	\$ 52,103	\$ 105,250
Operating Expenses	14,469	27,746
Equipment	<u>13,976</u>	<u>16,865</u>
Total Proprietary Fund		
Increase	\$ 80,548	\$ 149,861



Total Expenditures:

	<u>FY 86</u>	<u>FY 87</u>
Proposed		
Personal Services	\$ 340,423	\$ 680,006
Operating Expenses	940,640	1,879,587
Equipment	16,626	22,165
Sub-Total	\$ 1,297,689	\$ 2,581,758
Prizes	<u>2,962,800</u>	<u>5,925,600</u>
Total Costs	\$ 4,260,489	\$ 8,507,358

Total Revenue:

Proposed	\$ 6,584,000	\$13,168,000
----------	--------------	--------------

Fiscal Summary:

Total Revenue	\$ 6,584,000	\$13,168,000
Total Costs	<u>4,260,489</u>	<u>8,507,358</u>
Net Revenue	<u>\$ 2,323,511</u>	<u>\$ 4,660,642</u>

Revenue Distribution:

State General Fund	\$ 1,161,756	\$ 2,330,321
Local Governments	<u>1,161,755</u>	<u>2,330,321</u>
Net Revenue	<u>\$ 2,323,511</u>	<u>\$ 4,660,642</u>

The figures below were derived from an article in the March, 1984 issue of State Legislatures magazine.

FY 1983 POPULATION & INCOME DATA FOR LOTTERY STATES

<u>State</u>	<u>Year Begun</u>	<u>Population (000)</u>	<u>Gross Sales (000)</u>	<u>Gross Per Capita</u>	<u>Net Proceeds (000)</u>	<u>Net Per Capita</u>
Arizona	1981	2,860	\$ 75,000	\$ 26	\$ 31,800	\$ 11
Colorado	1983	3,045	138,300	45	41,700	14
Connecticut	1972	3,153	188,000	60	80,500	26
Delaware	1975	602	30,100	50	11,000	18
D.C.	1982	631	50,462	80	13,188	21
Illinois	1974	11,448	495,400	43	214,000	19
Maine	1974	1,133	13,074	12	3,700	3
Maryland	1973	4,265	462,800	109	198,200	46
Massachusetts	1972	5,781	312,136	54	104,603	18
Michigan	1972	9,109	548,900	60	221,200	24
New Hampshire	1964	951	13,819	15	3,688	4
New Jersey	1970	7,438	693,100	93	294,900	40
New York	1967	17,659	645,000	37	275,200	16
Ohio	1974	10,791	397,800	37	145,000	13
Pennsylvania	1972	11,865	885,400	75	355,400	30
Rhode Island	1974	958	43,000	45	14,700	15
Vermont	1978	516	4,400	9	1,100	2
Washington	1982	<u>4,245</u>	<u>200,117</u>	47	<u>66,700</u>	16
TOTALS	----	96,450	5,196,808	--	2,076,679	--
AVERAGE	----	5,358	288,712	54	115,371	22

TECHNICAL OR MECHANICAL DEFECTS:

1. The Attorney General believes Section 19 of Senate Bill 324 to be duplicative and recommends its removal. If Section 19 is removed, the following costs would be applicable.

Department of Justice

	<u>FY 86</u>	<u>FY 87</u>
General Fund Expenditures		
with Section 19:	\$ 80,548	\$ 149,861
Without Section 19:	\$ 17,968	\$ 32,089

2. Administrative attachment is inconsistent with other attached entities, accounting, payroll, personnel and record keeping functions would have to be duplicated within the lottery, adding to operating expenses.
3. The constraints placed on license suspension; the requirement to give "notice and opportunity for a hearing" prior to suspension of a license would make it impossible to stop a licensee who was in violation from continuing to violate the act, e.g. selling tickets to minors.
4. The percentage to be "paid" out for prizes is too precisely stated. An exact 45% is required to be paid out which is nearly impossible to achieve. A qualifier such as "at least" or "not less than" would allow some flexibility in an uncertain marketing program.
5. There is neither provision for payment of proceeds from lottery sales by agents to the lottery nor penalty for failure to do so. The act does not specify whether sales agents must pay for tickets before or after they are sold. There is no requirement to pay weekly, monthly or even annually. No remedy is provided if they fail to pay for tickets to assure collection. Washington had 6% of sales in receivable status at the end of its first 8 months of operation and over half of the receivables were in a delinquent status. In Montana that would equate to over a million dollar in delinquent receivables.
6. Violations which are criminal in nature are not dealt with in a consistent manner. Forgery alteration and counterfeiting, the most common crimes against a lottery are not even mentioned in the act. If prosecuted as acts of fraud under the act, the maximum penalty would be \$500 or 6 months in prison - the same penalty as that for accepting a check or not keeping "up-to-date" records.  
Ref.: Pg. 19 and 20 starting at line 20.
7. The grant of authority to the commission is very broad. The commission could in the name of lottery adopt any game format it chooses and effectively create almost any casino game that could be adapted to ticket or electronic video form.

APPROVED BY COMMITTEE  
ON STATE ADMINISTRATION

STATEMENT OF INTENT

SENATE BILL 324

Senate State Administration Committee

A statement of intent is required for this act because under the provisions of the act the state lottery commission must establish and operate a state lottery and adopt policies and rules regarding but not limited to:

- (1) the operations of the lottery director and his staff;
- (2) the price, number, and size of tickets or chances;
- (3) the drawing of lottery winners;
- (4) lottery tickets or chance sales and ticket or chance sales agents;
- (5) the immediate payment of small prizes;
- (6) lottery security;
- (7) purchase or rental of gaming equipment and supplies; and
- (8) other matters relating to the successful operation of the lottery.

A state lottery is primarily a business operation and has as a purpose the earning of net revenue. The successful operation of a state lottery, as shown by the experience of other state lotteries, depends to a large degree upon the flexibility to operate the lottery as a business enterprise.

The success of a lottery also depends upon the operation of the lottery within a statutory framework ensuring the integrity of the staff and all phases of the operation of the lottery and the avoidance of even the appearance of any illegalities or conflicts of interest.

To these ends, it is contemplated that the state lottery commission will be composed of persons conversant with the types of administrative rules necessary to the successful operation of the lottery and will adopt rules ensuring the integrity and success of the lottery.

In accord with the theory that a lottery is primarily a business, it is contemplated that the rules will change or allow changes in the operation of the lottery consistent with statutes as new business techniques and ideas, new games and prizes, better outlets for ticket sales, and better management techniques are discovered.

Any definitions contained in this act pertain only to the state lottery. It is the intent of the legislature that the state lottery commission operate a state lottery only, and it is not intended that the commission shall be involved in any way in other forms of gambling.



## 1 SENATE BILL NO. 324

2 INTRODUCED BY STIMATZ, PAVLOVICH, LYNCH, JACOBSON,  
 3 BENGTON, TOWE, LANE, B. WILLIAMS, DRISCOLL, KOEHNKE,  
 4 ELLISON, LORY, PHILLIPS, NATHE, BACHINI, PISTORIA,  
 5 TVEIT, VAN VALKENBURG, DANIELS, HAFPEY, QUILICI,  
 6 CHRISTIAENS, DEVLIN, ZABROCKI, MANNING, KOLSTAD,  
 7 D. BROWN, NISBET, KRUEGER, HARP, PECK, PINSONEAULT,  
 8 KEENAN, O'CONNELL, KEYSER, MCCORMICK, GOULD,  
 9 MCCALLUM, HARRINGTON, MENAHAN, C. SMITH,  
 10 MONTAYNE, JACK MOORE, J. HAMMOND, HAND

11  
 12 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A STATE  
 13 LOTTERY AND PROVIDING FOR A COMMISSION, DIRECTOR, AND  
 14 PERSONNEL TO OPERATE THE STATE LOTTERY; PROVIDING THAT  
 15 ELECTRONIC VIDEO GAME MACHINES OPERATED BY THE STATE LOTTERY  
 16 ARE NOT SLOT MACHINES; PROVIDING THAT THE MONTANA CARD GAMES  
 17 ACT AND BINGO AND RAFFLES LAW DO NOT APPLY TO THE STATE  
 18 LOTTERY; AMENDING SECTIONS 23-5-101, 23-5-202, 23-5-302,  
 19 AND 23-5-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
 20 DATE."

21  
 22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23 NEW SECTION. Section 1. Short title. [Sections 1  
 24 through 20] may be cited as the "Montana State Lottery Act  
 25 of 1985".

1 NEW SECTION. SECTION 2. PURPOSE. (1) THE PURPOSE OF  
 2 [SECTIONS 1 THROUGH 20] IS TO ALLOW LOTTERY GAMES IN WHICH  
 3 THE PLAYER PURCHASES FROM THE STATE, THROUGH THE  
 4 ADMINISTRATORS OF THE STATE LOTTERY, A CHANCE TO WIN A  
 5 PRIZE. [SECTIONS 1 THROUGH 20] DO NOT ALLOW AND MAY NOT BE  
 6 CONSTRUED TO ALLOW ANY GAME IN WHICH A PLAYER COMPETES  
 7 AGAINST OR PLAYS WITH ANY OTHER PERSON, INCLUDING A PERSON  
 8 EMPLOYED BY AN ESTABLISHMENT IN WHICH A LOTTERY GAME MAY BE  
 9 PLAYED.

10 (2) THE ADMINISTRATION AND CONSTRUCTION OF [SECTIONS 1  
 11 THROUGH 20] MUST COMPLY WITH ARTICLE III, SECTION 9, OF THE  
 12 MONTANA CONSTITUTION, WHICH MANDATES THAT ALL FORMS OF  
 13 GAMBLING ARE PROHIBITED UNLESS AUTHORIZED BY ACTS OF THE  
 14 LEGISLATURE OR BY THE PEOPLE THROUGH INITIATIVE OR  
 15 REFERENDUM. THEREFORE, [SECTIONS 1 THROUGH 20] MUST BE  
 16 STRICTLY CONSTRUED TO ALLOW ONLY THOSE GAMES THAT ARE WITHIN  
 17 THE SCOPE OF THIS SECTION AND WITHIN THE DEFINITION OF  
 18 "LOTTERY GAME".

19 (3) THE STATE LOTTERY MAY NOT:

20 (A) OPERATE A SLOT MACHINE OR CARRY ON ANY FORM OF  
 21 GAMBLING PROHIBITED BY THE LAWS OF THIS STATE; OR

22 (B) CARRY ON ANY FORM OF GAMBLING PERMITTED BY THE  
 23 LAWS OF THIS STATE BUT WHICH IS NOT A LOTTERY GAME WITHIN  
 24 THE SCOPE OF THIS SECTION AND WITHIN THE DEFINITION OF  
 25 "LOTTERY GAME".

1        NEW SECTION. Section 3. Definitions. As used in  
2 [sections 1 through 20] , the following definitions apply:

3        (1) "Commission" means the state lottery commission  
4 created by [section 3 4].

5        (2) "Director" means the director appointed by the  
6 commission GOVERNOR under [section 4 6] to administer and  
7 manage the state lottery.

8        (3) "Lottery" or "state lottery" means the Montana  
9 state lottery created and operated pursuant to [sections 1  
10 through 20].

11        (4) "Lottery game" means any procedure, including any  
12 on-line or other procedure using a machine or electronic  
13 device, by which one or more prizes are distributed among  
14 persons who have paid for a chance to win a prize and  
15 includes but is not limited to weekly (or other, longer time  
16 period) winner games, instant winner games, daily numbers  
17 games, electronic video machine games, and sports pool  
18 games, except GAMES PROHIBITED BY TITLE 23, CHAPTER 5, PART  
19 1; LOTTERIES PROHIBITED BY TITLE 23, CHAPTER 5, PART 2; CARD  
20 GAMES REGULATED BY TITLE 23, CHAPTER 5, PART 3; RAFFLES AND  
21 BINGO GAMES GOVERNED BY TITLE 23, CHAPTER 5, PART 4; AND  
22 sports pools governed by Title 23, chapter 5, part 5.

23        NEW SECTION. Section 4. State lottery commission --  
24 allocation -- composition -- compensation -- quorum. (1)  
25 There is a state lottery commission.

1        (2) The commission consists of five members, who shall  
2 reside in Montana, appointed by the governor.

3        (3) At least one commissioner must have 5 years of  
4 experience as a law enforcement officer. At least one  
5 commissioner must be an attorney admitted to the practice of  
6 law in Montana. At least one commissioner must be a  
7 certified public accountant licensed in Montana.

8        (4) After initial appointments, each commissioner  
9 shall be appointed to a 4-year term of office, and the terms  
10 shall be staggered.

11        (5) A commissioner may be removed by the governor for  
12 good cause. An office that for any reason becomes vacant  
13 must be filled within 30 days by the governor, and the  
14 commissioner filling the vacancy shall serve for the rest of  
15 the unexpired term.

16        (6) The commission shall appoint one of its members as  
17 chairman.

18        (7) Three or more commissioners constitute a quorum to  
19 do business, and action may be taken by a majority of a  
20 quorum.

21        (8) Commissioners are entitled to compensation, to be  
22 paid out of the state lottery fund, at the rate of ~~\$\$100~~ \$50  
23 for each day in which they are engaged in the performance of  
24 their duties and are entitled to travel, meals, and lodging  
25 expenses, to be paid out of the state lottery fund, as

1 provided for in Title 2, chapter 18, part 5.

2 (9) The commission is allocated to the department of  
3 commerce for administrative purposes only, ~~except that only~~  
4 ~~subsections (1)(a), (1)(c), (2)(e), (3)(a) and (3)(b) of~~  
5 ~~2-15-121 apply to the commission~~ AS PRESCRIBED IN 2-15-121.

6 NEW SECTION. Section 5. Powers and duties of  
7 commission. The commission shall:

8 (1) establish and operate a state lottery and may not  
9 become involved in any other gambling or gaming;

10 ~~(2) appoint and may remove for good cause, a director~~  
11 ~~of the state lottery as provided in (section 5);~~

12 ~~(3)(2)~~ determine policies for the operation of the  
13 state lottery, supervise the director and his staff, and  
14 meet with the director at least once every 3 months to make  
15 and consider recommendations, set policies, determine types  
16 and forms of lottery games to be operated by the state  
17 lottery, and transact other necessary business;

18 ~~(4)(3)~~ determine the price of each ticket or chance  
19 and the number and size of prizes;

20 ~~(5)(4)~~ provide for the conduct of drawings of winners  
21 of lottery games;

22 ~~(6)(5)~~ carry out, with the director, a continuing  
23 study of the state lotteries of Montana and other states to  
24 make the state lottery more efficient, profitable, and  
25 secure from violations of the law;

1 ~~(7)(6)~~ study the possibility of working with other  
2 lottery states to offer regional lottery games;

3 ~~(8)(7)~~ prepare quarterly and annual reports on all  
4 aspects of the operation of the state lottery, including but  
5 not limited to types of games, gross revenue, prize money  
6 paid, operating expenses, net revenue to the state,  
7 contracts with gaming suppliers, and recommendations for  
8 changes to [sections 1 through 20], and deliver a copy of  
9 each report to the governor, the department of  
10 administration, the legislative auditor, the president of  
11 the senate, the speaker of the house of representatives, and  
12 each member of the appropriate committee of each house of  
13 the legislature as determined by the president of the senate  
14 and the speaker of the house; and

15 ~~(9)(8)~~ adopt rules necessary to carry out [sections 1  
16 through 20].

17 NEW SECTION. Section 6. Director -- appointment --  
18 compensation -- qualifications. (1) The director is MUST BE  
19 appointed by the commission, ~~which may remove him for good~~  
20 cause GOVERNOR AND SHALL HOLD OFFICE AT THE PLEASURE OF THE  
21 GOVERNOR.

22 (2) The director must be qualified by training and  
23 experience to direct the state lottery. He must be a  
24 full-time employee and may not engage in any other  
25 occupation.

1 (3) The director's salary is equal to 90% of the  
2 salary of the director of the department of commerce.

3 NEW SECTION. Section 7. Powers and duties of  
4 director. (1) The director shall:

5 (a) administer the operation of the state lottery in  
6 accordance with [sections 1 through 20] and the rules and  
7 other directives of the commission;

8 (b) appoint an assistant director for security and  
9 employ and direct personnel necessary to the operation of  
10 the state lottery;

11 (c) license lottery ticket or chance sales agents and  
12 suspend or revoke licenses pursuant to [sections 1 through  
13 20] and commission rules; and

14 (d) maintain, with the assistant director for  
15 security, the security of the state lottery.

16 (2) With the concurrence of the commission or pursuant  
17 to commission ~~direction-or~~ rules, the director may enter  
18 into contracts ~~of--no--longer--than--6--months~~ for materials,  
19 equipment, and supplies to be used in the operation of the  
20 state lottery, for the design and installation of games, for  
21 consultant services, and for promotion of the lottery. ALL  
22 CONTRACTS MUST BE MADE IN ACCORDANCE WITH STATE LAW. No  
23 contract is legal or enforceable that provides for the  
24 management of the state lottery or for the entire operation  
25 of its games by any private person or firm. When a contract

1 is awarded, a performance bond satisfactory to the  
2 commission and executed by a surety company authorized to do  
3 business in this state or otherwise secured in a manner  
4 satisfactory to the commission, in an amount equal to the  
5 price of the contract, must be delivered to the commission.

6 NEW SECTION. Section 8. Assistant director for  
7 security -- qualifications -- duties. (1) The director shall  
8 appoint an assistant director for security.

9 (2) The assistant director for security must be  
10 qualified by training and experience, have at least 5 years  
11 of law enforcement experience, and be knowledgeable and  
12 experienced in computer security.

13 (3) The assistant director for security shall:

14 (a) be responsible for a security division to assure  
15 security, honesty, fairness, and integrity in the operation  
16 and administration of the lottery, including but not limited  
17 to an examination of the background of all prospective  
18 employees, ticket or chance sales agents, lottery vendors,  
19 and lottery contractors; THE SECURITY DIVISION IS HEREBY  
20 DESIGNATED A LAW ENFORCEMENT AGENCY FOR THE PURPOSE OF  
21 ADMINISTERING [SECTIONS 1 THROUGH 20].

22 (b) in conjunction with the director, confer with the  
23 attorney general or his designee to promote and ensure  
24 security, honesty, fairness, and integrity of the operation  
25 and administration of the lottery; and



1 (c) in conjunction with the director, report any  
2 alleged violation of law to the attorney general, THE  
3 LEGISLATIVE AUDITOR, and any other appropriate law  
4 enforcement authority for further investigation and action.

5 NEW SECTION. Section 9. Ticket or chance sales agents  
6 -- licenses. (1) Lottery tickets or chances may be sold only  
7 by ticket or chance sales agents licensed by the director in  
8 accordance with this section.

9 (2) The commission shall by rule determine the places  
10 at which state lottery game tickets or chances may be sold.

11 (3) (a) Before issuing a license, the director shall  
12 consider:

13 (i) the financial responsibility and security of the  
14 person and his business or activity;

15 (ii) the accessibility of his place of business or  
16 activity to the public; and

17 (iii) the sufficiency of existing licenses to serve the  
18 public convenience and the volume of the expected sales.

19 (b) No person under 18 years of age may sell lottery  
20 tickets or chances.

21 (c) A license as an agent to sell lottery tickets or  
22 chances may not be issued to any person to engage in  
23 business exclusively as a lottery ticket or chance sales  
24 agent.

25 (4) The director may issue temporary licenses upon

1 conditions he considers necessary.

2 (5) License applicants must be charged a \$50 fee to  
3 cover the cost of investigating and processing the  
4 application.

5 (6) The director may require a bond from any licensed  
6 agent in an amount provided in the commission's rules and  
7 may purchase a blanket bond covering the activities of  
8 licensed agents.

9 (7) A licensed agent shall display his license or a  
10 copy thereof conspicuously in accordance with the  
11 commission's rules.

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

13 (9) No employee of a ticket or chance sales agent may  
14 be required to sell lottery game tickets or chances if the  
15 sale is against his religious or moral beliefs.

16 (10) Sales agents are entitled to no more than a 5%  
17 commission on tickets and chances sold.

18 (11) The director ~~may~~ SHALL require each sales agent to  
19 keep a complete and up-to-date set of records and accounts  
20 fully showing his sales and provide it for inspection upon  
21 request of the commission, the director, the department of  
22 administration COMMERCE, THE OFFICE OF THE LEGISLATIVE  
23 AUDITOR, or the office of the attorney general.

24 (12) Payments by sales agents to the state lottery must  
25 be by check, bankdraft, electronic fund transfer, or other

1 recorded, noncash, financial transfer method as determined  
2 by the director.

3 (13) A license may be suspended or revoked for failure  
4 to maintain the license qualifications provided in  
5 subsection (3) or for violation of any provision of  
6 [sections 1 through 20] or a commission rule. Prior to  
7 suspension or revocation, the licensee must be given notice  
8 and an opportunity for a hearing.

9 NEW SECTION. Section 10. Sales restrictions. (1) The  
10 price of each lottery game ticket or chance must be clearly  
11 stated thereon. The price of a lottery game chance vended  
12 by a machine or electronic device must be clearly stated on  
13 the machine or device.

14 (2) Tickets and chances may not be sold to or  
15 purchased by persons under 18 years of age.

16 (3) Tickets and chances must be paid for in cash.

17 (4) Tickets and chances may not be sold to or  
18 purchased by commissioners, the director, his staff, gaming  
19 suppliers doing business with the state lottery, suppliers'  
20 officers and employees, any-person EMPLOYEES OF ANY FIRM OR  
21 GOVERNMENTAL AGENCY auditing or investigating the state  
22 lottery, or members of their families living with them.

23 (5) The names of elected officials may not appear on  
24 any ticket or chance.

25 NEW SECTION. Section 11. Disclosure of odds. The

1 director shall make adequate disclosure of the odds with  
2 respect to each state lottery game by stating the odds in  
3 lottery game advertisements and by posting the odds at each  
4 place in which tickets or chances are sold.

5 NEW SECTION. Section 12. State lottery fund. There is  
6 a fund of the enterprise fund type, as defined in 17-2-102,  
7 to be known as the state lottery fund. The gross revenue  
8 from the state lottery, consisting of money from the sale of  
9 lottery tickets and chances, ticket or chance sales agent  
10 license fees, unclaimed prizes, or any other source, must be  
11 deposited in the fund, except that, at the discretion of the  
12 director, money for prizes paid immediately by a sales agent  
13 and money equaling the sales agent's commission may be drawn  
14 by a sales agent from his gross revenue before depositing  
15 his gross revenue with the state lottery.

16 NEW SECTION. Section 13. Disposition of revenue. (1)  
17 ~~Forty-five-percent~~ APPROXIMATELY 45% of the money paid for  
18 tickets or chances in each separate state lottery game must  
19 be paid out as prize money for the game.

20 (2) Up to 20% of the gross revenue from the state  
21 lottery may be used by the director to pay the operating  
22 expenses of the state lottery. Commissions paid to lottery  
23 ticket or chance sales agents are NOT a state lottery  
24 operating expense.

25 (3) That part of all gross revenue not used for the

1 payment of prizes, SALES COMMISSIONS, and operating expenses  
 2 is net revenue and must be paid quarterly from the  
 3 enterprise fund established by [section ~~11~~ 12] as follows:

4 (a) 50% into the state general fund;

5 (b) 50% of the net revenue generated in each county  
 6 must be paid into the general fund of that county. Fifty  
 7 percent of the net revenue paid into the general fund of  
 8 each county must be paid by that county to the general funds  
 9 of the incorporated cities and towns and consolidated local  
 10 governments in that county in the ratio which the population  
 11 within the corporate limits of each city, town, or  
 12 consolidated local government bears to the total population  
 13 of the county. The population of each city, town, and  
 14 consolidated local government shall be determined by the  
 15 last preceding official federal census.

16 NEW SECTION. Section 14. Felony and gambling-related  
 17 convictions -- ineligibility for lottery positions. No  
 18 person who has been convicted of a felony or a  
 19 gambling-related offense under federal law or the law of any  
 20 state may be a commissioner, director, assistant director,  
 21 employee of the state lottery, or licensed ticket or chance  
 22 sales agent. PRIOR TO APPOINTMENT TO ANY OF THE ABOVE  
 23 POSITIONS, A PERSON SHALL SUBMIT TO THE COMMISSION A FULL  
 24 SET OF FINGERPRINTS MADE AT A LAW ENFORCEMENT AGENCY BY AN  
 25 AGENT OR OFFICER OF SUCH AGENCY ON FORMS SUPPLIED BY THE

1 AGENCY.

2 NEW SECTION. Section 15. Conflict of interest. No  
 3 commissioner, director, assistant director, state lottery  
 4 employee, licensed ticket or chance sales agent, or member  
 5 of his family living with him may have a financial interest  
 6 in any gaming supplier or any contract between the state  
 7 lottery and a gaming supplier or accept any gift or thing of  
 8 value from a gaming supplier.

9 NEW SECTION. Section 16. Drawings for and payment of  
 10 prizes -- unclaimed prizes. (1) All drawings must be held in  
 11 public. The selection of winning tickets may not be  
 12 performed by an employee of the lottery or by a member of  
 13 the commission. All drawings must be witnessed by a  
 14 professional staff employee of the legislative auditor's  
 15 office, and all lottery drawing equipment used in public  
 16 drawings to select winning prizes or participants for prizes  
 17 must be examined by the director's staff and a professional  
 18 staff employee of the legislative auditor's office prior to  
 19 and after each public drawing.

20 (2) The commission may provide for the immediate  
 21 payment of prizes by the ticket or chance sales agent who  
 22 sold the winning ticket or chance whenever the amount of the  
 23 prize is less than an amount set by commission rule.  
 24 Payment may not be made directly by an electronic game,  
 25 machine, or device, or by a computer terminal.

1 (3) Prizes over \$100,000 may in the discretion of the  
 2 director COMMISSION be paid either in one lump sum or in  
 3 equal yearly installments without interest over a period of  
 4 not more than 10 years, except that each installment payment  
 5 must be at least \$20,000.

6 (4) Prizes not claimed within 6 months are forfeited  
 7 and must be paid into the state lottery fund. No interest is  
 8 due on a prize when a claim is delayed but made within 6  
 9 months.

10 (5) The right to a prize is not assignable, but prizes  
 11 may be paid to a deceased winner's estate or to a person  
 12 designated by judicial order.

13 NEW SECTION. Section 17. Disclosures by gaming  
 14 suppliers. (1) Any person, firm, association, or corporation  
 15 that submits a bid or proposal for a contract to supply  
 16 lottery equipment, tickets, or other material or consultant  
 17 services for use in the operation of the state lottery shall  
 18 disclose at the time of such bid or proposal:

19 (a) the supplier's business name and address and the  
 20 names and addresses of the following:

21 (i) if the supplier is a partnership, all of the  
 22 general and limited partners;

23 (ii) if the supplier is a trust, the trustee and all  
 24 persons entitled to receive income or benefit from the  
 25 trust;

1 (iii) if the supplier is an association, the members,  
 2 officers, and directors;

3 (iv) if the supplier is a corporation, the officers,  
 4 directors, and each owner or holder, directly or indirectly,  
 5 of any equity security or other evidence of ownership of any  
 6 interest in the corporation; except that, in the case of  
 7 owners or holders of publicly held equity securities of a  
 8 publicly traded corporation, only the names and addresses of  
 9 those owning or holding 5% or more of the publicly held  
 10 securities must be disclosed;

11 (v) if the supplier is a subsidiary company, each  
 12 intermediary company, holding company, or parent company  
 13 involved therewith and the officers, directors, and  
 14 stockholders of each; except that, in the case of owners or  
 15 holders of publicly held securities of an intermediary  
 16 company, holding company, or parent company which is a  
 17 publicly traded corporation, only the names and addresses of  
 18 those owning or holding 5% or more of the publicly held  
 19 securities must be disclosed;

20 (b) if the supplier is a corporation, all the states  
 21 in which the supplier is authorized to do business and the  
 22 nature of that business;

23 (c) other jurisdictions in which the supplier has  
 24 contracts to supply gaming materials, equipment, or  
 25 consultant services;

1 (d) the details of any conviction, state or federal,  
 2 of the supplier or any person whose name and address are  
 3 required by subsection (1)(a) of a criminal offense  
 4 punishable by imprisonment for more than 1 year AND SHALL  
 5 SUBMIT TO THE COMMISSION A FULL SET OF FINGERPRINTS OF SUCH  
 6 PERSON MADE AT A LAW ENFORCEMENT AGENCY BY AN AGENT OR  
 7 OFFICER OF SUCH AGENCY ON FORMS SUPPLIED BY THE AGENCY;

8 (e) the details of any disciplinary action taken by  
 9 any state against the supplier or any person whose name and  
 10 address are required by subsection (1)(a) regarding any  
 11 matter related to gaming consultant services or the selling,  
 12 leasing, offering for sale or lease, buying, or servicing of  
 13 gaming materials or equipment;

14 (f) audited annual financial statements for the  
 15 preceding 5 years;

16 (g) a statement of the gross receipts realized in the  
 17 preceding year from gaming consultant services and the sale,  
 18 lease, or distribution of gaming materials or equipment to  
 19 states operating lotteries and to private persons licensed  
 20 to conduct gambling, differentiating that portion of the  
 21 gross receipts attributable to transactions with states  
 22 operating lotteries from that portion of the gross receipts  
 23 attributable to transactions with private persons licensed  
 24 to conduct gambling;

25 (h) the name and address of any source of gaming

1 materials or equipment for the supplier;

2 (i) the number of years the supplier has been in the  
 3 business of supplying gaming consultant services or gaming  
 4 materials or equipment; and

5 (j) any other information, accompanied by any  
 6 documents the commission by rule may reasonably require as  
 7 being necessary or appropriate in the public interest to  
 8 accomplish the purposes of [sections 1 through 20].

9 (2) No person, firm, association, or corporation  
 10 contracting to supply gaming equipment or materials or  
 11 consultant services to the state for use in the operation of  
 12 the state lottery may have any financial interest or  
 13 connection with any person, firm, association, or  
 14 corporation licensed as a ticket or chance sales agent.

15 (3) No contract for supplying consultant services or  
 16 gaming materials or equipment for use in the operation of  
 17 the state lottery is enforceable against the state unless  
 18 the requirements of this section have been fulfilled.

19 NEW SECTION. Section 18. Annual audit. The  
 20 legislative auditor shall conduct an annual audit of the  
 21 state lottery. The costs of the audit must be paid out of  
 22 the state lottery fund. A copy of the audit report must be  
 23 delivered to the commission, the director, the governor, the  
 24 president of the senate, the speaker of the house of  
 25 representatives, and each member of the appropriate

1 committee of each house of the legislature as determined by  
2 the president of the senate and the speaker of the house.

3 NEW SECTION. Section 19. Study of lottery security.

4 (1) After the first 9 months of sales to the public and  
5 every 2 years after that, the ~~commission shall engage an~~  
6 ~~independent firm experienced in security procedures,~~  
7 ~~including but not limited to computer security and systems~~  
8 ~~security, to conduct~~ OFFICE OF THE LEGISLATIVE AUDITOR SHALL  
9 CONDUCT OR HAVE CONDUCTED a comprehensive study ~~and~~  
10 evaluation AUDIT of all aspects of security in the operation  
11 of the lottery. THE COSTS OF THE AUDIT MUST BE PAID OUT OF  
12 THE STATE LOTTERY FUND. The study AUDIT must include:

- 13 (a) personnel security;
- 14 (b) lottery sales agent security;
- 15 (c) lottery contractor security;
- 16 (d) security of manufacturing operations of lottery  
17 contractors;
- 18 (e) security against ticket or chance counterfeiting  
19 and alteration and other means of fraudulently winning;
- 20 (f) security of drawings among entries or finalists;
- 21 (g) computer security;
- 22 (h) data communications security;
- 23 (i) database security;
- 24 (j) systems security;
- 25 (k) lottery premises and warehouse security;

- 1 (l) security in distribution;
- 2 (m) security involving validation and payment  
3 procedures;
- 4 (n) security involving unclaimed prizes;
- 5 (o) security aspects applicable to each particular  
6 lottery game;
- 7 (p) security of drawings in games where winners are  
8 determined by drawings;
- 9 (q) the completeness of security against locating  
10 winners in lottery games with preprinted winners by persons  
11 involved in their production, storage, distribution,  
12 administration, or sales; and
- 13 (r) any other aspects of security applicable to any  
14 particular lottery game and to the lottery and its  
15 operations.
- 16 (2) The security audit report must be presented to the  
17 commission, the director, the governor, the president of the  
18 senate, and the speaker of the house of representatives.
- 19 ~~NEW SECTION. Section 19. Investigations and legal~~  
20 ~~services and proceedings. (1) The attorney general shall~~  
21 ~~provide legal services for the state lottery at the request~~  
22 ~~of the director, assistant director for security, or~~  
23 ~~commission. The attorney general shall make reasonable~~  
24 ~~efforts to ensure that there is continuity in the legal~~  
25 ~~services provided and that the attorneys providing legal~~

1 ~~services have expertise in the field.~~

2 ~~(2) The attorney general shall make investigations and~~  
3 ~~prosecute or defend, on behalf of the director and~~  
4 ~~commissioner, suits and other proceedings involving the state~~  
5 ~~lottery or necessary to carry out the purposes of sections~~  
6 ~~1 through 20.~~

7 ~~(3) The commissioner, director, and assistant director~~  
8 ~~for security may also carry out investigations. The attorney~~  
9 ~~general must be informed of each investigation before it~~  
10 ~~begins and must be informed of the results of the~~  
11 ~~investigation.~~

12 ~~(4) Upon the request of the assistant director for~~  
13 ~~security, the attorney general and the department of justice~~  
14 ~~must give the assistant director for security such~~  
15 ~~information as may tend to assure security, honesty,~~  
16 ~~fairness, and integrity in the operation and administration~~  
17 ~~of the lottery as they may have in their possession,~~  
18 ~~including but not limited to manual or computerized~~  
19 ~~information and data.~~

20 NEW SECTION. Section 20. Penalties. It is a  
21 misdemeanor, punishable by a fine not to exceed \$500 or  
22 imprisonment in the county jail for a term not to exceed 6  
23 months, or both, to knowingly or purposely:

24 (1) require an employee to sell lottery tickets or  
25 chances in violation of [section 8 9(9)];

1 (2) violate [section 8 9(11)];

2 (3) sell a lottery ticket or chance to a person under  
3 18 years of age;

4 (4) violate [subsection (3) or (4) of section 9 10];

5 (5) serve as a commissioner, director, assistant  
6 director, employee, or licensed agent of the state lottery  
7 in violation of [section 13 14];

8 (6) violate [section 14 15];

9 (7) violate [section 16 17]; or

10 (8) influence the winning of a prize through the use  
11 of coercion, fraud, deception, or tampering with lottery  
12 equipment or materials.

13 Section 21. Section 23-5-101, MCA, is amended to read:

14 "23-5-101. Definitions. (1) A slot machine is defined  
15 as a machine operated by inserting a coin, token, chip,  
16 trade check, or paper currency therein by the player and  
17 from the play of which he obtains or may obtain money,  
18 checks, chips, tokens, or paper currency redeemable in  
19 money. Electronic video game machines operated by the state  
20 lottery are not slot machines. Merchandise vending machines  
21 where the element of chance does not enter into their  
22 operation are not within the provisions of this part.

23 (2) In addition to their ordinary meaning, the words  
24 "person" or "persons", as used in this part, include both  
25 natural and artificial persons and all partnerships,

1 corporations, associations, clubs, fraternal orders, and  
 2 societies, including religious, fraternal, and charitable  
 3 organizations."

4 Section 22. Section 23-5-202, MCA, is amended to read:

5 "23-5-202. Application. This part shall not apply to  
 6 the provisions of part 4 of this chapter, to sections 1  
 7 through 20, or to the giving away of cash or merchandise  
 8 attendance prizes or premiums by public drawings at  
 9 agricultural fairs or rodeo associations in this state, and  
 10 the county fair commissioners of agricultural fairs or rodeo  
 11 associations in this state may give away at such fairs cash  
 12 or merchandise attendance prizes or premiums by public  
 13 drawings."

14 Section 23. Section 23-5-302, MCA, is amended to read:

15 "23-5-302. Definitions. As used in this part and  
 16 unless the context requires otherwise, the following terms  
 17 or phrases have the following meanings:

18 (1) "Authorized card game" means any card game  
 19 permitted by this part.

20 (2) "Card game" means any game played with cards for  
 21 which the prize is money or any item of value, except games  
 22 played on electronic video game machines operated by the  
 23 state lottery."

24 Section 24. Section 23-5-402, MCA, is amended to read:

25 "23-5-402. Definitions. As used in this part, unless

1 the context requires otherwise, the following terms or  
 2 phrases shall have the following meanings:

3 (1) "Game of chance" means the specific kind of game  
 4 of chance commonly known as:

5 (a) "bingo" or "keno", in which prizes are awarded on  
 6 the basis of designated numbers or symbols on a card which  
 7 conform to numbers or symbols selected at random, except  
 8 games played on electronic video game machines operated by  
 9 the state lottery;

10 (b) "raffles", which are conducted by drawing for  
 11 prizes.

12 (2) "Equipment" means:

13 (a) with respect to bingo or keno, the receptacle and  
 14 numbered objects drawn from it, the master board upon which  
 15 such objects are placed as drawn, the cards or sheets  
 16 bearing numbers or other designations to be covered and the  
 17 objects used to cover them, the boards or signs, however  
 18 operated, used to announce or display the numbers or  
 19 designations as they are drawn, public address system, and  
 20 all other articles essential to the operation, conduct, and  
 21 playing of bingo or keno; or

22 (b) with respect to raffles, the implements, devices,  
 23 and machines designed, intended, or used for the conduct of  
 24 raffles and the identification of the winning number or unit  
 25 and the ticket or other evidence of right to participate in



1 raffles."

2 NEW SECTION. Section 25. Initial appointment and  
3 terms of commissioners. Initial appointments to the  
4 commission must be made within 30 days after [the effective  
5 date of this act]. Two of the initial appointees shall serve  
6 for 2 years, two shall serve for 3 years, and one shall  
7 serve for 4 years.

8 NEW SECTION. Section 26. Initial duties of commission  
9 -- lottery study -- first game. (1) The commission shall  
10 immediately conduct an initial study of other state  
11 lotteries.

12 (2) The commission shall begin the operation of state  
13 lottery games at the earliest practicable time and in any  
14 event ~~within 150 days after the effective date of this act~~  
15 NO LATER THAN NOVEMBER 1, 1985.

16 NEW SECTION. Section 27. Temporary state treasury  
17 line of credit for expense of starting state lottery. There  
18 is a temporary line of credit that may be drawn by the  
19 director of the state lottery from the state general fund  
20 and deposited in the state lottery fund, in the amount of  
21 \$1,500,000. This temporary line of credit may be drawn upon  
22 only during the first 12 months after the effective date of  
23 [sections 1 through 20] and only for the purpose of  
24 financing the initial expenses of starting the state  
25 lottery. The director may draw upon all or part of this

1 temporary line of credit. Any funds advanced under the  
2 temporary line of credit must be repaid OUT OF THE LOTTERY'S  
3 NET REVENUE to the general fund within 1 year of the  
4 advance, AND NO NET REVENUE MAY BE PAID OUT UNDER [SECTION  
5 13(3)(B)] UNTIL ALL ADVANCED FUNDS ARE REPAID. Interest must  
6 be paid at an annual simple interest rate of 10% on funds  
7 advanced, commencing on the day funds are advanced and until  
8 the funds are repaid.

9 NEW SECTION. Section 28. Severability. If a part of  
10 this act is invalid, all valid parts that are severable from  
11 the invalid part remain in effect. If a part of this act is  
12 invalid in one or more of its applications, the part remains  
13 in effect in all valid applications that are severable from  
14 the invalid applications.

15 NEW SECTION. Section 29. Effective date. This act is  
16 effective on passage and approval.

-End-

## 1 STATEMENT OF INTENT

## 2 SENATE BILL 324

3 Senate State Administration Committee  
4

5 A statement of intent is required for this act because  
6 under the provisions of the act the state lottery commission  
7 must establish and operate a state lottery and adopt  
8 policies and rules regarding but not limited to:

9 (1) the operations of the lottery director and his  
10 staff;

11 (2) the price, number, and size of tickets or chances;

12 (3) the drawing of lottery winners;

13 (4) lottery tickets or chance sales and ticket or  
14 chance sales agents;

15 (5) the immediate payment of small prizes;

16 (6) lottery security;

17 (7) purchase or rental of gaming equipment and  
18 supplies; and

19 (8) other matters relating to the successful operation  
20 of the lottery.

21 A state lottery is primarily a business operation and  
22 has as a purpose the earning of net revenue. The successful  
23 operation of a state lottery, as shown by the experience of  
24 other state lotteries, depends to a large degree upon the  
25 flexibility to operate the lottery as a business enterprise.

1 The success of a lottery also depends upon the operation of  
2 the lottery within a statutory framework ensuring the  
3 integrity of the staff and all phases of the operation of  
4 the lottery and the avoidance of even the appearance of any  
5 illegalities or conflicts of interest.

6 To these ends, it is contemplated that the state  
7 lottery commission will be composed of persons conversant  
8 with the types of administrative rules necessary to the  
9 successful operation of the lottery and will adopt rules  
10 ensuring the integrity and success of the lottery.

11 In accord with the theory that a lottery is primarily a  
12 business, it is contemplated that the rules will change or  
13 allow changes in the operation of the lottery consistent  
14 with statutes as new business techniques and ideas, new  
15 games and prizes, better outlets for ticket sales, and  
16 better management techniques are discovered.

17 Any definitions contained in this act pertain only to  
18 the state lottery. It is the intent of the legislature that  
19 the state lottery commission operate a state lottery only,  
20 and it is not intended that the commission shall be involved  
21 in any way in other forms of gambling.

## 1 SENATE BILL NO. 324

2 INTRODUCED BY STIMATZ, PAVLOVICH, LYNCH, JACOBSON,  
 3 BENGTON, TOWE, LANE, B. WILLIAMS, DRISCOLL, KOEHNKE,  
 4 ELLISON, LORY, PHILLIPS, NATHE, BACHINI, PISTORIA,  
 5 TVEIT, VAN VALKENBURG, DANIELS, HAFPEY, QUILICI,  
 6 CHRISTIAENS, DEVLIN, ZABROCKI, MANNING, KOLSTAD,  
 7 D. BROWN, NISBET, KRUEGER, HARP, PECK, PINSONEAULT,  
 8 KEENAN, O'CONNELL, KEYSER, MCCORMICK, GOULD,  
 9 MCCALLUM, HARRINGTON, MENAHAN, C. SMITH,  
 10 MONTAYNE, JACK MOORE, J. HAMMOND, HAND

11  
 12 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A STATE  
 13 LOTTERY AND PROVIDING FOR A COMMISSION, DIRECTOR, AND  
 14 PERSONNEL TO OPERATE THE STATE LOTTERY; ~~PROVIDING--THAT~~  
 15 ~~ELECTRONIC-VIDEO-GAME-MACHINES-OPERATED-BY-THE-STATE-LOTTERY~~  
 16 ~~ARE-NOT-SLOT-MACHINES;--PROVIDING-THAT-THE-MONTANA-CARD-GAMES~~  
 17 ~~ACT--AND--BINGO--AND--RAFFLES--LAW-DO-NOT-APPLY-TO-THE-STATE~~  
 18 ~~LOTTERY; AMENDING SECTIONS SECTION 23-5-101, 23-5-202,~~  
 19 ~~23-5-302,--AND--23-5-402, MCA; AND PROVIDING AN IMMEDIATE~~  
 20 ~~EFFECTIVE DATE."~~

21  
 22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23 NEW SECTION. Section 1. Short title. [Sections 1  
 24 through 20] may be cited as the "Montana State Lottery Act  
 25 of 1985".

1 NEW SECTION. SECTION 2. PURPOSE. (1) THE PURPOSE OF  
 2 [SECTIONS 1 THROUGH 20] IS TO ALLOW LOTTERY GAMES IN WHICH  
 3 THE PLAYER PURCHASES FROM THE STATE, THROUGH THE  
 4 ADMINISTRATORS OF THE STATE LOTTERY, A CHANCE TO WIN A  
 5 PRIZE. [SECTIONS 1 THROUGH 20] DO NOT ALLOW AND MAY NOT BE  
 6 CONSTRUED TO ALLOW ANY GAME IN WHICH A PLAYER COMPETES  
 7 AGAINST OR PLAYS WITH ANY OTHER PERSON, INCLUDING A PERSON  
 8 EMPLOYED BY AN ESTABLISHMENT IN WHICH A LOTTERY GAME MAY BE  
 9 PLAYED.

10 (2) THE ADMINISTRATION AND CONSTRUCTION OF [SECTIONS 1  
 11 THROUGH 20] MUST COMPLY WITH ARTICLE III, SECTION 9, OF THE  
 12 MONTANA CONSTITUTION, WHICH MANDATES THAT ALL FORMS OF  
 13 GAMBLING ARE PROHIBITED UNLESS AUTHORIZED BY ACTS OF THE  
 14 LEGISLATURE OR BY THE PEOPLE THROUGH INITIATIVE OR  
 15 REFERENDUM. THEREFORE, [SECTIONS 1 THROUGH 20] MUST BE  
 16 STRICTLY CONSTRUED TO ALLOW ONLY THOSE GAMES THAT ARE WITHIN  
 17 THE SCOPE OF THIS SECTION AND WITHIN THE DEFINITION OF  
 18 "LOTTERY GAME".

19 (3) THE STATE LOTTERY MAY NOT:

20 (A) OPERATE A SLOT MACHINE OR CARRY ON ANY FORM OF  
 21 GAMBLING PROHIBITED BY THE LAWS OF THIS STATE; OR

22 (B) CARRY ON ANY FORM OF GAMBLING PERMITTED BY THE  
 23 LAWS OF THIS STATE BUT WHICH IS NOT A LOTTERY GAME WITHIN  
 24 THE SCOPE OF THIS SECTION AND WITHIN THE DEFINITION OF  
 25 "LOTTERY GAME".

THIRD READING

1        NEW SECTION. Section 3. Definitions. As used in  
2 [sections 1 through 20] , the following definitions apply:

3        (1) "Commission" means the state lottery commission  
4 created by [section 3 4].

5        (2) "Director" means the director appointed by the  
6 commission GOVERNOR under [section 4 6] to administer and  
7 manage the state lottery.

8        (3) "Lottery" or "state lottery" means the Montana  
9 state lottery created and operated pursuant to [sections 1  
10 through 20].

11        (4) "Lottery game" means any procedure, including any  
12 on-line or other procedure using a machine or electronic  
13 device, by which one or more prizes are distributed among  
14 persons who have paid for a chance to win a prize and  
15 includes but is not limited to weekly (or other, longer time  
16 period) winner games, ~~instant-winner-games-daily-numbers~~  
17 ~~games-electronic-video-machine-games--and--sports--pool~~  
18 ~~games~~ except GAMES PROHIBITED BY TITLE 23, CHAPTER 5, PART  
19 1; LOTTERIES PROHIBITED BY TITLE 23, CHAPTER 5, PART 2; CARD  
20 GAMES REGULATED BY TITLE 23, CHAPTER 5, PART 3; RAFFLES AND  
21 BINGO GAMES GOVERNED BY TITLE 23, CHAPTER 5, PART 4; AND  
22 sports pools governed by Title 23, chapter 5, part 5.

23        NEW SECTION. Section 4. State lottery commission --  
24 allocation -- composition -- compensation -- quorum. (1)  
25 There is a state lottery commission.

1        (2) The commission consists of five members, who shall  
2 reside in Montana, appointed by the governor.

3        (3) At least one commissioner must have 5 years of  
4 experience as a law enforcement officer. At least one  
5 commissioner must be an attorney admitted to the practice of  
6 law in Montana. At least one commissioner must be a  
7 certified public accountant licensed in Montana.

8        (4) After initial appointments, each commissioner  
9 shall be appointed to a 4-year term of office, and the terms  
10 shall be staggered.

11        (5) A commissioner may be removed by the governor for  
12 good cause. An office that for any reason becomes vacant  
13 must be filled within 30 days by the governor, and the  
14 commissioner filling the vacancy shall serve for the rest of  
15 the unexpired term.

16        (6) The commission shall appoint one of its members as  
17 chairman.

18        (7) Three or more commissioners constitute a quorum to  
19 do business, and action may be taken by a majority of a  
20 quorum.

21        (8) Commissioners are entitled to compensation, to be  
22 paid out of the state lottery fund, at the rate of ~~\$100~~ \$50  
23 for each day in which they are engaged in the performance of  
24 their duties and are entitled to travel, meals, and lodging  
25 expenses, to be paid out of the state lottery fund, as

1 provided for in Title 2, chapter 18, part 5.

2 (9) The commission is allocated to the department of  
 3 commerce for administrative purposes only, ~~except that only~~  
 4 ~~subsections (1)(a), (1)(c), (2)(a), (3)(a), and (3)(b) of~~  
 5 ~~2-15-121 apply to the commission~~ AS PRESCRIBED IN 2-15-121.

6 NEW SECTION. Section 5. Powers and duties of  
 7 commission. The commission shall:

8 (1) establish and operate a state lottery and may not  
 9 become involved in any other gambling or gaming;

10 ~~(2) appoint, and may remove for good cause, a director~~  
 11 ~~of the state lottery as provided in (section 5);~~

12 (3)(2) determine policies for the operation of the  
 13 state lottery, supervise the director and his staff, and  
 14 meet with the director at least once every 3 months to make  
 15 and consider recommendations, set policies, determine types  
 16 and forms of lottery games to be operated by the state  
 17 lottery, and transact other necessary business;

18 (4)(3) determine the price of each ticket or chance  
 19 and the number and size of prizes;

20 (5)(4) provide for the conduct of drawings of winners  
 21 of lottery games;

22 (6)(5) carry out, with the director, a continuing  
 23 study of the state lotteries of Montana and other states to  
 24 make the state lottery more efficient, profitable, and  
 25 secure from violations of the law;

1 (7)(6) study the possibility of working with other  
 2 lottery states to offer regional lottery games;

3 (8)(7) prepare quarterly and annual reports on all  
 4 aspects of the operation of the state lottery, including but  
 5 not limited to types of games, gross revenue, prize money  
 6 paid, operating expenses, net revenue to the state,  
 7 contracts with gaming suppliers, and recommendations for  
 8 changes to [sections 1 through 20], and deliver a copy of  
 9 each report to the governor, the department of  
 10 administration, the legislative auditor, the president of  
 11 the senate, the speaker of the house of representatives, and  
 12 each member of the appropriate committee of each house of  
 13 the legislature as determined by the president of the senate  
 14 and the speaker of the house; and

15 (9)(8) adopt rules necessary to carry out [sections 1  
 16 through 20].

17 NEW SECTION. Section 6. Director -- appointment --  
 18 compensation -- qualifications. (1) The director ~~is~~ MUST BE  
 19 appointed by the ~~commission, which may remove him for good~~  
 20 ~~cause~~ GOVERNOR AND SHALL HOLD OFFICE AT THE PLEASURE OF THE  
 21 GOVERNOR.

22 (2) The director must be qualified by training and  
 23 experience to direct the state lottery. He must be a  
 24 full-time employee and may not engage in any other  
 25 occupation.

1 (3) The director's salary is equal to 90% of the  
2 salary of the director of the department of commerce.

3 NEW SECTION. Section 7. Powers and duties of  
4 director. (1) The director shall:

5 (a) administer the operation of the state lottery in  
6 accordance with [sections 1 through 20] and the rules and  
7 other directives of the commission;

8 (b) appoint an assistant director for security and  
9 employ and direct personnel necessary to the operation of  
10 the state lottery;

11 (c) license lottery ticket or chance sales agents and  
12 suspend or revoke licenses pursuant to [sections 1 through  
13 20] and commission rules; and

14 (d) maintain, with the assistant director for  
15 security, the security of the state lottery.

16 (2) With the concurrence of the commission or pursuant  
17 to commission direction-or rules, the director may enter  
18 into contracts of--no--longer--than--6--months for materials,  
19 equipment, and supplies to be used in the operation of the  
20 state lottery, for the design and installation of games, for  
21 consultant services, and for promotion of the lottery. ALL  
22 CONTRACTS MUST BE MADE IN ACCORDANCE WITH STATE LAW. No  
23 contract is legal or enforceable that provides for the  
24 management of the state lottery or for the entire operation  
25 of its games by any private person or firm. When a contract

1 is awarded, a performance bond satisfactory to the  
2 commission and executed by a surety company authorized to do  
3 business in this state or otherwise secured in a manner  
4 satisfactory to the commission, in an amount equal to the  
5 price of the contract, must be delivered to the commission.

6 NEW SECTION. Section 8. Assistant director for  
7 security -- qualifications -- duties. (1) The director shall  
8 appoint an assistant director for security.

9 (2) The assistant director for security must be  
10 qualified by training and experience, have at least 5 years  
11 of law enforcement experience, and be knowledgeable and  
12 experienced in computer security.

13 (3) The assistant director for security shall:

14 (a) be responsible for a security division to assure  
15 security, honesty, fairness, and integrity in the operation  
16 and administration of the lottery, including but not limited  
17 to an examination of the background of all prospective  
18 employees, ticket or chance sales agents, lottery vendors,  
19 and lottery contractors. THE SECURITY DIVISION IS HEREBY  
20 DESIGNATED A LAW ENFORCEMENT AGENCY FOR THE PURPOSE OF  
21 ADMINISTERING [SECTIONS 1 THROUGH 20].

22 (b) in conjunction with the director, confer with the  
23 attorney general or his designee to promote and ensure  
24 security, honesty, fairness, and integrity of the operation  
25 and administration of the lottery; and

1 (c) in conjunction with the director, report any  
2 alleged violation of law to the attorney general, THE  
3 LEGISLATIVE AUDITOR, and any other appropriate law  
4 enforcement authority for further investigation and action.

5 NEW SECTION. Section 9. Ticket or chance sales agents  
6 -- licenses. (1) Lottery tickets or chances may be sold only  
7 by ticket or chance sales agents licensed by the director in  
8 accordance with this section.

9 (2) The commission shall by rule determine the places  
10 at which state lottery game tickets or chances may be sold.

11 (3) (a) Before issuing a license, the director shall  
12 consider:

13 (i) the financial responsibility and security of the  
14 person and his business or activity;

15 (ii) the accessibility of his place of business or  
16 activity to the public; and

17 (iii) the sufficiency of existing licenses to serve the  
18 public convenience and the volume of the expected sales.

19 (b) No person under 18 years of age may sell lottery  
20 tickets or chances.

21 (c) A license as an agent to sell lottery tickets or  
22 chances may not be issued to any person to engage in  
23 business exclusively as a lottery ticket or chance sales  
24 agent.

25 (4) The director may issue temporary licenses upon

1 conditions he considers necessary.

2 (5) License applicants must be charged a \$50 fee to  
3 cover the cost of investigating and processing the  
4 application.

5 (6) The director may require a bond from any licensed  
6 agent in an amount provided in the commission's rules and  
7 may purchase a blanket bond covering the activities of  
8 licensed agents.

9 (7) A licensed agent shall display his license or a  
10 copy thereof conspicuously in accordance with the  
11 commission's rules.

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

13 (9) No employee of a ticket or chance sales agent may  
14 be required to sell lottery game tickets or chances if the  
15 sale is against his religious or moral beliefs.

16 (10) Sales agents are entitled to no more than a 5%  
17 commission on tickets and chances sold.

18 (11) The director ~~may~~ SHALL require each sales agent to  
19 keep a complete and up-to-date set of records and accounts  
20 fully showing his sales and provide it for inspection upon  
21 request of the commission, the director, the department of  
22 administration COMMERCE, THE OFFICE OF THE LEGISLATIVE  
23 AUDITOR, or the office of the attorney general.

24 (12) Payments by sales agents to the state lottery must  
25 be by check, bankdraft, electronic fund transfer, or other

1 recorded, noncash, financial transfer method as determined  
2 by the director.

3 (13) A license may be suspended or revoked for failure  
4 to maintain the license qualifications provided in  
5 subsection (3) or for violation of any provision of  
6 [sections 1 through 20] or a commission rule. Prior to  
7 suspension or revocation, the licensee must be given notice  
8 and an opportunity for a hearing.

9 NEW SECTION. Section 10. Sales restrictions. (1) The  
10 price of each lottery game ticket or chance must be clearly  
11 stated thereon. The price of a lottery game chance vended  
12 by a machine or electronic device must be clearly stated on  
13 the machine or device.

14 (2) Tickets and chances may not be sold to or  
15 purchased by persons under 18 years of age.

16 (3) Tickets and chances must be paid for in cash.

17 (4) Tickets and chances may not be sold to or  
18 purchased by commissioners, the director, his staff, gaming  
19 suppliers doing business with the state lottery, suppliers'  
20 officers and employees, any-person EMPLOYEES OF ANY FIRM OR  
21 GOVERNMENTAL AGENCY auditing or investigating the state  
22 lottery, or members of their families living with them.

23 (5) The names of elected officials may not appear on  
24 any ticket or chance.

25 NEW SECTION. Section 11. Disclosure of odds. The

1 director shall make adequate disclosure of the odds with  
2 respect to each state lottery game by stating the odds in  
3 lottery game advertisements and by posting the odds at each  
4 place in which tickets or chances are sold.

5 NEW SECTION. Section 12. State lottery fund. There is  
6 a fund of the enterprise fund type, as defined in 17-2-102,  
7 to be known as the state lottery fund. The gross revenue  
8 from the state lottery, consisting of money from the sale of  
9 lottery tickets and chances, ticket or chance sales agent  
10 license fees, unclaimed prizes, or any other source, must be  
11 deposited in the fund, except that, at the discretion of the  
12 director, money for prizes paid immediately by a sales agent  
13 and money equaling the sales agent's commission may be drawn  
14 by a sales agent from his gross revenue before depositing  
15 his gross revenue with the state lottery.

16 NEW SECTION. Section 13. Disposition of revenue. (1)  
17 ~~Forty-five-percent~~ APPROXIMATELY 45% of the money paid for  
18 tickets or chances in each separate state lottery game must  
19 be paid out as prize money for the game.

20 (2) Up to 20% of the gross revenue from the state  
21 lottery may be used by the director to pay the operating  
22 expenses of the state lottery. Commissions paid to lottery  
23 ticket or chance sales agents are NOT a state lottery  
24 operating expense.

25 (3) That part of all gross revenue not used for the



1 payment of prizes, SALES COMMISSIONS, and operating expenses  
 2 is net revenue and must be paid quarterly from the  
 3 enterprise fund established by [section ~~11~~ 12] as follows:

- 4 (a) 50% into the state general fund;
- 5 (b) 50% of the net revenue generated in each county  
 6 must be paid into the general fund of that county. Fifty  
 7 percent of the net revenue paid into the general fund of  
 8 each county must be paid by that county to the general funds  
 9 of the incorporated cities and towns and consolidated local  
 10 governments in that county in the ratio which the population  
 11 within the corporate limits of each city, town, or  
 12 consolidated local government bears to the total population  
 13 of the county. The population of each city, town, and  
 14 consolidated local government shall be determined by the  
 15 last preceding official federal census.

16 NEW SECTION. Section 14. Felony and gambling-related  
 17 convictions -- ineligibility for lottery positions. No  
 18 person who has been convicted of a felony or a  
 19 gambling-related offense under federal law or the law of any  
 20 state may be a commissioner, director, assistant director,  
 21 employee of the state lottery, or licensed ticket or chance  
 22 sales agent. PRIOR TO APPOINTMENT TO ANY OF THE ABOVE  
 23 POSITIONS, A PERSON SHALL SUBMIT TO THE COMMISSION A FULL  
 24 SET OF FINGERPRINTS MADE AT A LAW ENFORCEMENT AGENCY BY AN  
 25 AGENT OR OFFICER OF SUCH AGENCY ON FORMS SUPPLIED BY THE

1 AGENCY.

2 NEW SECTION. Section 15. Conflict of interest. No  
 3 commissioner, director, assistant director, state lottery  
 4 employee, licensed ticket or chance sales agent, or member  
 5 of his family living with him may have a financial interest  
 6 in any gaming supplier or any contract between the state  
 7 lottery and a gaming supplier or accept any gift or thing of  
 8 value from a gaming supplier.

9 NEW SECTION. Section 16. Drawings for and payment of  
 10 prizes -- unclaimed prizes. (1) All drawings must be held in  
 11 public. The selection of winning tickets may not be  
 12 performed by an employee of the lottery or by a member of  
 13 the commission. All drawings must be witnessed by a  
 14 professional staff employee of the legislative auditor's  
 15 office, and all lottery drawing equipment used in public  
 16 drawings to select winning prizes or participants for prizes  
 17 must be examined by the director's staff and a professional  
 18 staff employee of the legislative auditor's office prior to  
 19 and after each public drawing.

20 (2) ~~The commission may provide for the immediate~~  
 21 ~~payment of prizes by the ticket or chance sales agent who~~  
 22 ~~sold the winning ticket or chance whenever the amount of the~~  
 23 ~~prize is less than an amount set by commission rule.~~  
 24 ~~Payment may not be made directly by an electronic game,~~  
 25 ~~machine, or device, or by a computer terminal. IMMEDIATE~~

1 PAYMENT OF PRIZES, INCLUDING PAYMENT MADE DIRECTLY BY AN  
 2 ELECTRONIC GAME, MACHINE, OR DEVICE OR BY A COMPUTER  
 3 TERMINAL, MAY NOT BE PERMITTED.

4 (3) Prizes over \$100,000 may in the discretion of the  
 5 director COMMISSION be paid either in one lump sum or in  
 6 equal yearly installments without interest over a period of  
 7 not more than 10 years, except that each installment payment  
 8 must be at least \$20,000.

9 (4) Prizes not claimed within 6 months are forfeited  
 10 and must be paid into the state lottery fund. No interest is  
 11 due on a prize when a claim is delayed but made within 6  
 12 months.

13 (5) The right to a prize is not assignable, but prizes  
 14 may be paid to a deceased winner's estate or to a person  
 15 designated by judicial order.

16 NEW SECTION. Section 17. Disclosures by gaming  
 17 suppliers. (1) Any person, firm, association, or corporation  
 18 that submits a bid or proposal for a contract to supply  
 19 lottery equipment, tickets, or other material or consultant  
 20 services for use in the operation of the state lottery shall  
 21 disclose at the time of such bid or proposal:

22 (a) the supplier's business name and address and the  
 23 names and addresses of the following:

24 (i) if the supplier is a partnership, all of the  
 25 general and limited partners;

1 (ii) if the supplier is a trust, the trustee and all  
 2 persons entitled to receive income or benefit from the  
 3 trust;

4 (iii) if the supplier is an association, the members,  
 5 officers, and directors;

6 (iv) if the supplier is a corporation, the officers,  
 7 directors, and each owner or holder, directly or indirectly,  
 8 of any equity security or other evidence of ownership of any  
 9 interest in the corporation; except that, in the case of  
 10 owners or holders of publicly held equity securities of a  
 11 publicly traded corporation, only the names and addresses of  
 12 those owning or holding 5% or more of the publicly held  
 13 securities must be disclosed;

14 (v) if the supplier is a subsidiary company, each  
 15 intermediary company, holding company, or parent company  
 16 involved therewith and the officers, directors, and  
 17 stockholders of each; except that, in the case of owners or  
 18 holders of publicly held securities of an intermediary  
 19 company, holding company, or parent company which is a  
 20 publicly traded corporation, only the names and addresses of  
 21 those owning or holding 5% or more of the publicly held  
 22 securities must be disclosed;

23 (b) if the supplier is a corporation, all the states  
 24 in which the supplier is authorized to do business and the  
 25 nature of that business;

1 (c) other jurisdictions in which the supplier has  
2 contracts to supply gaming materials, equipment, or  
3 consultant services;

4 (d) the details of any conviction, state or federal,  
5 of the supplier or any person whose name and address are  
6 required by subsection (1)(a) of a criminal offense  
7 punishable by imprisonment for more than 1 year AND SHALL  
8 SUBMIT TO THE COMMISSION A FULL SET OF FINGERPRINTS OF SUCH  
9 PERSON MADE AT A LAW ENFORCEMENT AGENCY BY AN AGENT OR  
10 OFFICER OF SUCH AGENCY ON FORMS SUPPLIED BY THE AGENCY;

11 (e) the details of any disciplinary action taken by  
12 any state against the supplier or any person whose name and  
13 address are required by subsection (1)(a) regarding any  
14 matter related to gaming consultant services or the selling,  
15 leasing, offering for sale or lease, buying, or servicing of  
16 gaming materials or equipment;

17 (f) audited annual financial statements for the  
18 preceding 5 years;

19 (g) a statement of the gross receipts realized in the  
20 preceding year from gaming consultant services and the sale,  
21 lease, or distribution of gaming materials or equipment to  
22 states operating lotteries and to private persons licensed  
23 to conduct gambling, differentiating that portion of the  
24 gross receipts attributable to transactions with states  
25 operating lotteries from that portion of the gross receipts

1 attributable to transactions with private persons licensed  
2 to conduct gambling;

3 (h) the name and address of any source of gaming  
4 materials or equipment for the supplier;

5 (i) the number of years the supplier has been in the  
6 business of supplying gaming consultant services or gaming  
7 materials or equipment; and

8 (j) any other information, accompanied by any  
9 documents the commission by rule may reasonably require as  
10 being necessary or appropriate in the public interest to  
11 accomplish the purposes of [sections 1 through 20].

12 (2) No person, firm, association, or corporation  
13 contracting to supply gaming equipment or materials or  
14 consultant services to the state for use in the operation of  
15 the state lottery may have any financial interest or  
16 connection with any person, firm, association, or  
17 corporation licensed as a ticket or chance sales agent.

18 (3) No contract for supplying consultant services or  
19 gaming materials or equipment for use in the operation of  
20 the state lottery is enforceable against the state unless  
21 the requirements of this section have been fulfilled.

22 NEW SECTION. Section 18. Annual audit. The  
23 legislative auditor shall conduct an annual audit of the  
24 state lottery. The costs of the audit must be paid out of  
25 the state lottery fund. A copy of the audit report must be

1 delivered to the commission, the director, the governor, the  
2 president of the senate, the speaker of the house of  
3 representatives, and each member of the appropriate  
4 committee of each house of the legislature as determined by  
5 the president of the senate and the speaker of the house.

6 NEW SECTION. Section 19. Study of lottery security.

7 (1) After the first 9 months of sales to the public and  
8 every 2 years after that, the ~~commission shall engage an~~  
9 ~~independent firm experienced in security procedures,~~  
10 ~~including but not limited to computer security and systems~~  
11 ~~security, to conduct~~ OFFICE OF THE LEGISLATIVE AUDITOR SHALL  
12 CONDUCT OR HAVE CONDUCTED a comprehensive study ~~and~~  
13 ~~evaluation~~ AUDIT of all aspects of security in the operation  
14 of the lottery. THE COSTS OF THE AUDIT MUST BE PAID OUT OF  
15 THE STATE LOTTERY FUND. The study AUDIT must include:

- 16 (a) personnel security;  
17 (b) lottery sales agent security;  
18 (c) lottery contractor security;  
19 (d) security of manufacturing operations of lottery  
20 contractors;  
21 (e) security against ticket or chance counterfeiting  
22 and alteration and other means of fraudulently winning;  
23 (f) security of drawings among entries or finalists;  
24 (g) computer security;  
25 (h) data communications security;

- 1 (i) database security;  
2 (j) systems security;  
3 (k) lottery premises and warehouse security;  
4 (l) security in distribution;  
5 (m) security involving validation and payment  
6 procedures;  
7 (n) security involving unclaimed prizes;  
8 (o) security aspects applicable to each particular  
9 lottery game;  
10 (p) security of drawings in games where winners are  
11 determined by drawings;  
12 (q) the completeness of security against locating  
13 winners in lottery games with preprinted winners by persons  
14 involved in their production, storage, distribution,  
15 administration, or sales; and  
16 (r) any other aspects of security applicable to any  
17 particular lottery game and to the lottery and its  
18 operations.

19 (2) The security audit report must be presented to the  
20 commission, the director, the governor, the president of the  
21 senate, and the speaker of the house of representatives.

22 ~~NEW SECTION. Section 19. Investigations and legal~~  
23 ~~services and proceedings. (1) The attorney general shall~~  
24 ~~provide legal services for the state lottery at the request~~  
25 ~~of the director, assistant director for security, or~~

1 ~~commission. The attorney general shall make reasonable~~  
 2 ~~efforts to ensure that there is continuity in the legal~~  
 3 ~~services provided and that the attorneys providing legal~~  
 4 ~~services have expertise in the field.~~

5 ~~{2} The attorney general shall make investigations and~~  
 6 ~~prosecute or defend, on behalf of the director and~~  
 7 ~~commission, suits and other proceedings involving the state~~  
 8 ~~lottery or necessary to carry out the purposes of {sections~~  
 9 ~~1 through 20}.~~

10 ~~{3} The commission, director, and assistant director~~  
 11 ~~for security may also carry out investigations. The attorney~~  
 12 ~~general must be informed of each investigation before it~~  
 13 ~~begins and must be informed of the results of the~~  
 14 ~~investigation.~~

15 ~~{4} Upon the request of the assistant director for~~  
 16 ~~security, the attorney general and the department of justice~~  
 17 ~~must give the assistant director for security such~~  
 18 ~~information as may tend to assure security, honesty,~~  
 19 ~~fairness, and integrity in the operation and administration~~  
 20 ~~of the lottery as they may have in their possession,~~  
 21 ~~including but not limited to manual or computerized~~  
 22 ~~information and data.~~

23 NEW SECTION. Section 20. Penalties. It is a  
 24 misdemeanor, punishable by a fine not to exceed \$500 or  
 25 imprisonment in the county jail for a term not to exceed 6

1 months, or both, to knowingly or purposely:

2 (1) require an employee to sell lottery tickets or  
 3 chances in violation of [section 8 9(9)];

4 (2) violate [section 8 9(11)];

5 (3) sell a lottery ticket or chance to a person under  
 6 18 years of age;

7 (4) violate [subsection (3) or (4) of section 9 10];

8 (5) serve as a commissioner, director, assistant  
 9 director, employee, or licensed agent of the state lottery  
 10 in violation of [section 13 14];

11 (6) violate [section 14 15];

12 (7) violate [section 16 17]; or

13 (8) influence the winning of a prize through the use  
 14 of coercion, fraud, deception, or tampering with lottery  
 15 equipment or materials.

16 ~~Section 21. Section 23-5-101. MEA is amended to read:~~

17 ~~"23-5-101. Definitions. (1) A slot machine is defined~~  
 18 ~~as a machine operated by inserting a coin, token, chip,~~  
 19 ~~trade check, or paper currency therein by the player and~~  
 20 ~~from the play of which he obtains or may obtain money,~~  
 21 ~~checks, chips, tokens, or paper currency redeemable in~~  
 22 ~~money. Electronic video game machines operated by the state~~  
 23 ~~lottery are not slot machines. Merchandise vending machines~~  
 24 ~~where the element of chance does not enter into their~~  
 25 ~~operation are not within the provisions of this part.~~

(2) In addition to their ordinary meaning, the words "person" or "persons" as used in this part, include both natural and artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious, fraternal, and charitable organizations."

Section 21. Section 23-5-202, MCA, is amended to read:

"23-5-202. Application. This part shall not apply to the provisions of part 4 of this chapter, to [sections 1 through 20], or to the giving away of cash or merchandise attendance prizes or premiums by public drawings at agricultural fairs or rodeo associations in this state, and the county fair commissioners of agricultural fairs or rodeo associations in this state may give away at such fairs cash or merchandise attendance prizes or premiums by public drawings."

Section 23. Section 23-5-302, MCA, is amended to read:

"23-5-302. Definitions. As used in this part and unless the context requires otherwise, the following terms or phrases have the following meanings:

(1) "Authorized card game" means any card game permitted by this part.

(2) "Card game" means any game played with cards for which the prize is money or any item of value, except games played on electronic video game machines operated by the

state lottery."

Section 24. Section 23-5-402, MCA, is amended to read:

"23-5-402. Definitions. As used in this part, unless the context requires otherwise, the following terms or phrases shall have the following meanings:

(1) "Game of chance" means the specific kind of game of chance commonly known as:

(a) "bingo" or "keno" in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random, except games played on electronic video game machines operated by the state lottery;

(b) "raffles" which are conducted by drawing for prizes;

(2) "Equipment" means:

(a) with respect to bingo or keno, the receptacle and numbered objects drawn from it, the master board upon which such objects are placed as drawn, the cards or sheets bearing numbers or other designations to be covered and the objects used to cover them, the boards or signs, however operated, used to announce or display the numbers or designations as they are drawn, public address system, and all other articles essential to the operation, conduct, and playing of bingo or keno; or

(b) with respect to raffles, the implements, devices,

1 ~~and--machines--designed--intended--or--used--for--the--conduct--of~~  
 2 ~~raffies--and--the--identification--of--the--winning--number--or--unit~~  
 3 ~~and--the--ticket--or--other--evidence--of--right--to--participate--in~~  
 4 ~~raffies--<sup>4</sup>~~

5 NEW SECTION. Section 22. Initial appointment and  
 6 terms of commissioners. Initial appointments to the  
 7 commission must be made within 30 days after [the effective  
 8 date of this act]. Two of the initial appointees shall serve  
 9 for 2 years, two shall serve for 3 years, and one shall  
 10 serve for 4 years.

11 NEW SECTION. Section 23. Initial duties of commission  
 12 -- lottery study -- first game. (1) The commission shall  
 13 immediately conduct an initial study of other state  
 14 lotteries.

15 (2) The commission shall begin the operation of state  
 16 lottery games at the earliest practicable time and in any  
 17 event ~~within 150 days after [the effective date of this act]~~  
 18 NO LATER THAN NOVEMBER 1, 1985.

19 NEW SECTION. Section 24. Temporary state treasury  
 20 line of credit for expense of starting state lottery. There  
 21 is a temporary line of credit that may be drawn by the  
 22 director of the state lottery from the state general fund  
 23 and deposited in the state lottery fund, in the amount of  
 24 \$1,500,000. This temporary line of credit may be drawn upon  
 25 only during the first 12 months after the effective date of

1 [sections 1 through 20] and only for the purpose of  
 2 financing the initial expenses of starting the state  
 3 lottery. The director may draw upon all or part of this  
 4 temporary line of credit. Any funds advanced under the  
 5 temporary line of credit must be repaid OUT OF THE LOTTERY'S  
 6 NET REVENUE to the general fund within 1 year of the  
 7 advance, AND NO NET REVENUE MAY BE PAID OUT UNDER [SECTION  
 8 13(3)(B)] UNTIL ALL ADVANCED FUNDS ARE REPAID. Interest must  
 9 be paid at an annual simple interest rate of 10% on funds  
 10 advanced, commencing on the day funds are advanced and until  
 11 the funds are repaid.

12 NEW SECTION. Section 25. Severability. If a part of  
 13 this act is invalid, all valid parts that are severable from  
 14 the invalid part remain in effect. If a part of this act is  
 15 invalid in one or more of its applications, the part remains  
 16 in effect in all valid applications that are severable from  
 17 the invalid applications.

18 NEW SECTION. Section 26. Effective date. This act is  
 19 effective on passage and approval.

-End-