

HOUSE BILL NO. 207
INTRODUCED BY GOULD
BY REQUEST OF THE STATE LOTTERY COMMISSION

IN THE HOUSE

JANUARY 16, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
JANUARY 17, 1989	FIRST READING.
FEBRUARY 1, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED. STATEMENT OF INTENT ADOPTED.
FEBRUARY 2, 1989	PRINTING REPORT.
FEBRUARY 3, 1989	PASSED CONSIDERATION FOR THE DAY. ON MOTION TAKEN FROM SECOND READING AND REREFERRED TO 31ST LEGISLATIVE DAY.
FEBRUARY 6, 1989	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 7, 1989	ENGROSSING REPORT.
FEBRUARY 8, 1989	THIRD READING, PASSED. AYES, 60; NOES, 39. TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 9, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION. FIRST READING.
MARCH 9, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 10, 1989	SECOND READING, CONCURRED IN.

MARCH 13, 1989

THIRD READING, CONCURRED IN.
AYES, 37; NOES, 11.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 16, 1989

RECEIVED FROM SENATE.

PASSED CONSIDERATION UNTIL 62ND
LEGISLATIVE DAY.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 18, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

House BILL NO. *207*

INTRODUCED BY *[Signature]*
BY REQUEST OF THE STATE LOTTERY COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE MONTANA STATE LOTTERY ACT OF 1985 TO PROVIDE THAT THE LOTTERY COMMISSION MAY DETERMINE THE PERCENTAGE OF PRIZE PAYOUT SUBJECT TO A MINIMUM OF 45 PERCENT OF THE MONEY PAID FOR TICKETS OR CHANCES; TO CLARIFY THAT SALES AGENTS' COMMISSIONS ARE BASED ON THE FACE VALUE OF THE TICKETS; TO CLARIFY THAT TICKETS OR CHANCES MAY NOT BE PURCHASED ON CREDIT; TO PROHIBIT MEMBERS OF HOUSEHOLDS OF LOTTERY STAFF, CONTRACTORS, AND AUDITORS FROM PARTICIPATING IN OR HAVING A FINANCIAL INTEREST IN THE LOTTERY; TO MAKE THE FINGERPRINTING OF SALES AGENTS PERMISSIVE INSTEAD OF MANDATORY; TO CLARIFY THAT MONTANA MAY PARTICIPATE IN MULTISTATE GAMES; TO PROVIDE FOR THE STATUTORY APPROPRIATION OF LOTTERY SALES AGENT COMMISSIONS, PRIZES, AND NET REVENUE; TO ELIMINATE THE STATUTORY APPROPRIATION OF LOTTERY OPERATING EXPENSES; TO CLARIFY THAT THE LEGISLATIVE AUDITOR MAY HAVE THE ANNUAL AUDIT CONDUCTED BY A PARTY OUTSIDE HIS OFFICE; AMENDING SECTIONS 17-7-502, 23-5-1007, 23-5-1008, 23-5-1016, 23-5-1017, 23-5-1019, 23-5-1020, 23-5-1027, AND 23-5-1028, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111; 23-5-610; 23-5-1016; 23-5-1027; 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205;

75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228;
82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306;
90-15-103; section 13, House Bill No. 861, Laws of 1985; and
section 1, Chapter 454, Laws of 1987.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3): pursuant to sec. 15, Ch. 607, L. 1987, the inclusion of 15-65-121 terminates June 30, 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991; and pursuant to sec. 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L. 1987, terminates July 1, 1988.)"

Section 2. Section 23-5-1007, MCA, is amended to read:

"23-5-1007. Powers and duties of commission. The commission shall:

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

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

(3) subject to 23-5-1027(1), determine the percentage of the money paid for tickets or chances to be paid out as prizes;

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

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

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

~~(6)~~(7) study and may enter into agreements with other lottery states to offer regional lottery games;

~~(7)~~(8) prepare quarterly and annual reports on all aspects of the operation of the state lottery, including but not limited to types of games, gross revenue, prize money paid, operating expenses, net revenue to the state, contracts with gaming suppliers, and recommendations for changes to this part, and deliver a copy of each report to

the governor, the department of administration, the legislative auditor, the president of the senate, the speaker of the house of representatives, and each member of the appropriate committee of each house of the legislature as determined by the president of the senate and the speaker of the house; and

~~(8)~~(9) adopt rules necessary to carry out this part."

Section 3. Section 23-5-1008, MCA, is amended to read:

"23-5-1008. Legislative liaison committee -- bipartisan -- compensation from lottery fund. (1) There is a legislative liaison committee.

(2) The liaison committee consists of four legislators. Two members must be from the senate and two members must be from the house of representatives. The speaker of the house and the senate committee on committees shall appoint the members of the liaison committee, and no more than two members may be of the same political party. No legislator who has any ownership interest in any gambling device or establishment may be appointed to the liaison committee.

(3) A member of the liaison committee is entitled to compensation and expenses as provided in 5-2-302, paid from any money appropriated to in the ~~allocation--~~under 23-5-1027~~(2)~~ lottery, while performing his duties as a member of the liaison committee, as provided in subsection

(4) of this section.

(4) The liaison committee shall meet once each fiscal year with the commission at Helena and shall report to each legislature on the activities and operations of the state lottery."

Section 4. Section 23-5-1016, MCA, is amended to read:

"23-5-1016. Ticket or chance sales agents -- licenses.

(1) Lottery tickets or chances may be sold only by ticket or chance sales agents licensed by the director in accordance with this section.

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

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

(i) the financial responsibility and security of the applicant and his business or activity;

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

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

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

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

1 agent.

2 (4) The director may issue temporary licenses upon
3 conditions he considers necessary.

4 (5) License applicants shall pay a \$50 fee to cover
5 the cost of investigating and processing the application.

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

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

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

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

17 (10) Sales agents are entitled to a commission of no
18 more than a 5% commission-on of the face value of tickets
19 and chances sold that they purchase from the lottery and do
20 not return. The commissions are statutorily appropriated, as
21 provided in 17-7-502, to the lottery.

22 (11) Each sales agent shall keep a complete and
23 up-to-date set of records and accounts fully showing his
24 sales and provide it for inspection upon request of the
25 commission, the director, the department of commerce, the

1 office of the legislative auditor, or the office of the
2 attorney general.

3 (12) Sales agents may pay the state lottery only by
4 check, bankdraft, electronic fund transfer, or other
5 recorded, noncash, financial transfer method as determined
6 by the director.

7 (13) A license may be suspended or revoked for failure
8 to maintain the license qualifications provided in
9 subsection (3) or for violation of any provision of this
10 part or a commission rule. Prior to suspension or
11 revocation, the licensee must be given notice and an
12 opportunity for a hearing."

13 **Section 5.** Section 23-5-1017, MCA, is amended to read:

14 "23-5-1017. Sales restrictions. (1) The price of each
15 lottery game ticket or chance must be clearly stated
16 thereon. The price of a lottery game chance vended by a
17 machine or electronic device must be clearly stated on the
18 machine or device.

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

21 (3) Tickets and chances ~~must-be-paid-for-in--cash~~ may
22 not be purchased on credit.

23 (4) Tickets and chances may not be sold to or
24 purchased by commissioners, the director, his staff, gaming
25 suppliers doing business with the state lottery, suppliers'

officers and employees, employees of any firm auditing or investigating the state lottery, governmental employees auditing or investigating the state lottery, or members of their ~~families-living-with-them~~ households.

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

Section 6. Section 23-5-1019, MCA, is amended to read:

"23-5-1019. ~~Felony and gambling-related convictions --~~ ineligibility for lottery positions. No person who has been convicted of a felony or a gambling-related offense under federal law or the law of any state may be a commissioner, director, assistant director, employee of the state lottery, or licensed ticket or chance sales agent. Prior to appointment ~~to--any--such--position as a commissioner,~~ director, assistant director, or employee, a person shall submit to the commission a full set of fingerprints made at a law enforcement agency by an agent or officer of such agency on forms supplied by the agency. The assistant director for security may require a ticket or chance sales agent to submit fingerprints prior to licensing."

Section 7. Section 23-5-1020, MCA, is amended to read:

"23-5-1020. Conflict of interest. No commissioner, director, assistant director, state lottery employee, licensed ticket or chance sales agent, or member of his ~~family--living-with--him~~ household may have a financial

interest in any gaming supplier or any contract between the state lottery and a gaming supplier or accept any gift or thing of value from a gaming supplier."

Section 8. Section 23-5-1027, MCA, is amended to read:

"23-5-1027. (Effective July 1, 1988) Disposition of revenue. (1) ~~{a}-As-near-as-possible-to~~ A minimum of 45% of the money paid for tickets or chances must be paid out as prize money, ~~except-as-provided-in-subsection-(b).~~ The prize money is statutorily appropriated, as provided in 17-7-502, to the lottery.

~~{b)--in-the-case-of-a-regional-lottery-game,a--maximum of--50%-of-the-money-paid-for-tickets-or-chances-may-be-paid out-as-prize-money-~~

(2) ~~Up-to-15%-of-the--gross--revenue--from--the--state lottery--may--be--used--by-the-director-to-pay-the-operating expenses-of-the-state-lottery-~~ Commissions paid to lottery ticket or chance sales agents are not a state lottery operating expense.

~~{3)--Funds-to-pay-the-operating-expenses-of-the-lottery are-statutorily-appropriated-as-provided-in-17-7-502-~~

~~{4}{3}~~ (3) That part of all gross revenue not used for the payment of prizes, commissions, and operating expenses is net revenue and must be paid quarterly from the enterprise fund established by 23-5-1026 to the superintendent of public instruction for distribution as equalization aid to

1 the retirement fund obligations of elementary and high
2 school districts in the manner provided in 20-9-532. The net
3 revenue is statutorily appropriated, as provided in
4 17-7-502, to the superintendent of public instruction.

5 (4) The spending authority of the lottery may be
6 increased in accordance with this section upon review and
7 approval of a revised operation plan by the budget office."

8 **Section 9.** Section 23-5-1028, MCA, is amended to read:

9 "23-5-1028. Annual audit. The legislative auditor
10 shall conduct or have conducted an annual audit of the state
11 lottery. The costs of the audit must be paid out of the
12 state lottery fund. A copy of the audit report must be
13 delivered to the commission, the director, the governor, the
14 president of the senate, the speaker of the house of
15 representatives, and each member of the appropriate
16 committee of each house of the legislature as determined by
17 the president of the senate and the speaker of the house."

18 NEW SECTION. **Section 10.** Extension of authority. Any
19 existing authority to make rules on the subject of the
20 provisions of [this act] is extended to the provisions of
21 [this act].

22 NEW SECTION. **Section 11.** Effective date. [This act]
23 is effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB207, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

HB207 generally revises the Montana State Lottery Act of 1985 by providing that the Lottery Commission may determine the percentage of prize payout at no less than 45% of the money paid for tickets or chances; to clarify that sales agents' commissions are based on the face value of the tickets; to clarify that tickets or chances may not be purchased on credit; to prohibit members of households of Lottery staff, contractors, and auditors from participating in or having a financial interest in the Lottery; to make fingerprinting of sales agents permissive instead of mandatory; to clarify that Montana may participate in multi-state games; to provide for the continued statutory appropriation of Lottery sales agent commissions, prizes and net revenue; to eliminate the statutory appropriation of Lottery operating expenses; to clarify that the Legislative Auditor may have the annual audit conducted by a third party; and providing an immediate effective date.

ASSUMPTIONS:

1. The current law revenue estimate of \$13,000,000 for FY89 is assumed to be attainable in FY90 and FY91.
2. New Section 23-5-1007(3), MCA, and changes to Section 23-5-1027(1), MCA, provide for a minimum of 45% for prizes but no maximum. It is assumed a 55% prize payout will be adopted by the Lottery Commission and that this action will result in the same significant revenue increases experienced by other states when prize payout percentages were increased.
3. Proposed law revenue estimates of \$21,000 for FY90 and FY91 are based upon both the increased prize payout and the fact that this revenue level was achieved previously by the Montana Lottery.
4. Current law expense projections assume the Lottery could meet a 15% operating expense ceiling, even though FY88 expenses were \$3,098,480 or 24% of \$13,000,000 in revenue and the FY89 operational plan is budgeted at \$2,802,834 or 22% of \$13,000,000 revenue.
5. Changes to Section 23-5-1027(2), MCA, and the deletion of old Section 23-5-1027(3), MCA, which eliminates the statutory appropriation for operating expenses along with the operating expense ceiling of 15% of gross revenues does not change the Lottery's budget as recommended in the executive budget. The difference in operating expenses of \$1,104,762 for FY90 and \$846,040 for FY91 is a result of the different revenue estimates under the current law and the proposed law.



RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

1/23/89

DATE



R. BUDD GOULD, PRIMARY SPONSOR

DATE

1/25/89

Fiscal Note for HB207, as introduced

HB 207

Fiscal Note Request, HB207 as introduced

Form BD-15

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6. Changes to Section 23-5-1016(10), MCA, to clarify a sales agent's commission, will not result in a fiscal impact because the Lottery has interpreted current law to mean 5% commission on the face value of the tickets sold to an agent, resulting in a \$25 commission for a pack of 500 \$1.00 tickets. However, when comparing commissions to revenues for FY88, the \$1,169,378 in commissions is 5.6% of the \$21,062,464 in revenues due to the free ticket prizes in each pack which are handled by the agent without generating any revenue.
7. Changes to Section 23-5-1019, MCA, to remove the requirement of obtaining fingerprints from sales agent applicants, could result in a savings of \$1,200 to the Lottery and to the applicant who would no longer be charged for fingerprinting. However, this potential reduction has not been made to operating expenses.
8. The Legislative Auditor's recommended executive budget does not include audit costs for the financial audit of the Lottery so there is no fiscal impact on the Legislative Auditor.

FISCAL IMPACT:

	Current	FY90		Current	FY91	
	Law	Proposed		Law	Proposed	
Expenditures:	Law	Law	Difference	Law	Law	Difference
Montana Lottery						
Personal Services (HB100)	\$ 909,160	\$ 909,160	-0-	\$ 910,620	\$ 910,620	-0-
Op Exp Administr. (HB100)	1,040,840	2,134,402	1,093,562	1,039,380	1,885,420	846,040
Prize Expenses (SA)	5,850,000	11,550,000	5,700,000	5,850,000	11,550,000	5,700,000
Agents Commissions (SA)	728,000	1,176,000	448,000	728,000	1,176,000	448,000
Capital Outlay	-0-	11,200	11,200	-0-	-0-	-0-
Total Expenditures	<u>\$8,528,000</u>	<u>\$15,780,762</u>	<u>\$7,252,762</u>	<u>\$8,528,000</u>	<u>\$15,522,040</u>	<u>\$6,994,040</u>

Funding:

Instant Ticket Sales						
Proprietary Account	\$13,000,000	\$21,000,000	\$8,000,000	\$13,000,000	\$21,000,000	\$8,000,000

Revenue:

Net Revenue Impact-Funds						
Transferred to OPI:	\$4,472,000	\$5,219,238	\$ 747,238	\$4,472,000	\$5,477,960	\$1,005,960

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Lottery net revenues, which are transferred under current law to the Office of Public Instruction for distribution as equalization aid for the retirement fund of public schools, could increase by \$747,238 in FY90 and by \$1,005,960 in FY91. However, if proposed law revenue estimates are not met, net revenue transfers could decrease under the proposed law.

HB 207

TECHNICAL NOTES:

1. Changes to Section 23-5-1027(1), MCA, provide for a minimum of 45% for prizes but no maximum. Assumptions above used a 55% prize payout related to revenues of \$21,000,000. However, every 1% increase for prizes would result in an additional \$210,000 in prize expense, reducing net revenues and the money available for public schools, if the revenues did not also increase.

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

1 HOUSE BILL NO. 207
2 INTRODUCED BY GOULD
3 BY REQUEST OF THE STATE LOTTERY COMMISSION
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 MONTANA STATE LOTTERY ACT OF 1985 TO PROVIDE THAT THE
7 LOTTERY COMMISSION MAY DETERMINE THE PERCENTAGE OF PRIZE
8 PAYOUT SUBJECT TO A MINIMUM OF 45 PERCENT OF THE MONEY PAID
9 FOR TICKETS OR CHANCES; TO CLARIFY THAT SALES AGENTS'
10 COMMISSIONS ARE BASED ON THE FACE VALUE OF THE TICKETS;
11 PROVIDING THAT THE DIRECTOR OF THE DEPARTMENT OF COMMERCE
12 MAY ADOPT RULES RELATING TO LOTTERY STAFF SALES INCENTIVES
13 OR BONUSES AND SALES AGENTS' COMMISSIONS; TO CLARIFY THAT
14 TICKETS OR CHANCES MAY NOT BE PURCHASED ON CREDIT; TO
15 PROHIBIT MEMBERS OF HOUSEHOLDS OF LOTTERY STAFF,
16 CONTRACTORS, AND AUDITORS FROM PARTICIPATING IN OR HAVING A
17 FINANCIAL INTEREST IN THE LOTTERY; TO MAKE THE
18 FINGERPRINTING OF SALES AGENTS PERMISSIVE INSTEAD OF
19 MANDATORY; TO CLARIFY THAT MONTANA MAY PARTICIPATE IN
20 MULTISTATE GAMES; TO PROVIDE FOR THE STATUTORY APPROPRIATION
21 OF LOTTERY SALES AGENT COMMISSIONS, PRIZES, AND NET REVENUE;
22 TO ELIMINATE THE STATUTORY APPROPRIATION OF LOTTERY
23 OPERATING EXPENSES; TO CLARIFY THAT THE LEGISLATIVE AUDITOR
24 MAY HAVE THE ANNUAL AUDIT CONDUCTED BY A PARTY OUTSIDE HIS
25 OFFICE; AMENDING SECTIONS 17-7-502, ~~23-5-1007~~, 23-5-1006

1 THROUGH 23-5-1008, 23-5-1012, 23-5-1016, 23-5-1017,
2 23-5-1019, 23-5-1020, 23-5-1027, AND 23-5-1028, MCA; AND
3 PROVIDING AN IMMEDIATE EFFECTIVE DATE."
4

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

6 **Section 1.** Section 17-7-502, MCA, is amended to read:

7 "17-7-502. Statutory appropriations -- definition --
8 requisites for validity. (1) A statutory appropriation is an
9 appropriation made by permanent law that authorizes spending
10 by a state agency without the need for a biennial
11 legislative appropriation or budget amendment.

12 (2) Except as provided in subsection (4), to be
13 effective, a statutory appropriation must comply with both
14 of the following provisions:

15 (a) The law containing the statutory authority must be
16 listed in subsection (3).

17 (b) The law or portion of the law making a statutory
18 appropriation must specifically state that a statutory
19 appropriation is made as provided in this section.

20 (3) The following laws are the only laws containing
21 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
22 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;
23 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101;
24 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;
25 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205;

1 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606;
 2 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111;
 3 23-5-610; 23-5-1016; 23-5-1027; 33-31-212; 33-31-401;
 4 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205;
 5 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228;
 6 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306;
 7 90-15-103; section 13, House Bill No. 861, Laws of 1985; and
 8 section 1, Chapter 454, Laws of 1987.

9 (4) There is a statutory appropriation to pay the
 10 principal, interest, premiums, and costs of issuing, paying,
 11 and securing all bonds, notes, or other obligations, as due,
 12 that have been authorized and issued pursuant to the laws of
 13 Montana. Agencies that have entered into agreements
 14 authorized by the laws of Montana to pay the state
 15 treasurer, for deposit in accordance with 17-2-101 through
 16 17-2-107, as determined by the state treasurer, an amount
 17 sufficient to pay the principal and interest as due on the
 18 bonds or notes have statutory appropriation authority for
 19 such payments. (In subsection (3): pursuant to sec. 15, Ch.
 20 607, L. 1987, the inclusion of 15-65-121 terminates June 30,
 21 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion
 22 of 39-71-2504 terminates June 30, 1991; and pursuant to sec.
 23 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.
 24 1987, terminates July 1, 1988.)"

25 **SECTION 2. SECTION 23-5-1006, MCA, IS AMENDED TO READ:**

1 "23-5-1006. State lottery commission -- allocation --
 2 composition -- compensation -- quorum. (1) There is a state
 3 lottery commission.

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

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

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

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

19 (6) The commission shall elect one of its members as
 20 chairman.

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

24 (8) Commissioners are entitled to compensation, to be
 25 paid out of the state lottery fund, at the rate of \$50 for

each day in which they are engaged in the performance of their duties and are entitled to travel, meals, and lodging expenses, to be paid out of the state lottery fund, as provided for in Title 2, chapter 18, part 5.

(9) The commission is allocated to the department of commerce for administrative purposes only as prescribed in 2-15-121, except that the director of the department of commerce may adopt rules relating to lottery staff sales incentives or bonuses and sales agents' commissions."

Section 3. Section 23-5-1007, MCA, is amended to read:

"23-5-1007. Powers and duties of commission. The commission shall:

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

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

(3) subject to 23-5-1027(1), determine the percentage of the money paid for tickets or chances to be paid out as prizes;

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

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

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

(7) study and may enter into agreements with other lottery states to offer regional lottery games;

(8) prepare quarterly and annual reports on all aspects of the operation of the state lottery, including but not limited to types of games, gross revenue, prize money paid, operating expenses, net revenue to the state, contracts with gaming suppliers, and recommendations for changes to this part, and deliver a copy of each report to the governor, the department of administration, the legislative auditor, the president of the senate, the speaker of the house of representatives, and each member of the appropriate committee of each house of the legislature as determined by the president of the senate and the speaker of the house; and

(9) adopt rules necessary to carry out this part."

Section 4. Section 23-5-1008, MCA, is amended to read:

"23-5-1008. Legislative liaison committee -- bipartisan -- compensation from lottery fund. (1) There is a legislative liaison committee.

(2) The liaison committee consists of four legislators. Two members must be from the senate and two members must be from the house of representatives. The speaker of the house and the senate committee on committees shall appoint the members of the liaison committee, and no more than two members may be of the same political party. No legislator who has any ownership interest in any gambling device or establishment may be appointed to the liaison committee.

(3) A member of the liaison committee is entitled to compensation and expenses as provided in 5-2-302, paid from any money appropriated to in the allocation--under 23-5-1027(2) lottery, while performing his duties as a member of the liaison committee, as provided in subsection (4) of this section.

(4) The liaison committee shall meet once each fiscal year with the commission at Helena and shall report to each legislature on the activities and operations of the state lottery."

SECTION 5. SECTION 23-5-1012, MCA, IS AMENDED TO READ:

"23-5-1012. Powers and duties of director. (1) The director shall:

(a) administer the operation of the state lottery in accordance with this part and the rules and other directives of the commission;

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

(c) license lottery ticket or chance sales agents and suspend or revoke licenses pursuant to this part and commission rules;

(d) implement plans for lottery staff sales incentives or bonuses and for sales agents' commissions pursuant to rules adopted by the department of commerce; and

~~(d)~~(e) maintain, with the assistant director for security, the security of the state lottery.

(2) With the concurrence of the commission or pursuant to commission rules, the director may enter into contracts for materials, equipment, and supplies to be used in the operation of the state lottery, for the design and installation of games, for consultant services, and for promotion of the lottery. All contracts must be made in accordance with state law. No contract is legal or enforceable that provides for the management of the state lottery or for the entire operation of its games by any private person or firm. When a contract is awarded, a performance bond satisfactory to the commission and executed by a surety company authorized to do business in this state or otherwise secured in a manner satisfactory to the commission, in an amount equal to the price of the contract,

1 must be delivered to the commission."

2 **Section 6.** Section 23-5-1016, MCA, is amended to read:

3 **"23-5-1016. Ticket or chance sales agents -- licenses.**

4 (1) Lottery tickets or chances may be sold only by ticket or
5 chance sales agents licensed by the director in accordance
6 with this section.

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

9 (3) (a) Before issuing a license, the director shall
10 consider:

11 (i) the financial responsibility and security of the
12 applicant and his business or activity;

13 (ii) the accessibility of his place of business or
14 activity to the public; and

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

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

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

23 (4) The director may issue temporary licenses upon
24 conditions he considers necessary.

25 (5) License applicants shall pay a \$50 fee to cover

1 the cost of investigating and processing the application.

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

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

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

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

13 (10) Sales agents are entitled to a commission of no
14 more than a 5% commission-on of the face value of tickets
15 and chances sold that they purchase from the lottery and do
16 not return. HOWEVER, TO FURTHER THE SALE OF LOTTERY
17 PRODUCTS, THE DIRECTOR OF THE DEPARTMENT OF COMMERCE MAY
18 ADOPT RULES PROVIDING ADDITIONAL COMMISSIONS TO SALES AGENTS
19 BASED ON INCREMENTAL SALES. The commissions are statutorily
20 appropriated, as provided in 17-7-502, to the lottery.

21 (11) Each sales agent shall keep a complete and
22 up-to-date set of records and accounts fully showing his
23 sales and provide it for inspection upon request of the
24 commission, the director, the department of commerce, the
25 office of the legislative auditor, or the office of the

1 attorney general.

2 (12) Sales agents may pay the state lottery only by
3 check, bankdraft, electronic fund transfer, or other
4 recorded, noncash, financial transfer method as determined
5 by the director.

6 (13) A license may be suspended or revoked for failure
7 to maintain the license qualifications provided in
8 subsection (3) or for violation of any provision of this
9 part or a commission rule. Prior to suspension or
10 revocation, the licensee must be given notice and an
11 opportunity for a hearing."

12 **Section 7.** Section 23-5-1017, MCA, is amended to read:

13 "23-5-1017. Sales restrictions. (1) The price of each
14 lottery game ticket or chance must be clearly stated
15 thereon. The price of a lottery game chance vended by a
16 machine or electronic device must be clearly stated on the
17 machine or device.

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

20 (3) Tickets and chances ~~must be paid for in cash~~ may
21 not be purchased on credit.

22 (4) Tickets and chances may not be sold to or
23 purchased by commissioners, the director, his staff, gaming
24 suppliers doing business with the state lottery, suppliers'
25 officers and employees, employees of any firm auditing or

1 investigating the state lottery, governmental employees
2 auditing or investigating the state lottery, or members of
3 their ~~families living with them~~ households.

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

6 **Section 8.** Section 23-5-1019, MCA, is amended to read:

7 "23-5-1019. Felony and gambling-related convictions --
8 ineligibility for lottery positions. No person who has been
9 convicted of a felony or a gambling-related offense under
10 federal law or the law of any state may be a commissioner,
11 director, assistant director, employee of the state lottery,
12 or licensed ticket or chance sales agent. Prior to
13 appointment ~~to any such position as a commissioner,~~
14 director, assistant director, or employee, a person shall
15 submit to the commission a full set of fingerprints made at
16 a law enforcement agency by an agent or officer of such
17 agency on forms supplied by the agency. The assistant
18 director for security may require a ticket or chance sales
19 agent to submit fingerprints prior to licensing."

20 **Section 9.** Section 23-5-1020, MCA, is amended to read:

21 "23-5-1020. Conflict of interest. No commissioner,
22 director, assistant director, state lottery employee,
23 licensed ticket or chance sales agent, or member of his
24 ~~family living with him~~ household may have a financial
25 interest in any gaming supplier or any contract between the

1 state lottery and a gaming supplier or accept any gift or
2 thing of value from a gaming supplier."

3 **Section 10.** Section 23-5-1027, MCA, is amended to
4 read:

5 "23-5-1027. (Effective July 1, 1988) Disposition of
6 revenue. (1) ~~{a}~~-As-near-as-possible-to A minimum of 45% of
7 the money paid for tickets or chances must be paid out as
8 prize money, ~~except as provided in subsection {b}~~. The prize
9 money is statutorily appropriated, as provided in 17-7-502,
10 to the lottery.

11 ~~{b}~~--In-the-case-of-a-regional-lottery-game, a--maximum
12 of--50%--of--the--money--paid--for--tickets--or--chances--may--be--paid
13 out--as--prize--money.

14 (2) Up-to-15%--of--the--gross--revenue--from--the--state
15 lottery--may--be--used--by--the--director--to--pay--the--operating
16 expenses--of--the--state--lottery. Commissions paid to lottery
17 ticket or chance sales agents are not a state lottery
18 operating expense.

19 ~~{3}~~--Funds-to-pay-the-operating-expenses-of-the-lottery
20 are-statutorily-appropriated-as-provided-in-17-7-502.

21 ~~{4}~~(3) That part of all gross revenue not used for the
22 payment of prizes, commissions, and operating expenses is
23 net revenue and must be paid quarterly from the enterprise
24 fund established by 23-5-1026 to the superintendent of
25 public instruction for distribution as equalization aid to

1 the retirement fund obligations of elementary and high
2 school districts in the manner provided in 20-9-532. The net
3 revenue is statutorily appropriated, as provided in
4 17-7-502, to the superintendent of public instruction.

5 (4) The spending authority of the lottery may be
6 increased in accordance with this section upon review and
7 approval of a revised operation plan by the budget office."

8 **Section 11.** Section 23-5-1028, MCA, is amended to
9 read:

10 "23-5-1028. Annual audit. The legislative auditor
11 shall conduct or have conducted an annual audit of the state
12 lottery. The costs of the audit must be paid out of the
13 state lottery fund. A copy of the audit report must be
14 delivered to the commission, the director, the governor, the
15 president of the senate, the speaker of the house of
16 representatives, and each member of the appropriate
17 committee of each house of the legislature as determined by
18 the president of the senate and the speaker of the house."

19 NEW SECTION. **Section 12.** Extension of authority. Any
20 existing authority to make rules on the subject of the
21 provisions of [this act] is extended to the provisions of
22 [this act].

23 NEW SECTION. **Section 13.** Effective date. [This act]
24 is effective on passage and approval.

-End-

1 HOUSE BILL NO. 207
2 INTRODUCED BY GOULD
3 BY REQUEST OF THE STATE LOTTERY COMMISSION
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 MONTANA STATE LOTTERY ACT OF 1985 TO PROVIDE THAT THE
7 LOTTERY COMMISSION MAY DETERMINE THE PERCENTAGE OF PRIZE
8 PAYOUT SUBJECT TO A MINIMUM OF 45 PERCENT OF THE MONEY PAID
9 FOR TICKETS OR CHANCES; TO CLARIFY THAT SALES AGENTS'
10 COMMISSIONS ARE BASED ON THE FACE VALUE OF THE TICKETS;
11 PROVIDING THAT THE DIRECTOR OF THE DEPARTMENT OF COMMERCE
12 MAY ADOPT RULES RELATING TO LOTTERY STAFF SALES INCENTIVES
13 OR BONUSES AND SALES AGENTS' COMMISSIONS; TO CLARIFY THAT
14 TICKETS OR CHANCES MAY NOT BE PURCHASED ON CREDIT; TO
15 PROHIBIT MEMBERS OF HOUSEHOLDS OF LOTTERY STAFF,
16 CONTRACTORS, AND AUDITORS FROM PARTICIPATING IN OR HAVING A
17 FINANCIAL INTEREST IN THE LOTTERY; TO MAKE THE
18 FINGERPRINTING OF SALES AGENTS PERMISSIVE INSTEAD OF
19 MANDATORY; TO CLARIFY THAT MONTANA MAY PARTICIPATE IN
20 MULTISTATE GAMES; TO PROVIDE FOR THE STATUTORY APPROPRIATION
21 OF LOTTERY SALES AGENT COMMISSIONS, PRIZES, AND NET REVENUE;
22 TO ELIMINATE THE STATUTORY APPROPRIATION OF LOTTERY
23 OPERATING EXPENSES; TO CLARIFY THAT THE LEGISLATIVE AUDITOR
24 MAY HAVE THE ANNUAL AUDIT CONDUCTED BY A PARTY OUTSIDE HIS
25 OFFICE; AMENDING SECTIONS 17-7-502, ~~23-5-1007~~, 23-5-1006

1 THROUGH 23-5-1008, 23-5-1012, 23-5-1016, 23-5-1017,
2 23-5-1019, 23-5-1020, 23-5-1027, AND 23-5-1028, MCA; AND
3 PROVIDING AN IMMEDIATE EFFECTIVE DATE."
4

5 STATEMENT OF INTENT

6 This bill requires a statement of intent because
7 [sections 2 and 6] grant rulemaking authority to the
8 director of the department of commerce. The overall intent
9 and purpose of this bill is to enable the lottery to be run
10 as a business.

11 The legislature finds that the lottery is a complex
12 business driven by market forces and must be given
13 flexibility in order to maximize profits.

14 The legislature also finds that the people of Montana
15 overwhelmingly approved the creation of a lottery and that
16 the intent of the people was also to maximize profits to the
17 state.

18 The legislature finds that an operational budget based
19 on a percentage of revenue has hampered the lottery
20 commission in its attempt to operate as a business. The
21 lottery must be able to plan for market expansion,
22 improvement of the product line, cost reduction, and
23 organizational development as would a private business.
24 These plans cannot be made or carried out unless the
25 operational budget is a fixed amount. It is the intent of

1 the legislature that the lottery's operating budget be set
2 by the legislature as are the budgets of all other state
3 agencies.

4 In [section 2], the legislature grants rulemaking
5 authority to the director of the department of commerce. The
6 legislature intends that the director adopt rules providing
7 for staff incentives or bonuses for increased sales only if
8 these rules can be shown to significantly increase sales. It
9 is the further intent that the rules for sales incentives
10 and bonuses be based on incentive and bonus plans that have
11 proven successful in private business or other lotteries.

12 The legislature intends to give the commission
13 flexibility to change the prize payout in instant ticket
14 games in order to increase profits. If increased prize
15 payout does not result in increased net revenue, the
16 decision of the commission then should be to roll back the
17 prize payout percentage to comply with the legislative
18 intent of maximizing profits.

19 In [section 6], the legislature allows the director of
20 the department of commerce to adopt rules providing for
21 increased commissions to retailers if retailers increase
22 their sales of lottery products. The legislature intends
23 that the bonus commission plans be based on successful plans
24 in other lotteries, such as Colorado's, whereby total sales
25 are projected for each retailer based on average sales over

1 a period of time, such as 1 year. Whenever future sales for
2 an established period of time exceed forecasted sales, a
3 bonus may be paid. For example, if a retailer maintains
4 averages sales, the commission is the regular 5%; if a
5 retailer sells a certain percentage above average, 6%; an
6 even higher percentage of increase in sales may provide 7%,
7 etc. The purpose of bonus commissions is to increase net
8 revenue to the state.

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 17-7-502, MCA, is amended to read:

12 "17-7-502. Statutory appropriations -- definition --
13 requisites for validity. (1) A statutory appropriation is an
14 appropriation made by permanent law that authorizes spending
15 by a state agency without the need for a biennial
16 legislative appropriation or budget amendment.

17 (2) Except as provided in subsection (4), to be
18 effective, a statutory appropriation must comply with both
19 of the following provisions:

20 (a) The law containing the statutory authority must be
21 listed in subsection (3).

22 (b) The law or portion of the law making a statutory
23 appropriation must specifically state that a statutory
24 appropriation is made as provided in this section.

25 (3) The following laws are the only laws containing

1 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
 2 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304;
 3 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101;
 4 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424;
 5 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205;
 6 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606;
 7 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111;
 8 23-5-610; 23-5-1016; 23-5-1027; 33-31-212; 33-31-401;
 9 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205;
 10 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228;
 11 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306;
 12 90-15-103; section 13, House Bill No. 861, Laws of 1985; and
 13 section 1, Chapter 454, Laws of 1987.

14 (4) There is a statutory appropriation to pay the
 15 principal, interest, premiums, and costs of issuing, paying,
 16 and securing all bonds, notes, or other obligations, as due,
 17 that have been authorized and issued pursuant to the laws of
 18 Montana. Agencies that have entered into agreements
 19 authorized by the laws of Montana to pay the state
 20 treasurer, for deposit in accordance with 17-2-101 through
 21 17-2-107, as determined by the state treasurer, an amount
 22 sufficient to pay the principal and interest as due on the
 23 bonds or notes have statutory appropriation authority for
 24 such payments. (In subsection (3): pursuant to sec. 15, Ch.
 25 607, L. 1987, the inclusion of 15-65-121 terminates June 30,

1 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion
 2 of 39-71-2504 terminates June 30, 1991; and pursuant to sec.
 3 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L.
 4 1987, terminates July 1, 1988.)"

5 **SECTION 2. SECTION 23-5-1006, MCA, IS AMENDED TO READ:**

6 "23-5-1006. State lottery commission -- allocation --
 7 composition -- compensation -- quorum. (1) There is a state
 8 lottery commission.

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

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

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

19 (5) A commissioner may be removed by the governor for
 20 good cause. An office that for any reason becomes vacant
 21 must be filled within 30 days by the governor, and the
 22 commissioner filling the vacancy shall serve for the rest of
 23 the unexpired term.

24 (6) The commission shall elect one of its members as
 25 chairman.

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

(8) Commissioners are entitled to compensation, to be paid out of the state lottery fund, at the rate of \$50 for each day in which they are engaged in the performance of their duties and are entitled to travel, meals, and lodging expenses, to be paid out of the state lottery fund, as provided for in Title 2, chapter 18, part 5.

(9) The commission is allocated to the department of commerce for administrative purposes only as prescribed in 2-15-121, except that the director of the department of commerce may adopt rules relating to lottery staff sales incentives or bonuses and sales agents' commissions."

Section 3. Section 23-5-1007, MCA, is amended to read:

"23-5-1007. Powers and duties of commission. The commission shall:

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

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

(3) subject to 23-5-1027(1), determine the percentage of the money paid for tickets or chances to be paid out as prizes;

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

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

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

~~(6)~~(7) study and may enter into agreements with other lottery states to offer regional lottery games;

~~(7)~~(8) prepare quarterly and annual reports on all aspects of the operation of the state lottery, including but not limited to types of games, gross revenue, prize money paid, operating expenses, net revenue to the state, contracts with gaming suppliers, and recommendations for changes to this part, and deliver a copy of each report to the governor, the department of administration, the legislative auditor, the president of the senate, the speaker of the house of representatives, and each member of the appropriate committee of each house of the legislature as determined by the president of the senate and the speaker of the house; and

~~(8)~~(9) adopt rules necessary to carry out this part."

Section 4. Section 23-5-1008, MCA, is amended to read:

"23-5-1008. Legislative liaison committee -- bipartisan -- compensation from lottery fund. (1) There is a legislative liaison committee.

(2) The liaison committee consists of four legislators. Two members must be from the senate and two members must be from the house of representatives. The speaker of the house and the senate committee on committees shall appoint the members of the liaison committee, and no more than two members may be of the same political party. No legislator who has any ownership interest in any gambling device or establishment may be appointed to the liaison committee.

(3) A member of the liaison committee is entitled to compensation and expenses as provided in 5-2-302, paid from any money appropriated to in the ~~allocation--under~~ 23-5-~~1027~~(2) lottery, while performing his duties as a member of the liaison committee, as provided in subsection (4) of this section.

(4) The liaison committee shall meet once each fiscal year with the commission at Helena and shall report to each legislature on the activities and operations of the state lottery."

SECTION 5. SECTION 23-5-1012, MCA, IS AMENDED TO READ:

"23-5-1012. Powers and duties of director. (1) The director shall:

(a) administer the operation of the state lottery in accordance with this part and the rules and other directives of the commission;

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

(c) license lottery ticket or chance sales agents and suspend or revoke licenses pursuant to this part and commission rules;

(d) implement plans for lottery staff sales incentives or bonuses and for sales agents' commissions pursuant to rules adopted by the DIRECTOR OF THE department of commerce; and

~~(d)~~(e) maintain, with the assistant director for security, the security of the state lottery.

(2) With the concurrence of the commission or pursuant to commission rules, the director may enter into contracts for materials, equipment, and supplies to be used in the operation of the state lottery, for the design and installation of games, for consultant services, and for promotion of the lottery. All contracts must be made in accordance with state law. No contract is legal or enforceable that provides for the management of the state

lottery or for the entire operation of its games by any private person or firm. When a contract is awarded, a performance bond satisfactory to the commission and executed by a surety company authorized to do business in this state or otherwise secured in a manner satisfactory to the commission, in an amount equal to the price of the contract, must be delivered to the commission."

Section 6. Section 23-5-1016, MCA, is amended to read:

"23-5-1016. Ticket or chance sales agents -- licenses.

(1) Lottery tickets or chances may be sold only by ticket or chance sales agents licensed by the director in accordance with this section.

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

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

(i) the financial responsibility and security of the applicant and his business or activity;

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

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

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

(c) A license as an agent to sell lottery tickets or

chances may not be issued to any person to engage in business exclusively as a lottery ticket or chance sales agent.

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

(5) License applicants shall pay a \$50 fee to cover the cost of investigating and processing the application.

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

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

(8) A license is not assignable or transferable.

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

(10) Sales agents are entitled to a commission of no more than a 5% commission-on of the face value of tickets and chances sold that they purchase from the lottery and do not return. HOWEVER, TO FURTHER THE SALE OF LOTTERY PRODUCTS, THE DIRECTOR OF THE DEPARTMENT OF COMMERCE MAY ADOPT RULES PROVIDING ADDITIONAL COMMISSIONS TO SALES AGENTS BASED ON INCREMENTAL SALES. The commissions are statutorily

1 appropriated, as provided in 17-7-502, to the lottery.

2 (11) Each sales agent shall keep a complete and
3 up-to-date set of records and accounts fully showing his
4 sales and provide it for inspection upon request of the
5 commission, the director, the department of commerce, the
6 office of the legislative auditor, or the office of the
7 attorney general.

8 (12) Sales agents may pay the state lottery only by
9 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 this
15 part or a commission rule. Prior to suspension or
16 revocation, the licensee must be given notice and an
17 opportunity for a hearing."

18 **Section 7.** Section 23-5-1017, MCA, is amended to read:

19 "23-5-1017. Sales restrictions. (1) The price of each
20 lottery game ticket or chance must be clearly stated
21 thereon. The price of a lottery game chance vended by a
22 machine or electronic device must be clearly stated on the
23 machine or device.

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

1 (3) Tickets and chances must-be-paid-for-in-cash may
2 not be purchased on credit.

3 (4) Tickets and chances may not be sold to or
4 purchased by commissioners, the director, his staff, gaming
5 suppliers doing business with the state lottery, suppliers'
6 officers and employees, employees of any firm auditing or
7 investigating the state lottery, governmental employees
8 auditing or investigating the state lottery, or members of
9 their ~~families-living-with-them~~ households.

10 (5) The names of elected officials may not appear on
11 any ticket or chance."

12 **Section 8.** Section 23-5-1019, MCA, is amended to read:

13 "23-5-1019. Felony and gambling-related convictions --
14 ineligibility for lottery positions. No person who has been
15 convicted of a felony or a gambling-related offense under
16 federal law or the law of any state may be a commissioner,
17 director, assistant director, employee of the state lottery,
18 or licensed ticket or chance sales agent. Prior to
19 appointment to---any---such---position as a commissioner,
20 director, assistant director, or employee, a person shall
21 submit to the commission a full set of fingerprints made at
22 a law enforcement agency by an agent or officer of such
23 agency on forms supplied by the agency. The assistant
24 director for security may require a ticket or chance sales
25 agent to submit fingerprints prior to licensing."

Section 9. Section 23-5-1020, MCA, is amended to read:

"23-5-1020. Conflict of interest. No commissioner, director, assistant director, state lottery employee, licensed ticket or chance sales agent, or member of his family living with him household may have a financial interest in any gaming supplier or any contract between the state lottery and a gaming supplier or accept any gift or thing of value from a gaming supplier."

Section 10. Section 23-5-1027, MCA, is amended to read:

"23-5-1027. (Effective July 1, 1988) Disposition of revenue. (1) ~~(a) As near as possible to~~ A minimum of 45% of the money paid for tickets or chances must be paid out as prize money, except as provided in subsection (b). The prize money is statutorily appropriated, as provided in 17-7-502, to the lottery.

~~(b) In the case of a regional lottery game, a maximum of 50% of the money paid for tickets or chances may be paid out as prize money.~~

(2) ~~Up to 15% of the gross revenue from the state lottery may be used by the director to pay the operating expenses of the state lottery.~~ Commissions paid to lottery ticket or chance sales agents are not a state lottery operating expense.

~~(3) Funds to pay the operating expenses of the lottery~~

~~are statutorily appropriated as provided in 17-7-502.~~

~~(4) That part~~ THIRTY-FIVE PERCENT of all gross revenue ~~not used for the payment of prizes, commissions, and operating expenses~~ is net revenue and must be paid quarterly from the enterprise fund established by 23-5-1026 to the superintendent of public instruction for distribution as equalization aid to the retirement fund obligations of elementary and high school districts in the manner provided in 20-9-532. The net revenue is statutorily appropriated, as provided in 17-7-502, to the superintendent of public instruction.

(4) The spending authority of the lottery may be increased in accordance with this section upon review and approval of a revised operation plan by the budget office."

Section 11. Section 23-5-1028, MCA, is amended to read:

"23-5-1028. Annual audit. The legislative auditor shall conduct or have conducted an annual audit of the state lottery. The costs of the audit must be paid out of the state lottery fund. A copy of the audit report must be delivered to the commission, the director, the governor, the president of the senate, the speaker of the house of representatives, and each member of the appropriate committee of each house of the legislature as determined by the president of the senate and the speaker of the house."

1 NEW SECTION. **Section 12.** Extension of authority. Any
2 existing authority to make rules on the subject of the
3 provisions of [this act] is extended to the provisions of
4 [this act].

5 NEW SECTION. **Section 13.** Effective date. [This act]
6 is effective on passage and approval.

-End-

SENATE STANDING COMMITTEE REPORT

page 1 of 2
March 9, 1989

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 207 (third reading copy -- blue), respectfully report that HB 207 be amended and as so amended be concurred in:

Sponsor: Gould (Stimatz)

1. Title, line 11.

Following: "THAT THE"

Strike: "DIRECTOR OF THE DEPARTMENT OF COMMERCE"

Insert: "LOTTERY COMMISSION"

2. Title, lines 25 and page 2, line 1.

Strike: "23-5-1006 THROUGH"

Insert: "23-5-1007,"

Strike: "23-5-1012,"

3. Page 2, line 7.

Strike: "6"

Insert: "4"

4. Page 2, line 8.

Strike: "director of the department of commerce"

Insert: "lottery commission"

5. Page 3, line 4.

Following: "grants"

Insert: "additional"

6. Page 3, lines 5 and 6.

Following: "to the"

Strike: remainder of line 5 through "director" on line 6

Insert: "lottery commission to"

7. Page 3, lines 19 and 20.

Strike: "6"

Insert: "4"

Following: "allows the"

Strike: remainder of line 19 through "commerce" on line 20

Insert: "lottery commission"

8. Page 6, line 5.

Strike: section 2 in its entirety

Renumber: subsequent sections

SENATE COMMITTEE ON STATE ADMINISTRATION, HB 207

page 2 of 2

9. Page 7.

Following: line 25

Insert: "(3) maximize the net revenue paid to the superintendent of public instruction under 23-5-1027 and ensure that all policies and rules adopted further revenue maximization;"

Renumber: subsequent subsections

10. Page 9, line 1.

Following: "rules"

Insert: "relating to lottery staff sales incentives or bonuses and sales agents' commissions and any other rules"

11. Page 9, line 25.

Strike: "section 5 in its entirety"

Renumber: subsequent sections

12. Page 12, line 23.

Strike: "DIRECTOR OF THE DEPARTMENT OF COMMERCE"

Insert: "lottery commission"

13. Page 16, lines 2 and 3.

Following: "~~That part~~"

Strike: remainder of line 2 through "revenue" on line 3

14. Page 16, line 4.

Following: "~~expenses~~"

Insert: "That part of all gross revenue not used for the payment of prizes, commissions, and operating expenses"

AND AS AMENDED BE CONCURRED IN

Signed: Farrell

William E. Farrell, Chairman

continued

scrhb207.309

SENATE

scrhb207.309

HB 207

1 HOUSE BILL NO. 207
2 INTRODUCED BY GOULD
3 BY REQUEST OF THE STATE LOTTERY COMMISSION
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 MONTANA STATE LOTTERY ACT OF 1985 TO PROVIDE THAT THE
7 LOTTERY COMMISSION MAY DETERMINE THE PERCENTAGE OF PRIZE
8 PAYOUT SUBJECT TO A MINIMUM OF 45 PERCENT OF THE MONEY PAID
9 FOR TICKETS OR CHANCES; TO CLARIFY THAT SALES AGENTS'
10 COMMISSIONS ARE BASED ON THE FACE VALUE OF THE TICKETS;
11 PROVIDING THAT THE DIRECTOR-OF-THE-DEPARTMENT-OF-COMMERCE
12 LOTTERY COMMISSION MAY ADOPT RULES RELATING TO LOTTERY STAFF
13 SALES INCENTIVES OR BONUSES AND SALES AGENTS' COMMISSIONS;
14 TO CLARIFY THAT TICKETS OR CHANCES MAY NOT BE PURCHASED ON
15 CREDIT; TO PROHIBIT MEMBERS OF HOUSEHOLDS OF LOTTERY STAFF,
16 CONTRACTORS, AND AUDITORS FROM PARTICIPATING IN OR HAVING A
17 FINANCIAL INTEREST IN THE LOTTERY; TO MAKE THE
18 FINGERPRINTING OF SALES AGENTS PERMISSIVE INSTEAD OF
19 MANDATORY; TO CLARIFY THAT MONTANA MAY PARTICIPATE IN
20 MULTISTATE GAMES; TO PROVIDE FOR THE STATUTORY APPROPRIATION
21 OF LOTTERY SALES AGENT COMMISSIONS, PRIZES, AND NET REVENUE;
22 TO ELIMINATE THE STATUTORY APPROPRIATION OF LOTTERY
23 OPERATING EXPENSES; TO CLARIFY THAT THE LEGISLATIVE AUDITOR
24 MAY HAVE THE ANNUAL AUDIT CONDUCTED BY A PARTY OUTSIDE HIS
25 OFFICE; AMENDING SECTIONS 17-7-502, 23-5-1007, 23-5-1006

1 THROUGH 23-5-1007, 23-5-1008, 23-5-1012, 23-5-1016,
2 23-5-1017, 23-5-1019, 23-5-1020, 23-5-1027, AND 23-5-1028,
3 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
4

5 STATEMENT OF INTENT

6 This bill requires a statement of intent because
7 [sections 2 and 6 4] grant rulemaking authority to the
8 director--of--the-department-of-commerce LOTTERY COMMISSION.
9 The overall intent and purpose of this bill is to enable the
10 lottery to be run as a business.

11 The legislature finds that the lottery is a complex
12 business driven by market forces and must be given
13 flexibility in order to maximize profits.

14 The legislature also finds that the people of Montana
15 overwhelmingly approved the creation of a lottery and that
16 the intent of the people was also to maximize profits to the
17 state.

18 The legislature finds that an operational budget based
19 on a percentage of revenue has hampered the lottery
20 commission in its attempt to operate as a business. The
21 lottery must be able to plan for market expansion,
22 improvement of the product line, cost reduction, and
23 organizational development as would a private business.
24 These plans cannot be made or carried out unless the
25 operational budget is a fixed amount. It is the intent of

1 the legislature that the lottery's operating budget be set
2 by the legislature as are the budgets of all other state
3 agencies.

4 In [section 2], the legislature grants ADDITIONAL
5 rulemaking authority to the ~~director-of-the-department-of~~
6 ~~commerce--The-legislature-intends-that-the-director~~ LOTTERY
7 COMMISSION TO adopt rules providing for staff incentives or
8 bonuses for increased sales only if these rules can be shown
9 to significantly increase sales. It is the further intent
10 that the rules for sales incentives and bonuses be based on
11 incentive and bonus plans that have proven successful in
12 private business or other lotteries.

13 The legislature intends to give the commission
14 flexibility to change the prize payout in instant ticket
15 games in order to increase profits. If increased prize
16 payout does not result in increased net revenue, the
17 decision of the commission then should be to roll back the
18 prize payout percentage to comply with the legislative
19 intent of maximizing profits.

20 In [section 6 4], the legislature allows the director
21 ~~of-the-department-of-commerce~~ LOTTERY COMMISSION to adopt
22 rules providing for increased commissions to retailers if
23 retailers increase their sales of lottery products. The
24 legislature intends that the bonus commission plans be based
25 on successful plans in other lotteries, such as Colorado's,

1 whereby total sales are projected for each retailer based on
2 average sales over a period of time, such as 1 year.
3 Whenever future sales for an established period of time
4 exceed forecasted sales, a bonus may be paid. For example,
5 if a retailer maintains averages sales, the commission is
6 the regular 5%; if a retailer sells a certain percentage
7 above average, 6%; an even higher percentage of increase in
8 sales may provide 7%, etc. The purpose of bonus commissions
9 is to increase net revenue to the state.

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

12 **Section 1.** Section 17-7-502, MCA, is amended to read:

13 **"17-7-502. Statutory appropriations -- definition --**
14 **requisites for validity.** (1) A statutory appropriation is an
15 appropriation made by permanent law that authorizes spending
16 by a state agency without the need for a biennial
17 legislative appropriation or budget amendment.

18 (2) Except as provided in subsection (4), to be
19 effective, a statutory appropriation must comply with both
20 of the following provisions:

21 (a) The law containing the statutory authority must be
22 listed in subsection (3).

23 (b) The law or portion of the law making a statutory
24 appropriation must specifically state that a statutory
25 appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-25-123; 15-31-702; 15-36-112; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-4-109; 20-6-406; 20-8-111; 23-5-610; 23-5-1016; 23-5-1027; 33-31-212; 33-31-401; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 67-3-205; 75-1-1101; 75-7-305; 76-12-123; 80-2-103; 80-2-228; 82-11-136; 90-3-301; 90-3-302; 90-3-412; 90-4-215; 90-9-306; 90-15-103; section 13, House Bill No. 861, Laws of 1985; and section 1, Chapter 454, Laws of 1987.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3): pursuant to sec. 15, Ch.

607, L. 1987, the inclusion of 15-65-121 terminates June 30, 1989; pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991; and pursuant to sec. 6, Ch. 454, L. 1987, the inclusion of sec. 1, Ch. 454, L. 1987, terminates July 1, 1988.)"

SECTION 2. -- SECTION 23-5-1006, MCA, IS AMENDED TO READ:

~~"23-5-1006. -- State lottery commission --- allocation --- composition --- compensation --- quorum. -- (1) There is a state lottery commission:~~

~~(2) -- The commission consists of five members, who shall reside in Montana, appointed by the governor:~~

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

~~(4) -- After initial appointments, each commissioner shall be appointed to a 4-year term of office, and the terms shall be staggered:~~

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

~~(6) -- The commission shall elect one of its members as~~

1 chairman;

2 {7}--Three-or-more-commissioners-constitute-a-quorum-to
3 do-business,-and-action-may-be-taken-by-a-majority-of-a
4 quorum;

5 {8}--Commissioners--are-entitled-to-compensation,-to-be
6 paid-out-of-the-state-lottery-fund,-at-the-rate-of--\$50--for
7 each--day--in--which--they-are-engaged-in-the-performance-of
8 their-duties-and-are-entitled-to-travel,-meals,-and--lodging
9 expenses,-to-be-paid-out-of--the-state-lottery-fund,-as
10 provided-for-in>Title-2,-chapter-18,-part-5-

11 {9}--The-commission-is-allocated-to-the--department--of
12 commerce--for--administrative-purposes-only-as-prescribed-in
13 2-15-121,-except-that-the--director--of--the--department--of
14 commerce--may--adopt--rules--relating-to-lottery-staff-sales
15 incentives-or-bonuses-and-sales-agents'-commissions-"

16 Section 2. Section 23-5-1007, MCA, is amended to read:

17 "23-5-1007. Powers and duties of commission. The
18 commission shall:

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

21 (2) determine policies for the operation of the state
22 lottery, supervise the director and his staff, and meet with
23 the director at least once every 3 months to make and
24 consider recommendations, set policies, determine types and
25 forms of lottery games to be operated by the state lottery,

1 and transact other necessary business;

2 (3) MAXIMIZE THE NET REVENUE PAID TO THE
3 SUPERINTENDENT OF PUBLIC INSTRUCTION UNDER 23-5-1027 AND
4 ENSURE THAT ALL POLICIES AND RULES ADOPTED FURTHER REVENUE
5 MAXIMIZATION;

6 {3}(4) subject to 23-5-1027(1), determine the
7 percentage of the money paid for tickets or chances to be
8 paid out as prizes;

9 {3}(4)(5) determine the price of each ticket or chance
10 and the number and size of prizes;

11 {4}(5)(6) provide for the conduct of drawings of
12 winners of lottery games;

13 {5}(6)(7) carry out, with the director, a continuing
14 study of the state lotteries of Montana and other states to
15 make the state lottery more efficient, profitable, and
16 secure from violations of the law;

17 {6}(7)(8) study and may enter into agreements with
18 other lottery states to offer regional lottery games;

19 {7}(8)(9) prepare quarterly and annual reports on all
20 aspects of the operation of the state lottery, including but
21 not limited to types of games, gross revenue, prize money
22 paid, operating expenses, net revenue to the state,
23 contracts with gaming suppliers, and recommendations for
24 changes to this part, and deliver a copy of each report to
25 the governor, the department of administration, the

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

6 ~~{8}{9}{10}~~ adopt rules RELATING TO LOTTERY STAFF SALES
7 INCENTIVES OR BONUSES AND SALES AGENTS' COMMISSIONS AND ANY
8 OTHER RULES necessary to carry out this part."

9 **Section 3.** Section 23-5-1008, MCA, is amended to read:

10 "23-5-1008. Legislative liaison committee --
11 bipartisan -- compensation from lottery fund. (1) There is a
12 legislative liaison committee.

13 (2) The liaison committee consists of four
14 legislators. Two members must be from the senate and two
15 members must be from the house of representatives. The
16 speaker of the house and the senate committee on committees
17 shall appoint the members of the liaison committee, and no
18 more than two members may be of the same political party. No
19 legislator who has any ownership interest in any gambling
20 device or establishment may be appointed to the liaison
21 committee.

22 (3) A member of the liaison committee is entitled to
23 compensation and expenses as provided in 5-2-302, paid from
24 any money appropriated to in the allocation--under
25 23-5-1027{2} lottery, while performing his duties as a

1 member of the liaison committee, as provided in subsection
2 (4) of this section.

3 (4) The liaison committee shall meet once each fiscal
4 year with the commission at Helena and shall report to each
5 legislature on the activities and operations of the state
6 lottery."

7 **SECTION 5.** ~~SECTION 23-5-1012, MCA, IS AMENDED TO READ:~~

8 "23-5-1012. ~~Powers and duties of director.~~ {1} The
9 director shall:

10 {a} ~~administer the operation of the state lottery in~~
11 ~~accordance with this part and the rules and other directives~~
12 ~~of the commission;~~

13 {b} ~~appoint an assistant director for security and~~
14 ~~employ and direct personnel necessary to the operation of~~
15 ~~the state lottery;~~

16 {c} ~~license lottery ticket or chance sales agents and~~
17 ~~suspend or revoke licenses pursuant to this part and~~
18 ~~commission rules;~~

19 {d} ~~implement plans for lottery staff sales incentives~~
20 ~~or bonuses and for sales agents' commissions pursuant to~~
21 ~~rules adopted by the DIRECTOR OF THE department of commerce;~~

22 and

23 {d}{e} ~~maintain with the assistant director for~~
24 ~~security the security of the state lottery;~~

25 {2} ~~With the concurrence of the commission or pursuant~~

1 to--commission--rules;--the-director-may-enter-into-contracts
 2 for-materials,-equipment,-and-supplies-to-be-used--in--the
 3 operation---of---the--state--lottery;--for--the--design--and
 4 installation-of-games;--for--consultant--services;--and--for
 5 promotion--of--the--lottery;--All--contracts-must-be-made-in
 6 accordance--with--state--law;--No--contract--is---legal---or
 7 enforceable--that--provides--for--the-management-of-the-state
 8 lottery-or-for-the-entire-operation--of--its--games--by--any
 9 private--person--or--firm;--When--a--contract--is--awarded;--a
 10 performance-bond-satisfactory-to-the-commission-and-executed
 11 by-a-surety-company-authorized-to-do-business-in-this--state
 12 or--otherwise--secured--in--a--manner--satisfactory--to--the
 13 commission;--in-an-amount-equal-to-the-price-of-the-contract;
 14 must-be-delivered-to-the-commission;"

15 **Section 4.** Section 23-5-1016, MCA, is amended to read:

16 "23-5-1016. Ticket or chance sales agents -- licenses.

17 (1) Lottery tickets or chances may be sold only by ticket or
 18 chance sales agents licensed by the director in accordance
 19 with this section.

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

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

24 (i) the financial responsibility and security of the
 25 applicant and his business or activity;

1 (ii) the accessibility of his place of business or
 2 activity to the public; and

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

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

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

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

13 (5) License applicants shall pay a \$50 fee to cover
 14 the cost of investigating and processing the 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.

(10) Sales agents are entitled to a commission of no more than a 5% commission-on of the face value of tickets and chances sold that they purchase from the lottery and do not return. HOWEVER, TO FURTHER THE SALE OF LOTTERY PRODUCTS, THE DIRECTOR-OF-THE-DEPARTMENT-OF-COMMERCE LOTTERY COMMISSION MAY ADOPT RULES PROVIDING ADDITIONAL COMMISSIONS TO SALES AGENTS BASED ON INCREMENTAL SALES. The commissions are statutorily appropriated, as provided in 17-7-502, to the lottery.

(11) Each sales agent shall keep a complete and up-to-date set of records and accounts fully showing his sales and provide it for inspection upon request of the commission, the director, the department of commerce, the office of the legislative auditor, or the office of the attorney general.

(12) Sales agents may pay the state lottery only by check, bankdraft, electronic fund transfer, or other recorded, noncash, financial transfer method as determined by the director.

(13) A license may be suspended or revoked for failure to maintain the license qualifications provided in subsection (3) or for violation of any provision of this part or a commission rule. Prior to suspension or revocation, the licensee must be given notice and an opportunity for a hearing."

Section 5. Section 23-5-1017, MCA, is amended to read:

"23-5-1017. Sales restrictions. (1) The price of each lottery game ticket or chance must be clearly stated thereon. The price of a lottery game chance vended by a machine or electronic device must be clearly stated on the machine or device.

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

(3) Tickets and chances must-be-paid-for-in--cash may not be purchased on credit.

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

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

Section 6. Section 23-5-1019, MCA, is amended to read:

"23-5-1019. Felony and gambling-related convictions -- ineligibility for lottery positions. No person who has been convicted of a felony or a gambling-related offense under federal law or the law of any state may be a commissioner, director, assistant director, employee of the state lottery,

1 or licensed ticket or chance sales agent. Prior to
 2 appointment to--any--such--position as a commissioner,
 3 director, assistant director, or employee, a person shall
 4 submit to the commission a full set of fingerprints made at
 5 a law enforcement agency by an agent or officer of such
 6 agency on forms supplied by the agency. The assistant
 7 director for security may require a ticket or chance sales
 8 agent to submit fingerprints prior to licensing."

9 **Section 7.** Section 23-5-1020, MCA, is amended to read:

10 "23-5-1020. Conflict of interest. No commissioner,
 11 director, assistant director, state lottery employee,
 12 licensed ticket or chance sales agent, or member of his
 13 family--living--with--him household may have a financial
 14 interest in any gaming supplier or any contract between the
 15 state lottery and a gaming supplier or accept any gift or
 16 thing of value from a gaming supplier."

17 **Section 8.** Section 23-5-1027, MCA, is amended to read:

18 "23-5-1027. (Effective July 1, 1988) Disposition of
 19 revenue. (1) {a}-As-near-as-possible-to A minimum of 45% of
 20 the money paid for tickets or chances must be paid out as
 21 prize money, except as provided in subsection (b). The prize
 22 money is statutorily appropriated, as provided in 17-7-502,
 23 to the lottery.

24 {b}-in-the-case-of-a-regional-lottery-game, a--maximum
 25 of--50% of the money paid for tickets or chances may be paid

1 out-as-prize-money.

2 (2) Up-to-15% of the--gross--revenue--from--the--state
 3 lottery--may--be--used--by-the-director-to-pay-the-operating
 4 expenses-of-the-state-lottery. Commissions paid to lottery
 5 ticket or chance sales agents are not a state lottery
 6 operating expense.

7 {3}-Funds-to-pay-the-operating-expenses-of-the-lottery
 8 are-statutorily-appropriated-as-provided-in-17-7-502.

9 {4}{3} That-part THIRTY-FIVE--PERCENT of--all--gross
 10 revenue not-used-for-the-payment-of-prizes,--commissions,--and
 11 operating--expenses THAT PART OF ALL GROSS REVENUE NOT USED
 12 FOR THE PAYMENT OF PRIZES, COMMISSIONS, AND OPERATING
 13 EXPENSES is net revenue and must be paid quarterly from the
 14 enterprise fund established by 23-5-1026 to the
 15 superintendent of public instruction for distribution as
 16 equalization aid to the retirement fund obligations of
 17 elementary and high school districts in the manner provided
 18 in 20-9-532. The net revenue is statutorily appropriated, as
 19 provided in 17-7-502, to the superintendent of public
 20 instruction.

21 {4} The spending authority of the lottery may be
 22 increased in accordance with this section upon review and
 23 approval of a revised operation plan by the budget office."

24 **Section 9.** Section 23-5-1028, MCA, is amended to read:

25 "23-5-1028. Annual audit. The legislative auditor

1 shall conduct or have conducted an annual audit of the state
2 lottery. The costs of the audit must be paid out of the
3 state lottery fund. A copy of the audit report must be
4 delivered to the commission, the director, the governor, the
5 president of the senate, the speaker of the house of
6 representatives, and each member of the appropriate
7 committee of each house of the legislature as determined by
8 the president of the senate and the speaker of the house."

9 NEW SECTION. **Section 10.** Extension of authority. Any
10 existing authority to make rules on the subject of the
11 provisions of [this act] is extended to the provisions of
12 [this act].

13 NEW SECTION. **Section 11.** Effective date. [This act]
14 is effective on passage and approval.

-End-