

# HOUSE BILL No. 5487

February 5, 1992, Introduced by Reps. Joe Young, Jr., Kilpatrick, Wallace, Joe Young, Sr., Stopczynski, Leland, Murphy, Hood, Wozniak, Bennane, Stallworth, Hertel, Saunders and Clarke and referred to the Committee on State Affairs.

A bill to provide for the establishment and operation of a lottery in certain local units of government; to provide for referenda; to provide for the creation of lottery bureaus; to prescribe the powers and duties of lottery bureaus; to prescribe certain powers and duties of other state departments and agencies; to license and regulate sales agents; to create certain lottery funds; to provide for the distribution of lottery revenues and earnings; and to provide for penalties and remedies.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2 "local governmental unit lottery act".

3       Sec. 3. As used in this act:

4       (a) "Bureau" means a local governmental unit lottery bureau  
5 created by this act.

1 (b) "Commissioner" means a local governmental unit lottery  
2 commissioner established pursuant to this act.

3 (c) "Local governmental unit" means a city, village, town-  
4 ship, or county within this state.

5 (d) "Lottery" means a local governmental unit lottery cre-  
6 ated and operated pursuant to this act.

7 Sec. 5. (1) A local governmental unit may provide for the  
8 conduct of a lottery in the manner provided for in this act. The  
9 lottery shall be managed by a bureau and the local governmental  
10 unit shall appoint a commissioner.

11 (2) The commissioner shall manage the bureau. It is the  
12 intent of the legislature that a commissioner should be responsi-  
13 ble directly to the local governmental unit to ensure the  
14 accountability and integrity of the bureau.

15 (3) Upon petition by not less than 5% of the registered  
16 electors residing in a local governmental unit requesting a ref-  
17 erendum on the question of establishing a lottery, the clerk of  
18 the local governmental unit, upon verifying the required number  
19 of signatures on the petitions, shall submit the question of  
20 whether the local governmental unit should establish a lottery to  
21 the vote of the electors of the local governmental unit at the  
22 next general election or special election called for that purpose  
23 and conducted in accordance with the Michigan election law, Act  
24 No. 116 of the Public Acts of 1954, being sections 168.1 to  
25 168.992 of the Michigan Compiled Laws.

1 (4) The clerk of the local governmental unit shall prepare  
2 the question for the ballot to be used at the election, subject  
3 to the election laws of the state, substantially as follows:

4 "Should the \_\_\_\_\_ of \_\_\_\_\_ establish a local gov-  
5 ernmental unit lottery?

6 Yes ( )

7 No ( )".

8 (5) If a majority of the electors voting on the question  
9 vote "yes", the local governmental unit shall proceed to estab-  
10 lish a lottery in the manner provided in this act.

11 Sec. 7. (1) A commissioner shall be qualified by training  
12 and experience to direct the work of the bureau.

13 (2) A commissioner shall be appointed by the local govern-  
14 mental unit and shall serve at the pleasure of the local govern-  
15 mental unit.

16 (3) A vacancy occurring in the office of a commissioner  
17 shall be filled in the same manner as the original appointment.

18 (4) A commissioner shall devote his or her entire time and  
19 attention to the duties of his or her office and shall not be  
20 engaged in any other profession or occupation. A commissioner  
21 shall receive a salary as provided by annual appropriation of the  
22 local governmental unit.

23 Sec. 9. (1) A commissioner shall initiate, establish, and  
24 operate a lottery at the earliest feasible and practicable time  
25 after approval by the electors of the local governmental unit.

1       (2) The lottery shall produce the maximum amount of net  
2 revenues for the local governmental unit consonant with the  
3 general welfare of the people of the local governmental unit.

4       (3) A commissioner shall solicit bids from financially  
5 responsible vendors of data processing equipment and services for  
6 the operation of the lottery.

7       Sec. 11. (1) The local governmental unit shall enact ordi-  
8 nances as necessary to implement this act.

9       (2) The ordinances shall include the following:

10      (a) The type of lottery to be conducted.

11      (b) The price of tickets or shares in the lottery.

12      (c) The number and size of the prizes on the winning tickets  
13 or shares.

14      (d) The manner of selecting the winning tickets or shares.

15      (e) The manner of payment of prizes to the holders of win-  
16 ning tickets or shares, subject to section 31.

17      (f) The frequency of the drawings or selections of winning  
18 tickets or shares.

19      (g) Without limit as to number, the type or types of loca-  
20 tions at which tickets or shares may be sold.

21      (h) The method to be used in selling tickets or shares,  
22 except that a person's name shall not be printed on such tickets  
23 or shares.

24      (i) The licensing of agents to sell tickets or shares,  
25 except that a person under the age of 18 shall not be licensed as  
26 an agent.

1 (j) The manner and amount of compensation to be paid.  
2 licensed sales agents necessary to provide for the adequate  
3 availability of tickets or shares to prospective buyers and for  
4 the convenience of the public.

5 (k) The apportionment of the total annual revenues accruing  
6 from the sale of lottery tickets or shares and from all other  
7 sources for the payment of prizes to the holders of winning tick-  
8 ets or shares, for the payment of costs incurred in the operation  
9 and administration of the lottery, including the expenses of the  
10 bureau and the costs resulting from any contract or contracts  
11 entered into for promotional, advertising, consulting, or oper-  
12 ational services, or for the purchase or lease of lottery equip-  
13 ment and materials.

14 Sec. 13. (1) As nearly as is practicable, 45% of the total  
15 annual revenue accruing from the sale of lottery tickets or  
16 shares shall be apportioned for payment of prizes to the holders  
17 of winning tickets or shares.

18 (2) A commissioner shall make a monthly report to the local  
19 governmental unit. The monthly report shall include the total  
20 lottery revenues, prize disbursements, and other expenses for the  
21 preceding month.

22 (3) A commissioner shall make an annual report to the local  
23 governmental unit. The annual report shall include a full and  
24 complete statement of lottery revenues, prize disbursements, and  
25 other expenses, and recommendations for changes in the ordinances  
26 passed by the local governmental unit as a commissioner considers  
27 necessary or desirable.

1       Sec. 15. (1) A commissioner shall report immediately to the  
2 local governmental unit and the state legislature any matters  
3 that require immediate changes in the laws of this state in order  
4 to prevent abuses or evasions of this act or ordinances imple-  
5 menting this act or to rectify undesirable conditions in connec-  
6 tion with the administration or operation of the lottery.

7       (2) A commissioner shall make a continuous study and inves-  
8 tigation of the operation and the administration of similar laws  
9 or ordinances that may be in effect in other states or countries,  
10 any literature on the subject that may be published or available,  
11 any federal laws that may affect the operation of the lottery,  
12 and the reaction of citizens to existing and potential features  
13 of the lottery, with a view to recommending or effecting changes  
14 that will tend to serve the purposes of this act.

15       Sec. 17. (1) A commissioner shall do both of the  
16 following:

17       (a) Supervise and administer the operation of the lottery in  
18 accordance with this act and the ordinances passed by the local  
19 governmental unit.

20       (b) License as agents to sell lottery tickets such persons  
21 whom he or she considers will best serve the public convenience  
22 and promote the sale of tickets or shares.

23       (2) A commissioner may, subject to the applicable laws and  
24 ordinances relating to public contracts, enter into contracts for  
25 the operation of the lottery, or any part of the lottery, and  
26 into contracts for the promotion of the lottery.

1 (3) A contract awarded or entered into by a commissioner  
2 shall not be assigned by the holder of the contract except by  
3 specific approval of that commissioner.

4 Sec. 19. (1) A commissioner shall employ personnel as nec-  
5 essary to implement this act.

6 (2) The departments, boards, commissions, or other govern-  
7 mental subdivisions of this state shall provide assistance to a  
8 bureau upon the bureau's request.

9 (3) The circuit court, upon petition of a commissioner after  
10 a hearing, may issue subpoenas to compel the attendance of wit-  
11 nesses and the production of documents, papers, books, records  
12 and other evidence before it in any matter over which it has  
13 jurisdiction, control, or supervision.

14 (4) A person subpoenaed to attend in any such proceeding or  
15 hearing who fails to obey the command of the subpoena without  
16 reasonable cause, or a person in attendance in any such proceed-  
17 ing or hearing who refuses without lawful cause to be examined or  
18 to answer a legal or pertinent question or to exhibit any book,  
19 account, record, or other document when ordered to do so by the  
20 court, is subject to the contempt powers of the court.

21 Sec. 21. (1) A commissioner shall not issue a license as an  
22 agent to sell lottery tickets or shares to any person intending  
23 to engage in business exclusively as a lottery sales agent.  
24 Before issuing a license, a commissioner shall consider factors  
25 such as the financial responsibility and security of the person  
26 and his or her business or activity, the accessibility of his or  
27 her place of business or activity to the public, the sufficiency

1 of existing licenses to serve the public convenience, and the  
2 volume of expected sales.

3 (2) A person licensed pursuant to this act may act as a lot-  
4 tery sales agent. A person lawfully engaged in nongovernmental  
5 business on the property of a local governmental unit may be  
6 licensed as a lottery sales agent.

7 (3) A license is not assignable or transferable.

8 (4) A licensed agent or his or her employee may sell lottery  
9 tickets or shares only on the premises stated in the license of  
10 the agent.

11 (5) A commissioner may require a bond from any licensed  
12 agent in an amount as provided in an ordinance.

13 (6) A licensed agent shall display his or her license or a  
14 copy thereof conspicuously in accordance with the ordinances  
15 enacted to implement this act.

16 (7) The commissioner may suspend or revoke the license of  
17 any agent who violates this act or an ordinance enacted to imple-  
18 ment this act.

19 (8) As used in this section, "person" means an individual,  
20 association, corporation, club, trust, estate, society, company,  
21 joint stock company, receiver, trustee, referee, any other person  
22 acting in a fiduciary or representative capacity who is appointed  
23 by a court, or any combination of individuals. Person includes  
24 any department, commission, agency, or instrumentality of the  
25 state, including any county, city, village, or township and any  
26 agency or instrumentality thereof.



1       Sec. 23. (1) The right of any person to a prize drawn is  
2 not assignable, except that payment of any prize drawn may be  
3 paid to the family members or to the estate of a deceased prize-  
4 winner as provided in subsection (2), to a person pursuant to an  
5 appropriate judicial order, or to the state pursuant to  
6 section 31. A commissioner shall be discharged of all further  
7 liability upon payment of a prize pursuant to this section.

8       (2) If a prizewinner dies before collecting the full amount  
9 of his or her prize, a bureau shall continue to make the remain-  
10 ing prize payments to the prizewinner's surviving spouse and the  
11 prizewinner's living children, in equal proportions, unless oth-  
12 erwise directed by the prizewinner. If there is no surviving  
13 spouse or no living children or other designated beneficiaries,  
14 the remaining prize payments shall be made to the prizewinner's  
15 estate.

16       (3) Except as otherwise provided by state or federal law, a  
17 commissioner or an officer or employee of the bureau shall not  
18 disclose the name, address, or any other personal information  
19 concerning a winner of a prize greater than \$10,000.00, unless  
20 the winner of a prize agrees in writing to allow the disclosure.  
21 The information protected against disclosure under this section  
22 is exempt from disclosure under the freedom of information act,  
23 Act No. 442 of the Public Acts of 1976, being sections 15.231 to  
24 15.246 of the Michigan Compiled Laws.

25       Sec. 25. (1) A person shall not sell a ticket or share at a  
26 price greater than that fixed by ordinance. A person other than  
27 a licensed lottery sales agent shall not sell lottery tickets or

1 shares. This section shall not be construed to prevent a person  
2 from giving lottery tickets or shares to another as a gift.

3 (2) A person violating this section is guilty of a  
4 misdemeanor.

5 Sec. 27. (1) A ticket or share shall not be sold to any  
6 person under the age of 18. This subsection does not prohibit  
7 the purchase of a ticket or share for the purpose of making a  
8 gift by a person 18 years of age or older to a person less than  
9 age 18.

10 (2) A licensee who knowingly sells or offers to sell a lot-  
11 tery ticket or share to a person under the age of 18 is guilty of  
12 a misdemeanor.

13 Sec. 29. (1) Any person who, with intent to defraud, shall  
14 falsely make, alter, forge, utter, pass, or counterfeit a lottery  
15 ticket or share is guilty of a felony, punishable by imprisonment  
16 for not more than 5 years or a fine of not more than \$1,000.00,  
17 or both.

18 (2) A ticket or share shall not be purchased by and a prize  
19 shall not be paid to an officer or employee of a bureau or to any  
20 spouse, child, brother, sister, or parent residing as a member of  
21 the same household in the principal place of abode of an officer  
22 or employee of a bureau.

23 Sec. 31. (1) Before payment of a prize of more than  
24 \$5,000.00, a bureau shall determine if the department of treasury  
25 knows of any liability of the lottery winner to this state. If a  
26 liability is identified, a bureau shall first apply the amount of

1 the prize to the liability, and the excess, if any, shall be paid  
2 to the lottery winner.

3 (2) A lottery winner shall receive notice and an opportunity  
4 for a hearing before the department of treasury or its designee  
5 with respect to the liability to which the prize is to be applied  
6 where the liability has not been reduced to judgment or has not  
7 been finalized under statutory review provisions of the statute  
8 under which the liability arose. This notice shall be made by  
9 regular mail.

10 (3) The lottery winner may request a hearing within 15 days  
11 of the date of the notice by making a written request to the rev-  
12 enue commissioner of the department of treasury.

13 Sec. 33. Unclaimed prize money for the prize on a winning  
14 ticket or share shall be retained by a commissioner for the  
15 person entitled to the prize money for 1 year after the drawing  
16 in which the prize was won. If a claim is not made for the money  
17 within the 1-year period, the prize money shall be deposited in a  
18 local governmental unit lottery fund.

19 Sec. 35. A commissioner shall require that all money col-  
20 lected from the sale of lottery tickets be deposited in banks,  
21 savings and loan associations, and credit unions to the credit of  
22 the local governmental unit as designated by the treasurer of the  
23 local governmental unit. Each deposit shall be accompanied by a  
24 report of the agent's receipts and transactions in the sale of  
25 lottery tickets and containing such information as a commissioner  
26 may require. A commissioner may make such arrangements for  
27 banks, savings and loan associations, and credit unions to

1 perform such functions, activities, or services in connection  
2 with the operation of a lottery as he or she considers advisable  
3 pursuant to this act and the ordinance, and the functions, activ-  
4 ities, or services shall constitute lawful functions, activities,  
5 and services of banks, savings and loans associations, and credit  
6 unions.

7       Sec. 37. Any other law providing any penalty or disability  
8 for the sale of lottery tickets or any acts done in connection  
9 with a lottery shall not apply to the sale of tickets or shares  
10 performed pursuant to this act.

11       Sec. 39. (1) If the person entitled to a prize or any win-  
12 ning ticket is under the age of 18 years, and the prize is more  
13 than \$1,000.00, a commissioner shall direct payment of the prize  
14 by transfer to the guardian of the minor of a check or draft pay-  
15 able to the order of the guardian. If less than \$1,000.00, a  
16 commissioner may direct payment of the prize to the adult member  
17 of the minor's family who is legally responsible for the care and  
18 custody of the minor.

19       (2) A commissioner shall be discharged of all further  
20 liability upon payment of a prize to a minor pursuant to this  
21 section.

22       Sec. 41. (1) A special fund to be known as a "local govern-  
23 mental unit lottery fund" is created. Except as provided in sub-  
24 section (3), a fund consists of all revenues received from the  
25 sale of lottery tickets or shares and all other money credited or  
26 transferred to the fund from any other fund or sources pursuant  
27 to law. Earnings resulting from installment payment of any

1 lottery prizes shall be used for payment of prizes to lottery  
2 winners, and the prize structure formulated pursuant to sections  
3 11 and 13 shall be established accordingly.

4       (2) The investment authority of the treasurer of the local  
5 governmental unit with regard to a local governmental unit lot-  
6 tery fund shall be the same as his or her investment authority  
7 with regard to retirement system funds. To assure a continuing  
8 availability of money with which to pay lottery prize install-  
9 ments and to compensate for variations in the yield on invest-  
10 ments, a commissioner and the treasurer of a local governmental  
11 unit shall, every 6 months, review the status of the installment  
12 prize investments and shall agree on an amount to be restricted  
13 out of the total revenues of a local governmental unit lottery  
14 fund as a reserve against a drop in yield. If a commissioner and  
15 the treasurer of the local governmental unit fail to agree on the  
16 amount to be reserved, the matter shall be referred to the state  
17 administrative board for an advisory decision.

18       Sec. 43. The money in a local governmental unit lottery  
19 fund is appropriated only for the payment of prizes to the hold-  
20 ers of winning lottery tickets or shares, for the payment pursu-  
21 ant to section 31 of the liabilities to this state of holders of  
22 winning lottery tickets or shares, for reasonable expenses of a  
23 bureau in its operation of a lottery, and for deposit in the gen-  
24 eral fund of the local governmental unit for the purpose of fund-  
25 ing job training programs for individuals under 21 years of age.

26       Sec. 45. A certified public accountant firm appointed by a  
27 local governmental unit shall conduct quarterly postaudits of all

1 accounts and transactions of a bureau and other special  
2 postaudits as the local governmental unit considers necessary.  
3 The local governmental unit or its agent conducting an audit  
4 under this act shall have access and authority to examine any and  
5 all records of a bureau, its distributing agents, and its  
6 licensees.