

HOUSE BILL NO. HB0077

Wyoming lottery.

Sponsored by: Representative(s) Zwonitzer, Dv., Blake,
Byrd, Madden, Petroff, Throne, Wallis and
Zwonitzer, Dn. and Senator(s) Emerich and
Von Flatern

A BILL

for

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

11

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

13

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

1

2

CHAPTER 17

3

WYOMING LOTTERY

4

5

9-17-101. Short title.

6

7

This chapter shall be known and may be cited as the

8

"Wyoming Lottery Act."

9

10

9-17-102. Legislative findings and declarations.

11

12

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

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23

(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;

(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

1 lottery is operated with integrity and dignity and free of
2 political influence; and

3

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

7

8 **9-17-103. Definitions.**

9

10 (a) As used in this chapter:

11

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

16

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

19

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

24

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

3

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

6

7 (vi) "Lottery," "lotteries," "lottery game" or
8 "lottery games" means any game of chance approved by the
9 board and operated pursuant to this chapter, specifically
10 limited to a state lottery or multi-state games, and shall
11 not include instant tickets, scratch-off tickets, video
12 lottery terminals or any other electronic game involving
13 direct physical contact between the player and a machine;

14

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

24

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

4
5 (ix) "Net proceeds" means all revenue derived
6 from the sale of lottery tickets or shares and all other
7 monies derived from the lottery less operating expenses;

8
9 (x) "Operating expenses" means all costs of
10 doing business, including, but not limited to commissions
11 and other compensation paid to retailers, advertising and
12 marketing costs, personnel costs, capital costs,
13 depreciation of property and equipment and other operating
14 costs but does not include prizes, payments to the state
15 under W.S. 9-17-111(b) or unclaimed prize monies set aside
16 under W.S. 9-17-119(g);

17
18 (xi) "Retailer" means a person who sells lottery
19 tickets or shares on behalf of the corporation pursuant to
20 a contract;

21
22 (xii) "Share" means any intangible evidence of
23 participation in a lottery game;

24

1 (xiii) "Ticket" means any tangible evidence
2 issued by the lottery to provide participation in a lottery
3 game.

4

5 **9-17-104. Wyoming lottery corporation created;**
6 **membership of board of directors; appointment; terms;**
7 **filling of vacancies; conflict of interests; reimbursement**
8 **for expenses; officers; quorum.**

9

10 (a) There is created a body corporate and politic to
11 be known as the Wyoming lottery corporation which shall be
12 deemed to be an instrumentality of the state, and not a
13 state agency, and a public corporation.

14

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

18

19 (c) Members shall be residents of the state of
20 Wyoming, shall be prominent persons in their businesses or
21 professions, and shall not have been convicted of any
22 felony offense. A background investigation shall be
23 conducted on each potential board member. The corporation
24 shall be authorized to pay for the actual cost of such

1 investigations and may contract with the division of
2 criminal investigation for the performance of such
3 investigations.

4

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

10

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

16

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

1

2 (g) The members shall elect from their membership a
3 chairman and vice chairman. The members shall also elect a
4 secretary and treasurer. Such officers shall serve for such
5 terms as shall be prescribed by the bylaws of the
6 corporation or until their respective successors are
7 elected and qualified. No member of the board shall hold
8 more than any one (1) office of the corporation, except
9 that the same person may serve as secretary and treasurer.

10

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

15

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

19

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

24

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

4
5 **9-17-105. General duties of board of directors.**

6
7 (a) The board of directors shall provide the chief
8 executive officer with private sector perspectives of a
9 large marketing enterprise. The board shall:

10
11 (i) Approve, disapprove, amend or modify the
12 budget recommended by the chief executive officer for the
13 operation of the corporation;

14
15 (ii) Approve, disapprove, amend or modify the
16 terms of major lottery procurements recommended by the
17 chief executive officer;

18
19 (iii) Hear appeals of hearings required by this
20 chapter;

21
22 (iv) Adopt regulations, policies and procedures
23 relating to the conduct of lottery games and as specified
24 in W.S. 9-17-108; and

1

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

4

5 **9-17-106. Appointment of chief executive officer;**
6 **compensation.**

7

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

15

16 **9-17-107. General powers of corporation.**

17

18 (a) The corporation shall have any and all powers
19 necessary or convenient to its usefulness in carrying out
20 and effectuating the purposes and provisions of this
21 chapter which are not in conflict with the constitution of
22 this state and which are generally exercised by
23 corporations engaged in entrepreneurial pursuits,

1 including, but without limiting the generality of the
2 foregoing, the following powers:

3

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

6

7 (ii) To adopt and alter a seal;

8

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

18

19 (iv) To procure or to provide insurance;

20

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

23

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

5

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

10

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

17

18 (ix) To acquire or lease real property and make
19 improvements thereon and acquire by lease or by purchase
20 personal property, including, but not limited to,
21 computers, mechanical, electronic and on-line equipment and
22 terminals and intangible property, including, but not
23 limited to, computer programs, systems and software;

24

1 (x) To enter into contracts to incur debt in its
2 own name and enter into financing agreements with the
3 state, agencies or instrumentalities of the state or with
4 any commercial bank or credit provider;

5

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

11

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

19

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

22

23 (xiv) To enter into contracts or agreements with
24 state or local law enforcement agencies for the performance

1 of law enforcement, background investigations and security
2 checks;

3

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

7

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

11

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

14

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

20

21 (xix) To adopt and amend such regulations,
22 policies and procedures as necessary to carry out and
23 implement its powers and duties, organize and operate the
24 corporation, regulate the conduct of lottery games in

1 general and any other matters necessary or desirable for
2 the efficient and effective operation of the lottery or the
3 convenience of the public. The promulgation of any such
4 regulations, policies and procedures shall be exempt from
5 the requirements of W.S. 16-3-101 through 16-3-115.

6
7 (b) The powers enumerated in subsection (a) of this
8 section are cumulative of and in addition to those powers
9 enumerated elsewhere in this chapter and no such powers
10 limit or restrict any other powers of the corporation.

11

12 **9-17-108. Adoption by board of procedures regulating**
13 **conduct of lottery games.**

14

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

19

20 (i) The type of games to be conducted,
21 specifically limited to a state lottery or a multi-state
22 lottery, and shall not include instant lotteries, scratch-
23 off ticket games, video lottery terminals or any other

1 electronic game involving direct physical contact between
2 the player and a machine;

3

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

8

9 (iii) The number and amount of prizes;

10

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

13

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

17

18 (vi) The manner of payment of prizes to the
19 holders of winning tickets or shares, including without
20 limitation, provision for payment of prizes not exceeding
21 six hundred dollars (\$600.00) after deducting the price of
22 the ticket or share and after performing validation
23 procedures appropriate to the game and as specified by the
24 board. The board may provide for a limited number of

1 retailers who can pay prizes of up to five thousand dollars
2 (\$5,000.00) after performing validation procedures
3 appropriate to the game and as specified by the board
4 without regard to where such ticket or share was purchased;

5

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

8

9 (viii) The means of conducting drawings;

10

11 (ix) The method to be used in selling tickets or
12 shares;

13

14 (x) The manner and amount of compensation to
15 lottery retailers; and

16

17 (xi) Any and all other matters necessary,
18 desirable or convenient toward ensuring the efficient and
19 effective operation of lottery games, the continued
20 entertainment and convenience of the public and the
21 integrity of the lottery.

22

23 **9-17-109. Duties of chief executive officer.**

24

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

7

8 (i) Facilitate the initiation and supervise and
9 administer the operation of the lottery games;

10

11 (ii) Employ and direct such personnel as deemed
12 necessary;

13

14 (iii) Employ by contract and compensate such
15 persons and firms as deemed necessary;

16

17 (iv) Promote or provide for promotion of the
18 lottery and any functions related to the corporation;

19

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

22

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

1

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

6

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

10

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

15

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

21

22 **9-17-110. Employees; compensation; restrictions;**
23 **background investigations; bonding.**

24

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

6

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

10

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

15

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

21

22 (e) A background investigation shall be conducted on
23 each applicant who has reached the final selection process
24 prior to employment by the corporation at the level of

1 division director and above and at any level within any
2 division of security and as otherwise required by the
3 board. The corporation shall be authorized to pay for the
4 actual cost of such investigations and may contract with
5 the division of criminal investigation for the performance
6 of such investigations.

7

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

12

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

17

18 **9-17-111. Disposition of lottery proceeds.**

19

20 (a) As nearly as practical, at least forty-five
21 percent (45%) of the net proceeds from the sale of lottery
22 tickets or shares shall be made available as prize money,
23 provided, however, that this subsection shall be deemed not
24 to create any lien, entitlement, cause of action or other

1 private right and any rights of holders of tickets or
2 shares shall be determined by the corporation in setting
3 the terms of its lottery or lotteries.

4
5 (b) On or before the fifteenth day of each quarter,
6 the corporation shall transfer to the treasurer's office,
7 for credit to the lottery account which is hereby created,
8 the amount of all net proceeds minus prizes and amounts
9 paid pursuant to subsection (a) of this section during the
10 preceding quarter. Upon their deposit into the account,
11 any monies representing a deposit of net proceeds shall
12 then become the unencumbered property of the state of
13 Wyoming and the corporation shall have no power to agree or
14 undertake otherwise. Such monies shall be paid by the
15 treasurer as they accrue to the treasurers of the counties,
16 cities and towns for payment into their respective general
17 funds. The percentage of the balance that will be
18 distributed to each county and its cities and towns will be
19 determined by computing the percentage that net sales taxes
20 collected attributable to vendors in each county including
21 its cities and towns bear to total net sales taxes
22 collected of vendors in all counties including their cities
23 and towns as provided in W.S. 39-15-111(b)(iii). This

1 percentage of the monies shall be distributed within each
2 county as follows:

3

4 (i) To each county in the proportion that the
5 population of the county situated outside the corporate
6 limits of its cities and towns bears to the total
7 population of the county including cities and towns;

8

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

12

13 (c) No general fund monies shall be used to fund any
14 liability or deficiency in the lottery account under this
15 section. No general fund monies shall be used for any
16 program or project started specifically from lottery
17 proceeds unless specifically appropriated by the
18 legislature.

19

20 **9-17-112. Investigation of vendors; disclosure**
21 **requirements; restrictions on entry into major procurement**
22 **contracts.**

23

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

7

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

11

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

19

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

23

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

3

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

7

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

11

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

17

18 (iv) A disclosure of all the states and
19 jurisdictions in which the vendor has applied for, has
20 sought renewal of, has received, has been denied, has
21 pending or has had revoked a lottery or gaming license of
22 any kind or had fines or penalties assessed to his license,
23 contract or operation and the disposition in each such
24 state or jurisdiction. If any lottery or gaming license or

1 contract has been revoked or has not been renewed or any
2 lottery or gaming license or application has been either
3 denied or is pending and has remained pending for more than
4 six (6) months, all of the facts and circumstances
5 underlying the failure to receive the license shall be
6 disclosed;

7

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

12

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

18

19 (vii) Such additional disclosures and
20 information as the corporation may determine to be
21 appropriate for the procurement involved. If at least
22 twenty-five percent (25%) of the cost of a vendor's
23 contract is subcontracted, the vendor shall disclose all of

1 the information required by this section for the
2 subcontractor as if the subcontractor were itself a vendor.

3

4 (b) A lottery major procurement contract shall not be
5 entered into with any lottery system vendor who has not
6 complied with the disclosure requirements described in
7 subsection (a) of this section and any contract with such a
8 vendor is voidable at the option of the corporation. Any
9 contract with a vendor who does not comply with such
10 requirements for periodically updating such disclosures
11 during the tenure of contract as may be specified in the
12 contract may be terminated by the corporation. The
13 provisions of this section shall be construed broadly and
14 liberally to achieve the ends of full disclosure of all
15 information necessary to allow for a full and complete
16 evaluation by the corporation of the competence, integrity,
17 background and character of vendors for procurements.

18

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

23

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

7

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

17

18 **9-17-113. Bonding requirements for vendors;**
19 **qualifications of vendors; competitive bid requirement.**

20

21 (a) Each vendor shall, at the execution of the
22 contract with the corporation, post a performance bond or
23 letter of credit from a bank or credit provider acceptable
24 to the corporation in an amount as deemed necessary by the

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

9

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

14

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

19

20 (iii) Corporate bonds approved by the
21 corporation. The corporation which issued the bonds shall
22 not be an affiliate or subsidiary of the depositor. Such
23 securities shall be held in trust and shall have at all
24 times a market value at least equal to the full amount

1 estimated to be paid annually to the lottery vendor under
2 contract.

3

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

7

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

11

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

17

18 **9-17-114. Statewide network of retailers;**
19 **commissions; certificate of authority; qualifications of**
20 **retailers; fees for outlets; review of activities.**

21

22 (a) The legislature recognizes that to conduct a
23 successful lottery, the corporation needs to develop and
24 maintain a statewide network of lottery retailers that will

1 serve the public convenience and promote the sale of
2 tickets or shares and the playing of lottery games while
3 ensuring the integrity of the lottery operations, games and
4 activities.

5

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

9

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

16

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

24

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

11

12 **9-17-115. Retailer contracts not transferable or**
13 **assignable; restriction on contracts and sales.**

14

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

19

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

22

23 **9-17-116. Fidelity fund for retailers; assessments.**

24

1 (a) The corporation may establish a fidelity fund
2 separate from all other funds and shall assess each
3 retailer a one (1) time fee not to exceed one hundred
4 dollars (\$100.00) per sales location. The corporation is
5 authorized to invest the funds or place such funds in one
6 (1) or more interest bearing accounts. Monies deposited to
7 the fund may be used to cover losses the corporation
8 experiences due to nonfeasance, misfeasance or malfeasance
9 of a lottery retailer. In addition, the funds may be used
10 to purchase blanket bonds covering the Wyoming lottery
11 corporation against losses from all retailers. At the end
12 of each fiscal year, the corporation shall pay to the
13 general lottery fund any amount in the fidelity fund which
14 exceeds five hundred thousand dollars (\$500,000.00) and
15 such funds shall be commingled with and treated as net
16 proceeds from the lottery.

17

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

1

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

7

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

14

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

19

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

23

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

3

4 **9-17-117. Cancellation, suspension, revocation or**
5 **termination of retail contracts.**

6

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

11

12 **9-17-118. Restrictions on sale of tickets or shares;**
13 **price; gifts and promotions.**

14

15 (a) No person shall sell a ticket or share at a price
16 other than established by the corporation unless authorized
17 in writing by the chief executive officer. No person other
18 than a duly certified lottery retailer shall sell lottery
19 tickets, but this subsection shall not be construed to
20 prevent a person who may lawfully purchase tickets or
21 shares from making a gift of lottery tickets or shares to
22 another. Nothing in this chapter shall be construed to
23 prohibit the corporation from designating certain of its

1 agents and employees to sell or give lottery tickets or
2 shares directly to the public.

3

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

9

10 (c) No lottery tickets or shares shall be sold to
11 persons under eighteen (18) years of age, but this
12 subsection does not prohibit the purchase of a lottery
13 ticket or share by a person eighteen (18) years of age or
14 older for the purpose of making a gift to any person of any
15 age. In such case, the corporation shall direct payment of
16 proceeds of any lottery prize to an adult member of the
17 person's family or a legal representative of the person on
18 behalf of the underage person.

19

20 **9-17-119. Prize proceeds subject to attachments,**
21 **garnishments or executions; validation of winning tickets;**
22 **prohibited purchases; money dispensing machines; unclaimed**
23 **prize money.**

24

1 (a) Except as otherwise provided in this chapter,
2 attachments, garnishments or executions authorized and
3 issued pursuant to law shall be withheld if timely served
4 upon the corporation. This subsection shall not apply to a
5 retailer.

6

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

11

12 (i) No prize, any portion of a prize or any
13 right of any person to a prize awarded shall be assignable.
14 Any prize or any portion of a prize remaining unpaid at the
15 death of a prize winner shall be paid to the estate of the
16 deceased prize winner or to the trustee of a trust
17 established by the deceased prize winner as settlor if a
18 copy of the trust document or instrument has been filed
19 with the corporation along with a notarized letter of
20 direction from the settlor and no written notice of
21 revocation has been received by the corporation prior to
22 the settlor's death. Following a settlor's death and prior
23 to any payment to such a successor trustee, the corporation
24 shall obtain from the trustee a written agreement to

1 indemnify and hold the corporation harmless with respect to
2 any claims that may be asserted against the corporation
3 arising from payment to or through the trust.
4 Notwithstanding any other provisions of this section, any
5 person, pursuant to an appropriate judicial order, shall be
6 paid the prize to which a winner is entitled;

7

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

10

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

15

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

19

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

24

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

7
8 (iv) A holder of a winning cash ticket or share
9 from a lottery game shall claim a cash prize within one
10 hundred eighty (180) days, or for a multi-state or multi-
11 sovereign lottery game within one hundred eighty (180)
12 days, after the drawing in which the cash prize was won.
13 If a valid claim is not made for a cash prize within the
14 applicable period, the cash prize shall constitute an
15 unclaimed prize for purposes of this section.

16
17 (c) No prize shall be paid upon a ticket or share
18 purchased or sold in violation of this chapter. Any such
19 prize shall constitute an unclaimed prize for purposes of
20 this section.

21
22 (d) The corporation is discharged of all liability
23 upon payment of a prize.

24

1 (e) No ticket or share shall be purchased by and no
2 prize shall be paid to any member of the board of
3 directors, any officer or employee of the corporation or to
4 any spouse, child, brother, sister or parent residing as a
5 member of the same household in the principal place of
6 residence of any such person. No ticket or share shall be
7 purchased by and no prize shall be paid to any officer,
8 employee, agent or subcontractor of any vendor or to any
9 spouse, child, brother, sister or parent residing as a
10 member of the same household in the principal place of
11 residence of any such person if such officer, employee,
12 agent or subcontractor has access to confidential
13 information which may compromise the integrity of the
14 lottery.

15

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

19

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

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

6

7 **9-17-120. Confidentiality of information;**
8 **investigations; supervision and inspections; reports of**
9 **suspected violations; assistance in investigation of**
10 **violations.**

11

12 (a) Except as authorized in this chapter, the
13 corporation is subject to the provisions of W.S. 16-4-201
14 through 16-4-205. The corporation is specifically
15 authorized to determine which information relating to the
16 operation of the lottery is confidential. Such information
17 includes trade secrets, security measures, systems or
18 procedures, security reports, information concerning bids
19 or other contractual data, the disclosure of which would
20 impair the efforts of the corporation to contract for goods
21 or services on favorable terms, employee personnel
22 information unrelated to compensation, duties,
23 qualifications or responsibilities and information obtained
24 pursuant to investigations which is otherwise confidential.

1 Information deemed confidential pursuant to this subsection
2 is exempt from the provisions of W.S. 16-4-201 through
3 16-4-205. Meetings or portions of meetings devoted to
4 discussing information deemed confidential pursuant to this
5 subsection are exempt from W.S. 16-4-201 through 16-4-205.

6

7 (b) The corporation shall perform full criminal
8 background investigations on all potential vendors prior to
9 the execution of any vendor contract. The corporation shall
10 be authorized to pay for the actual cost of such
11 investigations and may contract with the division of
12 criminal investigation for the performance of such
13 investigations.

14

15 (c) The corporation or its authorized agent shall:

16

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

23

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

3

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

10

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

15

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

20

21 **9-17-121. Sales to minors; penalty; affirmative**
22 **defense.**

23

1 Any person who knowingly sells a lottery ticket or share to
2 a person under eighteen (18) years of age or permits a
3 person under eighteen (18) years of age to play any lottery
4 game shall be guilty of a misdemeanor and shall be fined
5 not less than one hundred dollars (\$100.00) nor more than
6 five hundred dollars (\$500.00) for the first offense and
7 for each subsequent offense not less than two hundred
8 dollars (\$200.00) nor more than one thousand dollars
9 (\$1,000.00). It shall be an affirmative defense to a
10 charge of a violation under this section that the retailer
11 reasonably and in good faith relied upon representation of
12 proof of age in making the sale.

13

14 **9-17-122. Penalty for falsely making, altering,**
15 **forging, uttering, passing or counterfeiting ticket;**
16 **penalty for attempting to influence winning of prize.**

17

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

23

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

7

8 **9-17-123. Penalty for making false statements or**
9 **false entries in books or records.**

10

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

22

1 **9-17-124. Agreements with agencies of other**
2 **jurisdictions; restriction on release of records, documents**
3 **and information.**

4
5 (a) The corporation may enter into intelligence
6 sharing, reciprocal use or restricted use agreements with
7 the federal government, law enforcement agencies, lottery
8 regulation agencies and gaming enforcement agencies of
9 other jurisdictions which provide for and regulate the use
10 of information provided and received pursuant to the
11 agreement.

12
13 (b) Records, documents and information in the
14 possession of the corporation received pursuant to an
15 intelligence sharing, reciprocal use or restricted use
16 agreement entered into by the corporation with a federal
17 department or agency, any law enforcement agency or the
18 lottery regulation or gaming enforcement agency of any
19 jurisdiction shall be considered investigative records of a
20 law enforcement agency and are not subject to W.S. 16-4-201
21 through 16-4-205 and shall not be released under any
22 condition without the permission of the person or agency
23 providing the record or information.

24

1 **9-17-125. Bidding requirements and procedures for**
2 **contracts.**

3

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

13

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

18

19 **9-17-126. Appeals from actions of board.**

20

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

24

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

6

7 (i) Clearly erroneous;

8

9 (ii) Arbitrary and capricious;

10

11 (iii) Procured by fraud;

12

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

15

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

19

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

22

23 (d) Any person who appeals the award of a major
24 procurement contract for the supply of a lottery ticket

1 system, share system or an on-line or other mechanical or
2 electronic system shall be liable for all costs of appeal
3 and defense in the event the appeal is denied or the
4 contract award upheld.

5

6 **9-17-127. Corporation authorized to borrow money;**
7 **validation of debt; restriction on use of money in state**
8 **general fund; purchase or release of goods and services.**

9

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

17

18 (b) The corporation shall be self sustaining and self
19 funded. Monies in the state general fund shall not be used
20 or obligated to pay the expenses of the corporation or
21 prizes of the lottery and no claim for the payment of an
22 expense of the lottery or prizes of the lottery may be made
23 against any monies other than monies credited to the
24 corporation operating account.

1

2 (c) The corporation may purchase, lease or lease
3 purchase such goods or services as are necessary for
4 effectuating the purposes of this chapter. The corporation
5 may make procurements which integrate functions such as
6 lottery game design, lottery ticket distribution to
7 retailers, supply of goods and services and advertising.
8 In all procurement decisions, the corporation shall take
9 into account the particularly sensitive nature of the state
10 lottery and shall act to promote and ensure security,
11 honesty, fairness and integrity in the operation and
12 administration of the lottery and the objectives of raising
13 net proceeds.

14

15 **9-17-128. Reports by corporation; audits; budget;**
16 **fiscal year.**

17

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

20

21 (i) Submit quarterly and annual reports to the
22 governor, department of audit and the joint revenue interim
23 committee disclosing the total lottery revenues, prize
24 disbursements, operating expenses and administrative

1 expenses of the corporation during the reporting period.
2 The annual report shall additionally describe the
3 organizational structure of the corporation and summarize
4 the functions performed by each organizational division
5 within the corporation;

6

7 (ii) Adopt a system of internal audits;

8

9 (iii) Maintain weekly or more frequent records
10 of lottery transactions, including the distribution of
11 tickets or shares to retailers, revenues received, claims
12 for prizes, prizes paid, prizes forfeited and other
13 financial transactions of the corporation;

14

15 (iv) Contract with a certified public accountant
16 or firm for an annual financial audit of the corporation.
17 The certified public accountant or firm shall have no
18 financial interest in any vendor with whom the corporation
19 is under contract. The certified public accountant or firm
20 shall present an audit report not later than four (4)
21 months after the end of the fiscal year. The certified
22 public accountant or firm shall evaluate the internal
23 controls in effect during the audit period. The cost of
24 this annual financial audit shall be an operating expense

1 of the corporation. The department of audit may at any
2 time conduct an audit of any phase of the operations of the
3 Wyoming lottery corporation at the expense of the state and
4 shall receive a copy of the annual independent financial
5 audit. A copy of any audit performed by the certified
6 public accountant or firm or the department of audit shall
7 be transmitted to the governor, the department of audit,
8 the state auditor and the joint revenue interim committee;

9

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

17

18 (vi) For informational purposes only, submit to
19 the governor on September 1 of each year a proposed
20 operating budget for the corporation for the succeeding
21 fiscal year. This budget proposal shall also be
22 accompanied by an estimate of the net proceeds to be
23 deposited into the lottery account during the succeeding
24 fiscal year; and

1

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

4

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

10

11 **6-7-101. Definitions.**

12

13 (a) As used in this article:

14

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

21

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

1

2 **7-19-201. State or national criminal history record**
3 **information.**

4

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

8

9 (xxi) Board members, applicants, vendors and
10 retailers required to receive a background investigation as
11 provided in W.S. 9-17-104(c), 9-17-110(e) and 9-17-120(b)
12 and (c)(i). Fingerprint card submissions under this
13 paragraph shall be forwarded through the division of
14 criminal investigation and the division of criminal
15 investigation shall be responsible for receiving and
16 screening the results of any record check to determine an
17 applicant's suitability for employment or licensing under
18 the provisions specified in this paragraph.

19

20 **39-15-105. Exemptions.**

21

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

24

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

4
5 (T) Sales of and retail commissions on
6 lottery tickets or shares and equipment necessary to
7 operate a lottery under W.S. 9-17-101 through 9-17-128.

8
9 **39-16-105. Exemptions.**

10
11 (a) The following purchases or leases are exempt from
12 the excise tax imposed by this article:

13
14 (viii) For the purpose of exempting sales of
15 services and tangible personal property as an economic
16 incentive, the following are exempt:

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

21
22 **Section 3.** This act is effective July 1, 2013.

23
24 (END)