

1987 Senate Bill 336

Date of enactment: **November 25, 1987**  
Date of publication: **December 7, 1987**

## 1987 Wisconsin Act 119

(Vetoed in Part)

**Vetoed in Part** AN ACT *to renumber and amend* 13.94 (1s); *to amend* 13.94 (1s) (title), 15.07 (4), 16.71 (1), 16.72 (4) (a), 16.75 (3m) (c) 4, 16.76 (1) and (2), 16.77 (1), 19.42 (13) (c), 20.765 (3) (ka), 24.01 (intro.), 71.07 (1), ~~71.07 (1) and 71.07 (2)~~ and 945.01 (3), (4) (am) and (5) (am); and *to create* chapter 565, 13.94 (1) (em), 13.94 (1s) (b), 15.07 (5) (u), 15.71, 15.711, 20.195, ~~20.835 (2) (a)~~, 20.923 (4) (e) 6m, 20.923 (6) (hd), 25.17 (1) (jr), 25.75, 71.11 (44) (c) 12, 71.205, ~~71.33, 71.33 (3), 71.33 (4)~~, 77.61 (5) (b) 9, 227.01 (13) (ze) and 230.08 (2) (qm) of the statutes, *relating to* creating a **Vetoed in Part**

state lottery, creating a lottery board, taxation of lottery winnings, ~~creating a lottery property tax credit,~~ granting rule-making authority, providing a penalty and making appropriations.

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in Part

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 13.94 (1) (em) of the statutes is created to read:

13.94 (1) (em) Annually, conduct a financial audit of the state lottery and biennially conduct a performance audit of the state lottery as provided in s. 565.37 (1). The legislative audit bureau shall file a copy of each audit report under this paragraph with the department of justice and with the distributees specified in par. (b).

SECTION 2. 13.94 (1s) (title) of the statutes is amended to read:

13.94 (1s) (title) AUTHORIZED CHARGES.

SECTION 3. 13.94 (1s) of the statutes is renumbered 13.94 (1s) (a) and amended to read:

13.94 (1s) (a) The legislative audit bureau may charge any department for the reasonable cost of auditing services which are performed at the request of a department or at the request of the federal government which the bureau is not required to perform under sub. (1) (a) to (e) or (k) or any other law. This ~~subsection~~ paragraph does not apply to counties, cities, villages, towns or school districts.

SECTION 4. 13.94 (1s) (b) of the statutes is created to read:

13.94 (1s) (b) The legislative audit bureau may charge the lottery board for the reasonable costs of the audits required to be performed under sub. (1) (em) and for verification of the odds of winning a lottery game under s. 565.37 (5).

SECTION 5. 15.07 (4) of the statutes is amended to read:

15.07 (4) QUORUM. A majority of the membership of a board constitutes a quorum to do business and, unless a more restrictive provision is adopted by the board, a majority of a quorum may act in any matter within the jurisdiction of the board. This subsection does not apply to actions of the ethics board or the lottery board as provided in ~~s. ss.~~ 19.47 (4) and 565.02 (5).

SECTION 6. 15.07 (5) (u) of the statutes is created to read:

15.07 (5) (u) Members of the lottery board, \$50 per day.

SECTION 7. 15.71 of the statutes is created to read:

**15.71 Lottery board; creation.** There is created a lottery board consisting of 5 members appointed for 5-year terms from various areas of the state in a manner that provides a balanced statewide diversity of membership and that ensures that no one area of the state will have more than one member on the board. Each board member shall be a U.S. citizen and shall have been a resident of this state for at least 5 years at the time of his or her appointment. A board member

may not serve more than 2 consecutive full 5-year terms. No person may be appointed as a board member who has been convicted of or entered a plea of guilty or no contest to a felony under the laws of this or another state or of the United States, unless the person has received a pardon under which his or her full civil rights are restored.

SECTION 8. 15.711 of the statutes is created to read:

**15.711 Same; program responsibilities.** The lottery board shall have the program responsibilities specified for the board under ch. 565.

SECTION 9. 16.71 (1) of the statutes is amended to read:

16.71 (1) Except as authorized in ~~s. ss.~~ 16.74 and 565.25 (2) (a), the department shall purchase and may delegate to special designated agents the authority to purchase all necessary materials, supplies, equipment, all other permanent personal property and miscellaneous capital, and contractual services and all other expense of a consumable nature for all agencies. In making any delegation, the department shall require the agent to adhere to all requirements imposed upon the department in making purchases under this subchapter. All materials, services and other things and expense furnished to any agency and interest paid under s. 16.528 shall be charged to the proper appropriation of the agency to which furnished.

SECTION 10. 16.72 (4) (a) of the statutes is amended to read:

16.72 (4) (a) Except as provided in ~~s. ss.~~ 16.74 and 565.25 (2) (a) or as otherwise provided in this subchapter and the rules promulgated pursuant thereto, all supplies, materials, equipment and contractual services shall be purchased for and furnished to any agency only upon requisition to the department. The department shall prescribe the form, contents, number and disposition of requisitions and shall promulgate rules as to time and manner of submitting such requisitions for processing. No agency or officer may engage any person to perform contractual services without the specific prior approval of the department for each such engagement. Purchases of supplies, materials, equipment or contractual services by the legislature, the courts or legislative service or judicial branch agencies and major procurements by the lottery board, as defined in s. 565.01 (4), do not require approval under this paragraph.

SECTION 11. 16.75 (3m) (c) 4 of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

16.75 (3m) (c) 4. The department shall annually prepare and submit a report to the governor and to the presiding officer of each house of the legislature on the total amount of money paid to and of indebtedness or other obligations underwritten by minority

businesses, minority financial advisers and minority investment firms under the requirements of this subsection and ss. 16.855 (10m), 16.87 (2), 25.185 and 84.075 and 565.25 (2) (a) 3 and on this state's progress toward achieving compliance with par. (b) and ss. 16.855 (10m) (a), 16.87 (2), 25.185 and 84.075 (1).

SECTION 12. 16.76 (1) and (2) of the statutes are amended to read:

16.76 (1) All contracts for materials, supplies, equipment or contractual services shall run to the state of Wisconsin. Such contracts shall be signed by the secretary or an individual authorized by the secretary, except that contracts entered into directly by the legislature, the courts or a legislative service or judicial branch agency shall be signed by an individual authorized under s. 16.74 (2) (b) and contracts under s. 565.25 (2) (a) shall be signed by the executive director of the lottery board.

(2) The department may enter into continuing agreements and flexible contracts in anticipation of the needs of agencies and municipalities, which provide for deliveries of specified articles under stated terms and conditions. Except as provided in s. ss.

SECTION 15. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

**20.195 Lottery board**

(1 ) LOTTERY OPERATION

- (a ) General fund loan
- (q ) General program operations

		1987-88	1988-89
GPR	B	5,000,000	-0-
SEG	A	348,500	526,000

SECTION 16. 20.195 of the statutes is created to read:

**20.195 Lottery board.** There is appropriated to the lottery board for the following program:

(1) LOTTERY OPERATION. (a) *General fund loan.* Biennially, the amounts in the schedule, to be transferred to the lottery fund under s. 25.75 in accordance with s. 16.53 (9), for initial costs of lottery operation.

(q) *General program operations.* From the lottery fund, the amounts in the schedule for general program operations.

(r) *General fund loan repayment.* From the lottery fund, a sum sufficient to repay the amounts transferred under par. (a). The secretary of administration shall lapse to the general fund from this appropriation amounts to repay the transfer of general purpose revenues from the appropriation under par. (a), plus interest on the amount transferred from that appropriation. Interest shall be computed for each amount transferred from the appropriation under par. (a), at a rate equal to the weekly bank prime rate for the week prior to the transfer, as reported by the federal reserve board in federal reserve statistical release H.15. The secretary of administration shall lapse amounts under this paragraph in such amounts and at such times as requested by the lottery board, except that the total amount lapsed by the secretary by the

16.91 (1) and 565.25 (2) (c), no continuing agreements or flexible contracts may exceed one year's duration, but may be renewed twice for one year.

SECTION 13. 16.77 (1) of the statutes is amended to read:

16.77 (1) No bill or statement for work or labor performed under purchase orders or contracts issued by the secretary or the secretary's designated agents, and no bill or statement for supplies, materials, equipment or contractual services purchased for and delivered to any agency may be paid until the bill or statement is approved through a preaudit or postaudit process determined by the secretary. This subsection does not apply to purchases made directly by the courts, the legislature or a legislative service or judicial branch agency under s. 16.74 or major procurements made directly by the executive director of the lottery board under s. 565.25 (2) (a).

SECTION 14. 19.42 (13) (c) of the statutes is amended to read:

19.42 (13) (c) All positions identified under s. 20.923 (2), (4), (6) (f) to (h) (hd) and (8) to (10), except clerical positions.

date that is 12 months following the date on which lottery tickets or lottery shares are first sold in this state shall equal the total amount transferred from the appropriation under par. (a), plus the interest required under this paragraph.

(s) *Prizes.* From the lottery fund under s. 25.75, a sum sufficient to pay holders of winning lottery tickets or lottery shares under ch. 565.

(u) *General fund transfer.* From the lottery fund, the amount calculated under s. 25.75 (3) (c) to be transferred before August 20 to the general fund for the purpose of property tax relief. **Vetoed in Part**

SECTION 17. 20.765 (3) (ka) of the statutes is amended to read:

20.765 (3) (ka) (title) *Audit bureau service charges.* The amounts in the schedule for the provision of auditing services requested by state agencies or by the federal government and for audits of the state lottery and verifications of the odds of winning a lottery game. All moneys received by the legislative audit bureau from charges assessed to departments under s. 13.94 (1s) shall be credited to this appropriation.

~~SECTION 18. 20.835 (2) (d) of the statutes is created to read.~~ **Vetoed in Part**

~~20.835 (2) (d) *Property tax credit.* A sum sufficient to provide property tax relief under s. 71.55 in the amount specified under s. 25.75 (3) (c).~~

SECTION 19. 20.923 (4) (e) 6m of the statutes is created to read:

20.923 (4) (e) 6m. Lottery board: executive director.

SECTION 20. 20.923 (6) (hd) of the statutes is created to read:

20.923 (6) (hd) Lottery board: deputy director and assistant directors.

SECTION 21. 24.01 (intro.) of the statutes is amended to read:

**24.01 Definitions and classification.** (intro.) Terms used in In chs. 23 to 29 are defined as follows, unless the context requires otherwise or unless otherwise defined:

SECTION 22. 25.17 (1) (jr) of the statutes is created to read:

25.17 (1) (jr) Lottery fund (s. 25.75);

SECTION 23. 25.75 of the statutes is created to read:

**25.75 Lottery fund.** (1) DEFINITIONS. In this section:

(a) "Board" means the lottery board under s. 15.71.

(b) "Gross lottery revenues" means gross revenues from the sale of lottery tickets and lottery shares under ch. 565 and revenues from the imposition of fees, if any, under s. 565.10 (8) and includes compensation, including bonuses, if any, paid to retailers under s. 565.10 (14), regardless of whether the compensation is deducted by the retailer prior to transmitting lottery ticket and lottery share revenues to the board.

(c) "Lottery proceeds" means the remainder of the gross lottery revenues after deducting all of the following:

1. Amounts lapsed under s. 20.195 (1) (r) to repay the loan under s. 20.195 (1) (a) plus interest.

2. Amounts for prizes.

3. Amounts for other expenses, including compensation paid to retailers under s. 565.10 (14).

(2) CREATION. There is created a separate nonlapsible trust fund known as the lottery fund, to consist of gross lottery revenues received by the board.

(3) DISTRIBUTION. Amounts in the fund shall be distributed as follows:

(a) *Prizes.* An amount equal to at least 50% of each year's revenues from the sale of lottery tickets and lottery shares shall be returned as prizes to the holders of winning lottery tickets or lottery shares sold during that year.

(b) *Expenses.* Beginning July 1, 1991, no more than an amount equal to 15% of gross lottery revenues for each year may be expended to pay the expenses for the operation and administration of the lottery, except that expenses for the operation and administration of the lottery may exceed 15% of gross lottery revenues if so approved by the joint committee on finance under s. 13.10. In computing expenses subject to the 15% limitation under this paragraph:

1. Compensation paid to retailers under s. 565.10 (14) shall be included regardless of whether the compensation is deducted by the retailer prior to transmitting lottery ticket and lottery share revenues to the board.

2. Capital expenditures may be amortized.

3. Amounts lapsed under s. 20.195 (1) (r) to repay the loan under s. 20.195 (1) (a) plus interest shall not be included.

(c) *Property tax relief.* ~~The following amounts shall be available for distribution for property tax relief under s. 71.55:~~ **Vetoed in Part**

~~1. In each of the 5 state fiscal years starting with the year beginning July 1, 1989, and ending with the year beginning July 1, 1993, an amount equal to 50% of the lottery proceeds for the year ending June 30, 1989.~~ **Vetoed in Part**

~~2. In each of the 5 state fiscal years starting with the year beginning on July 1, 1994, and ending with the year beginning on July 1, 1998, an amount equal to the sum of the following:~~

~~a. Fifty percent of the lottery proceeds for the year ending June 30, 1994.~~

~~b. Ten percent of the ending balance of the lottery fund on June 30, 1994. The amount under subd. 2. a shall not be included in the fund's ending balance for the purpose of computing the amount under this subd. 2. b.~~

~~3. Starting with the state fiscal year beginning July 1, 1999, and each state fiscal year thereafter, an amount equal to the sum of the following:~~

~~a. Ninety percent of the lottery proceeds for the previous fiscal year.~~

~~b. Ten percent of the ending balance of the lottery fund on June 30 of the previous fiscal year. The amounts under subd. 3. a shall not be included in the fund's ending balance for the purpose of computing the amount under this subd. 3. b.~~ **Vetoed in Part**

~~4. Notwithstanding subds. 1, 2, a and 3, a, the total amount made available under this paragraph for distribution for property tax relief in each state fiscal year may not be less than 50% of the prior year's lottery proceeds.~~

SECTION 24. 71.07 (1) of the statutes, as affected by 1987 Wisconsin Act 27, is amended to read:

71.07 (1) All income or loss of resident individuals and resident estates and trusts shall follow the residence of the individual, estate or trust. Income or loss of nonresident individuals and nonresident estates and trusts from business, not requiring apportionment under sub. (2), (3) or (5), shall follow the situs of the business from which derived. All items of income, loss and deductions of nonresident individuals and nonresident estates and trusts derived from a tax-option corporation not requiring apportionment under sub. (2m); shall follow the situs of the business of the corporation from which derived. Income or loss of nonresident individuals and nonresident estates and trusts derived from rentals and royalties from real

estate or tangible personal property, or from the operation of any farm, mine or quarry, or from the sale of real property or tangible personal property shall follow the situs of the property from which derived. Income from personal services of nonresident individuals, including income from professions, shall follow the situs of the services. Income of nonresident individuals from the state lottery under ch. 565 is taxable by this state. All other income or loss of nonresident individuals and nonresident estates and trusts, including income or loss derived from land contracts, mortgages, stocks, bonds and securities or from the sale of similar intangible personal property, shall follow the residence of such persons, except as provided in subs. (2m) and (7).

SECTION 25. 71.11 (44) (c) 12 of the statutes is created to read:

71.11 (44) (c) 12. The executive director of the lottery board for the purpose of withholding of lottery winnings under s. 565.30 (5).

SECTION 26. 71.205 of the statutes is created to read:

**71.205 Withholding from lottery winnings.** The executive director of the lottery under ch. 565 shall withhold from any lottery prize of \$2,000 or more an amount determined by multiplying the amount of the prize by the highest rate applicable to individuals under s. 71.09 (1g). The executive director shall deposit the amounts withheld, on a monthly basis, as would an employer depositing under s. 71.20 (4).

SECTION 27. 71.55 of the statutes is created to read:

**71.55 Lottery property tax credit.** (1) In this section:

(a) "Applicable percentage" means the percentage determined under s. 73.03 (35).

(b) "Claimant" means a natural person who files a claim or on whose behalf a claim is filed under this section but does not include an estate, fiduciary or trust.

(c) "Principal dwelling" has the meaning given under s. 71.53 (1) (b).

(d) "Property taxes" means real and personal property taxes, exclusive of special assessments, delinquent interest and charges for service, paid by a claimant on the claimant's principal dwelling during the taxable year for which credit under this section is claimed, less any property taxes paid which are properly includable as a trade or business expense under section 162 of the internal revenue code. If the principal dwelling on which the taxes were paid is owned by 2 or more persons or entities as joint tenants or tenants in common or is owned by spouses as marital property, "property taxes" is that part of property taxes paid that reflects the ownership percentage of the claimant. If the principal dwelling is sold during the taxable year the "property taxes" for the seller and buyer shall be the amount of the tax prorated to each in the closing agreement pertaining to the sale or, if not so provided

for in the closing agreement, the tax shall be prorated between the seller and buyer in proportion to months of their respective ownership. "Property taxes" includes monthly parking permit fees in respect to a principal dwelling collected under s. 66.858 (3) (c).

(e) "Rent constituting property taxes" means 25% of rent if heat is not included, or 20% of rent if heat is included, paid during the taxable year for which credit is claimed under this section, at arm's length, for the use of a principal dwelling and contiguous land, excluding any payment for domestic, food, medical or other services which are unrelated to use of the dwelling as housing, less any rent paid that is properly includable as a trade or business expense under the internal revenue code. "Rent" includes space rental paid to a landlord for parking a mobile home. Rent shall be proportioned among the occupants of a principal dwelling according to their respective contribution to the total amount of rent paid. "Rent" does not include rent paid for the use of housing which was exempt from property taxation, except housing for which payments in lieu of taxes were made under s. 66.40 (22).

(2) Subject to the limitations under this section and in addition to the credit under s. 71.53, a claimant may claim as a credit against the taxes otherwise due under this chapter the applicable percentage of the first \$2,000 of property taxes or rent constituting property taxes, or the applicable percentage of the first \$1,000 of property taxes or rent constituting property taxes of a married person filing separately.

(3) For an unmarried person or a married person filing a separate return who is a part-year resident of this state, the credit under this section is limited to that fraction of the amount determined under this section that Wisconsin adjusted gross income is of federal adjusted gross income. No credit is allowed under this section for unmarried persons or married persons filing separate returns who are nonresidents of this state. If one spouse is not domiciled in this state during the entire taxable year, the credit on a joint return is determined by multiplying the lottery property tax credit that would be available to them if both spouses were domiciled in this state during the entire taxable year by a fraction the numerator of which is their joint Wisconsin adjusted gross income and the denominator of which is their joint federal adjusted gross income. No credit is allowed under this section on a joint return if both spouses are nonresidents of this state.

(4) No credit may be allowed under this section unless it is claimed within the period specified in s. 71.10 (10) (ba).

(5) In any case in which a principal dwelling is rented by a person from another person under circumstances deemed by the department of revenue to be not at arm's length, the department may determine rent at arm's length, and, for purposes of this section, such determination shall be final.

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(6) If the allowable amount of the claim exceeds the income taxes otherwise due on the claimant's income or if there are no income taxes due on the claimant's income, the amount of the claim not used as an offset against income taxes shall be certified to the department of administration for payment to the claimant by check, state draft or other draft drawn on the general fund.

(7) The department of revenue, on its forms and instructions, shall refer to the credit under this section as the lottery property tax credit.

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SECTION 28. 71.65 (1) (L) of the statutes is amended to read:

71.65 (1) (L). The total of farmland preservation credit under s. 71.09 (11), homestead credit under s. 71.09 (7), lottery property tax credit under s. 71.55, estimated tax payments under s. 71.21 and taxes withheld under s. 71.19.

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SECTION 29. 73.03 (35) of the statutes is created to read:

73.03 (35). On or before October 1, to determine the applicable percentage that, when used in the formula under s. 71.55 (2), will distribute as credits under s. 71.55 the amount available for property tax relief, as certified under s. 565.02 (6), accrued during the period beginning with July 1 of the year preceding the taxable year for which the applicable percentage is determined and ending with June 30 of the year corresponding to the taxable year for which the applicable percentage is determined and to notify the governor of that percentage for purposes of the governor's budget bill. The department shall notify the joint committee on finance in writing of the proposed applicable percentage. The department may use the proposed applicable percentage if within 14 working days after the notification the committee does not schedule a meeting to review the department's proposed applicable percentage. If the committee schedules a meeting to review the proposed applicable percentage, the percentage does not take effect unless the committee approves the percentage.

SECTION 30. 77.61 (5) (b) 9 of the statutes is created to read:

77.61 (5) (b) 9. The executive director of the lottery board for the purpose of withholding of lottery winnings under s. 565.30 (5).

SECTION 31. 227.01 (13) (ze) of the statutes is created to read:

227.01 (13) (ze) Relates to establishing features of and procedures for lottery games, under s. 565.27 (1).

SECTION 32. 230.08 (2) (qm) of the statutes is created to read:

230.08 (2) (qm) The executive director, deputy director and at least 3 but not more than 5 assistant directors of the lottery board.

SECTION 33. Chapter 565 of the statutes is created to read:

CHAPTER 565  
LOTTERY

**565.01 Definitions.** In this chapter:

(1) "Beneficial owner" has the meaning given under 27 CFR 240.13d-3.

(2) "Board" means the lottery board.

(3) "Executive director" means the executive director appointed under s. 565.02 (1).

(3m) "Instant lottery ticket services and supplies" means those lottery products and associated services commonly known as scratch-off or instant games based upon secure, preprinted lottery tickets.

(4) "Major procurement" means a procurement for materials, supplies, equipment or services which are unique to the lottery and not common to the ordinary operations of state agencies, including consulting or security services, prize payout agreements or annuity contracts and materials, supplies, equipment or services involving marketing, the printing of lottery tickets or lottery shares, the receiving or recording of a player's selection in any lottery game and the determination of winners of a lottery game.

(4g) "On-line services and supplies" means those lottery products and associated services, including computerized transaction processing equipment, computerized retailer vending terminals, and those technologies necessary to maximize lottery revenues and minimize the lottery's total operating costs. The term does not include services related to instant lottery ticket services.

(4r) "Promotional advertising" means advertising which is for the purpose of inducing persons to purchase lottery tickets or lottery shares. "Promotional advertising" does not mean advertising which is designed to provide the public with information on any of the following:

- (a) The fact that this state has a state lottery.
- (b) The locations where lottery tickets or lottery shares are sold.
- (c) The price of lottery tickets or lottery shares.
- (d) The prizes or prize structure of the lottery.
- (e) The type of lottery game and an explanation of how it works.
- (f) The time, date and place of conducting the lottery.

(g) The winning numbers, lottery tickets or lottery shares or the identity of winners and the amounts won.

(h) How the lottery is operated or how the net proceeds of the lottery are to be used.

(5) "Relative" means a spouse, child, stepchild, brother, stepbrother, sister, stepsister, parent or stepparent.

(6) "Retailer" means a person who sells lottery tickets or lottery shares on behalf of the board under the terms of a lottery retailer contract entered into under s. 565.10.

(7) "Vendor" means any person who enters into a major procurement contract with the board under s. 565.25.

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**Vetoed in Part** **565.02 Operation of the lottery board.** (1) (a) An initial executive director shall be nominated by the governor, and with the advice and consent of the senate appointed, to serve outside the classified service at the pleasure of the board. The board shall appoint successors to the initial executive director outside the classified service to serve at the pleasure of the board.

**Vetoed in Part** Prior to appointing an executive director, the governor or board shall conduct a nationwide search to find the best, most qualified appointee. The governor and board are encouraged, but not required, to consider the business management experience, marketing experience, computer experience and lottery management experience of the applicants.

**Vetoed in Part** (b) Notwithstanding s. 111.321, no person may serve as the executive director if he or she has been convicted of, or entered a plea of guilty or no contest to, any of the following:

- 1. A felony, other than a felony conviction for an offense under subds. 2 to 4, during the immediately preceding 10 years, unless the person has been pardoned.
- 2. A gambling-related offense.
- 3. Fraud or misrepresentation in any connection.
- 4. A violation of a provision of this chapter or rule of the board.

**Vetoed in Part** (c) Before appointment of an executive director is made, the governor, ~~or for successors to the executive director, the board,~~ with the assistance of the department of justice, shall conduct a background investigation of the proposed executive director. The governor ~~or, if applicable, the board~~ shall require the proposed executive director to be photographed and fingerprinted on 2 fingerprint cards each bearing a complete set of the person's fingerprints. The department of justice may submit the fingerprint cards to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions. The lottery board shall reimburse the department of justice for the department's services under this paragraph.

**Vetoed in Part** (2) (a) The executive director shall perform the duties assigned to the executive director under this chapter and by the board.

**Vetoed in Part** (b) The executive director shall appoint and supervise board employes, including, outside the classified service, the deputy director and assistant directors, as specified by the board by rule under sub. (3) (a), as necessary to carry out the duties of the board and executive director.

(c) Notwithstanding s. 111.321, no person may be employed under par. (b) if he or she has been convicted of, or entered a plea of guilty or not contest to, any of the following:

- 1. A felony, other than a felony conviction for an offense under subd. 2 or 3, during the immediately preceding 10 years, unless the person has been pardoned.
- 2. A gambling-related offense.
- 3. A violation of a provision of this chapter or rule of the board.

- 2. A gambling-related offense.
- 3. A violation of a provision of this chapter or rule of the board.

(d) Before appointment of lottery employes is made under par. (b), the executive director, with the assistance of the department of justice, shall conduct a background investigation of the proposed employes. The executive director shall require the persons proposed as employes to be photographed and fingerprinted on 2 fingerprint cards each bearing a complete set of the person's fingerprints. The department of justice may submit the fingerprint cards to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions. The lottery board shall reimburse the department of justice for the department's services under this paragraph.

(2m) No applicant for employment or appointment under sub. (1) or (2) may intentionally make a false statement or material omission in an application for employment or appointment.

(2r) The board may require a fidelity bond from the executive director, deputy director, an assistant director or any other board employe.

(3) The board shall promulgate all of the following rules:

(a) Establishing a plan of organizational structure for board employes that shall include a deputy director and at least 3 but not more than 5 assistant directors, one of whom shall be an assistant director for security, one of whom shall be an assistant director for marketing and one of whom shall be an assistant director for operations.

(b) For the selection of retailers for contract which shall be based on objective criteria. The rule may not limit the number of retailers solely on the basis of the population of the city, town or village in which the retailers are located and shall include requirements relating to all of the following:

- 1. The financial responsibility of the retailer.
- 2. The security of the retailer and the retailer's business.
- 3. The accessibility of the location from which the retailer will sell lottery tickets or lottery shares to the public. Restrictions under s. 125.07 relating to presence of underage persons on premises licensed to sell alcohol beverages may not be used under this subdivision to deny a person a lottery retailer contract.
- 4. The sufficiency of existing retailers to serve public convenience.
- 5. The volume of expected lottery ticket and lottery shares sales.
- 6. Qualifications for retailers, in addition to those under this section, as determined by the board.
- 7. Ensuring that there will not be an undue concentration of retailers in any geographic area of the state.

(c) Establishing requirements for information to be submitted with a bid or proposal by a person proposing to contract under s. 565.25.

(d) Determining the types of lottery games to be offered under s. 565.27.

(e) Determining the amount of incentive bonuses, if any, to be paid to retailers.

(f) Defining "advertising" for the purposes of s. 565.32 (3).

(g) Defining "lottery shares" for the purposes of this chapter.

(h) Establishing the circumstances and procedures under which a retailer may not be reimbursed if he or she accepts and directly pays a prize on an altered or forged lottery ticket or lottery share.

(4) The board may promulgate all of the following rules:

(a) Implementing the provisions of this chapter.

(b) Establishing an amount to be charged as an initial application fee, as an annual fee for contract continuation or as a fee for issuance of a certificate of authority under s. 565.10 (8).

(c) Establishing qualifications for vendors in addition to those specified under s. 565.25 (3).

(d) Requiring fidelity bonds from retailers.

(e) Establishing requirements for advertising of the state lottery that are in addition to those specified under s. 565.32.

(f) Providing for payment of a rate of compensation that is higher than 5% for retailers that are non-profit organizations.

(5) Any action by the board shall require the affirmative vote of at least 3 of its members.

**Vetoed in Part** (6) On or before August 15, the board and the legislative audit bureau shall certify to the department of revenue the amount available for the credit under s. 71.55.

**565.05 Conflicts of interest.** (1) No member or employe of the board may do any of the following:

(a) Have a direct or indirect interest in or be employed by any vendor while serving as a board member or employe or for 2 years following the member's or employe's termination of service.

(b) Have a direct or indirect interest in or be employed by a business which has entered into a retailer contract under s. 565.10.

**Vetoed in Part** (c) Hold any other elective or appointive office or position in state government.

(d) Accept or agree to accept money or any other thing of value from any vendor, retailer or person who has submitted a bid, proposal or application to be a vendor or retailer.

(2) A vendor selected to provide management consultation services may not submit a bid or competitive sealed proposal with respect to, and may not have any ownership interest in, and may not have any partners or shareholders who have any ownership interest in, any vendor under contract to supply, or any vendor

submitting a bid or competitive sealed proposal to supply, goods or services other than management consultation services to the board.

**565.10 Retailer contract.** (1) **SELECTION OF RETAILERS; RETAILER CONTRACT.** Under rules promulgated by the board under s. 565.02 (3) (b) and (4) (a), the executive director may contract with a person for the retail sale of lottery tickets or lottery shares. Retailers shall be selected for contract so as to provide adequate and convenient availability of lottery tickets and lottery shares to prospective buyers.

(2) **AGE RESTRICTION.** No lottery retailer contract may be entered into with any person under 18 years of age. If the retailer is a partnership, this subsection applies to each partner of the partnership. If the retailer is an association or a corporation, this subsection applies to each officer and director of the association or corporation.

(3) **FELONY AND OTHER VIOLATIONS RESTRICTION; DELINQUENT TAXES AND CONTRIBUTIONS RESTRICTION.**

(a) Notwithstanding s. 111.321, no lottery retailer contract may be entered into with a person if, during the immediately preceding 10 years, he or she has been convicted of, or entered a plea of guilty or no contest to, any of the following, unless the person has been pardoned:

1. A felony.

2. Any gambling-related offense.

3. Fraud or misrepresentation in any connection.

4. A violation of any provision of this chapter or rule promulgated by the board.

(b) No lottery retailer contract may be entered into with a person who has been finally adjudged to be delinquent in the payment of taxes under ch. 71, 72, 76, 77, 78 or 139 or who has been found delinquent in the payment of contributions to the unemployment reserve fund under s. 108.16 in a proceeding under s. 108.10 if the person remains delinquent in the payment of those taxes or contributions at the time the person seeks to enter into the lottery retailer contract.

(c) 1. Except as provided in subd. 4, if the retailer is a partnership, pars. (a) and (b) apply to the partnership and each partner of the partnership.

2. Except as provided in subd. 4, if the retailer is an association, pars. (a) and (b) apply to the association and each officer and director of the association.

3. Except as provided in subd. 4, if the retailer is a corporation, pars. (a) and (b) apply to the corporation, each officer or director of the corporation and each owner, directly or indirectly, of any equity security or other ownership interest in the corporation. In the case of owners of publicly held securities of a publicly traded corporation, pars. (a) and (b) apply only to those persons who are beneficial owners of 5% or more of the publicly held securities.

4. The restrictions under par. (a) do not apply to the partnership, association or corporation if the board determines that the partnership, association or corporation has terminated its relationship with the

individual whose actions directly contributed to the partnership's, association's or corporation's conviction or entry of plea.

(3m) FALSE STATEMENT OR MATERIAL OMISSION. No retailer or person seeking a contract under this section may intentionally make a false statement or material omission in any disclosure statement required to obtain, retain or renew a retailer contract.

(4) EXCLUSIVE BUSINESS RESTRICTION. No lottery retailer contract may be entered into with any person who is engaged in business exclusively as a lottery ticket or lottery share retailer unless one of the following is true:

(a) The retailer contract is a temporary retailer contract.

(b) The retailer contract is with an individual who has a physical or mental disability which constitutes or results in a substantial handicap to his or her employment, subject to approval of each such contract by the board.

(5) STATE AGENCIES; GOVERNMENT PROPERTY. (a) In entering into a lottery retailer contract with state agencies, other than the board, and agencies of local units of government, the executive director shall attempt to minimize the competitive effect of sales by the state or local agencies on other retailers. An application for the contract is approved by the governing body of the local unit of government, if retail sales of lottery tickets or lottery shares by the state or local agency at the proposed location will not directly compete with sales by other retailers.

(b) A lottery retailer contract may be entered into with a private person operating activities on state or local government property.

(7) LENGTH AND SALES AUTHORIZATION OF CONTRACT. A lottery retailer contract shall be for a period of one year and shall specify whether the retailer is authorized to conduct lottery ticket sales on a year-round, seasonal or temporary basis.

(8) CONTRACT FEES. A contract entered into under this section may require payment of a nonrefundable initial application fee or a nonrefundable annual fee for continuation, or both, in an amount promulgated by the board by rule under s. 565.02 (4) (b). A separate nonrefundable fee, in an amount promulgated by the board by rule under s. 565.02 (4) (b), may be required for each certificate of authority issued under sub. (11).

(8m) PAYMENT TO BOARD OR CONTRACTOR. Payment by a retailer to the board or to any contractor for lottery tickets or lottery shares shall be by check, bank draft, electronic fund transfer or other recorded means, as determined by the executive director. No payment under this subsection may be in cash.

(9) CONTRACT NOT ASSIGNABLE OR TRANSFERABLE. A lottery retailer contract may not be assigned or transferred from one person or location to another.

(10) LOCATION OF SALES. A retailer may sell lottery tickets or lottery shares only at locations specified in the contract entered into under this section.

(11) CERTIFICATE OF AUTHORITY; REQUIRED DISPLAY. The board shall issue to each retailer a separate certificate of authority for each location from which the retailer may sell lottery tickets or lottery shares. Each retailer shall conspicuously display the certificate of authority on the premises where retail sales of lottery tickets or lottery shares are authorized under the certificate in a location which is accessible for public inspection.

(12) CERTIFICATE OF AUTHORITY NOT ASSIGNABLE OR TRANSFERABLE. A certificate of authority may not be assigned or transferred from one person or location to another.

(13) BOND. The board may by rule under s. 565.02 (4) (d) require fidelity bonds from retailers. In lieu of a bond, the board may purchase blanket bonds covering all or selected retailers or may allow a retailer to deposit and maintain with the board interest-bearing or interest-accruing securities approved by the board. Such securities shall be held in trust by the board and shall have at all times a market value at least equal to the amount required by the board.

(14) COMPENSATION. (a) In this subsection, "non-profit organization" means a religious, charitable, service, fraternal or veterans' organization or any organization, other than the state or a political subdivision of the state, to which contributions are deductible for federal or state income tax purposes, which meets all of the following criteria:

1. Is incorporated in this state as a nonprofit corporation or organized in this state as a religious or nonprofit organization.

2. Has been in existence for at least 3 years immediately preceding its application for a contract under this subsection.

3. Has at least 15 members in good standing.

4. Operates without profit to its members and no part of the net earnings of the organization inure to the benefit of any private shareholder or individual.

5. Conducts activities within this state in addition to selling lottery tickets or lottery shares.

(b) The basic compensation to be paid to retailers is 5% of the retail price of lottery tickets or lottery shares, except that the board may by rule under s. 565.02 (3) (e) provide for the payment of a higher rate of compensation to nonprofit organizations making sales under a contract issued on a temporary basis than the rate of compensation paid to other retailers. The board shall by rule under s. 565.02 (3) (e) determine the amount of incentive bonuses, if any, to be paid to retailers.

(15) REMITTING PROCEEDS. A retailer shall, on a daily basis, unless another basis but not less than weekly, is provided by the board by rule, remit to the board the lottery proceeds from the sale of lottery tickets or lottery shares. The amount of compensa-

tion deducted by the retailer, if any, shall be indicated as a deduction from the total remitted.

**565.12 Retailer contract termination or suspension.**

A lottery retailer contract entered into under s. 565.10 may be terminated or suspended for a specified period if the board finds that the retailer has done any of the following:

- (1) Violated this chapter or any rule promulgated under this chapter.
- (2) Failed to meet any of the qualifications for being a retailer under s. 565.10 or rules promulgated under s. 565.02 (3) (b) or as specified by contract.
- (3) Endangered the security of the lottery.
- (4) Engaged in fraud, deceit, misrepresentation or other conduct prejudicial to public confidence in the lottery.
- (5) Failed to account accurately for lottery tickets, revenues or prizes or lottery shares, as required by the board, or is delinquent in remitting lottery ticket or lottery share revenues.

(6) Performed any action constituting a reason for termination or suspension as specified in the contract, which shall include the following:

- (a) The intentional sale of lottery tickets or lottery shares to any person under the age of 18.
- (b) A violation of this chapter or any rule promulgated under this chapter.

**565.15 Board retail outlet.** The board may establish and operate a lottery ticket or lottery share retail sales outlet or sell lottery tickets or lottery shares to the public at a special event. In considering whether to engage in direct retail sales, the board shall attempt to minimize the competitive effects of its sales on sales by other retailers.

**565.17 Limitations on ticket and share sales and purchases.** (1) **WHO MAY SELL.** Lottery tickets or lottery shares may not be sold by any person other than a retailer or the board.

(2) **PRICE.** No person may sell lottery tickets or lottery shares at a price other than the retail sales price established by the executive director under s. 565.27 (1) (b), except to the extent of any discount authorized by the executive director or the board.

(3) **CASH SALES.** Lottery tickets or lottery shares may be sold only for cash.

(4) **AGE.** (a) A person under 18 years of age may not purchase a lottery ticket or lottery share. This paragraph does not prohibit a person 18 years of age or older from giving a lottery ticket or lottery share to a person under 18 years of age.

(b) No person may sell a lottery ticket or lottery share to a person under 18 years of age or to any other person knowing that the lottery ticket or lottery share is being purchased for a person under 18 years of age other than as a gift.

(c) No person may pay a prize for a winning lottery ticket or lottery share to any person knowing that the purchaser was under 18 years of age or knowing that

the lottery ticket or lottery share was purchased for a person under 18 years of age other than as a gift.

(5) **BOARD MEMBERS AND THEIR EMPLOYEES.** (a) No member or employe of the board or any relative residing in the same household with a member or employe of the board may purchase a lottery ticket or lottery share.

(b) No person may sell a lottery ticket or lottery share to a person knowing that the purchaser is prohibited from purchasing a lottery ticket or lottery share under par. (a).

(c) No person may pay a prize for a winning lottery ticket or lottery share to any person knowing that the purchaser was prohibited from purchasing a lottery ticket or lottery share under par. (a).

**565.20 Retailer rental payments.** If a retailer's rental payment for the premises described in a contract entered into under s. 565.10 is contractually computed, in whole or in part, on the basis of a percentage of retail sales and the computation of retail sales is not expressly defined, under the rental contract, to include sales of lottery tickets or lottery shares in the lottery under this chapter, any compensation received by the retailer under s. 565.10 (14) shall be considered the amount of the retail sales from the lottery tickets or lottery shares for the purposes of computing the rental payment.

**565.25 Contracting authority and purchasing procedures.** (1) **SCOPE OF AUTHORITY.** Subject to approval by the board, the executive director may determine whether lottery functions shall be performed by board employes or by one or more persons under contract with the board, except that no contract may provide for the entire management of the lottery or for the entire operation of the lottery by any private person. Subject to approval by the board, the executive director may contract for management consultation services to assist in the management or operation of the lottery, except for financial auditing or security monitoring services.

(2) **PURCHASING PROCEDURES.** (a) 1. Except as provided under par. (b), the executive director shall make major procurements, subject to approval by the board.

2. Except as otherwise expressly provided, ss. 16.70 to 16.77 do not apply to major procurements made by the executive director under this paragraph. Sections 16.72 (2) (c) and (d), 16.75 (1), (1m), (2), (2m), (3), (3s), (3t), (6), (7) and (8), 16.754 and 16.77 (2) apply to purchases by the executive director under this paragraph except as follows:

a. The executive director shall assume the powers and duties of the department of administration and the secretary of administration under those statutes.

b. Notwithstanding the provisions of s. 16.75 (1) (a) relating to the lowest responsible bidder and s. 16.75 (2m) (g) relating to the most advantageous proposal, all contracts or orders under s. 16.75 (1) and (2m) shall be awarded on the basis of a formula specified by the

board which weighs the following factors, to the extent applicable: 1) the cost of the bid or proposal to the board; 2) the technical capability and expertise of the proposed vendor; 3) the integrity, reliability and expertise of the proposed vendor in providing the items covered by the bid or proposal; 4) the security for lottery operations provided under the bid or proposal; and 5) the financial stability of the proposed vendor.

3. The provisions of ss. 16.75 (3m) and 16.765 which apply to purchasing or contracting state agencies apply to purchasing or contracting under this paragraph. In addition, in awarding orders or contracts, the executive director and the board shall give preference to a bidder if at least 5% of the individuals employed by the bidder and any subcontractors to produce, distribute, supply or sell the materials, supplies, equipment or services under the order or contract are minority group members, as defined under s. 560.036 (1) (f) and are employed in the state.

4. The executive director shall develop specifications for major procurements. If security is a factor in the materials, supplies, equipment, property or services to be purchased in any major procurement, then invitations for bids or competitive sealed proposals shall include specifications related to security. The executive director shall submit specifications for major procurements to the board for review and approval prior to releasing the specifications in invitations for bids or competitive sealed proposals. The executive director shall require separate bids or separate competitive sealed proposals for each of the following supplies and services if the supplies or services are provided under contract with the board as provided in sub. (1):

- a. Management consultation services.
- ~~b. Telecommunications.~~
- c. Instant lottery ticket services and supplies, ~~except telecommunications.~~
- ~~d. On-line services and supplies, except telecommunications.~~

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5. The vendor shall disclose such information as is required by the board, by rule, with the vendor's submission of a bid or proposal for a major procurement.

6. The executive director shall prescribe the form of requisitions and contracts for major procurements by the board. Major procurement orders and contracts under this paragraph shall be awarded by the executive director subject to approval by the board. All requisitions and contracts shall be signed by the executive director. Requisitions and contracts shall be maintained by the executive director and shall be subject to inspection and copying under subch. II of ch. 19. No such requisition or contract need be filed with the department of administration.

7. The executive director shall file all bills and statements for purchases and engagements made by the board with the secretary of administration, who shall audit and authorize payment of all lawful bills and

statements. No bill or statement for any purchase or engagement for the board may be paid until the bill or statement is approved by the executive director.

(b) If requested by the board, the department of administration shall make major procurements for the board as provided under subch. IV of ch. 16. The board shall reimburse the department for its costs under this paragraph. Paragraph (a) 2, b, 4 and 5 applies to purchases made by the department under this paragraph.

(c) A major procurement contract under this subsection may be for any term deemed to be in the best interests of the state lottery but the term and any provisions for renewal or extension shall be incorporated in the bid specifications or proposal solicitation and the contract document.

(3) **VENDOR QUALIFICATIONS.** (a) No contract for a major procurement may be entered into with a person if, during the immediately preceding 10 years, he or she has been convicted of, or entered a plea of guilty or no contest to, any of the following, unless the person has been pardoned:

- 1. A felony.
- 2. A gambling-related offense.
- 3. Fraud or misrepresentation in any connection.
- 4. A violation of a provision of this chapter or rule of the board.

(b) 1. Except as provided in subd. 4, if the vendor is a partnership, par. (a) applies to the partnership and each partner of the partnership.

2. Except as provided in subd. 4, if the vendor is an association, par. (a) applies to the association and each officer and director of the association.

3. Except as provided in subd. 4, if the vendor is a corporation, par. (a) applies to the corporation, each officer or director of the corporation and each owner, directly or indirectly, of any equity security or other ownership interest in the corporation. In the case of owners of publicly held securities of a publicly traded corporation, par. (a) only applies to those persons who are beneficial owners of 5% or more of the publicly held securities.

4. The restrictions under par. (a) do not apply to the partnership, association or corporation if the board determines that the partnership, association or corporation has terminated its relationship with the individual whose actions directly contributed to the partnership's, association's or corporation's conviction or entry of plea.

(c) No contract for a major procurement may be entered into unless the contract provides that the vendor has established or will, within a period of time specified in the contract, establish an office within the state from which the vendor will process, produce, distribute, supply or sell materials, supplies, equipment or services under the contract.

(d) The vendor shall meet any additional qualifications established by rule under s. 565.02 (4) (c).

(3m) FALSE STATEMENT OR MATERIAL OMISSION. No person proposing to contract with the board for a major procurement may intentionally make a false statement or material omission in any disclosure statement required under sub. (2) (a) 5 or (b).

(4) BACKGROUND INVESTIGATIONS. Before a contract for a major procurement is awarded, the executive director, with the assistance of the department of justice, shall conduct a background investigation of the person proposing to contract with the board and of all partners, officers, directors, owners and beneficial owners identified under sub. (3) (b). The executive director may require the person and partners, officers, directors and shareholders identified under sub. (3) (b) to be photographed and fingerprinted on 2 fingerprint cards each bearing a complete set of the person's fingerprints. The department of justice may submit the fingerprint cards to the federal bureau of investigation for the purposes of verifying the identity of the persons fingerprinted and obtaining records of their criminal arrests and convictions. The lottery board shall reimburse the department of justice for the department's services under this subsection.

(5) FINANCIAL RESPONSIBILITY. (a) In this subsection, "financial institution" has the meaning specified in s. 705.01 (3).

(b) For a major procurement, the board may require from a person proposing to contract with the board on a bid, conditioned upon signing the contract if awarded to the person, or on a contract award, conditioned upon performance under the contract or payment of subcontractors, any of the following:

1. The deposit with the board of a bond payable to the board, in an amount required by the board.
2. The deposit and maintenance with the board of interest-bearing or interest-accruing securities approved by the board, which shall be held in trust by the board and shall have at all times a market value equal to at least the amount required by the board.
3. The filing with the board of an irrevocable letter of credit payable to and for the benefit of the board, in an amount required by the board.
4. The establishment with a financial institution of an escrow account, the terms, conditions and amount of which are established for the benefit of the board, in an amount required by the board.

**565.27 Lottery games.** (1) GAME FEATURES AND PROCEDURES. Subject to this section, the rules promulgated under s. 565.02 (3) (d) and (4) (a) and board approval, the executive director shall determine the particular features of and procedures for each lottery game offered. The executive director shall recommend to the board for promulgation by rule under s. 565.02 (3) (d) the types of lottery games to be offered, except that no game may be offered for which winners are selected based on the results of a race or sporting event. The features and procedures shall be in writing, shall be accessible to the public and shall include all of the following:

- (a) The theme and name of the game.
  - (b) The price of lottery tickets or lottery shares and any discount authorized for the price.
  - (c) The prize structure, including the number and value of prizes.
  - (d) The frequency of drawings or other winner selections.
  - (e) The method of selecting winners.
  - (f) The method of making payment to winners.
- (2) SELECTING WINNERS. (a) The actual selection of any winning lottery ticket or lottery share may not be performed by an elected or appointed official or a member or employe of the board.

(b) If drawings are used to select among winning numbers, to select among entries or to select among finalists, all of the following requirements shall be met:

1. The drawings shall be witnessed by an independent certified public accountant.
2. The drawings shall be open to the public.
3. The drawings shall be recorded on both videotape and audiotape.
4. Any equipment used for the drawing must be inspected by a certified public accountant and a board employe before and after the drawing.

(3) TICKET AND SHARE NUMBERS. Every lottery ticket and lottery share shall have a unique number that distinguishes the ticket or share from every other ticket or share in the lottery game.

(4) LOTTERY TICKET APPEARANCE. No name of an elected or appointed official may appear on the lottery tickets of any lottery game.

**565.30 Lottery prizes.** (1) PAYMENT OF PRIZES. The executive director shall direct the payment of a prize to the holder of the winning lottery ticket or lottery share or to a person designated under sub. (2), except that a prize may be paid to another person under a court order or to the estate of a deceased prize winner. The board, executive director, state and any contractor for materials, equipment or services of the game in which the prize is won are discharged of all liability upon payment of the prize to the holder of a winning lottery ticket or lottery share.

(2) PAYMENT OF PRIZES TO MINORS. If the prize for a winning lottery ticket or lottery share given to a minor is less than \$1,000, the executive director may make payment of the prize by delivering to an adult member of the minor's family, or to the minor's guardian, a check or draft payable to the minor. If the prize is \$1,000 or more, the executive director shall make payment to the minor by paying or delivering the money to a broker or financial institution under s. 880.62 (1) (d).

(2m) PRIZES OVER YEARS. If the prize for a winning lottery ticket or lottery share is monetary and is payable in instalments over a period of years, any informational material about the lottery must state the number of years over which the prize shall be paid.

(3) UNCLAIMED PRIZES. (a) *Period to claim.* The holder of a winning lottery ticket or lottery share may claim a prize within 180 days after the drawing or other selection in which the prize is won. Prizes unclaimed after 180 days shall be used for subsequent prizes.

(b) *Retailer bonuses.* Any bonuses offered by the board to retailers who sell winning lottery tickets or lottery shares shall be paid to the retailer regardless of whether the prize is claimed if the retailer can be identified as the seller of the winning ticket or share.

(3m) VALUE OF CERTAIN PRIZES. A prize that is a lottery ticket or lottery share in the same lottery game in which the prize is won or in another lottery game shall, for prize structure accounting purposes, be valued at the same percentage of the retail price, as specified under s. 25.75 (3) (a), as are other prizes in the same lottery game in which the prize is won.

(4) WITHHOLDING OF INCOME TAXES. The executive director shall withhold from lottery winnings any federal income taxes required to be withheld under 26 USC 3402 (q) (3) (B) and any state taxes required to be withheld under s. 71.205.

(4m) CARRY OVER OF PRIZE MONEY. The board may carry over unexpended lottery prize money that is not unclaimed lottery prize money from one drawing of a game to another drawing of the same game.

(5) WITHHOLDING OF DELINQUENT STATE TAXES, CHILD SUPPORT OR DEBTS OWED THE STATE. The executive director shall report the name, address and social security number of each winner of a lottery prize equal to or greater than \$1,000 to the department of revenue to determine whether the payee of the prize is delinquent in the payment of state taxes under ch. 71, 72, 76, 77, 78 or 139 or in court-ordered payment of child support or has a debt owing to the state. Upon receipt of a report under this subsection, the department of revenue shall first ascertain based on certifications by the department of health and social services under s. 46.255 (2) whether any person named in the report is currently delinquent in court-ordered payment of child support and shall next certify to the executive director whether any person named in the report is delinquent in court-ordered payment of child support or payment of state taxes under ch. 71, 72, 76, 77, 78 or 139. Upon this certification by the department of revenue or upon court order the executive director shall withhold the certified amount for remittance to the appropriate agency or person. In instances in which the payee of the prize is delinquent both in payments for state taxes and in court-ordered payments of child support, or is delinquent in one or both of these payments and has a debt owing to the state, the amount remitted to the appropriate agency or person shall be in proportion to the prize amount as is the delinquency or debt owed by the payee.

(6) NONASSIGNABILITY. The right of any person to a prize may not be assigned.

(7) PAYMENT FROM TERMINALS PROHIBITED. If computer terminals or other devices are used to play lottery games, no coins or currencies may be dispensed, as prizes, to players from the terminals or devices.

**565.32 Promotional advertising; advertising, ticket and share contents.** (1) PROMOTIONAL ADVERTISING PROHIBITION. The expenditure by the board or any other state agency of public funds or of revenues derived from lottery operations to engage in promotional advertising of the state lottery is prohibited.

(2) PROMOTIONAL ADVERTISING BY RETAILERS OR VENDORS. (a) A retailer or a combination of retailers, a vendor or a combination of vendors or a combination of retailers and vendors may engage in promotional advertising of the state lottery.

(b) Promotional advertising by vendors under par. (a) shall clearly indicate that the advertising is paid for by the vendor.

(3) REQUIRED CONTENTS OF ADVERTISING, TICKETS AND SHARES. (a) Any advertising, as defined by the board by rule under s. 565.02 (3) (f), of the lottery which describes a specific lottery game and each lottery ticket and lottery share shall include:

1. Except for the games under subd. 2, the prize structure, the prize amounts and the odds of a specific lottery ticket or lottery share being selected as the winning lottery ticket or lottery share for each prize amount.

2. For games in which the amount of the winnings and the odds of winning are determined by the number of participants in the game, all of the following:

a. An explanation that the amount of the winnings and the odds of winning are determined by the number of participants in the game.

b. An explanation of the prize structure.

c. Estimates of the amounts of prizes and the odds of a particular lottery ticket or lottery share winning each prize. The estimates of the prize amounts and the odds of a particular lottery ticket or lottery share winning each prize may be given as a range of values.

~~(b) Any advertising of the lottery by the board shall be approved by the attorney general prior to its publication, broadcast or other dissemination to the public.~~

**565.37 Audits, financial reports and odds verification.** (1) FINANCIAL AND PERFORMANCE AUDITS. The board shall annually contract with the legislative audit bureau to conduct a financial audit of the transactions and accounts of the state lottery for the preceding fiscal year and shall biennially contract with the legislative audit bureau for a performance audit of the state lottery.

(2) INDEPENDENT POSTAUDIT. At no less than 3-year intervals, the board may retain an independent certified public accountant to conduct a postaudit of all the board's accounts and transactions. The board shall provide copies of each such postaudit to the legislative audit bureau and the department of justice.

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(3) **BOARD REPORT.** The board shall submit quarterly reports on the operation of the lottery to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2) and to the governor, attorney general, state treasurer, secretary of state and state auditor.

(4) **EXECUTIVE DIRECTOR REPORT.** The executive director shall submit monthly financial reports to the board.

(5) **VERIFICATION OF ODDS.** The board shall contract with the legislative audit bureau to verify the odds on winning a lottery game that are represented by the board, a contractor or a retailer.

(6) **AUDIT OF LOTTERY SECURITY.** By July 1, 1990, and at least biennially thereafter, the board shall hire an independent firm to perform an audit of lottery security that is independent of any other audit under this section.

**565.40 Department of justice enforcement authority.**

(1) **INVESTIGATIONS.** The department of justice may investigate any activities by the board, vendors, or lottery employees, including the executive director, which affect the operation or administration of the state lottery, and shall report suspected violations of state or federal law to the appropriate prosecuting authority.

(1m) **SUBPOENA POWER.** For the purpose of an investigation under sub. (1), the attorney general may issue a subpoena to compel the production of any books, papers, correspondence, memoranda, agreements or other documents or records which the attorney general deems relevant or material to the investigation. Section 885.12 shall apply to any failure to obey a subpoena under this subsection.

(2) **PROSECUTIONS.** The attorney general and district attorneys have concurrent jurisdiction to commence prosecutions for alleged violations of this chapter.

**565.45 Report on expense limitation.** Before January 1, 1992, and every 2 years thereafter, the board shall submit a report to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2), on the effects on the operation of the lottery of the 15% expense limitation under s. 25.75 (3) (b).

**565.50 Penalties.** (1) Any person who violates s. 565.02 (2m), 565.05, 565.10 (3m), 565.17, 565.25 (3m) or 565.32 (1), (2) (b) or (3) or any rule promulgated under s. 565.02 (2m), 565.05, 565.10 (3m), 565.17, 565.25 (3m) or 565.32 (1), (2) (b) or (3) shall be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

(2) Any person who alters or forges a lottery ticket or share or intentionally utters or transfers an altered or forged lottery ticket or share shall be fined not more than \$10,000 or imprisoned for not more than 5 years or both.

(3) Any person who possesses an altered or forged lottery ticket or share with intent to defraud shall be

fined not more than \$10,000 or imprisoned for not more than 2 years or both.

**SECTION 34.** 945.01 (3), (4) (am) and (5) (am) of the statutes are amended to read:

945.01 (3) **GAMBLING MACHINE.** A gambling machine is a contrivance which for a consideration affords the player an opportunity to obtain something of value, the award of which is determined by chance, even though accompanied by some skill and whether or not the prize is automatically paid by the machine. "Gambling machine" does not include any device used in conducting a bingo occasion or raffle event under ch. 163 or used in conducting a lottery under ch. 565 or any amusement device if it rewards the player exclusively with one or more nonredeemable free replays for achieving certain scores and does not change the ratio or record the number of the free replays so awarded.

(4) (am) "Gambling place" does not include a place where bingo or a raffle is conducted under ch. 163 or where a lottery is conducted under ch. 565.

(5) (am) "Lottery" does not include bingo or a raffle as defined in s. 163.03 if conducted under ch. 163 or the state operated lottery as conducted under ch. 565.

**SECTION 35. Nonstatutory provisions; lottery board.**

(1) **APPOINTMENT OF MEMBERS.** Notwithstanding the length of terms specified under section 15.71 of the statutes, as created by this act, of the initial members of the lottery board under section 15.71 of the statutes, the following shall be appointed for the following terms:

(a) One member, for a term expiring on May 1, 1989.

(b) One member, for a term expiring on May 1, 1990.

(c) One member, for a term expiring on May 1, 1991.

(d) One member, for a term expiring on May 1, 1992.

(e) One member, for a term expiring on May 1, 1993.

(2) **PROVISIONAL APPOINTMENTS.** (a) Notwithstanding the appointment power of the senate under section 15.07 (1) (a) of the statutes and section 565.02 (1) of the statutes, as created by this act, beginning on the effective date of this paragraph, the governor may provisionally appoint an initial executive director of the lottery board and an initial member of the lottery board, subject to confirmation by the senate prior to March 26, 1988, if, prior to the provisional appointment, all of the following occur:

1. Notwithstanding the filing date requirements for a nominee under section 19.43 (3) of the statutes, the proposed initial executive director or initial board member files a statement of economic interests under section 19.43 (3) of the statutes. The ethics board shall provide a copy of the statement of economic interests filed under this subdivision to the standing committee

of the senate with jurisdiction to review proposed appointments of an initial executive director of the lottery board and lottery board members.

2. For an initial executive director of the lottery board proposed for provisional appointment by the governor, the department of justice conducts a background investigation of the proposed initial executive director under section 565.02 (1) of the statutes, as created by this act, and provides a report of the investigation to the standing committee of the senate with jurisdiction to review proposed appointments of an initial executive director of the lottery board and lottery board members.

3. The standing committee of the senate with jurisdiction to review proposed appointments of an initial executive director of the lottery board and lottery board members recommends the appointment of the proposed initial executive director or initial board member within 10 working days after receipt of the statement of economic interests under subdivision 1 and the report on the background investigation, if any, under subdivision 2.

(b) An appointment of an initial member of the lottery board, if made under paragraph (a), shall be in full force until withdrawn by the governor or acted upon by the senate, and if confirmed by the senate shall continue for the residue of the unexpired term, if any, of the lottery board member or until a successor is chosen and qualifies. A provisional appointee may exercise all of the powers and duties of board membership to which the person is appointed during the time in which the appointee qualifies.

(c) An appointment of an initial executive director of the lottery board, if made under paragraph (a), shall be in full force until withdrawn by the governor or acted upon by the senate, and if confirmed by the senate shall continue until a successor is appointed under section 565.02 (1) of the statutes. A provisional appointee may exercise all of the powers and duties of the executive directorship to which the person is appointed during the time in which the appointee qualifies.

(d) Any provisional appointment made under this subsection which is withdrawn by the governor shall, upon withdrawal, lapse and create a vacancy for provisional appointment of another initial lottery board member or initial executive director of the lottery board, whichever is applicable. Any provisional appointment of a lottery board member made under this subsection which is not acted upon by the senate by March 26, 1988, or which is rejected by the senate shall, upon inaction or rejection, lapse and create a vacancy for nomination and appointment under section 15.07 (1) (a) of the statutes of another initial lottery board member.

(e) Any provisional appointment of an initial executive director of the lottery board made under this subsection which is not acted upon by the senate by March 26, 1988, or which is rejected by the senate

shall, upon inaction or rejection, lapse and create a vacancy for nomination and appointment under section 565.02 (1) of the statutes of another initial executive director.

(3) RULE MAKING. Notwithstanding the standard specified under section 227.24 (1) (a) of the statutes, the lottery board may, during the period that is 12 months following the appointment of all 5 initial lottery board members, promulgate rules required or permitted under section 565.02 (3) and (4) of the statutes using the emergency rule-making process under section 227.24 (1) (a) of the statutes, if the lottery board determines that use of the emergency rule-making process is necessary or is in the best interests of the operation of the lottery. Notwithstanding section 227.24 (1) (c) of the statutes, the rules promulgated under this subsection shall take effect upon publication in the official state newspaper or on any later date specified in the rule and shall remain in effect for 12 months.

(4) APPROPRIATION TRANSFERS. Prior to transferring moneys from the appropriation under section 20.195 (1) (a) of the statutes, as created by this act, to the lottery fund, the secretary of administration shall notify the cochairpersons of the joint committee on finance in writing of the amount of the proposed transfer. If the cochairpersons do not notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the proposed transfer within 14 working days after the date of the secretary's notification, the secretary may make the proposed transfer. If within 14 working days after the date of the secretary's notification the cochairpersons notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the proposed transfer, the secretary may not make the proposed transfer unless the committee approves the proposed transfer.

(5) POSITION AUTHORIZATIONS AND APPROPRIATION SUPPLEMENTS. (a) There is authorized for the lottery board 10.0 SEG FTE positions to be funded from the appropriation under section 20.195 (1) (q) of the statutes, as created by this act.

(b) If the lottery board requests additional positions or appropriations under section 13.10 of the statutes within the first 6 months after the date on which all initial members of the lottery board are appointed and qualified, the cochairpersons of the joint committee on finance shall schedule a meeting to be held within 10 working days of the date of the request for the purpose of considering the request.

(6) COMPULSIVE GAMBLING STUDY. The lottery board shall conduct a study to determine the feasibility of establishing a state program to assist residents of Wisconsin who are compulsive gamblers. The study shall include consideration of potential funding sources for the program, if established. On or before January 1, 1989, the lottery board shall submit a report on the results of the study to the governor and

to the chief clerk of each house of the legislature under section 13.172 (2) of the statutes.

(7) **IMPACT ON INCOME STUDY.** The lottery board is directed to contract with the university of Wisconsin institute for research on poverty to do a study of the state lottery's impact on Wisconsin residents of various income levels. The institute shall conduct its study commencing on January 31, 1989, and is to report to the joint committee on finance by January 31, 1990.

(8) **INITIAL AUDITS BY LEGISLATIVE AUDIT BUREAU.**

(a) *Financial audit.* The first financial audit contracted under section 565.37 (1) of the statutes, as cre-

ated by this act, shall cover the period from the effective date of this paragraph through the end of the first full fiscal year commencing immediately thereafter. The audit shall separately account for the full fiscal year and the portion of the preceding fiscal year.

(b) *Performance audit.* The first performance audit contracted under section 565.37 (1) of the statutes, as created by this act, shall cover the period from the effective date of this paragraph through the end of the 2nd full fiscal year commencing immediately thereafter.

**SECTION 36. Program responsibility changes.** In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

(1) **JUSTICE.**

A	B	C
Statute Sections	References Deleted	References Inserted
15.251 (intro.)	none	565.02 (1)(c) and (2)(d), 565.25 (4), <del>565.33 (3)(a)</del> <b>Vetoed in Part</b> 565.40

(2) **REVENUE.**

A	B	C
Statute Sections	References Deleted	References Inserted
15.431 (intro.)	none	565.30

(4) **ADMINISTRATION.**

A	B	C
Statute Sections	References Deleted	References Inserted
15.101 (intro.)	none	565.40 (2)(b)

**SECTION 37. Initial applicability.** (1) **REVENUE.**

(a) *State lottery.* The treatment of section 71.07 (1) of the statutes first applies to taxable year 1987.

**Vetoed in Part** (b) ~~Property tax relief.~~ The treatment of sections 71.55 and 71.65 (1) (L) of the statutes first applies to

~~taxable year 1988 if in the department of revenue's judgment there are sufficient funds available to pay the credit under section 71.55 of the statutes. Otherwise, the treatment of sections 71.55 and 71.65 (1) (L) of the statutes first applies to taxable year 1989.~~ **Vetoed in Part**