

ENROLLED ACT NO. 115, HOUSE OF REPRESENTATIVES

SIXTY-SECOND LEGISLATURE OF THE STATE OF WYOMING  
2013 GENERAL SESSION

AN ACT relating to lotteries; creating the Wyoming lottery corporation; providing for membership of the board; providing legislative declarations; providing definitions; providing powers and duties; providing for rules and regulations; providing for use of proceeds; providing limitations on retailers; providing for criminal offenses and penalties; providing for background checks; excluding authorized lottery games from definition of gambling; excluding purchase of lottery tickets from sales and use tax; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 9-17-101 through 9-17-128 are created to read:

CHAPTER 17  
WYOMING LOTTERY

**9-17-101. Short title.**

This chapter shall be known and may be cited as the "Wyoming Lottery Act."

**9-17-102. Legislative findings and declarations.**

(a) It is found and declared by the legislature:

(i) That lottery games are an entrepreneurial enterprise and that the state shall create a public body, corporate and politic, known as the Wyoming lottery corporation, with comprehensive and extensive powers as generally exercised by corporations engaged in entrepreneurial pursuits;

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(ii) That lottery games shall be operated and managed in a manner which provides continuing entertainment to the public, maximizes revenues and ensures that the lottery is operated with integrity and dignity and free of political influence; and

(iii) That the Wyoming lottery corporation shall be accountable to the legislature and to the public through a system of audits and reports.

**9-17-103. Definitions.**

(a) As used in this chapter:

(i) "Administrative expenses" means operating expenses, excluding amounts set aside for prizes, regardless of whether the prizes are claimed and excluding amounts held as a fidelity fund pursuant to W.S. 9-17-116;

(ii) "Board" means the board of directors of the Wyoming lottery corporation;

(iii) "Central control computer" means a central site computer controlled by the corporation to which all lottery terminals in the state communicate for purposes established by the corporation;

(iv) "Chief executive officer" means the chief executive officer of the Wyoming lottery corporation;

(v) "Corporation" means the Wyoming lottery corporation;

(vi) "Lottery," "lotteries," "lottery game" or "lottery games" means any game of chance approved by the board and operated pursuant to this chapter, specifically

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limited to a state lottery or multi-state games, and shall not include instant tickets, scratch-off tickets, video lottery terminals or any other electronic game involving direct physical contact between the player and a machine;

(vii) "Major procurement contract" means any gaming product or service costing in excess of seventy-five thousand dollars (\$75,000.00) including, but not limited to, major advertising contracts, annuity contracts, prize payment agreements, consulting services, equipment, tickets and other products and services unique to the Wyoming lottery, but not including materials, supplies, equipment and services common to the ordinary operation of a corporate entity;

(viii) "Member" or "members" means a director or directors of the board of directors of the Wyoming lottery corporation;

(ix) "Net proceeds" means all revenue derived from the sale of lottery tickets or shares and all other monies derived from the lottery less operating expenses;

(x) "Operating expenses" means all costs of doing business, including, but not limited to commissions and other compensation paid to retailers, advertising and marketing costs, personnel costs, capital costs, depreciation of property and equipment and other operating costs but does not include prizes, payments to the state under W.S. 9-17-111(b) or unclaimed prize monies set aside under W.S. 9-17-119(g);

(xi) "Retailer" means a person who sells lottery tickets or shares on behalf of the corporation pursuant to a contract;

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(xii) "Share" means any intangible evidence of participation in a lottery game;

(xiii) "Ticket" means any tangible evidence issued by the lottery to provide participation in a lottery game;

(xiv) "Vendor" or "retailer" means any person authorized to supply lottery goods or services under this act.

**9-17-104. Wyoming lottery corporation created; membership of board of directors; appointment; terms; filling of vacancies; conflict of interests; reimbursement for expenses; officers; quorum.**

(a) There is created the Wyoming lottery corporation which is a body politic and corporate operating as an instrumentality of the state of Wyoming, with authority to adopt an official seal and to sue and be sued. Notwithstanding any other provision of law, the state is not liable for any liability or deficiency of the Wyoming lottery corporation or any debt incurred by the corporation and the full faith and credit of the state of Wyoming shall not be pledged to any debt of the corporation. The sole recourse of any party contracting with the corporation shall be against the corporation and there shall be no cause of action against the state, or any county, municipality or other political subdivision of the state.

(b) The corporation shall be governed by a board of directors composed of nine (9) members appointed by the governor.

(c) Members shall be residents of the state of Wyoming, shall be prominent persons in their businesses or

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professions, and shall not have been convicted of any felony offense. A background investigation shall be conducted on each potential board member. The corporation shall be authorized to pay for the actual cost of the investigations and may contract with the division of criminal investigation for the performance of the investigations.

(d) Members shall serve terms of four (4) years, except that of the initial members appointed, four (4) members shall be appointed for initial terms of two (2) years and five (5) members shall be appointed for initial terms of four (4) years.

(e) Members of the board shall not have any direct or indirect interest in an undertaking that puts their personal interest in conflict with that of the corporation, including, but not limited to, an interest in a major procurement contract or a participating retailer.

(f) Each member shall only receive compensation from the corporation for each day or part of a day in which engaged in the performance of their official duties at the same salary and per diem provided members of the state legislature under W.S. 28-5-101 and shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties. Members shall receive no other compensation from the corporation.

(g) The members shall elect from their membership a chairman and vice chairman. The members shall also elect a secretary and treasurer. The officers shall serve for terms as shall be prescribed by the bylaws of the corporation or until their respective successors are elected and qualified. No member of the board shall hold more than any

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one (1) office of the corporation, except that the same person may serve as secretary and treasurer.

(h) The board of directors may delegate to any one (1) or more of its members, to the chief executive officer or to any agent or employee of the corporation any powers and duties as it may deem proper.

(j) A majority of members in office shall constitute a quorum for the transaction of any business and for the exercise of any power or function of the corporation.

(k) Action may be taken and motions and resolutions adopted by the board at any meeting thereof by the affirmative vote of a majority of present and voting board members.

(m) No vacancy in the membership of the board shall impair the right of the members to exercise all the powers and perform all the duties of the board.

**9-17-105. General duties of board of directors.**

(a) The board of directors shall provide the chief executive officer with private sector perspectives of a large marketing enterprise. The board shall:

(i) Approve, disapprove, amend or modify the budget recommended by the chief executive officer for the operation of the corporation;

(ii) Approve, disapprove, amend or modify the terms of major lottery procurements recommended by the chief executive officer;

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(iii) Hear appeals of hearings required by this chapter;

(iv) Adopt regulations, policies and procedures relating to the conduct of lottery games and as specified in W.S. 9-17-108; and

(v) Perform other functions as specified by this chapter.

**9-17-106. Appointment of chief executive officer; compensation.**

The board of directors shall appoint and shall provide for the compensation of a chief executive officer who shall be an employee of the corporation and who shall direct the day-to-day operations and management of the corporation and shall be vested with the powers and duties as specified by the board and by law. The chief executive officer shall serve at the pleasure of the board.

**9-17-107. General powers of corporation.**

(a) The corporation shall have any and all powers necessary or convenient to its usefulness in carrying out and effectuating the purposes and provisions of this chapter which are not in conflict with the constitution of this state and which are generally exercised by corporations engaged in entrepreneurial pursuits, including, but without limiting the generality of the foregoing, the following powers:

(i) To sue and be sued in contract and in tort and to complain and defend in all courts;

(ii) To adopt and alter a seal;

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(iii) To adopt, amend and repeal bylaws, regulations and policies and procedures for the regulation of its affairs and the conduct of its business, to elect and prescribe the duties of officers and employees of the corporation and to perform any other matters as the corporation may determine. In the adoption of bylaws, regulations, policies and procedures or in the exercise of any regulatory power, the corporation shall be exempt from the requirements of W.S. 16-3-101 through 16-3-115;

(iv) To procure or to provide insurance;

(v) To hold copyrights, trademarks and service marks and enforce its rights with respect thereto;

(vi) To initiate, supervise and administer the operation of the lottery in accordance with the provisions of this chapter and regulations, policies and procedures adopted pursuant thereto;

(vii) To enter into written agreements with one (1) or more other states or sovereigns for the operation, participation in marketing and promotion of a joint lottery or joint lottery games;

(viii) To conduct market research as is necessary or appropriate, which may include an analysis of the demographic characteristics of the players of each lottery game and an analysis of advertising, promotion, public relations, incentives and other aspects of communication;

(ix) To acquire or lease real property and make improvements thereon and acquire by lease or by purchase personal property, including, but not limited to,



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computers, mechanical, electronic and on-line equipment and terminals and intangible property, including, but not limited to, computer programs, systems and software;

(x) To enter into contracts to incur debt in its own name and enter into financing agreements with any commercial bank or credit provider;

(xi) To be authorized to administer oaths, take depositions, issue subpoenas and compel the attendance of witnesses and the production of books, papers, documents and other evidence relative to any investigation or proceeding conducted by the corporation;

(xii) To appoint and select officers, agents and employees, including professional and administrative staff and personnel, including hearing officers to conduct hearings required by this chapter, and to fix their compensation, pay their expenses and provide a benefit program, including, but not limited to, a retirement plan and a group insurance plan;

(xiii) To select and contract with vendors and retailers;

(xiv) To enter into contracts or agreements with state or local law enforcement agencies for the performance of law enforcement, background investigations and security checks;

(xv) To enter into contracts of any and all types on the terms and conditions the corporation may determine;

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(xvi) To establish and maintain banking relationships, including, but not limited to, establishment of checking and savings accounts and lines of credit;

(xvii) To advertise and promote the lottery and lottery games;

(xviii) To act as a retailer, to conduct promotions which involve the dispensing of lottery tickets or shares and to establish and operate a sales facility to sell lottery tickets or shares and any related merchandise; and

(xix) To adopt and amend regulations, policies and procedures as necessary to carry out and implement its powers and duties, organize and operate the corporation, regulate the conduct of lottery games in general and any other matters necessary or desirable for the efficient and effective operation of the lottery or the convenience of the public. The promulgation of these regulations, policies and procedures shall be exempt from the requirements of W.S. 16-3-101 through 16-3-115.

(b) The powers enumerated in subsection (a) of this section are cumulative of and in addition to those powers enumerated elsewhere in this chapter and do not limit or restrict any other powers of the corporation.

**9-17-108. Adoption by board of procedures regulating conduct of lottery games.**

(a) The board may adopt regulations, policies and procedures regulating the conduct of lottery games in general, including, but not limited to, regulations, policies and procedures specifying:

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(i) The type of games to be conducted, specifically limited to a state lottery or a multi-state lottery, and shall not include instant lotteries, scratch-off ticket games, video lottery terminals or any other electronic game involving direct physical contact between the player and a machine;

(ii) The sale price of tickets or shares and the manner of sale, provided, however, that all sales shall be for cash only and payment by checks, credit cards, charge cards or any form of deferred payment is prohibited;

(iii) The number and amount of prizes;

(iv) The method and location of selecting or validating winning tickets or shares;

(v) The manner and time of payment of prizes, which may include lump sum payments or installments over a period of years;

(vi) The manner of payment of prizes to the holders of winning tickets or shares, including without limitation, provision for payment of prizes not exceeding six hundred dollars (\$600.00) after deducting the price of the ticket or share and after performing validation procedures appropriate to the game and as specified by the board. The board may provide for a limited number of retailers who can pay prizes of up to five thousand dollars (\$5,000.00) after performing validation procedures appropriate to the game and as specified by the board without regard to where the ticket or share was purchased;

(vii) The frequency of games and drawings or selection of winning tickets or shares;

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- (viii) The means of conducting drawings;
- (ix) The method to be used in selling tickets or shares;
- (x) The manner and amount of compensation to lottery retailers; and
- (xi) Any and all other matters necessary, desirable or convenient toward ensuring the efficient and effective operation of lottery games, the continued entertainment and convenience of the public and the integrity of the lottery.

**9-17-109. Duties of chief executive officer.**

(a) The chief executive officer of the corporation shall direct and supervise all administrative and technical activities in accordance with the provisions of this chapter and with the regulations, policies and procedures adopted by the board. It shall be the duty of the chief executive officer to:

- (i) Facilitate the initiation and supervise and administer the operation of the lottery games;
- (ii) Employ and direct personnel as deemed necessary;
- (iii) Employ by contract and compensate persons and firms as deemed necessary;
- (iv) Promote or provide for promotion of the lottery and any functions related to the corporation;

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(v) Prepare a budget for the approval of the board;

(vi) Require bond from retailers and vendors in amounts as required by the board;

(vii) Report quarterly to the department of audit, the joint revenue interim committee and the board a full and complete statement of lottery revenues and expenses for the preceding quarter; and

(viii) Perform other duties generally associated with a chief executive officer of a corporation of an entrepreneurial nature.

(b) The chief executive officer may for good cause suspend, revoke or refuse to renew any contract entered into in accordance with the provisions of this chapter or the regulations, policies and procedures of the board.

(c) The chief executive officer or his designee may conduct hearings and administer oaths to persons for the purpose of assuring the security or integrity of lottery operations or to determine the qualifications of or compliance by vendors and retailers.

**9-17-110. Employees; compensation; restrictions; background investigations; bonding.**

(a) The corporation shall establish and maintain a personnel program for its employees and fix the compensation and terms of compensation of its employees, including, but not limited to, production incentive payments.

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(b) No employee of the corporation shall have a financial interest in any vendor doing business or proposing to do business with the corporation.

(c) No employee of the corporation with decision making authority shall participate in any decision involving a retailer with whom the employee has a financial interest.

(d) No employee of the corporation who leaves the employment of the corporation may represent any vendor or lottery retailer before the corporation for a period of two (2) years following termination of employment with the corporation.

(e) A background investigation shall be conducted on each applicant who has reached the final selection process prior to employment by the corporation at the level of division director and above and at any level within any division of security and as otherwise required by the board. The corporation shall be authorized to pay for the actual cost of the investigations and may contract with the division of criminal investigation for the performance of the investigations.

(f) No person who has been convicted of a felony or bookmaking or other forms of illegal gambling or of a crime involving moral turpitude shall be employed by the corporation.

(g) The corporation shall bond corporation employees with access to corporation funds or lottery revenue in an amount as provided by the board and may bond other employees as deemed necessary.

**9-17-111. Disposition of lottery proceeds.**

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(a) As nearly as practical, at least forty-five percent (45%) of the net proceeds from the sale of lottery tickets or shares shall be made available as prize money, provided, however, that this subsection shall be deemed not to create any lien, entitlement, cause of action or other private right and any rights of holders of tickets or shares shall be determined by the corporation in setting the terms of its lottery or lotteries.

(b) On or before the fifteenth day of each quarter, the corporation shall transfer to the treasurer's office, for credit to the lottery account which is hereby created, the amount of all net proceeds minus prizes and amounts earned pursuant to subsection (a) of this section during the preceding quarter. Upon their deposit into the account, any monies representing a deposit of net proceeds shall then become the unencumbered property of the state of Wyoming and the corporation shall have no power to agree or undertake otherwise. Until June 30, 2019, the first six million dollars (\$6,000,000.00) in each fiscal year of these monies shall be paid by the treasurer as they accrue to the treasurers of the counties, cities and towns for payment into their respective general funds. The percentage of the balance that will be distributed to each county and its cities and towns will be determined by computing the percentage that net sales taxes collected attributable to vendors in each county including its cities and towns bear to total net sales taxes collected of vendors in all counties including their cities and towns. This percentage of the monies shall be distributed within each county as follows:

(i) To each county in the proportion that the population of the county situated outside the corporate

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limits of its cities and towns bears to the total population of the county including cities and towns;

(ii) To each city and town within the county in the proportion the population of the city or town bears to the population of the county.

(c) Until June 30, 2019, after six million dollars (\$6,000,000.00) is distributed in each fiscal year as provided in subsection (b) of this section, any remaining monies deposited to the lottery account which are attributable to that fiscal year shall be paid by the treasurer to common school account within the permanent land fund.

(d) No general fund monies or any other state funds or monies in any form shall be used to fund any liability or deficiency in the lottery account under this section. No general fund monies or any other state funds or monies in any form shall be used for any program or project started specifically from lottery proceeds unless specifically appropriated by the legislature.

**9-17-112. Investigation of vendors; disclosure requirements; restrictions on entry into major procurement contracts.**

(a) The corporation shall investigate the financial responsibility, security and integrity of any lottery system vendor who is a finalist in submitting a bid, proposal or offer. At the time of submitting the bid, proposal or offer to the corporation, the corporation may require the following items:



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(i) A disclosure of the vendor's name and address and, as applicable, the names and addresses of the following:

(A) If the vendor is a corporation, the officers, directors and each stockholder in the corporation, provided, however, that in the case of owners of equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to own beneficially five percent (5%) or more of the securities need be disclosed;

(B) If the vendor is a trust, the trustee and all persons entitled to receive income or benefits from the trust;

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

(D) If the vendor is a partnership or joint venture, all of the general partners, limited partners or joint venturers.

(ii) A disclosure of all the states and jurisdictions in which the vendor does business and the nature of the business for each state or jurisdiction;

(iii) A disclosure of all the states and jurisdictions in which the vendor has contracts to supply gaming goods or services, including, but not limited to, lottery goods and services and the nature of the goods or services involved for each state or jurisdiction;

(iv) A disclosure of all the states and jurisdictions in which the vendor has applied for, has sought renewal of, has received, has been denied, has

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pending or has had revoked a lottery or gaming license of any kind or had fines or penalties assessed to his license, contract or operation and the disposition in each state or jurisdiction. If any lottery or gaming license or contract has been revoked or has not been renewed or any lottery or gaming license or application has been either denied or is pending and has remained pending for more than six (6) months, all of the facts and circumstances underlying the failure to receive the license shall be disclosed;

(v) A disclosure of the details of any finding or plea, conviction or adjudication of guilt in a state or federal court of the vendor for any felony or any other criminal offense other than a traffic violation;

(vi) A disclosure of the details of any bankruptcy, insolvency, reorganization or corporate or individual purchase or takeover of another corporation, including bonded indebtedness, or any pending litigation of the vendor; and

(vii) Additional disclosures and information as the corporation may determine to be appropriate for the procurement involved. If at least twenty-five percent (25%) of the cost of a vendor's contract is subcontracted, the vendor shall disclose all of the information required by this section for the subcontractor as if the subcontractor were itself a vendor.

(b) A lottery major procurement contract shall not be entered into with any lottery system vendor who has not complied with the disclosure requirements described in subsection (a) of this section and any contract with such a vendor is voidable at the option of the corporation. Any contract with a vendor who does not comply with the requirements for periodically updating the disclosures

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during the tenure of contract as may be specified in the contract may be terminated by the corporation. The provisions of this section shall be construed broadly and liberally to achieve the ends of full disclosure of all information necessary to allow for a full and complete evaluation by the corporation of the competence, integrity, background and character of vendors for procurements.

(c) A major procurement contract shall not be entered into with any vendor who has been found guilty of a felony related to the security or integrity of the lottery in this or any other jurisdiction.

(d) A major procurement contract shall not be entered into with any vendor if the vendor has an ownership interest in an entity that had supplied consultation services under contract to the corporation regarding the request for proposals pertaining to those particular goods or services.

(e) No lottery system vendor nor any applicant for a major procurement contract may pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality or service, excluding food and beverages having an aggregate value not exceeding one hundred dollars (\$100.00) in any calendar year, to the chief executive officer, any board member or any employee of the corporation or to a member of the immediate family residing in the same household as the person.

**9-17-113. Bonding requirements for vendors; qualifications of vendors; competitive bid requirement.**

(a) Each vendor shall, at the execution of the contract with the corporation, post a performance bond or letter of credit from a bank or credit provider acceptable

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to the corporation in an amount as deemed necessary by the corporation for that particular bid or contract. In lieu of the bond, a vendor may, to assure the faithful performance of its obligations, deposit and maintain with the corporation securities that are interest bearing or accruing and that are rated in one (1) of the three (3) highest classifications by an established nationally recognized investment rating service. Securities eligible under this section are limited to:

(i) Certificates of deposit issued by solvent banks or savings associations approved by the corporation and which are organized and existing under the laws of this state or under the laws of the United States;

(ii) United States bonds, notes and bills for which the full faith and credit of the government of the United States is pledged for the payment of principal and interest; and

(iii) Corporate bonds approved by the corporation. The corporation which issued the bonds shall not be an affiliate or subsidiary of the depositor. The securities shall be held in trust and shall have at all times a market value at least equal to the full amount estimated to be paid annually to the lottery vendor under contract.

(b) Each vendor shall be qualified to do business in this state. All contracts under this chapter shall be governed by the laws of this state.

(c) No contract shall be let with any vendor in which a public official has an ownership interest of ten percent (10%) or more.

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(d) All major procurement contracts shall be competitively bid pursuant to policies and procedures approved by the board unless there is only one (1) qualified vendor and that vendor has an exclusive right to offer the service or product.

**9-17-114. Statewide network of retailers; commissions; certificate of authority; qualifications of retailers; fees for outlets; review of activities.**

(a) The legislature recognizes that to conduct a successful lottery, the corporation needs to develop and maintain a statewide network of lottery retailers that will serve the public convenience and promote the sale of tickets or shares and the playing of lottery games while ensuring the integrity of the lottery operations, games and activities.

(b) The corporation shall make every effort to provide small retailers a chance to participate in the sales of lottery tickets or shares.

(c) The corporation shall provide for compensation to lottery retailers in the form of commissions in an amount of not less than six percent (6%) of gross sales and may provide for other forms of compensation for services rendered in the sale or cashing of lottery tickets or shares.

(d) The corporation shall issue a certificate of authority to each person with whom it contracts as a retailer for purposes of display. Every lottery retailer shall post and keep conspicuously displayed in a location on the premises accessible to the public its certificate of authority. No certificate shall be assignable or transferable.

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(e) The board shall develop a list of objective criteria upon which the qualification of lottery retailers shall be based. In developing these criteria, the board shall consider factors including the applicant's financial responsibility, security of the applicant's place of business or activity, accessibility to the public, integrity and reputation. The board shall not consider political affiliation, activities or monetary contributions to political organizations or candidates for any public office.

**9-17-115. Retailer contracts not transferable or assignable; restriction on contracts and sales.**

(a) No lottery retailer contract shall be transferable or assignable. No lottery retailer shall contract with any person for lottery goods or services except with the approval of the board.

(b) Lottery tickets and shares shall only be sold by the retailer stated on the lottery retailer certificate.

**9-17-116. Fidelity fund for retailers; assessments.**

(a) The corporation may establish a fidelity fund separate from all other funds and shall assess each retailer a one (1) time fee not to exceed one hundred dollars (\$100.00) per sales location. The corporation is authorized to invest the funds or place the funds in one (1) or more interest bearing accounts. Monies deposited to the fund may be used to cover losses the corporation experiences due to nonfeasance, misfeasance or malfeasance of a lottery retailer. In addition, the funds may be used to purchase blanket bonds covering the Wyoming lottery corporation against losses from all retailers. At the end

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of each fiscal year, the corporation shall pay to the general lottery fund any amount in the fidelity fund which exceeds five hundred thousand dollars (\$500,000.00) and the funds shall be commingled with and treated as net proceeds from the lottery.

(b) A reserve account may be established as a general operating expense to cover amounts deemed uncollectible. The corporation shall establish procedures for minimizing any losses that may be experienced for the foregoing reasons and shall exercise and exhaust all available options in the procedures prior to amounts being written off to this account.

(c) The corporation may require any retailer to post an appropriate bond, as determined by the corporation, using an insurance company acceptable to the corporation. The amount shall not exceed the applicable district sales average of lottery tickets for two (2) billing periods.

(d) In its discretion, the corporation may allow a retailer to deposit and maintain with the corporation securities, held in trust in the name of the Wyoming lottery corporation, that are interest bearing or accruing. Securities eligible under this subsection shall be limited to:

(i) Certificates of deposit issued by solvent banks or savings associations organized and existing under the laws of this state or under the laws of the United States;

(ii) United States bonds, notes and bills for which the full faith and credit of the United States is pledged for the payment of principal and interest;

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(iii) Federal agency securities by an agency or instrumentality of the United States government.

**9-17-117. Cancellation, suspension, revocation or termination of retail contracts.**

Any retail contract executed by the corporation pursuant to this chapter shall specify the reasons for which a contract may be cancelled, suspended, revoked or terminated by the corporation.

**9-17-118. Restrictions on sale of tickets or shares; price; gifts and promotions.**

(a) No person shall sell a ticket or share at a price other than established by the corporation unless authorized in writing by the chief executive officer. No person other than a duly certified lottery retailer shall sell lottery tickets, but this subsection shall not be construed to prevent a person who may lawfully purchase tickets or shares from making a gift of lottery tickets or shares to another. Nothing in this chapter shall be construed to prohibit the corporation from designating certain of its agents and employees to sell or give lottery tickets or shares directly to the public.

(b) No lottery retailer shall sell a lottery ticket or share except from the locations listed in his contract and as evidenced by his certificate of authorization unless the corporation authorizes in writing any temporary location not listed in his contract.

(c) No lottery tickets or shares shall be sold to persons under eighteen (18) years of age, but this subsection does not prohibit the purchase of a lottery ticket or share by a person eighteen (18) years of age or



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older for the purpose of making a gift to any person of any age. In that case, the corporation shall direct payment of proceeds of any lottery prize to an adult member of the person's family or a legal representative of the person on behalf of the underage person.

**9-17-119. Prize proceeds subject to attachments, garnishments or executions; validation of winning tickets; prohibited purchases; money dispensing machines; unclaimed prize money.**

(a) Except as otherwise provided in this chapter, attachments, garnishments, executions or past-due child support authorized and issued pursuant to law shall be withheld if timely served upon the corporation. This subsection shall not apply to a retailer.

(b) The corporation shall adopt regulations, policies and procedures to establish a system of verifying the validity of tickets or shares claimed to win prizes and to effect payment of the prizes, except that:

(i) No prize, any portion of a prize or any right of any person to a prize awarded shall be assignable. Any prize or any portion of a prize remaining unpaid at the death of a prize winner shall be paid to the estate of the deceased prize winner or to the trustee of a trust established by the deceased prize winner as settlor if a copy of the trust document or instrument has been filed with the corporation along with a notarized letter of direction from the settlor and no written notice of revocation has been received by the corporation prior to the settlor's death. Following a settlor's death and prior to any payment to a successor trustee, the corporation shall obtain from the trustee a written agreement to indemnify and hold the corporation harmless with respect to

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any claims that may be asserted against the corporation arising from payment to or through the trust. Notwithstanding any other provisions of this section, any person, pursuant to an appropriate judicial order, shall be paid the prize to which a winner is entitled;

(ii) No prize shall be paid arising from claimed tickets that are:

(A) Stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the corporation within applicable deadlines;

(B) Lacking in captions that conform and agree with the play symbols as appropriate to the particular lottery game involved; or

(C) Not in compliance with any additional specific regulations and public or confidential validation and security tests of the corporation appropriate to the particular lottery game involved.

(iii) No particular prize in any lottery game shall be paid more than once, and in the event of a determination that more than one (1) claimant is entitled to a particular prize, the sole remedy of the claimants is the award to each of them of an equal share in the prize; and

(iv) A holder of a winning cash ticket or share from a lottery game shall claim a cash prize within one hundred eighty (180) days, or for a multi-state or multi-sovereign lottery game within one hundred eighty (180) days, after the drawing in which the cash prize was won. If a valid claim is not made for a cash prize within the

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applicable period, the cash prize shall constitute an unclaimed prize for purposes of this section.

(c) No prize shall be paid upon a ticket or share purchased or sold in violation of this chapter. The prize shall constitute an unclaimed prize for purposes of this section.

(d) The corporation is discharged of all liability upon payment of a prize.

(e) No ticket or share shall be purchased by and no prize shall be paid to any member of the board of directors, any officer or employee of the corporation or to any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of residence of any member of the board of directors, officer or employee of the corporation. No ticket or share shall be purchased by and no prize shall be paid to any officer, employee, agent or subcontractor of any vendor or to any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of residence of any officer, employee, agent or subcontractor of any vendor if the officer, employee, agent or subcontractor has access to confidential information which may compromise the integrity of the lottery.

(f) No lottery game utilizing an electronic or mechanical machine may use a machine which dispenses coins or currency.

(g) Unclaimed prize money shall not constitute net lottery proceeds. A portion of unclaimed prize money, not to exceed two hundred thousand dollars (\$200,000.00) annually, shall be used by the corporation to develop, in consultation with the department of health programs for the

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treatment of compulsive gambling disorder and educational programs related to the disorder. In addition, unclaimed prize money may be added to the pool from which future prizes are to be awarded or used for special prize promotions.

**9-17-120. Confidentiality of information; investigations; supervision and inspections; reports of suspected violations; assistance in investigation of violations.**

(a) Except as authorized in this chapter, the corporation is subject to the provisions of W.S. 16-4-201 through 16-4-205. The corporation is specifically authorized to determine which information relating to the operation of the lottery is confidential. Confidential information includes trade secrets, security measures, systems or procedures, security reports, information concerning bids or other contractual data, the disclosure of which would impair the efforts of the corporation to contract for goods or services on favorable terms, employee personnel information unrelated to compensation, duties, qualifications or responsibilities and information obtained pursuant to investigations which is otherwise confidential. Information deemed confidential pursuant to this subsection is exempt from the provisions of W.S. 16-4-201 through 16-4-205. Meetings or portions of meetings devoted to discussing information deemed confidential pursuant to this subsection are exempt from W.S. 16-4-201 through 16-4-205.

(b) The corporation shall perform full criminal background investigations on all potential vendors prior to the execution of any vendor contract. The corporation shall be authorized to pay for the actual cost of the investigations and may contract with the division of

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criminal investigation for the performance of the investigations.

(c) The corporation or its authorized agent shall:

(i) Conduct criminal background investigations and credit investigations on all potential retailers. The corporation shall be authorized to pay for the actual cost of the investigations and may contract with the division of criminal investigation for the performance of the investigations;

(ii) Supervise ticket or share validation and lottery drawings;

(iii) Inspect at times, determined solely by the corporation, the facilities of any vendor or lottery retailer in order to determine the integrity of the vendor's product or the operations of the retailer in order to determine whether the vendor or the retailer is in compliance with its contract;

(iv) Report any suspected violations of this chapter to the appropriate district attorney or the attorney general and to any law enforcement agencies having jurisdiction over the violation; and

(v) Upon request, provide assistance to any district attorney, the attorney general or a law enforcement agency investigating a violation of this chapter.

**9-17-121. Sales to minors; penalty; affirmative defense.**

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Any person who knowingly sells a lottery ticket or share to a person under eighteen (18) years of age or permits a person under eighteen (18) years of age to play any lottery game shall be guilty of a misdemeanor and shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for the first offense and for each subsequent offense not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00). It shall be an affirmative defense to a charge of a violation under this section that the retailer reasonably and in good faith relied upon representation of proof of age in making the sale.

**9-17-122. Penalty for falsely making, altering, forging, uttering, passing or counterfeiting ticket; penalty for attempting to influence winning of prize.**

(a) Any person who, with intent to defraud, falsely makes, alters, forges, utters, passes or counterfeits a state lottery ticket is guilty of a felony and shall be punished by a fine not to exceed fifty thousand dollars (\$50,000.00), imprisonment for not more than five (5) years, or both.

(b) Any person who influences or attempts to influence the winning of a prize through the use of coercion, fraud, deception or tampering with lottery equipment or materials is guilty of a felony and shall be punished by a fine not to exceed fifty thousand dollars (\$50,000.00), imprisonment for not more than five (5) years, or both.

**9-17-123. Penalty for making false statements or false entries in books or records.**

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No person shall knowingly or intentionally make a material false statement in any application for a license or proposal to conduct lottery activities or make a material false entry in any book or record which is compiled or maintained or submitted to the board pursuant to the provisions of this chapter. Any person who violates the provisions of this section shall be punished by a fine not to exceed twenty-five thousand dollars (\$25,000.00) or the dollar amount of the false entry or statement, whichever is greater, by imprisonment for not more than five (5) years, or both.

**9-17-124. Agreements with agencies of other jurisdictions; restriction on release of records, documents and information.**

(a) The corporation may enter into intelligence sharing, reciprocal use or restricted use agreements with the federal government, law enforcement agencies, lottery regulation agencies and gaming enforcement agencies of other jurisdictions which provide for and regulate the use of information provided and received pursuant to the agreement.

(b) Records, documents and information in the possession of the corporation received pursuant to an intelligence sharing, reciprocal use or restricted use agreement entered into by the corporation with a federal department or agency, any law enforcement agency or the lottery regulation or gaming enforcement agency of any jurisdiction shall be considered investigative records of a law enforcement agency and are not subject to W.S. 16-4-201 through 16-4-205 and shall not be released under any condition without the permission of the person or agency providing the record or information.

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**9-17-125. Bidding requirements and procedures for contracts.**

(a) The corporation shall enter into its contracts for procurements after competitive bidding. The requirement for competitive bidding does not apply in the case of a single vendor having exclusive rights to offer a particular service or product. Procedures adopted by the board shall be designed to allow the selection of proposals that provide the greatest long-term benefit to the state, the greatest integrity for the corporation and the best service and products for the public.

(b) In any bidding process, the corporation may administer its own bidding and procurement or may utilize the services of the department of administration and information or other state agency or subdivision thereof.

**9-17-126. Appeals from actions of board.**

(a) Any retailer, vendor or applicant for a retailer or vendor contract aggrieved by an action of the board may appeal that decision to the first judicial district court.

(b) The first judicial district court shall hear appeals from decisions of the board and based upon the record of the proceedings before the board may reverse the decision of the board only if the appellant proves the decision to be:

- (i) Clearly erroneous;
- (ii) Arbitrary and capricious;
- (iii) Procured by fraud;



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(iv) A result of substantial misconduct by the board; or

(v) Contrary to the United States constitution or the constitution of Wyoming or the provisions of this chapter.

(c) The district court may remand an appeal to the board to conduct further hearings.

(d) Any person who appeals the award of a major procurement contract for the supply of a lottery ticket system, share system or an on-line or other mechanical or electronic system shall be liable for all costs of appeal and defense in the event the appeal is denied or the contract award upheld.

**9-17-127. Corporation authorized to borrow money; validation of debt; restriction on use of money in state general fund and other state funds; purchase or release of goods and services.**

(a) The corporation may borrow, or accept and expend, in accordance with the provisions of this chapter, monies as may be received from any source, including income from the corporation's operations, for effectuating its corporate purposes, including the payment of the initial expenses of initiation, administration and operation of the corporation and the lottery.

(b) The corporation shall be self sustaining and self funded. Monies in the state general fund or any other state funds or monies in any form shall not be used or obligated to pay the expenses of the corporation or prizes of the lottery and no claim for the payment of an expense of the lottery or prizes of the lottery may be made against

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any monies other than monies credited to the corporation operating account.

(c) The corporation may purchase, lease or lease purchase goods or services as necessary to effectuate the purposes of this chapter. The corporation may make procurements which integrate functions including lottery game design, lottery ticket distribution to retailers, supply of goods and services and advertising. In all procurement decisions, the corporation shall take into account the particularly sensitive nature of the state lottery and shall act to promote and ensure security, honesty, fairness and integrity in the operation and administration of the lottery and the objectives of raising net proceeds.

**9-17-128. Reports by corporation; audits; budget; fiscal year.**

(a) To ensure the financial integrity of the lottery, the corporation through its board of directors shall:

(i) Submit quarterly and annual reports to the governor, department of audit and the joint revenue interim committee disclosing the total lottery revenues, prize disbursements, operating expenses and administrative expenses of the corporation during the reporting period. The annual report shall additionally describe the organizational structure of the corporation and summarize the functions performed by each organizational division within the corporation;

(ii) Adopt a system of internal audits;

(iii) Maintain weekly or more frequent records of lottery transactions, including the distribution of

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tickets or shares to retailers, revenues received, claims for prizes, prizes paid, prizes forfeited and other financial transactions of the corporation;

(iv) Contract with a certified public accountant or firm for an annual financial audit of the corporation. The certified public accountant or firm shall have no financial interest in any vendor with whom the corporation is under contract. The certified public accountant or firm shall present an audit report not later than four (4) months after the end of the fiscal year. The certified public accountant or firm shall evaluate the internal controls in effect during the audit period. The cost of this annual financial audit shall be an operating expense of the corporation. The department of audit may at any time conduct an audit of any phase of the operations of the Wyoming lottery corporation at the expense of the state and shall receive a copy of the annual independent financial audit. A copy of any audit performed by the certified public accountant or firm or the department of audit shall be transmitted to the governor, the department of audit, the state auditor and the joint revenue interim committee;

(v) Submit to the governor, the department of audit, and the joint revenue interim committee by June 30 of each year a copy of the annual operating budget for the corporation for the next fiscal year. This annual operating budget shall be approved by the board and be on forms as prescribed by the department of administration and information;

(vi) For informational purposes only, submit to the governor on September 1 of each year a proposed operating budget for the corporation for the succeeding fiscal year. This budget proposal shall also be accompanied by an estimate of the net proceeds to be

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deposited into the lottery account during the succeeding fiscal year; and

(vii) Adopt the same fiscal year as that used by state government.

**Section 2.** W.S. 6-7-101(a)(iii) by creating a new subparagraph (J), 7-19-201(a) by creating a new paragraph (xxi), 39-15-105(a)(viii) by creating a new subparagraph (T) and 39-16-105(a)(viii) by creating a new subparagraph (J) are amended to read:

**6-7-101. Definitions.**

(a) As used in this article:

(iii) "Gambling" means risking any property for gain contingent in whole or in part upon lot, chance, the operation of a gambling device or the happening or outcome of an event, including a sporting event, over which the person taking a risk has no control, but does not include any of the following:

(J) Any lottery game authorized and run by the Wyoming lottery corporation pursuant to W.S. 9-17-101 through 9-17-128.

**7-19-201. State or national criminal history record information.**

(a) The following persons shall be required to submit to fingerprinting in order to obtain state and national criminal history record information:

(xxi) Board members, applicants, vendors and retailers required to receive a background investigation as

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provided in W.S. 9-17-104(c), 9-17-110(e) and 9-17-120(b) and (c)(i). Fingerprint card submissions under this paragraph shall be forwarded through the division of criminal investigation and the division of criminal investigation shall be responsible for receiving and screening the results of any record check to determine an applicant's suitability for employment or licensing under the provisions specified in this paragraph.

**39-15-105. Exemptions.**

(a) The following sales or leases are exempt from the excise tax imposed by this article:

(viii) For the purpose of exempting sales of services and tangible personal property as an economic incentive, the following are exempt:

(T) Sales of and retail commissions on lottery tickets or shares and equipment necessary to operate a lottery under W.S. 9-17-101 through 9-17-128.

**39-16-105. Exemptions.**

(a) The following purchases or leases are exempt from the excise tax imposed by this article:

(viii) For the purpose of exempting sales of services and tangible personal property as an economic incentive, the following are exempt:

(J) Purchase of and retail commissions on lottery tickets or shares and equipment necessary to operate a lottery under W.S. 9-17-101 through 9-17-128.

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**Section 3.** This act is effective July 1, 2013.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk